HOUSE OF REPRESENTATIVES—*Thursday, August 4, 1988*

The House met at 10 a.m.

The Reverend George Wheat, associate pastor, Trinity United Methodist Church, Grand Island, NE, offered the following prayer:

Almighty God, whose concern for this world's people has been expressed by prophets and psalmists and apostles, and whose nature is that of guiding and nurturing those people who turn to You in faith; we pray Your blessing upon the Members of this Congress, upon our President, and upon all who share the responsibility of government of the people, by the people, and for the people. We are truly grateful that we live in a nation where citizens have opportunity to share in the governing process. May the results of their legislative efforts make the community life of all citizens more orderly and rewarding.

Grant us all a desire and strength of living fruitful and righteous lives. In the name of Christ, our Peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. BARTLETT. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BARTLETT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 249, nays 145, not voting 37, as follows:

[Roll No. 262]

YEAS—249

Ackerman	AuCoin	Bonker
Akaka	Barnard	Borski
Alexander	Bartlett	Bosco
Anderson	Bates	Boucher
Andrews	Beilenson	Boxer
Annunzio	Bennett	Brennan
Anthony	Berman	Brooks
Applegate	Bevill	Broomfield
Archer	Bilbray	Brown (CA)
Aspin	Boland	Bruce
Atkins	Bonior	Bustamante
Byron	Hoyer	Pease
Campbell	Hubbard	Pelosi
Cardin	Huckaby	Pepper
Carper	Hughes	Perkins
Carr	Hutto	Petri
Chappell	Jeffords	Pickett
Clarke	Jenkins	Pickle
Clement	Johnson (CT)	Price
Coelho	Johnson (SD)	Rahall
Coleman (TX)	Jones (NC)	Ravenel
Collins	Jones (TN)	Ray
Conte	Jontz	Regula
Conyers	Kanjorski	Richardson
Cooper	Kaptur	Rinaldo
Coyne	Kastenmeier	Ritter
Crockett	Kennedy	Robinson
Darden	Kennelly	Rodino
de la Garza	Kildee	Roe
DeFazio	Kleczka	Rose
Dellums	Kolter	Rostenkowski
Derrick	Kostmayer	Rowland (GA)
Dicks	LaFalce	Roybal
Dingell	Lancaster	Russo
Dixon	Lantos	Sabo
Donnelly	Leath (TX)	Saiki
Dorgan (ND)	Lehman (CA)	Sawyer
Downey	Lehman (FL)	Schneider
Durbin	Lent	Schulze
Dwyer	Levin (MI)	Schumer
Dymally	Levine (CA)	Sharp
Dyson	Lewis (GA)	Shumway
Early	Lipinski	Shuster
Eckart	Lloyd	Sisisky
Edwards (CA)	Lowry (WA)	Skaggs
English	Luken, Thomas	Skelton
Erdreich	Manton	Slattery
Evans	Markey	Slaughter (NY)
Fascell	Martinez	Smith (FL)
Fawell	Matsui	Smith (IA)
Fazio	Mavroules	Smith (NE)
Feighan	Mazzoli	Smith (NJ)
Fish	McCloskey	Solarz
Flake	McCurdy	Spratt
Florio	McEwen	Staggers
Foley	McHugh	Stallings
Ford (MI)	McMillen (MD)	Stark
Frank	Mfume	Stenholm
Frost	Miller (CA)	Stokes
Garcia	Miller (WA)	Studds
Gaydos	Mineta	Swift
Gejdenson	Moakley	Synar
Gephardt	Mollohan	Tallon
Gibbons	Montgomery	Tauzin
Gilman	Moody	Thomas (GA)
Glickman	Morrison (CT)	Torres
Gonzalez	Mrazek	Traficant
Gordon	Murtha	Traxler
Grant	Myers	Udall
Gray (IL)	Nagle	Valentine
Green	Natcher	Vento
Guarini	Nelson	Volkmer
Gunderson	Nichols	Watkins
Hall (TX)	Nowak	Waxman
Hamilton	Oakar	Weiss
Harris	Oberstar	Whitten
Hatcher	Obey	Wilson
Hayes (IL)	Olin	Wise
Hayes (LA)	Ortiz	Wolpe
Hefner	Owens (UT)	Wyden
Hertel	Panetta	Wylie
Hochbrueckner	Patterson	Yates
Horton	Payne	Yatron

NAYS—145

Armey	Brown (CO)	Coleman (MO)
Badham	Buechner	Combest
Baker	Bunning	Coughlin
Ballenger	Burton	Courter
Barton	Callahan	Craig
Bateman	Chandler	Crane
Bentley	Cheney	Dannemeyer
Bereuter	Clay	Daub
Bilirakis	Clinger	Davis (IL)
Bliley	Coats	Davis (MI)
Boehlert	Coble	DeLay
DeWine	Livingston	Rowland (CT)
Dickinson	Lowery (CA)	Saxton
DioGuardi	Lujan	Schaefer
Dreier	Lukens, Donald	Schroeder
Edwards (OK)	Lungren	Schuette
Emerson	Mack	Sensenbrenner
Fields	Madigan	Shays
Flippo	Marlenee	Sikorski
Frenzel	Martin (IL)	Skeen
Gallegly	Martin (NY)	Slaughter (VA)
Gallo	McCandless	Smith (TX)
Gekas	McCollum	Smith, Denny (OR)
Goodling	McCrery	Smith, Robert (NH)
Gradison	McDade	Smith, Robert (OR)
Grandy	McGrath	Snowe
Gregg	McMillan (NC)	Solomon
Hammerschmidt	Meyers	Stangeland
Hansen	Michel	Sundquist
Hastert	Miller (OH)	Swindall
Hawkins	Molinari	Tauke
Hefley	Moorhead	Thomas (CA)
Henry	Morella	Upton
Herger	Morrison (WA)	Vander Jagt
Hiler	Murphy	Visclosky
Holloway	Nielson	Vucanovich
Hopkins	Oxley	Walker
Hunter	Packard	Weber
Inhofe	Parris	Weldon
Ireland	Pashayan	Wheat
Jacobs	Penny	Whittaker
Kasich	Porter	Wolf
Kolbe	Pursell	Wortley
Kyl	Quillen	Young (AK)
Lagomarsino	Rhodes	Young (FL)
Latta	Ridge	
Leach (IA)	Roberts	
Lewis (CA)	Rogers	
Lewis (FL)	Roth	
Lightfoot	Roukema	

NOT VOTING—37

Biaggi	Houghton	Shaw
Boggs	Hyde	Spence
Boulter	Kemp	St Germain
Bryant	Konnyu	Stratton
Chapman	Leland	Stump
Dornan (CA)	Lott	Sweeney
Dowdy	MacKay	Taylor
Espy	Mica	Torricelli
Foglietta	Neal	Towns
Ford (TN)	Owens (NY)	Walgren
Gingrich	Rangel	Williams
Gray (PA)	Savage	
Hall (OH)	Scheuer	

□ 1022

So the Journal was approved.

The result of the vote was announced as above recorded.

REV. GEORGE WHEAT

(Mrs. SMITH of Nebraska asked and was given permission to address the House for 1 minute.)

Mrs. SMITH of Nebraska. Mr. Speaker, we are called to serve our fellow man in our own special way, but a calling that may be the closest to God is that of a minister.

We have with us today a distinguished member of my Third District in Nebraska, a man who answered that very special calling, Rev. George Dewey Wheat, associate pastor of Trinity United Methodist Church in Grand Island, NE.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Reverend Wheat did not rush his decision to answer this particular calling. After growing up on a dairy farm in New York, George attended Colorado College in Colorado Springs where he received a bachelor of science degree in geology. He then worked as a geophysicist in oil exploration for 10 years.

Reverend Wheat attended Iliff School of Theology, in Denver, CO, where he received his master of divinity degree. He is now serving in his fifth congregation in the Third District. His work has taken him to the Methodist congregations in Sidney-Gurley, Bertrand-Loomis, Scottsbluff, Chappell-Lodgepole, and Grand Island, NE.

During the summer of 1987, Reverend Wheat served as an exchange pastor to England through the World Methodist Council of Churches. He traveled a circuit of eight churches for 5 weeks in Ilfracombe, Devon County, England. We are all very proud of Reverend Wheat for that distinction.

It is a great honor to have a man of such faith and talent to lead us in prayer today in the House of Representatives.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 3980. An act to make technical corrections to the agricultural credit laws; and H.R. 4848. An act to enhance the competitiveness of American industry, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House to the amendments of the Senate to the bill (H.R. 1860) "An act entitled the 'Federal Land Exchange Facilitation Act of 1987'."

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1912. An act to authorize a study of the Mimbres culture in Southwestern New Mexico, and for other purposes;

S. 2157. An act to authorize a feasibility study of the Spanish Frontier Culture and Spanish Borderlands story, and for other purposes;

S. 2496. An act to provide for the leasing of certain real property to the American National Red Cross, District of Columbia Chapter, for the construction and maintenance of certain buildings and improvements, and

S. Con. Res. 135. Concurrent resolution to correct the enrollment of H.R. 4848.

REPORT ON RESOLUTION PROVIDING AMOUNTS FROM CONTINGENT FUND OF THE HOUSE FOR FURTHER EXPENSES OF COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT IN 2D SESSION OF 100TH CONGRESS

Mr. GAYDOS, from the Committee on House Administration, submitted a privileged report (Rept. No. 100-818) on the resolution (H. Res. 500) providing amounts from the contingent fund of the House for further expenses of investigations and studies by the Committee on Standards of Official Conduct in the second session of the 100th Congress, which was referred to the House Calendar and ordered to be printed.

MOTION TO DISCHARGE COMMITTEE ON ARMED SERVICES FROM FURTHER CONSIDERATION OF H.R. 4264, NATIONAL DEFENSE AUTHORIZATION ACT, FISCAL YEAR 1989

Mr. WALKER. Mr. Speaker, I offer a privileged motion.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. WALKER moves to discharge the Committee on Armed Services from further consideration of H.R. 4264.

Mr. FOLEY. Mr. Speaker, I move to lay the motion to discharge on the table.

The SPEAKER. The question is on the motion offered by the gentleman from Washington [Mr. FOLEY] to lay on the table the privileged motion offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 241, noes 164, not voting 26, as follows:

[Roll No. 263]

AYES—241

Ackerman	Bosco	Cooper
Akaka	Boucher	Coyne
Alexander	Boxer	Crockett
Anderson	Brennan	Darden
Andrews	Brooks	de la Garza
Annunzio	Brown (CA)	DeFazio
Anthony	Bruce	Dellums
Applegate	Bustamante	Derrick
Aspin	Byron	Dicks
Atkins	Campbell	Dingell
AuCoin	Cardin	Dixon
Barnard	Carper	Donnelly
Bates	Carr	Dorgan (ND)
Beilenson	Chapman	Downey
Bennett	Chappell	Durbin
Berman	Clarke	Dwyer
Bevill	Clay	Dymally
Bilbray	Clement	Dyson
Boland	Coelho	Early
Bonior	Coleman (TX)	Eckart
Bonker	Collins	Edwards (CA)
Borski	Conyers	English
Erdreich	Leath (TX)	Rodino
Evans	Lehman (CA)	Roe
Fascell	Lehman (FL)	Rose
Fazio	Leland	Rostenkowski
Feighan	Levin (MI)	Rowland (GA)
Flake	Levine (CA)	Roybal
Flippo	Lewis (GA)	Russo
Florio	Lipinski	Sabo
Foley	Lloyd	Savage
Ford (MI)	Lowry (WA)	Sawyer
Frank	Luken, Thomas	Scheuer
Frost	Manton	Schroeder
Garcia	Markey	Schumer
Gaydos	Matsui	Sharp
Gejdenson	Mavroules	Sikorski
Gephardt	Mazzoli	Sisisky
Gibbons	McCloskey	Skaggs
Glickman	McCurdy	Skelton
Gonzalez	McHugh	Slattery
Gordon	McMillen (MD)	Slaughter (NY)
Grant	Mfume	Smith (FL)
Gray (IL)	Miller (CA)	Smith (IA)
Gray (PA)	Mineta	Solarz
Guarini	Moakley	Spratt
Hall (OH)	Mollohan	St Germain
Hall (TX)	Montgomery	Staggers
Hamilton	Moody	Stallings
Hansen	Morrison (CT)	Stark
Harris	Mrazek	Stenholm
Hatcher	Murphy	Stokes
Hawkins	Murtha	Studds
Hayes (IL)	Nagle	Swift
Hayes (LA)	Natcher	Synar
Hefner	Neal	Tallon
Hertel	Nelson	Tauzin
Hochbrueckner	Nichols	Thomas (GA)
Hoyer	Nowak	Torres
Hubbard	Oakar	Torricelli
Huckaby	Oberstar	Traficant
Hughes	Obey	Traxler
Hutto	Olin	Udall
Jacobs	Ortiz	Valentine
Jenkins	Owens (UT)	Vento
Johnson (SD)	Panetta	Visclosky
Jones (NC)	Patterson	Volkmer
Jones (TN)	Payne	Walgren
Jontz	Pease	Watkins
Kanjorski	Pelosi	Waxman
Kaptur	Penny	Weiss
Kastenmeier	Pepper	Wheat
Kennedy	Perkins	Whitten
Kennelly	Pickett	Wilson
Kildee	Pickle	Wise
Kleczka	Price	Wolpe
Kolter	Rahall	Wyden
Kostmayer	Rangel	Yates
LaFalce	Ray	Yatron
Lancaster	Richardson	
Lantos	Robinson	

NOES—164

Archer	Davis (MI)	Jeffords
Armey	DeLay	Johnson (CT)
Badham	DeWine	Kasich
Baker	Dickinson	Kolbe
Ballenger	Dreier	Kyl
Bartlett	Edwards (OK)	Lagomarsino
Barton	Emerson	Latta
Bateman	Fawell	Leach (IA)
Bentley	Fields	Lent
Bereuter	Fish	Lewis (CA)
Bilirakis	Frenzel	Lewis (FL)
Bliley	Gallegly	Lightfoot
Boehlert	Gallo	Livingston
Broomfield	Gekas	Lowery (CA)
Brown (CO)	Gilman	Lujan
Buechner	Goodling	Lukens, Donald
Bunning	Gradison	Lungren
Burton	Grandy	Mack
Callahan	Green	Madigan
Chandler	Gregg	Marlenee
Cheney	Gunderson	Martin (IL)
Clinger	Hammerschmidt	Martin (NY)
Coats	Hastert	McCandless
Coble	Hefley	McCollum
Coleman (MO)	Henry	McCrery
Combest	Herger	McDade
Conte	Hiler	McEwen
Coughlin	Holloway	McGrath
Courter	Hopkins	McMillan (NC)
Craig	Horton	Meyers
Crane	Hunter	Michel
Dannemeyer	Hyde	Miller (OH)
Daub	Inhofe	Miller (WA)
Davis (IL)	Ireland	Molinari

Moorhead	Roukema	Snowe
Morella	Rowland (CT)	Solomon
Morrison (WA)	Saiki	Stangeland
Myers	Saxton	Stump
Nielson	Schaefer	Sundquist
Oxley	Schneider	Swindall
Packard	Schuette	Tauke
Parris	Schulze	Thomas (CA)
Pashayan	Sensenbrenner	Upton
Petri	Shays	Vander Jagt
Porter	Shumway	Vucanovich
Pursell	Shuster	Walker
Quillen	Skeen	Weber
Ravenel	Slaughter (VA)	Weldon
Regula	Smith (NE)	Whittaker
Rhodes	Smith (NJ)	Wolf
Ridge	Smith (TX)	Wortley
Rinaldo	Smith, Denny (OR)	Wylie
Ritter	Smith, Robert (NH)	Young (AK)
Roberts	Smith, Robert (OR)	Young (FL)
Rogers		
Roth		

NOT VOTING—26

Biaggi	Ford (TN)	Owens (NY)
Boggs	Gingrich	Shaw
Boulter	Houghton	Spence
Bryant	Kemp	Stratton
DioGuardi	Konnyu	Sweeney
Dornan (CA)	Lott	Taylor
Dowdy	MacKay	Towns
Espy	Martinez	Williams
Foglietta	Mica	

□ 1048

The Clerk announced the following pairs:

On this vote:

Mr. Foglietta for, with Mr. Boulter against.

Mrs. Boggs for, with Mr. Shaw against.

So the motion to lay the motion on the table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EXTENSION OF TEMPORARY PROHIBITION OF STRIKES OR LOCKOUT WITH RESPECT TO CHICAGO AND NORTHWESTERN TRANSPORTATION COMPANY LABOR-MANAGEMENT DISPUTE

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 356) to provide for the extension of a temporary prohibition of strikes or lockout with respect to the Chicago and Northwestern Transportation Company labor-management dispute, and ask for its immediate consideration in the House, and that the previous question be ordered to final passage without intervening motion.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. WHITTAKER. Mr. Speaker, reserving the right to object, I will not object to the gentleman's request. However, I would like to ask the distinguished chairman of the Subcommittee on Transportation, Tourism, and Hazardous Materials for an explanation of Senate Joint Rsolution 356.

Mr. Speaker, I yield to my good friend, the gentleman from Ohio, for that purpose.

Mr. THOMAS A. LUKEN. Mr. Speaker, I thank the gentleman for yielding. Mr. Speaker, the purpose of Senate Joint Resolution 356, which the House is now considering, is to provide a 36-day cooling-off period to permit labor and management of the Chicago & North Western Railroad to continue negotiations over the size of train crews. This cooling-off period is necessary to prevent a strike or lockout, and to keep the trains running while the parties continue to negotiate.

The legislation has been necessitated by the failure of the parties to reach agreement on the issue of new crew consist arrangements on the railroad. As a result of management unilaterally imposing its own crew consist rules and the decision of labor to strike, the railroad was shut down this morning. Thousands of commuters in the Chicago area have been stranded without rail service.

Moreover, the loss of rail service in parts of the Midwest will cause significant hardships for farmers trying to get their grain to market. The normal alternative for these farmers is barge transportation, which owing to the extremely low water levels on the Mississippi and other rivers, is simply not available.

The legislation is important to thousands of people and businesses in the Midwest. It enjoys strong bipartisan support. I urge my colleagues to support this resolution.

Mr. WHITTAKER. Mr. Speaker, I thank the chairman of the subcommittee for that information.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Illinois [Mr. BRUCE].

Mr. BRUCE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, at 9 o'clock central time, 10 o'clock eastern time, some 50 minutes ago, the people in the city of Chicago were denied additional transportation facilities by a strike which began at that time at the Chicago & North Western Railway. But this morning, by an agreement worked out between the union and that company 41,000 working people in the city of Chicago got to work. We were able to work through the evening with the help of many individuals, to get those negotiations completed.

This legislation will allow those good faith negotiations to continue between the United Transportation Union and the Chicago & North Western Railroad. It will give them a cooling-off period of 36 days, a reasonable amount of time for labor and management to reach an agreement.

There were several architects of the agreement through last evening: First of all, the chairman of the Committee on Energy and Commerce, the gentleman from Michigan, Mr. DINGELL, who allowed us to negotiate, with his consent and guidance; the subcommittee chairman, the gentleman from Ohio, Mr. THOMAS A. LUKEN; Senator PAUL SIMON, the sponsor of the legislation in the Senate; the gentleman from Illinois, Mr. ED MADIGAN; and our minority leader, the gentleman from Illinois, Mr. BOB MICHEL, who last evening at a critical time in the negotiations made a call to the president of the Chicago & North Western Railway and followed that with a call to Gov. James Thompson of the State of Illinois. Through all these efforts, we were able to effectuate a compromise which delayed the strike from starting at midnight last night until 9 a.m. this morning.

The gentleman from Illinois, Mr. ED MADIGAN, has been involved in making calls, but special thanks should go to Bob Schmiege, the president of the Chicago & North Western Railway, who in many conversations last night was always accommodating, and to Fred Hardin, the president of the United Transportation Union.

We have numerous things we have to do in this particular strike. We have agreed to three conditions: that we will monitor the proceedings between the union and the railway over the next 36 days. We will demand that both sides bargain in good faith on all issues that remain unresolved, and at the end of that time, Mr. Speaker, if those two sides fail to reach a conclusion, then this Congress will have to seriously consider implementation of the Emergency Railroad Board's recommendations reducing railroad personnel. I do not know whether that legislation would pass this body or the other body, but I think this piece of legislation allows both parties an additional 36 days to bargain in good faith.

After our conversations with the union this morning, everyone got to work, and we hope that with the passage of this legislation and the signature of the President today, we can get people back home in Chicago and 41,000 people will have commuter services starting early this afternoon.

Mr. Speaker, I urge the adoption of this legislation. It is needed immediately in the city of Chicago.

Mr. THOMAS A. LUKEN. Mr. Speaker, will the gentleman yield?

Mr. WHITTAKER. Further reserving the right object, Mr. Speaker, I yield further to the chairman of the subcommittee.

Mr. THOMAS A LUKEN. Mr. Speaker, I have no further comments on the substance of the legislation, but I think the efforts of the gentleman from Illinois [Mr. BRUCE] should be

recognized. He has played a leadership role in keeping the trains rolling, and I think he should be congratulated for that.

Mr. TAUKE. Mr. Speaker, will the gentleman yield?

Mr. WHITTAKER. Further reserving the right to object, I yield to the gentleman from Iowa.

Mr. TAUKE. Mr. Speaker, I want to join in thanking all those who have been instrumental in assuring that this resolution is passed. I single out the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], the chairman of the subcommittee, the gentleman from Ohio [Mr. THOMAS A. LUKEN], and my colleague, the gentleman from Kansas [Mr. WHITTAKER].

Mr. Speaker, the resolution before us, already approved by the other body, is intended to maintain the status quo—and prevent an interruption of rail service—on one of the major railroads in the Midwest, the Chicago & North Western.

The essential purpose of this legislation is similar to that of resolutions adopted by the Congress in 1986 and early 1987. Those measures ended the interruption of rail service due to labor-management disputes on the Maine Central Railroad and the Long Island Rail Road.

Senate Joint Resolution 356 maintains the status quo on the CNW for an additional 36 days, to allow labor and management to work out their differences on the unresolved issues—principally reduction in the size of train crews. It is my fervent hope, and I am sure of my colleagues, that the parties will reach a final settlement through collective bargaining during that time period. The resolution is well suited to achieving that purpose. I would also note that the Secretary of Transportation has conveyed to the members of the Energy and Commerce Committee the administration's view of this legislation—that the administration has no objection to a one-time extension of the status quo for about a month.

If there is any cause for hesitance about this measure, it is the lurking possibility, that if agreement is not reached before this additional cooling-off period expires on September 9, then Congress will again be faced with a second strike, and will again be asked to intervene legislatively.

For that reason, I would have preferred to specify in today's legislation that the compromise proposals contained in the report of Presidential Emergency Board 213—a comprehensive report issued on July 1, 1988—would become the basis of a mandatory settlement if the parties do not resolve their differences by September 9. This parallels what the Congress eventually had to do in the Maine Central case in 1986. Nevertheless, given the occurrence of today's strike and the already adopted Senate resolution, I cannot in good conscience risk a delay that would further disrupt service for Midwestern shippers and the commuters of Chicago merely to modify this legislation to my own liking. I therefore support the immediate adoption of the resolution.

On a deeper level, Mr. Speaker, the recurring appeals for congressional intervention in railroad labor disputes are largely a symptom of the structural change going on in the railroad industry. After decades of neglect and inaequate earnings, the railroads—thanks principally to the Staggers Rail Act of 1980—now have the tools to compete as viable businesses with each other and with other modes of transportation. But they are still fighting for their financial existence. Part of that struggle involves bringing their route structure and their operating costs under control to face the fierce competition of the trucking and barge industries. We see that in the continuing reduction in the mileage of the larger railroads. Fortunately, new short-line railroads are often able to maintain rail service that would otherwise have to be abandoned as too costly. But overall, the modernization of the rail industry must in the end be a team effort of rail labor and railroad management. I hope that in a spirit of mutual cooperation, they can bring about needed changes with a minimum of disruption to the rail service that the public relies on.

Finally, Mr. Speaker, when dealing with these disputes, labor and management—as well as the Congress—should bear in mind that in industry as in many other human endeavors, the only real constant is change. The CNW in fact is the embodiment of a long history of change—expansion, competition, restructuring. It is hard to believe—but true—that when the CNW's forebear was founded in Chicago in 1848, railroads were strongly opposed by the citizenry of Chicago. Why? Because railroads were perceived as a spur to the development of rival cities, and even more astounding, as a competitive threat to Chicago's network of fine planked wooden roads that carried 200 wagons a day in and out of the city. The CNW faced that challenge, and I believe its current-day labor force and its management will overcome the challenges of today and see to it that it continues to be a major economic sinew of the Midwestern United States.

Mrs. COLLINS. Mr. Speaker, will the gentleman yield?

Mr. WHITTAKER. Further reserving the right to object, I yield to the gentlewoman from Illinois.

Mrs. COLLINS. Mr. Speaker, I rise in support of their legislation which calls for a cooling-off period until September 9 relative to the current dispute between Chicago & North Western Transportation Co. and the United Transportation Union is serious. No one wants this strike, and no one would benefit from a strike which would result in a long list of losers including the residents of the Chicago area. As the Representative of a large portion of Chicago. I wish to make it clear that this strike must be avoided and that the legislation which we are now considering is a fair and effective means for effectuating that goal.

The disagreement between these two parties is based on the issue known as crew consist; that is, how many people ae needed to run a train and the compensation which would flow both to employees who lose their jobs and to employees who remain. A Presidential Emergency Board made compromise recommendations for resolution of each of the contentious issues, but C&NW and UTU have not adopted these nonbinding recommendations.

No party in the dispute received all that they had wished. But that's negotiation. The Emergency Board made a good effort to resolve differences; and whether or not it is the ultimate solution, one thing is clear: this dispute can, if both parties are willing, be amicably resolved. A strike would be unnecessary, ineffective, counterproductive, and altogether bothersome.

In a situation such as this, we must all join together in an effort to overcome the tension of the dispute and access the tranquility of common interests. An interruption of service to Chicago and affected areas in the Midwest would certainly not serve the interests of customers hoping to ship goods, consumers who await those goods, nor commuters who rely on the railways to get to work or school.

Mr. Speaker, as a matter of public interest I strongly encourage all my colleagues to support this legislation.

Mr. PORTER. Mr. Speaker, will the gentleman yield?

Mr. WHITTAKER. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Illinois.

Mr. PORTER. Mr. Speaker, I thank the gentleman from Kansas for yielding and for is leadership and assistance in this legislation. I also want to extend my thanks to the gentleman from Iowa [Mr. TAUKE].

Let me express my appreciation for the work of the chairman of the subcommittee, the gentleman from Ohio, Mr. THOMAS A. LUKEN, and of the chairman of the full committee, the gentleman from Michigan, Mr. JOHN DINGELL. They have expeditiously brought to the floor this legislation that will prevent a disruption of commuter service. This has bipartisan support, and I would also commend the Senate and our colleague, the gentleman from Illinois, Mr. BRUCE, for their

work in bringing this matter to the House floor.

□ 1100

If we pass the bill, it will give us 36 additional days, Mr. Speaker, to negotiate. But I think we ought to raise the question right now. If an agreement is not reached during the next 36 days, and that is certainly possible, and perhaps it is even probably since that they had a year to work this out and not been able to work it out up to this point; what happens at the end of the 36 days? What happens on the 9th of September, a Friday, when the House is not in session? We will have been back from our summer recess for just 2 legislative days prior to that Friday, and, if action is not taken, a strike could occur at that time that would tie up the service of the Chicago & North Western Railroad for commuters on Saturday, Sunday, Monday, and perhaps Tuesday in early September.

And so I would say to the subcommittee, and to the full committee, and to the gentleman that perhaps we should give some consideration right now as to what further legislative steps may be necessary at that time. Perhaps a short additional period for further negotiations, and then, perhaps in the absence of an agreement, we should mandate a settlement of the dispute on the terms recommended by the President's Emergency Board.

Mr. Speaker, we should think now about what we hope will not come to pass, but may be necessary, in early September if we are to avoid a strike. For the present I simply thank the committee and the subcommittee for their fine work in preventing a disruption of commuter service and from preventing Chicago commuters, 41,000 strong, from paying the price for this unrelated freight dispute.

The SPEAKER. The Chair announces in view of comments made by the gentleman from Illinois [Mr. PORTER] that it is anticipated that the House will be in session on Friday, the 9th of September.

Mr. WHITTAKER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New Jersey [Mr. FLORIO].

Mr. FLORIO. Mr. Speaker, I thank the gentleman from Kansas [Mr. WHITTAKER] for yielding.

I offer my congratulations for all who have been responsible for getting us to this point for what is clearly going to be a transportation catastrophe if this situation is allowed to deteriorate any further. I think it is important to emphasize, however, that in this period of time the parties to this dispute should work very hard to resolve the dispute because what undoubtedly will happen at the end of this period, if it is not resolved, is that we will resort to the same thing that we have resorted to on at least two other occasions that I am aware of. We will have a legislative imposition of a collective bargaining agreement as represented by the Emergency Board's recommendations.

Mr. Speaker, it is my understanding that some are prepared to object to this process or to oppose it ostensibly under conservative principles. It seems to me that the conservative principle ought to be that collective bargaining should be done by the parites, that we should not do as we unfortunately have done in two instances, in the settling of the Boston & Marine strike in the past and the Long Island Rail Road strike in the past. We should not be by act of Congress imposing the terms of collective bargaining discussions as embodied in the Emergency Board's recommendations.

I have no doubts whatsoever that, if this agreement is not adhered to today or at the end of this period, there is no agreement. There will be irresistible pressure for this body to pass into law the recommendations of the Emergency Board which represent a collective bargaining agreement by operation of the will of Congress. That was a bad precedent the previous two times we have done it. It would be a terrible precedent to do it again, and it may very well end up being the norm, not just in railroad matters, but in all matters of collective bargaining disputes that are uncapable of being resolved.

So, to those how are truly concerned about conservative principles, one of which is that the Government should not be dictating terms of collective bargining agreements, they should be in the forefront of approving this bill today, this proposal today, and then during the parties to resolve their dispute as rapidly as possible.

Mr. WHITTAKER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New York [Mr. LENT], a member of the full committee.

Mr. LENT. Mr. Speaker, I would like to join with my other colleagues in commending the chairman of the full Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL], for bringing, along with the gentleman from Ohio [Mr. THOMAS A. LUKEN], the chairman, and the ranking minority member of the Transportation Subcommittee, the gentleman from Kansas [Mr. WHITTAKER], this legislation very quickly here to the House floor to avert a great transportation tragedy.

Mr. Speaker, as Members may recall, during the first session of this Congress, similar legislation was enacted to maintain rail service on the Long Island Rail Road—the Nation's largest commuter rail carrier and a vital means of transportation for the citizens of my district. That measure ended the strike, and allowed the collective bargaining process to move forward, and a prolonged lapse in a rail service was averted. It is my hope that the measure we are considering today will be equally effective in promoting a resolution of this dispute through collective bargaining, while avoiding a prolonged disruption of service for the rail freight shippers of the Midwest and Chicago commuters.

It is always preferable to have these labor-management differences settled through private-sector collective bargaining with a minimum of Government intervention. On some occasions, however, Congress must exercise its authority over interstate commerce to maintain essential rail service. I believe this is such an occasion.

We have reached the current situation only after all of the normal bargaining and mediation procedures of the Railway Labor Act have been exhausted. Although long and arduous, this process has produced a valuable foundation for a final resolution of the dispute. The report of Presidential Emergency Board No. 213, issued on July 1 of this year, provides the basic outline of a compromise between the prior positions of labor and management, including the thorny issue of crew size on the CNW.

It is my hope that the 36-day cooling-off period that is afforded by Senate Joint Resolution 356 will allow the parties to reach final agreement on all outstanding issues. On that basis, I strongly support immediate adoption of the resolution.

Mr. WHITTAKER. Mr. Speaker, further reserving my right to object, I yield to the gentlewoman from Nebraska [Mrs. SMITH].

Mrs. SMITH of Nebraska. Mr. Speaker, I thank the gentleman from Kansas [Mr. WHITTAKER] for yielding to me, and I rise in support of this resolution.

Mr. Speaker, I rise in support of this resolution, which would extend the temporary prohibition of strikes or lockouts in the Chicago & North Western labor-management dispute, thus averting a devastating long-term rail strike.

I wish to thank the chairman and ranking member of the full committee, Mr. DINGELL and Mr. LENT, as well as the chairman and ranking member of the subcommittee, Mr. LUKEN and Mr. WHITTAKER, for taking quick action to allow the House to proceed with this resolution.

Passage of this resolution will give the Chicago & North Western Railroad and the United Transportation Union an additional 36 days to reach an agreement on crew size.

If the House had not passed this resolution, a Chicago & North Western strike would have seriously disrupted agricultural shipping in Illinois, Wisconsin, Iowa, Minnesota, and Nebraska, already thrown into disarray by

the tied-up barge traffic on the Mississippi.

And while Chicago & North Western planned to operate a core system during any strike, that core system would not have served Nebraska. A strike would have left northern Nebraska—served only by Chicago & North Western—with no rail service at all.

I think it is important to note that both the UTU and Chicago & North Western are hopeful—as I am—that a voluntary agreement can be reached before the end of this extension.

If there is no agreement, it has been made clear by Members of both the House and Senate that there will be no further extensions, and that the Congress will be prepared to implement the recommendations of the Presidential Emergency Board in order to prevent a strike.

Mr. WHITTAKER. Mr. Speaker, further reserving my right to object, I yield lastly to the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Speaker, I thank my colleague, the gentleman from Kansas [Mr. WHITTAKER] for yielding to me on this issue.

Mr. Speaker, I am very troubled personally with the proposal before us. If we look at the history of this dispute, it goes back to May 1987. We recently had a controversial bill before us on plant-closings. We wanted to guarantee workers 60 days' notice before a closing. These negotiations have been moving forward to this deadline over approximately 18 months and are unresolved because of the adamant position taken by the United Transportation Union. The fact of the matter is it has been costing Chicago & North Western $50 million a year in losses because of this featherbedding practice. They wanted to eliminate it altogether. They remained tough in their position for a solid year. The union would not make any alternative proposal, and finally, when the railway board intervened, the railway board came up with a compromise that said, "Instead of laying off 1,165," as I recall the number was, "we will take it to 679 or some such, and, instead of a $25,000 severance payment, you've got to give these fellows $50,000 or a year's extended employment." Now that to me seems quite generous, and, as I say, Chicago & North Western went along with this proposal, and the union still held fast.

Now I do not believe it is the function of Government to get involved in such disputes, and I would argue that the conservative position is, in fact, that the parties to the dispute have to make the determination whether they really want to disrupt 40,000 commuters, and that includes commuters in my district, and certainly in my distinguished colleague's district more than mine, but it is a serious disruption, not only of commuter service, but there is a concern about exports to markets with regard to our farmers.

Mr. Speaker, this would be a tragedy if it is not resolved, but how does providing another 36 days do anything when they have been negotiating unsuccessfully for 18 months?

My point is: let them sit down at the bargaining table. Let them make whatever concessions, either management feels are in order or the union feels are in order, and hammer it out. They have known they were coming to this deadline. They have graciously provided service this morning during the rush hour rather than tie things up, so they have already gone past their deadline. Let them continue to go past their deadline, but let the Government stay out of these negotiations which appropriately belong in the private sector between the parties that are going to be bargaining to find a solution to the problem.

Mr. Speaker, I would urge my colleagues to defeat this proposal.

Mr. WHITTAKER. Mr. Speaker, further reserving the right to object, I rise in support of Senate Resolution 356, and I include herewith the text of a letter dated August 2, 1988, and addressed to me from the Office of the Secretary of Transportation, as follows:

THE SECRETARY OF TRANSPORTATION,
Washington, DC, August 2, 1988.

Hon. BOB WHITTAKER,
Subcommittee on Transportation, Tourism and Hazardous Materials, Committee on Energy and Commerce, House of Representatives, Washington, DC.

DEAR BOB: There is a growing possibility that the United Transportation Union will strike the Chicago & North Western Transportation Company on August 4, 1988, over a dispute regarding the size of train crews. It is my understanding that your Subcommittee will be asked to consider legislation to extend the "cooling-off" period under the Railway Labor Act (45 U.S.C. 151, et seq.), to prevent a strike and give the parties additional time to resolve their dispute. The administration would have no objection to a one-time extension of the status quo period of about a month's duration to give the Congress time to act. However, the Director of OMB and I would recommend to the President that he veto any bill that contained labor protection provisions or Staggers Act amendments (such as the CURE bill).

Presidential Emergency Board No. 213 has already reviewed the UTU/C&NW dispute and recommended terms of settlement. Unfortunately, the report has not had the intended effect of leading to a resolution of the dispute. While this Administration is committed to the principle of collective bargaining as the basis for the labor-management relations, it is not clear that an extension of the bargaining period will lead to a negotiated agreement. If the Subcommittee intends to enact a legislative solution to the dispute in the absence of a negotiated agreement, it may wish to act well in advance of the expiration of the extended status quo period. The Department of Transportation stands ready to provide whatever assistance the Subcommittee may need in addressing the UTU/C&NW dispute.

Sincerely,

JIM BURNLEY.

Mr. DINGELL. Mr. Speaker, I rise in support of Senate Joint Resolution 356, which will extend until September 9 the cooling-off period in the current dispute between the United Transportation Union and the Chicago & North Western Railroad. While I deeply regret that it has been necessary for the Congress to intervene in this dispute, the joint resolution will ensure that the status quo ante is restored, so that uninterrupted service is provided at least until after Congress returns from its summer recess.

Several members of the Energy and Commerce Committee and the House deserve special recognition for their efforts to minimize the disruption caused by the parties' exercise of self-help today. Foremost among them is the gentleman from Illinois [Mr. BRUCE], who worked all day yesterday to obtain an agreement by the parties postponing until 10 a.m. this morning the CNW's planned rules changes and thus the UTU's planned strike. As a result of Mr. BRUCE's efforts, 41,000 commuters in Chicago were able to get to work this morning with minimal difficulty.

Also deserving of special recognition are the gentlemen from Iowa [Mr. TAUKE] and from Illinois [Mr. MADIGAN], whose close cooperation and hard work enabled us to bring this resolution to the floor under these expedited procedures. They have been invaluable partners in this effort.

Credit is also due to the subcommittee chairman, Mr. LUKEN, and to the ranking Republican members of the committee, Mr. LENT, and the subcommittee, Mr. WHITTAKER. Last but not least, several Members from the Chicago area, including Mr. ROSTENKOWSKI, Mrs. COLLINS, and Mr. PORTER provided me with valuable help and advice in addressing this matter.

A great deal of attention has been paid in recent days to our committee's precedent and tradition of not acting in these matters until the parties themselves have changed the status quo by exercising self-help. Today's action provides a good opportunity to reiterate the rationales for this policy.

On a very practical level, the House should not and cannot allow the parties to such disputes to believe that Congress will relieve them of the responsibility for negotiating rationally and reaching their own agreements. If we act in advance of self-help—and thereby ensure the parties that they need not worry about the consequences of their bargaining positions—we guarantee that the parties will never reach agreement on their own. Instead, they will take unreasonable positions, make unreasonable demands, and stick to them unreasonably long. We cannot allow this to occur, much less encourage it.

Beyond this practical consideration, it would be inappropriate and of questionable constitutional validity for Congress to act in advance of self-help. The law provides both labor and management with certain rights, including the rights to strike and to lock out. These prerogatives are protected in part by the fifth amendment, which guards against the elimination of

private rights without due process or just compensation, and, with respect to labor's rights, perhaps also by the 13th amendment, which prohibits involuntary servitude. The only basis for congressional action in this area is the commerce clause of the Constitution—and therefore, until commerce has been interfered with or burdened, Congress should exercise restraint.

I recognize that these considerations are cold comfort to those in the Upper Midwest and elsewhere who would be impacted by a CNW strike or service interruption. Nevertheless, as chairman of the Energy and Commerce Committee, I must consider the potential consequences of premature House action. Were it not for this policy, we would face many more of these disputes in the Congress. As it is, such disputes are not infrequent. This is the third such case in 2 years, and I would observe to my Midwestern friends that in both of the earlier cases—one involving the Maine Central, the other involving the Long Island Rail Road—the House did not act until several days had passed under a strike.

One additional point deserves mention. Lest there be any doubt, the Members should know this—I have been unequivocal in communicating this policy and precedent to both the CNW and the UTU for the past several weeks. Any disappointment on their part about our refusal to act until self-help was exercised has only one source—the parties' own unfounded optimism that we would depart from our usual practice and precedent.

So that there will be no doubt today, tomorrow, or on September 9 when this resolution expires, let me reiterate the point. If the parties cannot resolve this dispute themselves before the extended cooling-off period ends, our committee and the House will not act again unless and until the parties exercise self-help and thereby alter the status quo. The parties, their shippers, their passengers, and their communities will, I hope, take this admonition to heart.

Mr. WHITTAKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 356

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF TEMPORARY PROHIBITION.

Section 10(h) of the Railway Labor Act (45 U.S.C. 160) shall be extended until September 9, 1988, with respect to the dispute referred to in Executive Order No. 12636 of April 20, 1988, so that no change, except by agreement, shall be made by the rail carrier, Chicago and Northwestern Transportation Company, or by the employees of such carrier represented by labor organizations that are a party to such dispute, in the conditions out of which the dispute arose as such conditions existed before 12:01 ante meridiem of August 4, 1988.

The SPEAKER. Does the gentleman from Ohio [Mr. THOMAS A. LUKEN] desire time on the Senate Joint resolution?

Mr. THOMAS A. LUKEN. No, Mr. Speaker.

The SPEAKER. Pursuant to the unanimous consent agreements, the previous question is ordered. The question is on the Senate joint resolution.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on Senate Joint Resolution 356, the Senate joint resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CONFERENCE REPORT ON H.R. 442, CIVIL LIBERTIES ACT OF 1988

The SPEAKER. Pursuant to the order of the House of yesterday, Wednesday, August 3, 1988, the unfinished business is the completion of the debate on the conference report on the bill (H.R. 442) to implement recommendations of the Commission on Wartime Relocation and Internment of Civilians.

The Clerk read the title of the bill.

The SPEAKER. Pursuant to the order of the House of Wednesday, August 3, 1988, 20 minutes remain in general debate.

The gentleman from Massachusetts [Mr. FRANK] will be recognized for 6 minutes; the gentleman from Georgia [Mr. SWINDALL] will be recognized for 6 minutes; and the gentleman from North Carolina [Mr. COBLE] will be recognized for 8 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. RODINO], the chairman of the committee.

Mr. RODINO. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. FRANK] for yielding.

I say that it is really long past due that we address this wrong that we committed way back in the early 1940's and in fairness and decency to justice that we act on this conference report.

Mr. Speaker, I urge its approval.

Mr. Speaker, on September 17, 1987, the 200th anniversary of the signing of our Constitution, the House passed H.R. 442, the Civil Liberties Act of 1988. Today, we have the opportunity—and the obligation—to complete our work on this legislation by adopting the conference report on H.R. 442. Fairness and decency and justice demand that we act.

More than 45 years ago, the Federal Government committed a grave injustice against Japanese American citizens and resident aliens. It herded nearly 120,000 loyal Japanese Americans into remote internment camps. The United States at the time was at war with Japan, yes, but the Government's evacuation and internment of these Japanese Americans could not be justified by military necessity or security concerns. Despite this shameful misdeed, their government has never compensated these loyal citizens for this denial of their freedom. The House on September 17, 1987, passed H.R. 442 by a vote of 243 to 141. Today we can correct a great wrong by passage of the conference report on H.R. 442 and help speed to these people—our fellow citizens—the just recompense that has been too long delayed.

The conference report also provides for compensation to the residents of the Aleutian and Pribilof Islands. The Commission on Wartime Relocation and Internment of Civilians recommended compensation for those residents of the Aleutian chain who were relocated during World War II by the Government and their villages destroyed by U.S. occupation. The story of the Aleut relocation and internment in abandoned canneries is one of Government negligence. The camps were harsh and medical care was woefully wanting. Approximately 10 percent of the Aleut evacuees died during the 2 to 3 years they were forced to spend in the camps.

The villagers of Attu Island were destined never to return to their home. Part of the island was made a Coast Guard base after World War II, and the rest was designated a wilderness area in 1980. The bill would also compensate the Aleuts for the loss of Attu Island. The Judiciary Committee reported on September 29, 1987, to the House, H.R. 1631, which provides for restitution to the Aleuts in a manner similar to the provisions contained in the conference report. The committee therefore recommends that the House accept the Aleut provisions of H.R. 442 as contained in the conference report.

The conference on H.R. 442 refined and perfected the language of both House and Senate bills, producing a bill that carries out the recommendations of the Commission on Wartime Relocations and Internment of Civilians regarding with the Aleuts and Japanese Americans. The conference agreement contains a 10-year authorization to establish a trust fund of $1.25 billion to be used for two purposes. First, it will provide payments of $20,000 to each surviving individual of Japanese ancestry who was deprived of his or her liberty through relocation and internment. Second, it will finance a civil liberties public education fund by providing $50 million to publish the hearings of the Commission and to sponsor research and public education activities about the internment period.

The conference agreement also establishes a $5 million trust fund for the general benefit of the Aleuts: $12,000 to each Aleut relocated during the war, $1.4 million for destroyed

church property, and not more than $15 million for the loss of Attu Island.

The conference agreement complies with the Budget Act, which authorizes new budget authority effective only for fiscal year 1989 and thereafter. In regard to restitution payments to Japanese-Americans, not more than $500 million in budget authority may be appropriated in any year.

The conference agreement asserts that those persons of Japanese ancestry who are living on the date of enactment of the bill qualify for restitution. The agreement also states that the right to payments vests in the survivor at the time of enactment but that payments of the vested rights of deceased persons are limited to three categories: First, surviving spouse; second, equal shares to living children and; third, equal shares to living parents.

The Committee on the Judiciary has jurisdiction over the claims of individuals against the U.S. Government. The committee regularly considers such claims. The committee recognizes that it is nearly impossible to provide adequate compensation to Japanese-Americans and residents of the Aleutian chain relocated during World War II. However, restitution payments are recommended by the committee in accordance with legal precedent for the payment of monetary damages for detainment without due process of law. The Congress has issued a formal apology in the bill, but that alone is not enough to redress the wrongs.

The committee recommends that the House act favorably on the conference agreement of H.R. 442 to remedy the gross inequity done by the United States Government to these Japanese-Americans and residents of the Aleutian chain.

I particularly want to commend Representative BARNEY FRANK, chairman of the Subcommittee on Administrative Law and Government Relations for his work on this bill.

I urge the House to favorably consider the conference agreement on H.R. 442.

Mr. FRANK. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MATSUI].

Mr. MATSUI. Mr. Speaker, today marks a very important day in the making of our Nation's history. It is a day which clearly demonstrates that the U.S. Congress will not let anything interfere with its sworn duty to uphold the principles which have made this country the great Nation that it is.

I am referring, of course, to the upcoming final passage of H.R. 442, the Civil Liberties Restoration Act of 1988, and before I go further I would like to thank the numerous Members of Congress, Members of both parties, who have supported this legislation and made this great day possible.

The success of the redress bill demonstrates the true character of America in a way that the whole world can recognize. While all countries inevitably make mistakes, few have the courage and wisdom to recognize and acknowledge those mistakes. We all grow tired of reading the meaningless excuses that have been given as explanations for so many tragic actions—excuses which inevitably find a way to blame the victims for their own suffering.

Fortunately, however, since the time when the full rights of citizenship were made available to all Americans, those stories rarely originate from this country. American history books and newspapers record the growth and development of freedom, liberty, and justice, with our Constitution standing as the greatest cornerstone that democracy has ever stood upon. And today will mark another great step in the growth of our democratic Government.

As Democrats and Republicans, liberals and conservatives, politicians and pundits, and, most importantly, citizens of every race and creed across the Nation have recognized, the internment of Japanese-Americans during World War II clearly violated the rights guaranteed to these people by the United States Government under the Constitution. While patriotic men, such as our distinguished colleagues Senators MATSUNAGA and INOUYE, bravely risked their lives defending their country, their country wrongfully imprisoned their families, and forced those families to leave behind anything that they could not carry.

The worst part of the internment grew out of the patriotism of the internees. True believers in the freedom and justice of the American system, many internees simply could not believe that their country could do this to them. My own father could not even talk about his experience in the Tule Lake Internment Camp until 40 years after his freedom was returned to him.

The stigma of the internment weighed heavily on the hearts and souls of these Americans, and, in my fathers words, "the specter of disloyalty attached to anybody who was in those camps." Unfortunately, that specter is alive and well. I know because I have seen it in the tears and painful rememberances of internees. I know because I have seen the letters and heard the voices of those expressing their thanks for the action this great body took last September by its initial passage of H.R. 442.

The redress bill is widely supported not only because of the clearly wrongful nature of the internment, but because of the importance of redress to the integrity of our Constitution. "No person shall * * * be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation." Words which have ensured the greatness of our country, but words which will only be as meaningful as the redress granted to these American citizens who were forcibly removed from their homes and incarcerated, forfeiting many of their possessions, without due process or justice of any kind.

The $20,000 which will go to each internee is not a payoff to some interest group. It is, however, a significant reparation, a reparation just large enough to prove to those internees that the apology they will receive is real and not a meaningless, effortless gesture of pacification.

Redress compensation also reflects the most basic concept of our judicial system—that one party, even if that party is the Government itself, who injures another party shall be held accountable. There would be no accountability, and no justice, in the redress bill without compensation.

Both Houses of Congress, including Members of both the majority and the minority parties, have already voted for this compensation, and we stand poised here today to clear this bill for the President's signature. My friends and colleagues, as someone who is intimately acquainted with the pain caused by the internment and as someone who deeply cares about our Constitution, I cannot tell you how much this vote means to me.

Mr. Speaker, I salute our President who has not only endorsed this bill but has also urged the House to act "swiftly and favorably" on it. In the spirit of our Constitution, I hope my colleagues will seize this tremendous opportunity to bring a positive and healing close to what has been a painful chapter in our Nation's history.

Mr. Speaker, I would just like to quote from a document that appeared in the CONGRESSIONAL RECORD in 1941. It was put in by a gentleman by the name of Mike Masaoka. Mike Masaoka was born in Salt Lake City, UT. He had five brothers, and he and his family were interned during World War II although they were American citizens. When they were in the internment camps, they decided that they needed to prove their loyalty to their country, and so all of the brothers volunteered for the 442d Combat Troop to fight in the European front on behalf of the U.S. Government.

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Their sisters, mother and father, and other relatives wre incarcerated by their own Government. Ben Masaoka was killed in action. Todd Masaoka was severely wounded. Ike Masaoka was completely disabled. The others survived. They received numerous medals from the Federal Government.

Mr. Speaker, Mike Masaoka in 1941 asked the U.S. Senate to insert a statement in the CONGRESSIONAL RECORD, and I think the statement is so fitting of the greatness of this country and the greatness of this institution that I

would like to read the statement of Mike Masaoka:

JAPANESE AMERICAN CREED

I am proud that I am an American citizen of Japanese ancestry, for my very background makes me appreciate more fully the wonderful advantages of this Nation. I believe in her institutions, ideals and traditions; I glory in her heritage; I boast of her history; I trust in her future. She has granted me liberties and opportunities such as no individual enjoys in this world today. She has given me an education befitting kings. She has entrusted me with the responsibilities of the franchise. She has permitted me to build a home, to earn a livelihood, to worship, think, speak, and act as I please—as a free man equal to every other man.

Although some individuals may discriminate against me I shall never become bitter or lose faith, for I know such persons are not representative of the majority of the American people. True, I shall do all in my power to discourage such practices, but I shall do it in the American way: above board, in the open, through courts of law, by education, by proving myself to be worthy of equal treatment and consideration. I am firm in my belief that American sportsmanship and attitude of fair pay will judge citizenship and patriotism on the basis of action and achievement, and not on the basis of physical characteristics.

Because I believe in America, and I trust she believes in me, and because I have received innumerable benefits from her I pledge myself to do honor to her at all times and in all places, to support her Constitution, to obey her laws, to respect her Flag, to defend her against all enemies, foreign or domestic, to actively assume my duties and obligations as a citizen, cheerfully and without any reservations whatsoever, in the hope that I may become a better American in a greater America.

MIKE M. MASAOKA.

Mr. Speaker, I urge adoption of this conference report.

Mr. SWINDALL. Mr. Speaker, I yield such time as he may consume to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I rise in strong support of the conference report to accompany H.R. 442—the Wartime Relocation Compensation Act. I believe it is the obligation of a fair and just government to repay citizens for property taken by that government, even where the motive is to protect the Nation in time of war. I would like to say, however, the compensation to citizens who were interned does not in any way reduce our respect for all those whose sacrifices allowed us to win the war and remain a nation of freedom and liberty. It is from respect for that freedom and liberty that our Government should repay citizens for property forcibly taken during the war.

The conference report contains provisions which provide justifiable compensation for Japanese-Americans and Aleuts living in Alaska who were forcibly relocated during World War II. The provisions in the conference report are patterned after the recommendations of the Wartime Relocation Commission and are nearly identical to legislation I introduced which passed the Judiciary Committee of this body. These provisions provide for individual per capita payments for the survivors of internment and a trust fund for the heirs of those who did not survive. It is important, Mr. Speaker, that 10 percent of the Aleuts who were relocated did not survive their stay in camps in southeast Alaska due to extremely poor health conditions and lack of medical treatment.

The conference report further provides for the payment to the Aleut Corporation for the loss of ownership of Attu Island. Villagers were forcibly relocated from Attu Island and were not allowed to return after the war. In 1980, the island was designated a wilderness area and cannot be returned to the Aleuts at this time.

We took the rights of the residents of Aleutian chain detained during the war. In justice and fairness, I believe we should recognize those rights and provide compensation.

This issue is one of fundamental basic fairness for a fair and just society. I strongly support the conference report and urge my colleagues to vote in favor of it.

Finally, Mr. Speaker, I commend the chairman of the subcommittee, Mr. FRANK of Massachusetts, for his fine work on this legislation as well as the excellent work of the committee staff.

Mr. COBLE. Mr. Speaker, I yield 30 seconds to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Speaker, last night when I arrived home, my husband, who served in the Army during the Korean war, came into the kitchen shaking his head and muttering, "If you want a fast divorce, you vote for that outrageous expenditure of our money."

I was not sure what he was talking about. I asked him.

He responded that he had been watching C-SPAN and had heard the floor debate concerning the reparations to those persons who had been incarcerated during World War II.

"That was wartime," he shouted, "and we did not start the war. If anyone should get anything, it should be the American prisoners who were treated cruelly and frequently tortured, sometimes tortured to death."

Mr. Speaker, my veteran husband, Bill Bentley, like all the veterans in my district, oppose this legislation, as do I.

Mr. COBLE. Mr. Speaker, I yield 3½ minutes to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Speaker, when I came to this Congress 10 years ago, one of the concerns that was raised to me by some folks who worked with me plus some people in my district was the question of the treatment of the Japanese Americans during World War II. Having been someone who grew up in southern California, an area which was dramatically changed as a result of the Executive order signed by President Franklin Delano Roosevelt, but having been born after the war and not knowing that much about it, I began to investigate it.

Once I realized what had occurred, I decided that I ought to be part of bringing this to the attention of the American people. Therefore, I cosponsored the original legislation to create the Commission and served as the only Member of this House on that Commission.

Mr. Speaker, what we discovered was what had been described here both in terms of treatment of American citizens in California and other parts of the 48 States, but also as far as the Aleuts were concerned up in Alaska.

There are reasons, I would suggest, that these things were done, even though I agreed with the unanimous recommendation of the Commission that this decision was made in error and was based on those three cited reasons. It is easy for us to look back and judge others.

What we need to do is to learn the lessons of the past, to make sure it does not happen again, and we need to, as one of our colleagues said, remove any vestige of a stigma that attaches to those loyal Americans and non-Americans who happened to be taken away in those camps.

I have fought against the idea of individual reparations. I still believe it is a wrong thing to do. I do not think we expiate our guilt by paying money from a subsequent generation. Nonetheless, lost in the whole debate about money has been the prime purpose of this legislation, and I believe the prime purpose of the product of the Commission's work is to make crystal clear to Americans now and in the future that there is no disloyalty that attaches to Japanese-Americans and others who were incarcerated or the Aleuts. It was the product of wartime hysteria and the other things that have been mentioned and that there ought to be no thought that anybody in those camps was disloyal.

Mr. Speaker, I think we need an educational program. I think we need to take care of the property losses that existed, and even though I am still believing that it is an error for us to pay individual reparations to individuals in these circumstances. On balance, I think we must make a statement that this was wrong.

When I was on the Commission, I voted with all the other Commissioners in favor of the overall report, although I dissented with respect to the recommendations with respect to individual reparations.

In the Congress of the United States you do not have the luxury of voting and at the same time dissenting and having that recorded. I did that in some way when this bill was first up. I had hoped we might be able to work further toward a discussion of the final ramifications of individual reparations and the precedent it might set. I did my best on that. Other felt that that was not the case, including the President of the United States.

Therefore, Mr. Speaker, at this time I think this ought to be supported even though I still hold reservations with respect to some parts of it.

The symbol is more important than the question of the money, I believe.

Mr. FRANK. Mr. Speaker, I yield 1 minute to the former chairman of the subcommittee before we began work on this issue, the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, this is a great day for America, because it bears witness to the unique and special greatness of America that we are today repaying American citizens for injustices suffered during World War II as a result of denial of due process. Very few other societies or countries would do what we Americans are doing today.

Mr. Speaker, this bill proves our respect for human rights and liberties is paramount. This bill also establishes a historical precedent that this will never happen again to any racial, religious, ethnic group or individual—that those folks will be deprived of due process because of their background.

Mr. Speaker, behind me is a statement by Daniel Webster. He closes the remarks by saying, "And let us see whether we in our day and in our generation may not perform something worthy to be remembered."

We are doing that today.

Mr. SWINDALL. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, when this bill was before us, I criticized its appropriateness, and as I frequently do, criticized the spending of money in the amounts called for. I spoke my piece, and I lost the argument.

Through the good work of a host of managers, the bill has been improved and has moved forward. A national apology will be offered when this bill is passed today. One of the managers, a particular friend, the gentleman from California [Mr. MATSUI], has been most gracious in talking to me about this bill and explaining what his aspirations for it are.

Partly as a result of those discussions, I see this bill now as an important national apology. As such, it is one which should be made by all of us, and for all of the people of this country. Therefore, on this vote I am going to swallow my objections on appropriateness and unnecessary spending and I will reverse my vote against the bill.

Mr. Speaker, it is a time for apology, healing, and reunification, and I intend to be a part of it.

Mr. FRANK. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, enactment of this legislation will bring to a close a painful chapter in this Nation's history. The forced internment of 120,000 persons of Japanese ancestry, most of them American citizens, was a national shame.

Extraordinary sacrifices occur in times of national crisis, and we recognize that thousands of Americans lost their lives in that conflict. The war exacted a price that can never be repaid.

What they fought for, what they fought and died for, was a Nation that respects basic freedoms, justice, and rights. Their sacrifice is the very reason we have the responsibility of coming to terms with this tragic moment of our history.

That is the lesson we all must learn.

Mr. Speaker, I rise today in support of the conference report for the Civil Liberties Act of 1987, which will provide restitution to Japanese Americans interned and relocated during World War II, an apology to these people, and an education fund to ensure the future study of this tragic moment of American history.

The treatment of Japanese Americans in the months following the attack on Pearl Harbor has long been a source of controversy and debate in this country. On February 10, 1942, 10 weeks after America's entrance in the war, President Franklin D. Roosevelt signed Executive Order 9066 giving the Secretary of War and regional military commanders the power to exclude any and all persons from designated areas for security reasons. In the end, more than 120,000 persons of Japanese ancestry—two-thirds of whom were American citizens—were uprooted from along the coasts of California, Oregon, and Washington and interned in remote relocation camps.

Today, more than 40 years later, the controversy surrounding that decision continues. Congress moved in 1980 to address this sensitive issue by establishing a bipartisan Commission on Wartime Relocation and Internment of Civilians to examine the circumstances leading up to the exclusion of Japanese Americans from the west coast and their subsequent detention under armed guard.

After months of hearings and extensive examination of public records, the Commission reported in January 1983 that circumstances in this country during the war did not warrant the internment of thousands of Japanese Americans. In support of this conclusion, the Commission reported that there was not a single documented act of espionage or subversion committed by an American of Japanese heritage on the west coast. The Commission also noted the unequal treatment of suspected nationals, pointing out that no mass exclusion or detention was ordered against Americans of German or Italian descent.

Frankly, we all recognize the necessity of extraordinary measures in times of national crisis. Mandatory military service and gas and food rationing were but a few of the hardships and sacrifices that touched the lives of all Americans during World War II. For the thousands of young Americans who lost their lives in that conflict, the war exacted a price that can never be repaid.

The question before Congress and the Nation is whether, some 40 years after the fact, we should try to compensate for losses suffered by Americans of Japanese ancestry. I believe that we must come to terms with this tragic moment of our history. The education programs provided for in the bill will finally give this nearly forgotten casualty of World War II the attention it deserves. Children in schools across the Nation will learn about the cruelties of war and racism.

Too many young Americans are unaware of the events of World War II. For a variety of reasons the Japanese internment camps are not given adequate attention in the classrooms of the United States. At a time when young people are learning about the controversial events that occurred in Vietnam, so should they be learning of the assault on liberties that occurred right here in the United States during World War II. The money authorized in the bill specifically for education will ensure that future generations will know of these events and learn from them. While I recognize the concern of some over the price of this legislation, the price of not taking this action seems even higher. Only through a knowledge of history can similar events be avoided in the future.

Mr. SWINDALL. Mr. Speaker, I yield 1 minute to the gentleman from Guam [Mr. BLAZ].

Mr. BLAZ. Mr. Speaker, I asked to speak here today because I sense history in the making, and I wanted to be part of it. I wanted to be part of a body that was noble enough, is noble enough, to right a wrong. I wanted, as a soldier, to pay tribute to the members of the 442d who, despite the enormous trauma that must have been upon them as they fought in Italy, nevertheless, distinguished themselves beyond imagination as no other, no other, battle organization has ever done since and probably will never be duplicated.

□ 1130

During the debate I said that there is one similarity between myself and BOB MATSUI and NORM MINETA. We all were incarcerated in our youth, but there was one big distinction. My guards were enemy soldiers; theirs were American soldiers.

It was wrong. Let us do it right.

Thank you, NORM, thank you, BOB.

Mr. SWINDALL. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. KONNYU].

Mr. KONNYU. Mr. Speaker, I was a refugee in a camp at the end of World War II in Austria. Our family was

forced to live there and we could not leave.

Last year I visited a refugee camp in Honduras where 10,000 people were there. They were forced to live there. They could not leave.

That is the situation that happened during the Second World War. I met with those who were incarcerated in my district and others.

I think an apology is appropriate. I think that reimbursement of lost assets created by forced sale at fire sale prices is appropriate.

I ask for support of this legislation.

Mr. SWINDALL. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in closing I would like to urge my colleagues to support this legislation. The President has stated that he not only supports it but will sign it.

I would urge Members to support it not only because it is right, but because it is constitutionally mandated. The gentlewoman from Maryland made the statement that one of her constituents said we did not start this war. Let me remind those who make that argument that neither did these individuals who were interned. We cannot simply transfer the wrongs of the Japanese Government to the wrongs of individuals that are descendants.

In closing, the Federal Government has a responsibility to protect and uphold the Constitution. When it fails in that responsibility and in this case actually participates in violating the Constitution, it must step forward and not only say we were wrong, but make repair. Stating you are wrong is inadequate. You must repair as best you can the damage.

This is a small step in the right direction, but it does close this chapter of American history.

Mr. COBLE. Mr. Speaker, I yield myself my remaining 4 minutes.

Mr. Speaker, I am not comfortable rising to oppose this bill because some will accuse me of being insensitive and uncaring. It is inaccurate. Many proponents of this bill are Members of this House for whom I have the highest regard, and that compounds my discomfort.

I cannot argue to my colleagues that this legislation does not represent a humane gesture by the United States, nor can I argue that Americans of Japanese descent who were living on the west coast of the United States did not experience a horrendous and regrettable interruption of their lives and livelihoods during World War II because of the relocation program.

I can, however, argue, Mr. Speaker, that in a time of war when a country is threatened for its very survival, as this country was after Pearl Harbor in 1942, many things happen and many lives are disrupted for no logical reason. Many travesties of justice occur during a time of war. Many people lost their lives during World War II. Many people's lives were disrupted against their will, and this country went to war in order to help stop the further loss of lives.

I believe it is unfair and perhaps even presumptuous for us to sit in the calm of this House, thousands of miles away from any threat of war today, with the benefit of 20-20 hindsight, and pass judgment on the decisions made by President Roosevelt, his Secretary of War, and other members of his Cabinet during the threat of war which faced them in 1942 following the attack on the front line of defense at Pearl Harbor.

Was there perhaps war hysteria? No doubt. Was there perhaps racial prejudice involved? No doubt.

Was there a failure of political leadership? I think not. We joined that war and helped our allies win it.

But the decisions that are being questioned today, Mr. Speaker, were intertwined with a threatened national security.

I furthermore have reservations about the precedent that we may be setting in passing legislation of this kind. I do not believe that this Government can make restitution for every wrong committed by it during a time of global war, and where do we draw the line? Perhaps descendants of slaves, perhaps American Indians who were forced from their ancestral grounds and placed upon reservations. The potential is endless.

Our office has received many letters from veterans who fought in the Second World War who disagree with this bill, and the tone of their letters is generally the same. Many of them fought and were injured during World War II in conflict with our enemies. Some lost friends and loved ones as a result of the attack upon Pearl Harbor.

Mr. Speaker, in closing, I have no problems with the United States apologizing to those citizens of Japanese descent who were interned during the Second World War or whose lives were disrupted and detrimentally so during that war. And there are, furthermore, many people who should be recipients of apologies for acts that were done to them during the time of war.

But it is a problem, Mr. Speaker, that cannot be simply and summarily resolved after the fact through legislation.

Mr. SWINDALL. Mr. Speaker, will the gentleman yield?

Mr. COBLE. I am glad to yield to the gentleman from Georgia, if I have any time remaining.

Mr. SWINDALL. Mr. Speaker, I would just like to engage the gentleman from North Carolina in one question which I think is at the heart of many individuals' misunderstanding of this bill. The gentleman said where do we draw the line, does this mean that we may well end up compensating descendants of slaves.

I asked that same question and I think the signficance of this bill is that it has nothing to do with the descendants of internees. No individual compensated here is a descendant. They are people who were actually interned.

Mr. FRANK. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I rise in strong support of H.R. 442.

Mr. Speaker, I rise to express my strong support for the conference report on H.R. 442, the Civil Liberties Act of 1988, implementing the recommendations of the Commission on Wartime Relocation and Internment of Civilians.

I am proud to have served as a conferee on this historic legislation, and am delighted that the conference report retains the House provision vesting the right to restitution payments in those who are living on the date of enactment. In this and in other key respects, the conference report succeeds in retaining the critical provisions of H.R. 442.

But my pride in being a Member of the Congress which finally apologizes on behalf of the Nation for the relocation and internment of Japanese Americans during World War II and provides redress for their suffering is tempered by my sadness that these events ever happened at all, and that it has taken us over 45 years to admit our mistake and make amends.

It is impossible to overstate the suffering to which over 120,000 Japanese Americans were subjected when they were uprooted from their homes and their communities and compelled to live in mass detention camps. As a Californian, I personally know many people who endured this terrible loss of civil liberties and property.

It is entirely fitting, though long overdue, that we apologize and try to make amends. But I find of almost equal importance what this bill does for the rest of us who did not suffer the terrible injustice.

How many Americans have tried to make sense of the internment camps, and have concluded that there must be some unspoken exceptions to the ringing words of our Constitution and the Bill of Rights? And what price does that effort to reconcile the irreconcilable exact from our vigilance in protecting civil liberties and civil rights today?

How many Americans over the past 45 years have had their pride in our Nation as a beacon of human rights shaken by an acknowledgment of this stain on our national record?

We must approve the conference report on H.R. 442 today not simply for Japanese Americans, but for all Americans.

I salute the individual Japanese Americans and their organizations who have worked so long and so hard to win approval of this measure. Their efforts have not been for themselves alone, but for us all.

Our action today, following on the heels of the action of the other body last week, is eloquent testimony to the vibrancy of our democracy, to our desire to recognize wrongs which have been done to our people, and to right them. I urge passage of the conference report on H.R. 442.

Mr. FRANK. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Speaker, I rise in support of one of the most important measures this Congress will pass.

Mr. Speaker, I rise today in strong support of the conference report on H.R. 442, and urge my colleagues to support this long-overdue legislation. Passage of this conference report, which the other body has already agreed to, is one more step in the lengthy process of righting one of the most reprehensible episodes in our history. I am very proud to have the opportunity to be part of this historic legislation.

President Roosevelt called December 7, 1941, "A day that will live in infamy." One historian has written that February 19, 1942, was a day that "should live in infamy," for shortly thereafter all American citizens of Japanese descent were prohibited from living, working, or traveling on the west coast of the United States.

With no charges filed, with no hearings or trials, and with little notice, Japanese-American citizens and aliens were given numbers and herded to assembly centers. Allowed to bring only what they could carry, they were transported for the duration of World War II to 10 relocation centers—barely habitable camps of tar-paper shacks, surrounded by barbed wire fences.

It was not until December 1944 that Japanese-Americans were freed to return to their homes on the west coast. But many had lost everything. They were the victims of an indignity of tremendous proportions, and they lived with a tremendous stigma.

Adequate amends can never be made to the internees for their losses and suffering. However, this legislation—which recognizes and apologizes for the grave injustice done to Japanese-Americans, provides restitution to victims, and establishes a trust fund for research and educational activities related to the wartime internment—is an important recognition of the injustices committed against loyal citizens. I urge my colleagues to give it their full support.

Mr. FRANK. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, I thank my friend for yielding and rise in strong support of this legislation, and in support of the two gentlemen from California of Japanese extraction who have taken a lot of heat in the enactment of this legislation as well.

Mr. Speaker, I rise in support of H.R. 442; a bill to provide for reparations to Japanese-Americans for their internment during World War II.

On September 17, 1987, the 200th anniversary of the U.S. Constitution, the House passed H.R. 442, the Civil Liberties Act. It was a fitting way to commemorate the bicentennial of our Constitution and a step toward righting a 45-year-old wrong.

The measure has generated a great deal of controversy, due, I believe, to a misunderstanding of the events which the bill attempts to redress. The goal of the Civil Liberties Act is not to repay internees for physical losses or damages. Rather, it seeks to make amends for their unlawful imprisonment.

More than one-half of the men, women, and children put in the internment camps were American citizens by birth. The remainder were permanent residents who had lived in the United States for up to 40 years, but were unable to become citizens due to the Oriental Exclusion Act. Internees, who were mainly teachers, businessmen, and farmers, and their families, had as little as 48 hours to settle their accounts and pack only the possessions which they could carry before being shipped to detention camps by armed soldiers.

The U.S. Government deprived the internees of their constitutionally guaranteed right to the due process of law, the rights to a speedy and fair trial, freedom from arrest and search without probable cause, and the freedom of travel and speech.

We have heard many times that these Americans of Japanese ancestry were a security risk. Yet, even J. Edgar Hoover saw no justification for the internment of an entire community due to its race. War Department documents, declassified in 1983, also show that military authorities knew that there was no military necessity for internment. In fact, no citizens or resident aliens of Japanese ancestry who were interned were ever charged with or convicted of treasonous activity.

We know that the Japanese Government instigated the war in the Pacific and that America was attacked without warning or provocation. But, associating the Americans of Japanese ancestry with the acts of the Japanese empire during World War II would be wrong. Most of the internees were American citizens and had nothing to do with the Japanese Government. Blaming them for the acts of the Japanese Government is equivalent to blaming German-Americans for the horrors of Hitler and the Nazi regime. We were also at war with Germany and Italy, but we did not round up any Americans of German or Italian heritage and intern them in camps.

A nation at war must make many sacrifices, and Americans of Japanese ancestry shared in the American sacrifices for victory in World War II; 33,000 Americans of Japanese ancestry fought in World War II, many in the 100th Battalion and 442d Regimental Combat Team, which fought in Italy and France until the German surrender. While these soldiers were fighting for their country and giving their lives, their families were living behind barbed wire, by order of the same Government the soldiers were defending.

By compensating the surviving internees, we would in no way diminish the sacrifices of millions of Americans who lost their lives in defense of the United States during World War II. Our sense of obligation leads us to publicly and formally apologize on the Nation's behalf to United States citizens of Japanese ancestry who were interned during World War II. I am proud of the fact that our country is composed of people of many different races and heritages. The internment of American citizens due to their race was wrong. By passing this bill, we will be apologizing on behalf of the people of the United States for the evacuation, relocation, and internment of Japanese-Americans.

Mr. Speaker, I cannot think of a better way to reconfirm our belief in and the value of our Constitution than to enact the Civil Liberties Act. I urge my colleagues to pass this important measure.

Mr. FRANK. Mr. Speaker, I include at this point in the RECORD the letter from President Ronald Reagan supporting this bill.

The letter referred to follows:

THE WHITE HOUSE,
Washington, August 1, 1988.

Hon. JAMES WRIGHT,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: We welcome the action of the House-Senate conference on H.R. 442, a bill to provide compensation for Americans of Japanese descent interned in the United States during the Second World War. The bill reported from the conference and passed by the Senate on July 27 is substantially improved over the versions of the bill previously considered.

We are particularly pleased that the bill provides for a measured disbursement of the amounts authorized for the trust fund and ensures that acceptance of compensation under the legislation fully satisfies claims against the United States based on the unique circumstances of the internment.

The enactment of H.R. 442 will close a sad chapter in American history in a way that reaffirms America's commitment to the preservation of liberty and justice for all.

I urge the House of Representatives to act swiftly and favorably on the bill.

Sincerely,

RONALD REAGAN.

Mr. FRANK. Mr. Speaker, I yield my remaining 2 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I am delighted at the agreement reached among the conferees on H.R. 442, and I urge my colleagues to approve this report.

This legislation has been carefully drafted, after many years of debate, discussion, and hearings. In resolving the differences between the House and Senate versions of H.R. 442, the members of the conference committee further refined and strengthened an already well-crafted bill.

The major points remain, unweakened, in this legislation: An apology from the U.S. Government, compensation for survivors, an education fund to assure that such a violation of civil rights never again occurs, and review of administrative decisions and criminal convictions influenced by the hysteria of the time.

In addition, H.R. 442 now also contains redress for the Aleuts who suf-

fered so during their evacuation and relocation.

This bill is certainly about the specific injuries suffered by a small group of Americans. But the bill's impact reaches much deeper, into the very soul of our democracy. We want not just to close the books on the sad events of 1942: we want to make certain that such blatant constitutional violations never again occur.

Today I hope that this body will take another step toward righting a monumental injustice. I hope that we will resoundingly approve this report, and in so doing, will reaffirm the precious rights and freedoms guaranteed in our Constitution.

I applaud the hard work of the conferees in their careful consideration of the many points covered in this bill, and in crafting legislation to successfully meet the intent of both Houses.

I especially want to thank my good friend, the distinguished gentleman from Massaschusetts [Mr. FRANK] whose vision, brilliance and untiring efforts made this bill a reality.

I also want to thank the majority leader, Mr. FOLEY, for his sponsorship of the bill, and the distinguished and honorable gentleman from New Jersey [Mr. RODINO] the chair of the Committee on the Judiciary. This fine gentleman will shortly be retiring from this body, after a long and distinguished career and we will miss him greatly. This achievement will be marked as another outstanding accomplishment among his long list of achievements in service to this Nation.

Of course, I think Speaker WRIGHT, in his role as the original author and constant supporter of this bill. I also commend Mr. FISH, Mr. HYDE, Mr. SWINDALL, Mr. GINGRICH, Mr. KEMP, Mr. YOUNG, and Mr. BLAZ for their support.

I also want to thank the hard-working House and Senate staff members whose patience and determination helped mold this legislation into a well-written and historic bill.

This bill is a tribute to the bravery of those who served in the 100th Batallion, 442d Regimental Combat Team and the Military Intelligence Service during the Second World War.

This legislation touches a deep chord in the hearts of the thousands of loyal Americans whose rights were summarily abrogated many years ago.

But though this is a deeply personal issue for a small number, this legislation touches all of us, because it touches the very core of our Nation. Does our Constitution indeed protect all of us, regardless of race or culture? Do our rights truly remain inalienable, even in times of stress; and especially in times of stress?

The passage of this legislation answers these questions with a resounding yes.

After many years of prayer, struggle, and dreams, now the 100th Congress takes its final action on H.R. 442. I am deeply honored to serve in this body, with fine colleagues such as Mr. MATSUI and Mr. LOWRY, as it takes the brave step of admitting and redressing a monumental injustice. I am delighted that this legislation has the support of the President.

Today we can again say yes to justice. I urge my colleagues to approve this report.

Mr. BONKER. Mr. Speaker, I am extremely pleased to rise today in support of the conference report on H.R. 442, the Civil Liberties Act of 1988. At long last, our Nation stands on the threshold of providing restitution for one of the most painful episodes in American history—the internment of Japanese-Americans during World War II.

This legislation finally acknowledges the injustice these U.S. citizens experienced and makes a formal apology to them and their families. In addition, the bill provides for restitution payments as compensation to Japanese-Americans and resident aliens who were denied their civil liberties 40 years ago.

Certainly, the terrible injustice to these innocent people can never be fully undone. Forcing them to give up their homes and businesses and locking them up in concentration-like camps was such a fundamental violation of civil rights that it is near impossible to understand how it could ever have been tolerated or how the damage can ever be repaired.

Mr. Speaker, I am hopeful, though that the actions of the House of Representatives today followed soon by the President's signature making it law, will not only provide consolation to those who were so disgracefully treated but will also stand as a reminder to future generations. We can never again allow our country, which was founded on the principle of individual freedom, to sacrifice those sacred ideals to the hysteria of fear and racism.

Mr. MILLER of California. Mr. Speaker, I rise in support of the conference report on H.R. 442.

This is long overdue legislation designed to address the personal and financial injuries caused by the internment of over 120,000 Americans of Japanese ancestry during most of World War II.

Some erroneously view this legislation as a gift to internees. Nothing could be further from the truth.

This legislation is a gift from the internees to each American who loves and respects our Constitution. Because what this legislation says is that we, in the Congress, recognize the enormous blunder and disrespect for constitutional liberties which the internment was, and that we vow never to permit it to reoccur.

The Constitution of the United States guarantees the rights of all citizens, including Japanese/Americans, in times of peace as well as during times of war. This legislation sends a clear message to our people that as a country, we will constantly uphold these rights for all the racial groups, the ethnic groups and the social groups which are part of this country.

The internment of Japanese-Americans was ordered as a result of the conclusions of military leaders that Japanese-Americans—regardless how long they had lived here or their unqualified loyalty to America—posed a military threat to the United States. That conclusion was not based on facts; it was not based on law. It was based on racism pure and simple.

In fact, during the war, not a single person of Japanese descent was convicted of espionage. Japanese-Americans were no different from the Americans of German and Italian descent who had come to America seeking political and economic freedom. Yet they suffered a fate far more cruel and unjust than any other immigrant group.

I take this matter very personally, because among the children with whom I grew up in northern California in the 1940's were many whose parents and siblings were assigned to internment camps. Many of these Japanese-Americans of Contra Costa County were farmers and small businesspeople who lost their possessions because of the internment policy.

In my district alone, the internment forced 1,200 people to leave their jobs, friends, and possessions to spend up to 4 years in permanent relocation camps. One of those Contra Costans, Chiyeko Tahira, was lucky enough to have Caucasian friends with whom she hurriedly stored family china and other heirlooms before she left for over 3 years internment in Topaz, UT. Many others were not so lucky and returned to find that the barns where they had hidden their belongings had been looted or burned.

Beyond the material loss was the physchological damage of having been suddenly uprooted and labeled a potential traitor. Over 7,000 of the internees were children less than 5 years old. These children were scared by the strains of overcrowded, impoverished living behind chain-link fences. Most of them fortunately survived the internment experience, returned home, and began reconstructing their lives, burdened by financial loss and social stigma. And admirably, they maintained faith in a country that had broken faith with them.

Forty years after that tragic period of American history, it falls to this Congress and this generation of America to make amends for the past error. In authorizing $20,000 to each surviving internee, we make only a symbolic effort to compensate these Japanese-Americans for their years of hardship. Twenty thousand dollars is not a great sum when we consider that settlements of up to $10,000 were made for only 1 night of false imprisonment during the Vietnam protests of the late sixties.

I am proud to be a cosponsor of this legislation, and we as Americans should be proud that we have finally the courage to confront this unpleasant chapter in our Nation's history and attempt, however symbolically, to right the wrongs. In approving this conference report, we do far more than acknowledge our debt to the interned Japanese-American citizens of the 1940's.

We reiterate our national commitment to the primacy of our Constitution and the rule of law which can be diminished neither by racial distinctions or the passage of time. By admitting to our past mistakes, we are a better and more united country today.

It is imperative that we give this conference report our overwhelming support and never again allow the constitutional rights of any group of citizens to be swept away by the powerful tides of prejudice and irrationality.

Mr. LEHMAN of California. I join my colleagues in support of the conference report on H.R. 442, the Civil Liberties Act, legislation to provide reparation to Japanese-Americans and Alaskan Aleuts who were forced into relocation camps during World War II. As a cosponsor of H.R. 442, I would like to offer my congratulations to the Members who have worked so long and hard to perfect this long-awaited legislation.

It has taken us 46 years to correct this terrible injustice against a small group of people, most of whom were American citizens, and whose only crime was to be of Japanese ancestry. We have all been told many times, by many different Members, and in very eloquent terms during the lengthy debate on this legislation of the grave injustice and serious breach of constitutional rights that was committed against over 110,000 Americans of Japanese ancestry.

We are all well aware of the circumstances which led up to the actions by our Government and the justification which was given for the relocation policy. With the usual historical hindsight, we now know that there was no military necessity for removing Japanese-Americans from the west coast, and that there was not a single documented act of espionage or sabotage committed against the United States Government by a Japanese-American.

We all know that Executive Order 9066 giving the Secretary of War the authority to implement the relocation policy was the result of war hysteria, gross failure of political leadership, and racism, and it was the beginning of one of the most shameful chapters in the history of the United States.

We know that for over 110,000 individuals the action resulted in the forfeiture of property, the loss of 3 years of their lives removed from the mainstream of the American economy and society, and the loss of countless and unknown opportunities that would never come to those who were relocated.

We also know of the significant contributions which Japanese-American soldiers were making in both the European and Pacific military theaters. No one could question the patriotism and loyalty of the Americans who formed the famous 442d Regimental Combat Team, which remains as the most highly decorated unit of its size in United States military history, nor that of the Japanese-Americans who served in the Pacific as interpreters and helped to shorten that war effort.

Finally, we know of the terrible memories that the survivors of the relocation camps have had to carry for the past 46 years. There has been the silent suffering that many of the Issei, the first generation immigrants, have had to endure. There has been the personal conflict which their children, the Nisei, have had to overcome in speaking out forcefully to address the issue—the conflict which good friends and colleagues like NORM MINETA and BOB MATSUI have so eloquently shared with us.

Mr. Speaker, H.R. 442 cannot diminish the tragedy of this unfortunate event nor can it wipe from the memories of the survivors and their families the emotional scars that remain.

It is, however, an important step in helping to ease the pain of this shameful episode in the history of the country, and it should serve as a reminder of how easily men and governments can make wrong decisions. Finally, it serves to show the respect we all have for the contributions that Japanese-Americans have made to our society.

As a California native I am well aware of the contributions which Japanese-Americans have made to the State and Nation as a whole. I grew up in a small San Joaquin Valley farm community where the Japanese-American families flourished and were just as large a part of the community as were German-Americans, Italian-Americans, Hispanic-Americans, and Armenian-Americans.

H.R. 442 is a responsible and just bill, and it is an appropriate reflection of the shared responsibility that we have as a community and Nation. We can stand proud in approving this legislation today.

Mr. DAVIS of Illinois. Mr. Speaker, when H.R. 442 was first before the House on September 17, 1987, I considered the reaction that we might be facing if the same terrible events that were perpetrated on the Nisei Japanese-Americans in 1941 were visited upon the Irish, Dutch, Italians, and other ethnic groups and I concluded the hue and cry would be great and that this bill would have sailed right through Congress.

I consequently voted "yes" and since that time have had time to further review that vote and to consider a considerable amount of mail objecting to that vote. I have now reached the conclusion while I still deplore that black day in American history. I have also further considered that until the United States Government comes to grips with its past policies and treatment of American Indians, blacks, and other ethnic and legally deprived minorities it is not fair to start with the Japanese-Americans but rather in some historical sequence.

I am also mindful that the term "representative" means to represent and while no one has sought my "yes" vote on this bill a large number of constituents phoned, wrote, and verbally communicated their opposition to this measure.

I therefore have decided to reverse myself and vote "no" on the conference committee report on H.R. 442.

Ms. PELOSI. Mr. Speaker, Americans of Japanese ancestry have suffered enough. For 45 years, Japanese-Americans have sought redress for the injustice of their internment. It is time that we act to rectify that injustice by passing the conference report on H.R. 442 and sending it on to the President.

Solely because of their Japanese ancestry and heritage, 120,000 loyal Americans were forced to leave their homes to go to Government internment camps during World War II. They lost their houses, their farms, their businesses, and their dignity. The stress experienced by individuals and families caused untold damage to these Americans. It is up to this Nation to ensure that these losses are adequately redressed.

No piece of legislation can repay the losses and the harm caused by this relocation. However, by providing compensation and a formal national apology, this bill takes important steps in that direction.

Mr. Speaker, this country was founded on the principle that civil and constitutional rights are not the privilege of a few, but a guarantee to all citizens. Our judicial system was established to protect those rights; to guard against the tyranny of the majority. During World War II, we failed in that vigilance and tyranny ensued. The victims were productive, patriotic Americans of Japanese ancestry.

In compensating these victims of our inhumanity, we will reaffirm our dedication to the principles on which this Nation was founded. Let us learn from past mistakes so that loyal Americans will never again suffer the indignity of forced internment. I urge my colleagues to pass this conference report and to see that justice is done.

At this time, I would like to make special reference to the people in my district of San Francisco who have worked so hard for the passage of this report.

I am proud to represent a district in which I work closely with many Japanese-American leaders—survivors of the camps and their sons and daughters who, despite the racism and adversity they endured, continue to express a firm commitment to constitutional principles.

I am also proud to represent citizens who have successfully led the coram nobis efforts to overturn the Korematsu, Hirabayshi, and Yasui cases. They have proven that patriotism, commitment to democracy, and a belief in a free society are not determined by race or ethnic origin, but are held within the heart, the mind, and the soul.

Mr. FRANK. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 257, nays 156, not voting 18, as follows:

[Roll No. 264]

YEAS—257

Ackerman	Beilenson	Bosco
Akaka	Bennett	Boucher
Alexander	Bereuter	Boxer
Anderson	Berman	Brennan
Andrews	Bilbray	Brooks
Annunzio	Boehlert	Broomfield
Anthony	Boggs	Brown (CA)
Atkins	Boland	Brown (CO)
AuCoin	Bonior	Bruce
Badham	Bonker	Bryant
Bates	Borski	Bustamante

Campbell	Johnson (CT)	Pursell
Cardin	Jones (NC)	Rahall
Carr	Jontz	Rangel
Chandler	Kaptur	Ravenel
Cheney	Kastenmeier	Rhodes
Clay	Kennedy	Richardson
Clinger	Kennelly	Rinaldo
Coelho	Kildee	Rodino
Coleman (TX)	Kleczka	Roe
Collins	Konnyu	Rostenkowski
Conte	Kostmayer	Roukema
Conyers	LaFalce	Rowland (CT)
Coughlin	Lagomarsino	Roybal
Courter	Lancaster	Russo
Coyne	Lantos	Sabo
Craig	Leach (IA)	Saiki
Crockett	Lehman (CA)	Savage
Dannemeyer	Lehman (FL)	Sawyer
Davis (MI)	Leland	Saxton
de la Garza	Levin (MI)	Scheuer
DeFazio	Levine (CA)	Schneider
Dellums	Lewis (CA)	Schroeder
DeWine	Lewis (GA)	Schuette
Dicks	Lipinski	Schulze
Dingell	Lowery (CA)	Schumer
Dixon	Lowry (WA)	Sharp
Donnelly	Lujan	Shays
Dornan (CA)	Luken, Thomas	Sikorski
Downey	Lungren	Skaggs
Dreier	Madigan	Skeen
Durbin	Manton	Slattery
Dwyer	Markey	Slaughter (NY)
Dymally	Martinez	Smith (FL)
Early	Matsui	Smith (IA)
Eckart	Mavroules	Smith (NJ)
Edwards (CA)	Mazzoli	Smith, Robert (OR)
Edwards (OK)	McCloskey	
Evans	McDade	Snowe
Fascell	McGrath	Solarz
Fazio	McHugh	Spratt
Feighan	McMillen (MD)	St Germain
Fish	Mfume	Staggers
Flake	Miller (CA)	Stallings
Florio	Miller (WA)	Stark
Foley	Mineta	Stokes
Ford (MI)	Moakley	Studds
Frank	Molinari	Swift
Frenzel	Mollohan	Swindall
Frost	Moody	Synar
Gallo	Morella	Thomas (CA)
Garcia	Morrison (CT)	Torres
Gejdenson	Morrison (WA)	Torricelli
Gibbons	Mrazek	Towns
Gilman	Murphy	Traficant
Gingrich	Murtha	Traxler
Glickman	Myers	Udall
Gonzalez	Nagle	Valentine
Gradison	Natcher	Vento
Gray (IL)	Nelson	Visclosky
Gray (PA)	Nielson	Volkmer
Gunderson	Nowak	Vucanovich
Hall (OH)	Oakar	Waxman
Hamilton	Oberstar	Weber
Hawkins	Obey	Weiss
Hayes (IL)	Ortiz	Weldon
Herger	Owens (UT)	Wheat
Hertel	Panetta	Whitten
Hochbrueckner	Pashayan	Williams
Horton	Pease	Wise
Hoyer	Pelosi	Wolf
Hubbard	Pepper	Wolpe
Hughes	Perkins	Wortley
Hyde	Pickle	Wyden
Jacobs	Porter	Yates
Jeffords	Price	Young (AK)

NAYS—156

Applegate	Carper	Dyson
Archer	Chapman	Emerson
Armey	Clarke	English
Baker	Clement	Erdreich
Ballenger	Coats	Fawell
Barnard	Coble	Fields
Bartlett	Coleman (MO)	Flippo
Barton	Combest	Gallegly
Bateman	Cooper	Gaydos
Bentley	Crane	Gekas
Bevill	Darden	Goodling
Bilirakis	Daub	Gordon
Bliley	Davis (IL)	Grandy
Buechner	DeLay	Grant
Bunning	Derrick	Green
Burton	Dickinson	Gregg
Byron	DioGuardi	Guarini
Callahan	Dorgan (ND)	Hall (TX)
Hammerschmidt	Martin (IL)	Schaefer
Hansen	Martin (NY)	Sensenbrenner
Harris	McCandless	Shaw
Hastert	McCollum	Shumway
Hatcher	McCrery	Shuster
Hayes (LA)	McCurdy	Sisisky
Hefley	McEwen	Skelton
Hefner	McMillan (NC)	Slaughter (VA)
Henry	Meyers	Smith (NE)
Hiler	Michel	Smith (TX)
Holloway	Miller (OH)	Smith, Denny (OR)
Hopkins	Montgomery	
Houghton	Moorhead	Smith, Robert (NH)
Huckaby	Neal	
Hunter	Nichols	Solomon
Hutto	Olin	Stangeland
Inhofe	Oxley	Stenholm
Ireland	Packard	Stratton
Jenkins	Parris	Stump
Johnson (SD)	Patterson	Sundquist
Jones (TN)	Payne	Sweeney
Kanjorski	Penny	Tallon
Kasich	Petri	Tauke
Kolbe	Pickett	Tauzin
Kyl	Quillen	Thomas (GA)
Latta	Ray	Upton
Leath (TX)	Regula	Vander Jagt
Lent	Ridge	Walgren
Lewis (FL)	Ritter	Walker
Lightfoot	Roberts	Watkins
Livingston	Robinson	Whittaker
Lloyd	Rogers	Wylie
Lukens, Donald	Rose	Yatron
Mack	Roth	Young (FL)
Marlenee	Rowland (GA)	

NOT VOTING—18

Aspin	Foglietta	MacKay
Biaggi	Ford (TN)	Mica
Boulter	Gephardt	Owens (NY)
Chappell	Kemp	Spence
Dowdy	Kolter	Taylor
Espy	Lott	Wilson

□ 1202

The Clerk announced the following pair:

On this vote:

Mr. Gephardt for, with Mr. Boulter against.

Messrs. LATTA, CLEMENT, and HILER, and Mrs. SMITH of Nebraska changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore (Mr. MINETA). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL MIDNIGHT TOMORROW, FRIDAY, AUGUST 5, 1988, TO FILE REPORTS ON H.R. 1149 and H.R. 3763

Mr. FRANK, Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until midnight tomorrow night, Friday, August 5, 1988, to file reports on H.R. 1149 and H.R. 3763.

Mr. Speaker, this request has been cleared with the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

STATEMENT OF REPRESENTATIVE PEPPER ON AMENDMENTS TO AIDS BILL

(Mr. PEPPER asked and was given permission to address the House for 1 minute.)

Mr. PEPPER. Mr. Speaker, I rise to inform the House of the procedure that I expect the Rules Committee to follow with respect to consideration of a rule on H.R. 5142, legislation relating to the prevention and treatment of acquired immune deficiency syndrome. It is anticipated that the Committee on Rules will meet to consider a rule for this bill during the week of August 8, and it is my understanding that the leadership of the Committee on Energy and Commerce will request a modified open rule which permits the consideration of only those amendments which are included in the report which accompanies the rule.

Mr. Speaker, in order that members of the Rules Committee may have a full opportunity to make informed judgments with respect to matters to be included for consideration under the rule, it is my expectation that the committee will consider making in order only those amendments which are received at the Rules Committee offices by 3 p.m. on Tuesday, August 9, 1988.

Therefore, Mr. Speaker, any Member of the House who may wish to offer an amendment during House consideration of H.R. 5142 should have 35 copies of the amendment and of explanatory materials delivered to the offices of the Committee on Rules—room H-312 in the Capitol—by 3 o'clock p.m. on Tuesday, August 9, 1988. Members should have their amendments drafted to the text of H.R. 5142 as it was introduced.

Mr. Speaker, this announcement on the part of the Rules Committee, I will say to my colleagues, relates to the AIDS legislation, and is concurred in by the leadership of the House, which recognizes the reason for our making this request. The Rules Committee is always reluctant in any way to hamper the utter freedom of the Members of the House in offering amendments. This is in respect to the AIDS bill.

PROVIDING FOR CONSIDERATION OF H.R. 4333, MISCELLANEOUS REVENUE ACT OF 1988

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 507 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 507

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4333) to make technical corrections relating to the Tax Reform Act of 1986, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against the consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the bill, as modified by the amendment in the report of the Committee on Rules accompanying this resolution, as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read, and all points of order against said substitute, as modified, are hereby waived. No amendment to said substitute, as modified, shall be in order. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and the previous question shall be considered as ordered on the bill to final passage without intervening motion except one motion to recommit, with or without instructions.

The SPEAKER pro tempore (Ms. PELOSI). The gentleman from Florida [Mr. PEPPER] is recognized for 1 hour.

Mr. PEPPER. Madam Speaker, I yield the usual 30 minutes, for the purpose of debate only, to my distinguished friend, the gentleman from Ohio [Mr. LATTA], pending which I yield myself such time as I may consume.

Mr. PEPPER. Madam Speaker, House Resolution 507 is a closed rule providing for the consideration of H.R. 4333, the Miscellaneous Revenue Act of 1988. The rule waives all points of order against consideration of the bill and provides 1 hour for general debate.

The Ways and Means Committee reported the bill with an amendment in the nature of a substitute, which is now printed in the bill. The Ways and Means Committee also approved a free-standing amendment to extend the Foster Care Independent Living Initiatives Program. The free-standing amendment is now printed in the Rules Committee report, House Report 100-812, which accompanies the rule.

House Resolution 507 makes in order the amendment in the nature of a substitute, modified by the free-standing amendment, as an orginal bill for purpose of amendment. All points of order are waived against the substitute as modified and no amendments are in order to the substitute as modified. Finally, the rule makes in order one motion to recommit, with or without instructions.

Madam Speaker, H.R. 4333, the Miscellaneous Revenue Act of 1988, makes technical tax-related amendments and corrections to the Tax Reform Acts of 1984 and 1986 and the Revenue Act of 1987 (title X of last year's reconciliation bill), these technical corrections are long overdue.

As amended in the Ways and Means Committee, the bill modifies and extends, through fiscal year 1990, certain expiring tax provisions. H.R. 4333, as amended, extends the Qualified Mortgage Revenue Bond Program and certain tax credits for research and development. The legislation also allows off-highway business users of diesel fuel, principally farmers who are already exempted from the excise tax, to purchase the fuel directly without paying the excise tax. The measure restores but limits the tax-free treatment, which expired in 1987, for employer-provided educational assistance. The low-income rental housing tax credit and the targeted jobs tax credit are also extended through fiscal year 1990.

The committee amendment extends for 1 year the current moratorium on collection of penalties against States with AFDC excessive error rates. The measure terminates Social Security benefits to individuals deported as Nazi war criminals. The amendment provides the administration with its long-sought authority to issue long-terms bonds, bonds which mature more than 10 year after issue. Under current law, the Treasury may issue only a limited amount in long-term bonds at interest rates higher than 4.25 percent. H.R. 4333 also exempts the expenses of freelance authors, artists, and photographers from the uniform capitalization rules.

Extensions of tax benefits and other provisions that cost the Treasury will be paid for by several items that raise revenues. Over the next 3 years the measure is essentially revenue neutral. Among other provisions raising revenue, H.R. 4333 repeals the completed contract method of accounting for long-term contracts, restricts tax-free distributions from certain single premium life insurance policies, accelerates the collection of corporate estimated tax payments, imposes an excise tax on pipe tobacco, repeals special rules that allow Alaska Native corporations to sell tax losses to profitable corporations, and reduces from 70 percent to 50 percent the dividends-received deduction.

One provision, however, concerns me very seriously. Section 367 of the bill applies low-income tenancy requirements to multifamily housing owned by charitable organizations if the rental property is financed by tax-exempt bonds. The provision has unfortunate, and I am convinced unintended, debilitating effects on the development of church-sponsored retirement homes and health care facilities for the elderly. I am hopeful that a conference committee would carefully reexamine this provision in light of its potential chilling effect on development of church-sponsored retirement communities, congregate living arrangements, and health-care facilities.

Madam Speaker, I am certain each Member wishes he or she could have prevailed upon the committee to include a transition rule providing worthwhile tax relief to specific constituents. The committee, however, has chosen to take the high road, eschewing all amendments that might be characterized as providing special tax benefits to a select few. We have all heard Chairman Rostenkowski insist there will be no "rifleshot" provisions.

Mr. Speaker, while I am personally disappointed about section 367 and several other worthy matters I advocated, I can understand the value and necessity of the committee's approach. I support the bill, and I urge adoption of the rule.

□ 1215

Mr. LATTA. Madam Speaker, I yield myself such time as I may consume.

Mr. LATTA. Madam Speaker, the bill made in order by this rule is a big bill. As reported the bill consists of 960 pages, with numerous unrelated provisions. On balance it is a needed piece of legislation. While each of us might have done it differently if we were writing the bill ourselves, this bill represents a fair balancing of the problems.

There are two provisions I would particularly like to note, because I cosponsored legislation to make these changes, and the proposals were incorporated into this comprehensive bill.

The first is a provision dealing with diesel fuel. This bill would allow tax-exempt off-highway users of diesel fuel, such as farmers, to purchase the fuel directly from producers without paying the Federal excise tax. Madam Speaker, this will be a big improvement over present law, which since April 1, has required farmers to pay the tax and then claim a refund from the Treasury Department. It does not make sense to require farmers, who have enough other problems right now, to pay a tax and then have to apply for a refund to get their own

money back. Since they are exempt from the tax under the law, they should not be required to go through a lot of unnecessary paperwork.

Madam Speaker, the second provision which I cosponsored, and which is incorporated in this bill is repeal of the so-called heifer tax. This provision exempts from the application of the uniform capitalization rules otherwise deductible expenses that are incurred by an individual farmer in connection with the production of animals. Madam Speaker, the application of the uniform capitalization rules to small farmers engaged in the production of livestock is just one more burden the small farmer should not be forced to bear.

Madam Speaker, I commend the Committee on Ways and Means for including these two provisions in the bill they reported. They have helped to make life less difficult for many of America's farmers.

Madam Speaker, I should note that this rule before the House today like most rules on tax bills is a closed rule. It waives all points of order to allow consideration of the bill and to protect the committee substitute.

Members should be aware that two of the waivers covered in the waiver of all points of order are Budget Act waivers.

First a waiver of section 311(a) of the budget act is included because this bill reduces revenues in fiscal year 1988, even though it is estimated to produce a small revenue gain over the first 4 years. Any reduction in revenues this year causes a budget act problem because the current level of revenues is under the budget floor for fiscal year 1988.

The Second Budget Act waiver is included because this legislation increases new entitlement authority by $12 million in fiscal year 1989 as a result of the inclusion of a number of amendments to the social security act. Since the Ways and Means Committee has no allocation of entitlement authority for fiscal year 1989, a waiver of section 302(f)(1) of the budget act is included.

Madam Speaker, the committee on ways and means reported this bill by a record vote of 33 to 3. It is a good bill, and I will not oppose this rule, so that the house may proceed to consider the miscellaneous revenue act of 1988.

Madam Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. GRADISON].

Mr. GRADISON. Madam Speaker, I support H.R. 4333, the Miscellaneous Revenue Act of 1988 and the rule providing for its consideration. H.R. 4333 contains much needed technical corrections to the Tax Reform Act of 1986, which will eliminate many uncertainties, and correct for unintended consequences in several areas. Unfortunately, it has taken 2 years to make these corrections to the 1986 act.

H.R. 4333 extends and modifies on policy and revenue grounds several important, expiring tax provisions such as the research and development tax credit and mortgage revenue bonds. The modifications made by the committee to these provisions better target those people the provisions are intended to help. For example, the mortgage revenue bond and mortgage credit certificate programs are tightened so that the benefits are directed more toward lower income families.

This bill also makes two minor but relatively important changes to the Tax Code. It permanently exempts mutual fund shareholders from being taxed on "phantom income" which they never receive, and it modifies the collection of the diesel fuel excise tax so that off road business users are not forced to pay the tax and then collect a refund at a later date.

Furthermore, I am happy to say that this bill is deficit neutral. As a result of modifying the expiring provisions and of limiting the other provisions of the bill, it is much smaller than it could have been.

As with most large pieces of legislation, I do not support every provision in this bill. In particular, I have strong concerns regarding at least three provisions. The reduction in the dividends received deductions is of questionable merit at best. Double taxation is bad enough, but triple taxation is ridiculous.

In practice, this reduction may also have severe negative consequences. This change increases the tax benefits of corporate debt financing over equity financing. This could increase bankruptcies during economic downturns because a corporation can forgo dividend payments but not interest payments. It will also depress the value of preferred stock and, harm industries which have historically relied on such financing vehicles. I hope that the conference with the Senate will find a way to eliminate this provision.

My second concern is with the bill's treatment of life insurance. According to the analysis of the Joint Committee on Taxation, a seven-pay model is not sufficient to restrict the well recognized investment abuses of single premium life insurance. If the abuses of investment oriented life insurance continue, it will be necessary to revisit this issue to protect the integrity of the 1986 Reform Act.

My final concern is with the exemptions from the uniform capitalization rules. Granting these tax breaks now will make it that much harder to refuse other groups in the future. I fear that the compromises that were necessary to lower the marginal rates will unravel, and ultimately, lead us back to the high tax rates that existed prior to tax reform.

However, taken as a whole, I support this bill. I am pleased with the bipartisan process by which the committee developed it, and believe it should be approved by the House so that the Senate can act promptly on those features of this bill which deserve enactment before the end of this session.

Mr. PEPPER. Madam Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Madam Speaker, I rise in support of H.R. 4333, the tax legislation.

I support this measure, for several reasons. Among them is the repeal of the most burdensome tax requirement to hit American agriculture since the contemporaneous recordkeeping requirement of a few years back.

I refer to the requirement that off-road users of diesel fuel pay the diesel excise tax and receive a refund of the tax later—much later.

The Ways and Means Committee wisely recognized that diesel-fueled generators and combine harvesters have nothing to do with the Nation's highways, and should have nothing to do with the highway trust fund.

Since April 1 of this year, farmers and other off-road diesel users have seen the diesel tax take a big bite out of their cash-flow. This was unfair.

The requirement in current law essentially meant that farmers were forced against their will into the business of making interest-free loans to Uncle Sam. Would that Uncle Sam was so generous to the farmers.

I was one of several Members who introduced legislation to relieve farmers of this burden, and I am gratified to see that our efforts have been successful. I am also pleased that farmers who paid this unfair tax will be able to file for a special refund of the tax, with interest.

I hope the other body will accept this provision as it is and act speedily on the bill before the diesel tax puts anybody out of business. Cash-flow was difficult enough on the farm before this year, and the drought has made things that much worse.

Farmers simply cannot afford to pay taxes they don't owe. I commend the Ways and Means Committee for its action, and urge passage of the bill.

Mr. PEPPER. Madam Speaker, for purposes of debate only, I yield 2 minutes to the distinguished gentleman from Maine [Mr. BRENNAN].

Mr. BRENNAN. Madam Speaker, I want to take this opportunity to strongly urge my colleagues to support the measure before us.

I am pleased to see that the measure contains the diesel fuel tax exemption which was part of my bill that I sponsored to help farmers and fishermen.

Madam Speaker, American farmers are already having to bear severe

hardship because of the drought. They do not need the extra headache and the extra expense of paying excise tax on diesel fuel for their farm equipment. In Maine fishermen are also suffering because of these unfair taxes. Fishing crews often chip in to buy gas before the boat leaves the dock for the sea while most of us also have transportation costs to get to work. The fisherman's cost is increased by a fuel tax that they simply do not rightly owe.

Madam Speaker, frankly I find it absurd that fishermen are contributing to the highway trust fund through the diesel fuel excise tax. The purpose of the highway trust fund is for the contruction and repair of the Nation's roads. I was not born yesterday, and I have yet to pass a fishing vessel while driving the roads in Maine. Our fishermen, farmers and others who use diesel fuel for off-highway uses have no business paying into the highway trust fund, and the Government certainly has no right to take their hard-earned dollars, even temporarily, to repair highways they do not use with their boats.

So, Madam Speaker, Let us stop this unfairness, this inequity, and let us restore fairness to our fishermen and to our farmers who need our help. And for the damage done, let us pay. Let us pay interest on the money that we have taken from them unfairly.

Please join me in voting yes on this bill and asking that others in the other body act promptly on this bill because we are doing an injustice to our fishermen, we are doing an injustice to our farmers, and we have a chance now, and we ought to act promptly.

Mr. LATTA. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PEPPER. Madam Speaker, for purposes of debate only, I yield 2 minutes to the able gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Madam Speaker, I would like to urge support for this important piece of legislation, but most specifically this legislation contains a correction of a matter that affects many artists, writers, photographers in this country who in the Tax Reform Act were deprived of their deduction when they donated their work to a charity.

I especially wish to commend the gentleman from New York [Mr. DOWNEY] for his efforts within the committee and several members of the minority, especially the gentleman from New York [Mr. GREEN] who I know represent large artist communities in their States.

Madam Speaker, in my own State of New Mexico we have the arts as the second largest industry, and this was a provision that there was a lot of concern for around the country. It affects all kinds of artists.

Madam Speaker, not every artist in this country is wealthy, and not every artist is not conducive to giving some of their works to charity. You find many good men and women trying to do their best, trying to donate their works to a positive organization, yet they found that their deduction was taken away. That is the main reason why I am supporting this bill, and I think it is critically important that the legislation pass with a very strong margin.

Madam Speaker, I yield back the balance of my time.

Mr. PEPPER. Madam Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Ms. PELOSI). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GREEN. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 288, nays 123, not voting 20, as follows:

[Roll No. 265]

YEAS—288

Ackerman	Cheney	Florio
Akaka	Clarke	Foley
Alexander	Clay	Ford (MI)
Anderson	Clement	Frenzel
Andrews	Clinger	Frost
Annunzio	Coelho	Garcia
Anthony	Coleman (TX)	Gaydos
Applegate	Collins	Gejdenson
Archer	Conte	Gephardt
Aspin	Conyers	Gibbons
Atkins	Cooper	Gilman
AuCoin	Coyne	Glickman
Barnard	Darden	Gonzalez
Bates	Daub	Goodling
Beilenson	Davis (MI)	Gordon
Bennett	de la Garza	Gradison
Berman	DeFazio	Grant
Bevill	Dellums	Gray (IL)
Bilbray	Derrick	Gray (PA)
Boehlert	Dicks	Gregg
Boggs	Dingell	Guarini
Boland	DioGuardi	Gunderson
Bonior	Dixon	Hall (OH)
Bonker	Donnelly	Hall (TX)
Borski	Dorgan (ND)	Hamilton
Bosco	Downey	Hammerschmidt
Boucher	Durbin	Harris
Boxer	Dwyer	Hatcher
Brennan	Dyson	Hawkins
Brooks	Early	Hayes (IL)
Brown (CA)	Eckart	Hayes (LA)
Bruce	Edwards (CA)	Hefner
Bryant	English	Hertel
Bustamante	Erdreich	Hochbrueckner
Byron	Evans	Holloway
Campbell	Fascell	Horton
Cardin	Fazio	Houghton
Carper	Feighan	Hoyer
Chandler	Fish	Huckaby
Chapman	Flake	Hutto
Chappell	Flippo	Jenkins
Johnson (CT)	Morella	Shuster
Johnson (SD)	Morrison (CT)	Sikorski
Jones (NC)	Mrazek	Sisisky
Jones (TN)	Murphy	Skaggs
Jontz	Murtha	Skeen
Kanjorski	Myers	Skelton
Kaptur	Nagle	Slaughter (NY)
Kastenmeier	Natcher	Slaughter (VA)
Kennedy	Neal	Smith (FL)
Kennelly	Nelson	Smith (IA)
Kildee	Nichols	Smith (NE)
Kleczka	Nowak	Smith (NJ)
Konnyu	Oakar	Solarz
Kostmayer	Oberstar	Spratt
LaFalce	Obey	St Germain
Lancaster	Olin	Staggers
Lantos	Ortiz	Stallings
Latta	Owens (NY)	Stark
Leath (TX)	Owens (UT)	Stenholm
Lehman (CA)	Parris	Stokes
Lehman (FL)	Patterson	Stratton
Leland	Payne	Studds
Lent	Pease	Swift
Levin (MI)	Pelosi	Synar
Levine (CA)	Penny	Tallon
Lewis (GA)	Pepper	Tauzin
Lipinski	Perkins	Thomas (CA)
Lowry (WA)	Pickett	Thomas (GA)
Lujan	Pickle	Torres
Luken, Thomas	Price	Torricelli
Madigan	Pursell	Towns
Manton	Rahall	Traficant
Markey	Rangel	Traxler
Martin (NY)	Ravenel	Udall
Martinez	Ray	Valentine
Matsui	Regula	Vento
Mavroules	Richardson	Visclosky
Mazzoli	Rinaldo	Volkmer
McCloskey	Robinson	Walgren
McCrery	Rodino	Watkins
McDade	Roe	Waxman
McGrath	Rose	Weber
McHugh	Rostenkowski	Weiss
McMillan (NC)	Roukema	Wheat
McMillen (MD)	Rowland (CT)	Whitten
Meyers	Rowland (GA)	Wilson
Mfume	Roybal	Wise
Michel	Russo	Wolf
Miller (CA)	Sabo	Wolpe
Miller (OH)	Saiki	Wortley
Mineta	Savage	Wyden
Moakley	Sawyer	Wylie
Mollohan	Scheuer	Yates
Montgomery	Schulze	Yatron
Moody	Schumer	Young (AK)

NAYS—123

Armey	Gallegly	McCollum
Badham	Gallo	McEwen
Baker	Gekas	Miller (WA)
Ballenger	Gingrich	Molinari
Bartlett	Grandy	Moorhead
Barton	Green	Morrison (WA)
Bateman	Hansen	Nielson
Bentley	Hastert	Oxley
Bereuter	Hefley	Packard
Bilirakis	Henry	Pashayan
Bliley	Herger	Petri
Broomfield	Hiler	Porter
Brown (CO)	Hopkins	Rhodes
Buechner	Hubbard	Ridge
Bunning	Hughes	Ritter
Burton	Hunter	Roberts
Callahan	Hyde	Rogers
Carr	Inhofe	Roth
Coats	Ireland	Saxton
Coble	Jacobs	Schaefer
Coleman (MO)	Jeffords	Schneider
Combest	Kasich	Schroeder
Coughlin	Kolbe	Schuette
Courter	Kyl	Sensenbrenner
Craig	Lagomarsino	Sharp
Crane	Leach (IA)	Shaw
Dannemeyer	Lewis (CA)	Shays
Davis (IL)	Lewis (FL)	Shumway
DeLay	Lightfoot	Smith (TX)
DeWine	Livingston	Smith, Denny (OR)
Dickinson	Lloyd	Smith, Robert (NH)
Dornan (CA)	Lowery (CA)	Smith, Robert (OR)
Dreier	Lukens, Donald	Snowe
Dymally	Lungren	Solomon
Emerson	Mack	Stangeland
Fawell	Marlenee	
Fields	Martin (IL)	
Frank	McCandless	

Stump	Tauke	Walker
Sundquist	Upton	Weldon
Sweeney	Vander Jagt	Whittaker
Swindall	Vucanovich	Young (FL)

NOT VOTING—20

Biaggi	Ford (TN)	Panetta
Boulter	Kemp	Quillen
Crockett	Kolter	Slattery
Dowdy	Lott	Spence
Edwards (OK)	MacKay	Taylor
Espy	McCurdy	Williams
Foglietta	Mica	

□ 1248

Mr. CARR changed his vote from "yea" to "nay."

Mr. LUJAN changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO HAVE UNTIL MIDNIGHT, SATURDAY, AUGUST 6, 1988, TO FILE SUNDRY REPORTS

Mr. BROOKS. Madam Speaker, I ask unanimous consent that the Committee on Government Operations may have until midnight, Saturday, August 6, 1988, to file three legislative reports: H.R. 3345, Office of Federal Procurement Policy Reauthorization; H.R. 4719, Drug-Free Workplace; and H.R. 5090, Canada Free Trade Agreement.

The SPEAKER pro tempore (Ms. PELOSI). Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO FILE REPORT ON H.R. 5094, DEPOSITORY INSTITUTIONS ACT OF 1988

Mr. ST GERMAIN. Madam Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs may have until midnight tonight, Thursday, August 4, 1988, to file a report on H.R. 5094, the Depository Institutions Act of 1988.

Madam Speaker, I am happy to inform the Chair that the ranking minority member concurs in this request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

PERMISSION FOR COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO HAVE UNTIL MIDNIGHT, FRIDAY, AUGUST 5, 1988, TO FILE REPORT ON H.R. 5090, IMPLEMENTATION OF UNITED STATES-CANADA FREE TRADE AGREEMENT

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs have until midnight, Friday August 5, 1988, to file a report on H.R. 5090, legislation to implement the United States-Canada Free Trade Agreement.

Again, happily, Mr. Speaker, the ranking minority member concurs in this request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

MISCELLANEOUS REVENUE ACT OF 1988

The SPEAKER pro tempore. Pursuant to House Resolution 507 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4333.

□ 1250

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4333) to make technical corrections relating to the Tax Reform Act of 1986, and for other purposes, with Mr. HAYES of Louisiana in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes and the gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to urge my colleagues to support H.R. 4333, the Miscellaneous Revenue Act of 1988. This legislation was favorably reported from the Committee on Ways and Means by a strong, bipartisan vote of 33 to 3. That vote is a reflection of the committee's successful effort to write a disciplined, bipartisan bill.

As originally introduced, H.R. 4333 made technical corrections to the Tax Reform Act of 1986, other tax legislation enacted in the 99th Congress, and the tax provisions of the Omnibus Budget Reconciliation Act of 1987. In addition to these long overdue technical corrections, the bill as reported by the Committee on Ways and Means contains a number of substantive provisions which will benefit literally millions of taxpayers. These include:

Allowing tax-exempt off-highway users of diesel fuel, such as farmers, to purchase the fuel directly from producers without paying the Federal excise tax;

Exempting mutual fund shareholder expenses from the 2-percent floor for miscellaneous itemized deductions;

Extending the research and development tax credit;

Extending the mortgage bond and mortgage credit certificate programs;

Extending the targeted jobs tax credit;

Extending the low-income rental housing credit; and

Extending the tax-free treatment of employer-provided educational assistance.

The extensions of expiring provisions include new restrictions to better target these tax incentives and to reduce the overall cost of the extensions.

The bill includes a number of other miscellaneous, generic provisions that many House Members have requested. For example:

Farmers could deduct currently their preproductive expenses of farm animals. This provision repeals the so-called heifer tax.

Individual artists, writers, and photographers also could deduct currently the business expenses they incur in the production of their work.

The bill as reported by the committee is revenue neutral. The revenue losing provisions are paid for by a number of revenue raisers. These include:

Reducing the dividends received deduction from 70 percent to 50 percent;

Repealing the completed contract method of accounting;

Restricting tax-free distributions from certain single premium life insurance policies;

Speeding up certain corporate estimated tax payments; and

Repealing special rules that allow Alaska Native Corporations to sell tax losses, thereby reducing the taxes of profitable corporations.

My colleagues will recall that legislation similar to H.R. 4333 was passed by the House last year as part of the Omnibus Budget Reconciliation Act of 1987. That legislation was overtaken by the Economic Budget Summit that followed the stock market crash. During the summit, administration officials insisted that no revenue losing provisions could be included in the final budget agreement, even if the overall package was revenue neutral. Consequently, the technical corrections provisions, along with other miscellaneous tax law changes, were

dropped from the final reconciliation package.

Mr. Chairman, enactment of this important legislation is long overdue. The technical corrections will be of great help to individual taxpayers, business planners, and tax practitioners. The extension of expiring provisions will preserve and more carefully target important tax incentives. In addition, the bill provides essential diesel fuel tax relief to farmers and other similarly situated taxpayers. And the bill is kept revenue neutral through base broadeners and loophole closers that are in keeping with the spirit of tax reform.

As I indicated, this is a disciplined bill. The members of the committee worked hard to produce a bipartisan, responsible package. The overall size of the bill is just about the same as the revenue provisions contained in the President's budget. In fact, the revenue increases are $700 million less than the amount proposed in the President's budget. And we adopted several of the President's substantive recommendations.

In addition, I would like to point out that the committee did not add any special transitional rules or other forms of targeted tax relief for the benefit of specific taxpayers. After careful consideration, the committee made the decision that such rifle shot provisions were inappropriate.

Several issues regarding the legislation have arisen, and I would like to take this opportunity to make a few clarifications regarding those provisions of the bill.

The committee bill extends the low-income tenant occupancy requirements that currently apply to bond-financed apartments owned by for-profit developers to apartments financed with qualified 501(c)(3) bonds. This provision was adopted to close a loophole in present law whereby some section 501(c)(3) organizations are issuing tax-exempt bonds as fronts for for-profit developers attempting to churn burned-out real estate tax shelters. Through these transactions, for-profit developers of apartment projects may be able to continue receiving lucrative fees as project managers while avoiding compliance with State volume limitations on private activity bonds and avoid including low-income tenants in the projects.

The report explaining this provision indicates that the committee intends that apartment units included in certain integrated continuing care facilities for the elderly and disabled not be subject to the bill's restrictions. This exemption recognizes the fact that a primary objective of these facilities is the provision of significant nonhousing services such as health care. I would like to address two questions that have arisen about the requirements that must be satisfied for these apartment units to be exempt from the bill's restrictions.

First, exemption from the new restrictions is available only for apartments in continuing care facilities that provide at the same site apartment units, domiciliary care units, and nursing care units. I am aware that the term site traditionally has been defined under the tax-exempt multifamily rental housing bond rules as encompassing only physically contiguous land. I also am aware that, in some States, church organizations operate integrated continuing care facilities for a geographic area and that each of these three types of housing may not be provided at every individual location where housing is provided. However, all three types of housing are provided on an integrated systemwide basis.

For purposes of this exemption, the committee did not intend that the term site be interpreted to preclude qualification of continuing care facilities if each of the three types of housing is provided as part of an integrated system within a specific geographical area, even though each specific type of housing is not available at each individual location where housing is provided. For example, a continuing care facility may qualify for the exemption if (a) it has nursing care units at one location which serve residents in other types of housing located at noncontiguous physical locations, (b) the residents of all of the apartment units are unconditionally entitled to avail themselves of the other types of housing, including the nursing care units, as their health needs require and (c) it is reasonably expected based on all facts and circumstances (including relative locations of the facilities) that the residents will do so.

Second, the bill requires that all residents of an exempt continuing care facility be subject to uniform mandatory charges for significant nonhousing services. Some persons have asked whether this provision precludes any variation of charges based on services provided. That is not the intent of the bill. Rather, uniform fees must be imposed on each resident for significant nonhousing services, but these uniform fees need not be the exclusive fees charged for nonhousing services. Further, the fact that these fees are reduced or waived in the case of residents having low-incomes is not a violation of the requirement. In fact, such a reduction or waiver is entirely consistent with the Committee's intent—also expressed; for example, through the requirement that exempt facilities be participating providers in both the Federal Medicare and Medicaid programs—that the residents of these facilities include low-income individuals.

The committee bill imposes new restrictions on tax-exempt pooled financing bonds requiring that borrowers enter into commitments to borrow at least 25 percent of the proceeds before bonds are issued and that loans be made in a timely manner or bonds be redeemed. As stated in the report accompaning the bill, this provision reflects the committee's strong belief that tax-exempt bonds should be issued only to finance a legitimate purpose of the issuer, should be issued only for relatively current financing needs, and should remain outstanding for the minimum period necessary to satisfy those financing needs. One recent example—but not the exclusive example—of bonds understood to be affected by these restrictions, was the issuance of so-called interest rate hedge pool bonds. These bonds were issued with no concrete indications that the proceeds would be used and with the option of retiring the bonds should future interest rates make their use unattractive.

Some persons have suggested that an alternative safeguard to the bill's borrower identification requirement may be appropriate for certain pooled financings, such as those issued by the Ohio Water Resources Development Program, that historically have been issued without actual loan commitments, but with respect to which the bill's loan origination periods and bond redemption requirements could be easily satisfied. It is my understanding that these pooled financing bonds could, subject to some procedural changes in the program, satisfy the borrower identification requirement because demand for loans is demonstrated. However, consideration of an alternative safeguard to the borrower identification requirement that would be administratively easier for issuers of these bonds to satisfy while not enabling other issuers to engage in questionable transactions would be appropriate during the conference on the bill.

The bill provides a cap on employer provided educational assistance. As under present law, the cap would not apply to tuition remission provided to graduate students under Code section 117, except for tuition remission which is provided in return for services. Of course, tuition remission would not be considered provided for services merely because it is provided under a collective-bargaining agreement between the university and its graduate students.

The bill provides a grandfather from the cap on nonqualified deferrals in the case of nonelective plans provided under an agreement which was in writing on July 14, 1988. The grandfather does not apply if the agreement is modified after that date. Of course, modifications which decrease benefits for all participants would not eliminate the grandfather.

During floor consideration of the conference report on the Tax Reform Act of 1986, on October 2, 1986, I discussed the application of the rules contained in title XIII of that act regarding Federal guarantees of tax-exempt bonds. I indicated the intent of the conferees that "the substance of these guarantee transactions as opposed to any statement of form or intent in the enacting legislation govern their treatment under the tax laws." I went on to indicate that guarantees by entities "like the new College Construction Loan Insurance Association established in Public Law 99-498, will be treated as Federal guarantees that are prohibited by the rules governing tax-exempt financing." I made that statement based upon my understanding of the original plan for the operation of the association.

Since I made that statement, it is my understanding that the operational plans of the College Construction Loan Insurance Association have changed. For example, I am told that there has been an 80-percent reduction in the Treasury equity contributions to the association, the association will issue guarantees only through a private subsidiary corporation funded largely, if not entirely, with non-Treasury money, and the association will not contract for management and staff services with a subsidiary of the Student Loan Marketing Association. Under these circumstances, I no longer hold an affirmative view that the association's activities result in direct or indirect Federal guarantees of tax-exempt obligations. Consequently, I wish to remove any taint upon the association which may have resulted from my prior statement. As in all such cases, the substance of the guarantee transactions should govern.

Mr. Chairman, I understand that in 1985, the bankruptcy of the savings and loan industry in Maryland resulted in substantial losses to MSSIC and the bankruptcy of that company. Maryland assumed the liabilities of that company in order to make its depositors whole. The IRS currently will not allow the losses to be applied against past debts of MSSIC.

Maryland is now attempting to pay off all depositors and is being held up by the dispute with the IRS. I believe that the IRS should move quickly to resolve this case to allow Maryland to make its depositors whole.

I believe that this matter can and should be resolved administratively by the IRS. However, if the IRS fails to take appropriate administrative action, the Ways and Means Committee would be happy to consider action on this issue at some time in the future.

Finally, because the rule provides for the committee amendment on foster care independent living initiatives to become original text of the bill, and there is therefore no committee report on the provision, I would like to insert in the record the following explanation of the foster care provision:

FOSTER CARE INDEPENDENT LIVING INITIATIVES

PRESENT LAW

The Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99-272) authorized funds for State foster care independent living services programs for fiscal year 1987 and fiscal year 1988. These programs are designed to help children in foster care who are age 16 or older make the transition from foster care to independence.

Foster care children who are eligible for services under the program are those who are eligible under title IV-E for federally assisted foster care maintenance payments. Eligibility for title IV-E is limited to those foster care children who would have been eligible for AFDC before they were removed from their home and placed in foster care.

The Secretary of Health and Human Services is required to provide Congress with a report on the program by July 1, 1988. The authorization level for this entitlement is $45 million for each of the two fiscal years. States did not begin receiving funds under the program until July 1987.

EXPLANATION OF PROVISION

The current authority for State independent living initiatives would be extended for 1 year with an authorization level of $45 million. The following additional changes would be made:

First. States would be permitted to spend fiscal year 1987 carryover funds in fiscal year 1989.

Second. In addition to children who are eligible under the title IV-E foster care maintenance payment program, States would be permitted to use funds under the foster care independent living program for services to any or all other children in foster care under the responsibility of the State. Funds could not be used for the provision of room and board.

Third. States would be permitted to provide for a transition period of independent living program eligibility for 6 months after youth leaves the foster care home or institution. These services might include activities such as training in daily budgeting, help in locating and maintaining housing, and so forth.

Fourth. The definition of case review system would be modified to clarify that the 18-month dispositional hearing may also consider issues related to independent living.

Fifth. The State report would be due on January 1, 1989 and a Federal report would be due on March 1, 1989.

EFFECTIVE DATE

The authority for States to include non-AFDC foster care children in the independent living program would be effective on enactment. The remaining provisions would take effect on October 1, 1988.

Mr. Chairman, I want to thank all of the members of the committee, particularly the ranking Republican BILL ARCHER, for their hard work and cooperation in developing this legislation. I urge my colleagues to vote in strong support for this important bill.

Mr. Chairman, I reserve the balance of my time.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 4333, the Miscellaneous Revenue Act of 1988. This bipartisan measure, which was reported out of the Ways and Means Committee on a 33 to 3 vote, will accomplish a number of essential and desirable goals, and will do so on a revenue neutral basis.

The chairman of our committee, the gentleman from Illinois, has done a remarkable job in constructing this package. I am grateful for his leadership and have enjoyed working with him to fashion a genuine consensus bill.

First and foremost, H.R. 4333 would provide long-awaited technical corrections to the 1986 Tax Reform Act. This process started nearly 2 years ago and it is extremely important that the Nation's taxpayers be given, as soon as possible, the guidance necessary to understand the new and highly complex Internal Revenue Code of 1986. To illustrate the breadth of corrections needed for this purpose, I need only point out that they take up nearly 700 pages of statutory text and 400 pages of report language.

The bill also makes necessary technical corrections to other recent tax legislation including the Revenue Act of 1987, the Superfund Revenue Act of 1986, the Harbor Maintenance Revenue Act of 1986, and the Omnibus Budget Reconciliation Act of 1986.

H.R. 4333 additionally extends a number of popular tax provisions which had expired or were due to expire in the near future, including: employer provided educational assistance, the research and development tax credit, mortgage bond and credit certificates, the targeted jobs tax credit, and the low-income rental housing tax credit.

The bill further solves a number of other problems that have been called to our attention over the past few months. It offers relief to farmers and other off-highway users with respect to diesel fuel tax collections; eliminates uniform capitalization accounting rules that had been applied to authors, photographers and artists and to the raising of livestock, sometimes

called the heifer tax; clarifies the allocation of research and development expenditures between domestic and foreign sources, and improves permanently the treatment of mutual fund expenses.

As the chairman stated, we worked hard to exclude special provisions—rifle shots—that benefit particular special interests. The provisions in title VI are general transition provisions.

I must indicate that two provisions of the bill do bother me. First, I am deeply troubled by the idea of reducing the intercorporate dividends received deduction and, in effect, heading further toward a triple or even more repetitive taxation of corporate profits. This provision was included, I believe, because of its revenue factor and not for any tax policy reason. Most of that revenue comes from the arguably retroactive nature of the provision, in that it would apply to already issued corporate stock, with particular adverse impact on suffering savings and loan institutions. Second, I am concerned about the elimination of the completed contract method of accounting, particularly in its impact on increasing the cost of housing construction.

Both of these provisions also are opposed by the administration and I will work to eliminate them in conference with the Senate.

Despite these concerns, Mr. Chairman, I am supporting H.R. 4333. It is not a perfect bill, but most complicated pieces of legislation we produce here on a bipartisan basis necessarily represent compromises. The benefits of H.R. 4333 will flow to millions of taxpayers from the correction of inadvertent errors in the tax laws, the extension of popular tax provisions, and elimination of various inequitable provisions of current law.

I urge my colleagues to join me in voting for this bill.

□ 1300

Mr. Chairman, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. DONNELLY].

Mr. DONNELLY. Mr. Chairman, I rise in strong support of H.R. 4333, the Miscellaneous Revenue Act of 1988. This bill extends several important expiring income tax provisions, makes needed technical corrections to the Tax Reform Act of 1986, and makes additional changes to the 1986 act which make it more fair, and easier for taxpayers to comply with.

Let me focus my remarks on one aspect of the bill which is of special interest to me: extension of the Mortgage Revenue Bond Program. Mr. Chairman, the MRB Program is designed to assist low- and middle-income individuals achieve the American dream of owning a home. I introduced legislation—which 367 Members of this House have cosponsored with me—to extend the program.

The Committee on Ways and Means is aware of the strong support that exists for this program, and agreed to extend it for 2 years. In addition, the bill further targets this program to its intended beneficiaries, while remaining conscious of the budget constraints facing us this year. As the sponsor of the program extension, let me say that these targeting provisions will make this program work better. In Massachusetts, we have a shining example of how the MRB Program can work and should work nationwide. I believe that the committee bill moves us in that direction.

I also want to comment on an amendment to this bill which I offered in committee relating to multifamily housing bonds. There has been much discussion over this amendment since I offered it.

One provision of the amendment provides that proceeds of tax-exempt bonds used by tax-exempt organizations to finance multifamily housing are subject to new restrictions. These restrictions require that a portion of facilities financed with these bonds serve low-income individuals.

Certain continuing care facilities may be affected by this provision because it is unclear under existing law whether these facilities are considered multifamily housing. The committee—very generously, I might add—carved out an exception from my amendment for qualified continuing care facilities. If I had my way, these facilities would be forced to serve a low-income population for the privilege of being entitled to use tax-exempt bonds.

But for several reasons, an exception is provided for qualified facilities. These facilities must meet 6 criteria, enumerated in the committee report, to be qualified. One criterion is that the facilities be Medicare and Medicaid providers. Let me say, as the sponsor of this amendment, that this is the correct approach.

The exemption from Federal income tax for interest on State and local bonds is not a right. It is a benefit, granted by Congress. My amendment says that, as a condition of receiving this benefit, you have to help the poor.

Finally, let me say with respect to the other revenue-raisers in this package it seems to me that the committee had a responsibility and an obligation to keep this package revenue-neutral. In the budget this year, the administration proposed several revenue-losing proposals and proposed to pay for them with a regressive tax increase on low-and middle-income Government employees by subjecting them to the Medicare payroll tax.

Conversely, this bill offers fair and reasonable revenue increases. The lobbyists, and others may object to the tax changes which affect them, but when the Ways and Means Committee can report a bill to help put Americans in their first home without raising taxes on hardworking, middle-income people, I'll support it every time.

Mr. Chairman, this is responsible and, I might add, necessary legislation. It deserves the support of the House, and I urge its adoption.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the respected gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Chairman, I thank the gentleman from Texas for yielding time to me.

Mr. Chairman, I rise in support of the Miscellaneous Revenue Act of 1988 and to thank my chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI], and my committee colleagues, especially the gentleman from Texas [Mr. ANDREWS], for their work on a troublesome provision of the 1987 Omnibus Budget Reconciliation Act.

An unexpected and unintended burden resulted from a provision in that bill. Because of problems with tax evasion, Congress changed the point of collection of the excise tax on diesel fuel. With certain exceptions, consumers of diesel fuel were—and still are—required to pay the excise tax at the time of purchase.

Off-highway users remain exempt from the tax, but must nonetheless pay the tax at the time of purchase and then apply for a refund. The cash flow problems for farmers, general contractors, waterway operators, drilling contractors, and other off-highway users have been considerable.

Earlier this year, the gentleman from Texas [Mr. ANDREWS] and I joined the chairman of the Oversight Subcommittee, the gentleman from Texas [Mr. PICKLE] and the gentleman from Massachusetts [Mr. DONNELLY] in introducing H.R. 4192, to exempt off-highway users from this burden.

The measure before the House includes the provisions of H.R. 4192. It allows off-highway users to purchase diesel fuel directly from producers without paying the tax, and it expands the definition of producers to include retail dealers to sell exclusively to waterway and marine users.

Mr. Chairman, it is indeed gratifying that the Committee on Ways and Means has agreed to address this problem, and I thank my chairman and my colleagues for their good work on this issue.

Mr. Chairman, I urge my colleagues to support this measure. It makes much-needed technical corrections to the 1986 Tax Reform Act and other recent tax legislation, and extends several expiring tax incentives, including the exemption for employer-provided

educational assistance, authority to issue tax-exempt mortgage revenue bonds, the research and development tax credit, and the targeted jobs tax credit.

I'm proud of the committee's work on this bill and I'm proud to support its passage in the House today.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS. Mr. Chairman, I rise today to support passage of H.R. 4333, the Miscellaneous Revenue Act of 1988. I thank the gentleman from Illinois, the chairman of the House Ways and Means Committee, Mr. ROSTENKOWSKI, for his leadership in crafting this bipartisan package of necessary corrections, extensions and other important provisions.

In particular, I would like to thank the chairman of our committee, and the gentleman from Washington [Mr. CHANDLER], for their efforts to resolve the problem created in the 1987 act for off-highway users of diesel fuel. I also commend my colleague, the gentleman from Texas [Mr. PICKLE] and my colleague, the gentleman from Massachusetts [Mr. DONNELLY], for their contribution to the resolution of the diesel fuel issue, as original cosponsors of H.R. 4192. I also thank the many other Members of the House for bringing this issue to the attention of the Ways and Means Committee, in particular the gentleman form Texas [Mr. COMBEST]. Without the support of so many Members it would have been difficult to pass this legislation in our committee.

The measure before the House includes the provisions of H.R. 4192, introduced jointly by my colleagues Mr. CHANDLER, Mr. PICKLE, Mr. DONNELLY, and me. The language in H.R. 4333 improves the diesel fuel tax provisions of the Omnibus Budget Reconciliation Act of 1987. The 1987 act provision, included at the urging of the Treasury Department, changed the collection point for the diesel tax. This change has caused severe cash flow problems for drilling contractors, waterway operators, farmers, general contractors and other off-highway diesel fuel users.

Off-highway users remain exempt from the tax under the 1987 act. The act, however, requires some industries—such as oil drillers, oilwell servicing contractors, geophysical contractors, waterway operators, fishermen, stonecrushers, general contractors, and farmers—to pay the excise tax at the time of purchase and then file for a refund from the Internal Revenue Service each quarter. They will not earn any interest from this loan to the Federal Government.

While these businesses are required to pay the 15.1-cents-per-gallon Federal tax and then file for a refund of the tax, State and local governments, aviation companies, railroads and industrial users, will have the ability to gain an exemption from the Treasury Department.

The Miscellaneous Revenue Act will add off-highway users to the list of groups which will be exempt from the 1987 act provisions. It will change the wording of the 1987 act so that it is mandatory, not discretionary, for IRS to issue these guidelines within 90 days of enactment of the bill. The groups listed would also be permitted to file for an immediate refund of amounts already paid prior to the issuance of guidelines, providing a method by which they can recoup their initial loss quickly. Interest will accrue on amounts already paid.

In addition to the reporting requirements set out by Treasury under the authority of the 1987 provisions, H.R. 4333 would also require the purchasers and sellers of diesel to report the number of gallons sold or bought at the end of the year—on their tax return—and to report their tax identification numbers. This enables the IRS to use computer matching to assure increased compliance.

I am pleased that H.R. 4333 also includes many other worthy provisions, including extensions of the research and development tax credit, the Mortgage Revenue Bond Program, the targeted jobs tax credit, the low income housing credit, and the employee education assistance tax exemption.

For these important reasons, I urge my colleagues to vote in favor of this legislation today.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. SCHULZE].

Mr. SCHULZE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of H.R. 4333, the Miscellaneous Revenue Act of 1988. Overall, the merits of providing guidance to millions of taxpayers, and extending tax preferences important to our economy and work force, outweigh the drawbacks of specific tax increases used to make the bill cost-neutral.

I want to commend our committee chairman, the distinguished gentleman from Illinois [Mr. ROSTENKOWSKI], and our ranking member, the distinguished gentleman from Texas [Mr. ARCHER], on their efforts to craft a bipartisan bill which meets last year's budget summit guidelines. Our 33 to 3 committee vote is a tribute to the spirit of inclusion and cooperation surrounding the development of the legislation before us—legislation which deserves our strong support.

My concerns with our efforts revolve around certain taxpayers we have left out, not those we have assisted. Small businesses with revolving credit accounts may not survive for the next tax bill. Taxpayers with trust or estate problems, which were deemed to insignificant for the committee to address, and who could now suffer extreme economic hardship, will not benefit. Finally, first-time home buyers, renters, or those simply looking for housing may be hurt because we failed to overturn a flawed IRS revenue policy. It's not those who were included that I congratulate, but it's those who lost or will lose, who deserved attention, that we should console. This bill is far from perfect, but it is fair, and was developed in a bipartisan fashion.

Mr. Chairman, there are problems which remain. The IRS must not be allowed to pull off a revenue-grab from the pockets of home buyers and homebuilders. IRS's application of long-term accounting procedures to residential contracts under 12 months in duration, will result in taxes being levied on income never received. It will also increase housing costs and slow home construction.

Finally, I commend Chairman ROSTENKOWSKI for agreeing to examine important policy issues next year, including problems with the low-income and historic rehabilitation tax credits and the deductibility of interest on student loans. I look forward to addressing these, and other more substantial problems in the future, but for now, this is about the best that we can do, and I ask my colleagues to recognize this fact by voting for the bill.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the Miscellaneous Revenue Act of 1988. It not only contains important technical corrections to tax legislation passed over the last 2 years, but it also includes a number of provisions that simplify the law or correct inequities in our present system. For example:

The bill allows off-highway business users of diesel fuel to purchase diesel fuel from "producers" without payment of the excise tax. This means oil drillers, farmers, contractors, stonecrushers, waterway operators and other off-highway users will not have to go through the burden of applying for a refund for taxes paid but which were not owed.

H.R. 4333 repeals the requirement that governmental pension plans begin mandatory distribution of pension benefits at age 70½. This provision will resolve the funding dilemma State and local plans would have experienced had they been forced to allow workers to draw retirement benefits while also drawing a current salary and accruing new benefits.

The bill exempts artists, photographers, and other producers of creative works from the uniform capitalization rules. H.R. 4333 will resolve the ad-

ministrative nightmare and inequity caused by the Tax Reform Act of 1986.

H.R. 4333 allows gasoline marketers to take over the refund process for State and local governments and school districts for purposes of the gasoline excise tax. This provision will help keep gasoline marketers competitive with their suppliers and it also will relieve many governmental users from the burden of applying for a refund for gasoline excise taxes paid but not owed.

Mr. Chairman, H.R. 4333 also calls for the extension of a number of provisions that have already expired or will expire at the end of the year. In my view, two of these extenders are vital in our fight to keep America competitive. These important provisions are 2-year extensions of the research and development tax credit and the university basic research tax credit, as well as the so-called section 861 compromise relating to allocation of research and development expenses.

There is widespread concern that the U.S. competitive position in the world marketplace is eroding. We are not doing enough to develop and commercialize new products, improve on existing products, and market the results. Vigorous research and development is the key to achieving the technological advances that will create and improve on products we can sell here and abroad.

The R&D tax credit has proven itself to be an effective incentive for stimulating new research. Studies show that spending on research and development increased at an average annual rate of 7 percent between 1982 and 1985 because of the R&D tax credit. Thus, the credit has generated $2 of R&D for every $1 of lost revenue.

We have tremendous resources in this country for innovative research and for the development that turns research into marketable products. However, new research often entails a risky process that only produces income after a significant time lag. Private sector managers who must worry about profits need to be encouraged to make choices in favor of innovative research, rather than backing away from the risks. This is where the tax incentives come in. The R&D tax credit encourages these managers to take those risks.

The basic research credit is important because it encourages companies and universities to cooperate in research efforts, which is crucial for developing new technologies and for assuring that some of our most innovative research is turned into useful products. Under the basic research credit, companies are encouraged to support university research.

H.R. 4333 extends both the R&D credit and the basic research credit through 1990. As with the other expiring provisions, the R&D credit was pared back to keep costs down. This was achieved by reducing R&D deductions by the amount of the credit. While I would have preferred a different method for cutting the cost of the credit, I am pleased that at least this important credit was extended. Over 270 Members cosponsored my legislation to extend the R&D credit and this support was instrumental in our efforts to include the extension in this bill.

H.R. 4333 also embodies the section 861 compromise. This measure is aimed at encouraging companies to conduct more research in the United States. Everyone benefits when more domestic research is undertaken, because there is higher employment and greater likelihood that American researchers from more than one institution will work together.

Mr. Chairman, the R&D incentives are wise, long-term investments in our economic future, and I urge my colleagues to support HR. 4333.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I rise in strong, support of H.R. 4333, the Miscellaneous Revenue Act of 1988. I commend the distinguished Chairman of the Committee, Mr. ROSTENKOWSKI, and the ranking Republican member, Mr. ARCHER, for their bipartisan efforts to bring this revenue neutral package to the floor in an expeditious fashion.

Mr. Chairman, I voted against the Tax Reform Act of 1986 due in part to the fact that Members of Congress and our staffs had little time to review a bill of such magnitude. My decision proved correct. Many provisions included in the omnibus tax bill, concealed from the vast majority of Members, discriminated against innocent groups, such as our farmers, our creative artists and public employees. The Miscellaneous Revenue Act, in addition to making technical corrections to the Tax Reform Act of 1986, provides relief in a number of areas to millions of citizens who were inadvertently disadvantaged by this cumbersome law. They include: restoring credits for employer educational assistance; extending the targeted jobs tax credit; exempting livestock producers and freelance authors, artists and photographers from the uniform capitalization rule; and exempting farmers and other off-highway diesel fuel users from the diesel fuel excise tax collection.

I opposed the original Tax Reform Act of 1986 due also to my apprehension about the bill's intention of simplicity and fairness. For example, one case in point is our public servants who almost fell victim to a malicious implementation of the law by the Internal Revenue Service. As we are all aware, in January 1987, the IRS chose to apply section 457 of the Tax Reform Act to deferred compensation and nonelective compensation plans to employees of State and local governments and tax exempt organizations. The effect of this regulation would have impacted tax earned benefits such as vacation leave, sick leave, severance pay, compensatory time, disability pay, and death benefit plans as they are accrued rather than when they are used. Fortunately, H.R. 4333 waives these limits on unfunded deferred compensation plans for State and local government and nonprofit organization employees.

Mr. Chairman, I am not fully satisfied with the committee bill. While the Employer-Provided Educational Assistance Program has been extended for 3 years, eligibility has been limited to undergraduate study, other than for graduate teaching and research assistance, and the exclusion would be capped at $1,500 each year, rather than the current $5,250. These limitations undermine the intent of the program to assist low and middle-income employees in obtaining educational assistance to improve their skills and qualify them for job advancement. More than three-quarters of the Members of the House are cosponsors of the legislation offered by our distinguished colleague, the gentleman from New Jersey [Mr. GUARINI], to extend permanently the Employer-Provided Education Assistance Program. I hope that the committee will bear in mind this program's overwhelming popularity with Members of Congress, employers and employees, and will readdress this issue through a free-standing legislative vehicle in the near future.

Mr. Chairman, Congress has been awaiting a technical corrections bill since the opening of the 100th Congress. I urge my colleagues to join in support of H.R. 4333, the Miscellaneous Revenue Act of 1988.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Nebraska [Mr. DAUB].

□ 1315

Mr. DAUB. Mr. Chairman, I rise today in strong support of this bill, the so-called technical corrections act. It is long past the time that this bill should have been passed, having originated almost 2 years ago in House Congressional Resolution 395. That resolution was passed alongside tax reform from our committee, Ways and Means.

Had this bill been passed swiftly it would have saved an enormous amount of time, money and effort on the part of both the taxpayers of this country and the IRS. What is important now is that we quickly pass the bill, go to conference with the Senate, and get the President's signature before we are once again faced with another tax season full of question marks.

H.R. 4333 provides essential time-sensitive simplification and clarification provisions to the Tax Reform Act of 1986, as well as other recently enacted tax legislation. It also contains the extension of several provisions in the Tax Code which have either expired, or are scheduled to expire. Among the more popular items are the research and development credit, the Educational Assistance Act, mortgage revenue bonds, and the targeted jobs tax credit. Perhaps no provision in this

bill is more important to the constituents of my State than the repeal of the dreaded diesel-fuel tax provision imposed on off-highway business users. Since the beginning of this session, BYRON DORGAN and I have been like a gadfly on farmer's livestock to our chairman over this issue, and I thank him for including its repeal in his original mark.

As a result of this bill, no longer will 20 million taxpayers have to apply the 2 percent test for itemized deductions to their mutual funds. No longer will farmers have to keep track of all the costs associated with the raising of their livestock in order to capitalize their expenses. My friend from North Dakota and I again teamed up to introduce the first bill to repeal this so-called heifer tax.

I can honestly say that the coalition that BYRON DORGAN and I had on agriculture issues in this bill is typical of other bipartisan coalitions that were formed in order to reach a common goal. I would like to congratulate our chairman and our new ranking member, BILL ARCHER, in working together to pass a bill out of our committee that garnered 33 out of 36 votes. I think that they both deserve a great deal of credit for the hard work that they have done to see this bill to completion.

This bill is consistent with the intent and goal of tax reform, that is, to lower the tax rates and broaden the base by eliminating tax loopholes and special interest provisions. For those of you that are concerned that a $7.1 billion tax bill overall is revenue neutral over 3 years. Although I do not like to see tax increases, I think the committee has acted in the spirit of tax reform, in a bipartisan way, to pass a tax bill that addresses some important loopholes. Second, the bulk of the tax expenditures were made on the extension of provisions which had previously been retained under tax reform. The cost of these items is some $6 billion of the total package. These items include research and development provisions that are vital to corporate America to remain competitive in the world market. Mr. PICKLE and Mr. ANTHONY were instrumental in these changes and virtually every Member has business in their district that is affected.

They also include the Educational Assistance Act, which I introduced in the first day of this Congress and which Mr. GUARINI was instrumental in seeing to completion. Virtually every student who obtains financial help from their employer is affected by this provision. And, of course, the repeal of the diesel fuel tax, continuation of mortgage revenue bonds, and the repeal of the phantom tax are included in this $6 billion figure.

The remainder of the bill is made up of tax changes that received broad based support. Things like the repeal of the so-called heifer tax which Mr. DORGAN and I introduced and gathered support from over half the House. Also included is the repeal of the burdensome capitalization rules for artists and authors, a bill that Mr. DOWNEY introduced that gained popular support.

The bottom line is that this is the best bill that this committee could have written under the circumstances. It is an excellent bipartisan effort, and I urge its overwhelming passage so that we can get to conference and get on with it.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. I thank the chairman.

Mr. Chairman, I rise in support of this legislation.

Today we will vote on H.R. 4333, the Miscellaneous Revenue Act of 1988. The bill extends certain tax provisions that have expired or are due to expire, makes a number of much-needed technical corrections to the 1986 Tax Reform Act, and includes other provisions which are of special interest to farmers and those who live in rural States, such as North Dakota.

I support this bill and I urge my colleagues to vote for it. Let me share with you several important provisions for which I have worked and which I am especially pleased to see incorporated into H.R. 4333.

DIESEL FUEL EXCISE TAX

Many of my constituents will breathe a sigh of relief knowing that this bill will end the nightmare regarding the collection procedures for diesel taxes. Farmers and other off-highway users have been faced with the bureaucratic and financial burden of having to pay the 15-cent-per-gallon excise tax on diesel fuel and then apply for a refund. Under this bill, farmers and others would once again be permitted to buy diesel fuel without paying the tax, provided that they buy in bulk directly from a producer or wholesaler. This bill brings back fairness for the farmer in this system of tax collection.

HEIFER TAX

The bill before us today also repeals the so-called heifer tax, a burdensome tax law affecting livestock producers. Much to the dismay of farmers, the 1986 Tax Reform Act included a section requiring producers to capitalize the cost of raising replacement breeding livestock if the preproductive period exceeds 2 years. As a result, livestock farmers must maintain records on the costs attributable to each animal and cannot deduct those costs until that animal goes into production. While the farmer may elect not to follow these rules and deduct costs as they are incurred, they would then be required to use straightline depreciation schedules on all farm assets. Election, or no election, this law is an administrative horror story for livestock producers. H.R. 4333 brings a happy ending to this story by repealing preproductive expensing and allowing farmers to utilize the cash method of accounting to deduct costs as they are incurred.

RURAL TELEPHONE COOPERATIVES

This bill will help small, rural telephone cooperatives compete with larger commercial companies for technically qualified staff. It does so by allowing tax-exempt telephone cooperatives to offer 401(k) cash or deferred arrangements to their employees. This will aid rural utilities in their ability to attract top-notch, technical employees to their ranks.

RURAL LETTER CARRIERS

Rural letter carriers also get a fair shake in this legislation. These letter carriers must use their own autos and most travel over unimproved roads that are often in need of repair. Thus, rural letter carriers have very high maintenance and repair costs. This bill recognizes the unique business expenses of rural carriers by allowing them to take a deduction for the job-related use of their autos that's equal to 150% of the standard mileage deduction that's normally available. For 1987, that would be 33.75 cents per mile. This bill recognizes the greater expenses incurred by rural letter carriers and accords them fairer tax treatment.

SPECIAL USE VALUATION AND FARM FAMILIES

This bill also will help to solve an unfortunate problem for farm families. Despite congressional intent, some surviving farm spouses are being forced to sell their farms in order to pay off large estate tax obligations. This bill will help carry out the original intent of the 1976 law on special use valuation for farm estate taxes by allowing surviving farm spouses to cashrent their farm property to qualified heirs and still be eligible for the special valuation. This will encourage family farms to remain within the family and operating after the death of the owner.

H.R. 4333 contains many provisions necessary for our rural, farm communities. I urge a "yes" vote on this legislation.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Chairman, I would like to focus my comments on a specific provision contained in the legislation before us. Section 311 of the bill would reduce the dividends received deduction from its current level of 70 percent to 55 percent in 1989, 52.5 percent in 1990, and 50 percent in 1991 and thereafter. This proposed change represents fundamentally bad tax

policy and can only be characterized as a "money grab" to pay for other provisions.

Let me briefly review the history of the dividends received deduction. Traditionally, the United States has employed a two-tiered corporate tax system, taxing income once to the corporation when earned and once to individual shareholders when distributed. Since 1917 the law has allowed a dividends received deduction to eliminate or minimize further multiples of taxation of corporate earnings as the earnings pass from one corporation to another. Providing another round of tax on dividends remaining in corporate solution, when the issuer has already been taxed on the earnings, has rightly been viewed as imposing unjustified additional tiers of tax on earnings at the corporate level before the earnings are distributed to individuals. Without a dividends received deduction, the situation would be exacerbated for dividends passing through a chain of corporate shareholders and a multiple of cascading corporate tax, before coming to rest in the hands of the individual who pays tax on the dividends pursuant to the individual tax tier of the system. Such a result would not serve the purpose of the corporate tax system.

A 100-percent dividends received deduction applied from 1917 to 1935. An 85-percent deduction generally was in effect from 1936 through 1986 for all corporations. The reduction in the dividends received deduction made in 1936 was meant to discourage the abuse of the graduated corporate tax rates and multiple surcharge exemptions. It did not represent a departure from the policy of taxing earnings only once while in corporate solution.

The 1986 act did reduce the deduction for dividends received from nonaffiliated corporations from 85 percent to 80 percent. Congress took this action in 1986 only in order to retain the same effective tax rate on dividends. In the absence of the reduction, the marginal corporate tax rate reductions of the 1986 act would have resulted in a reduction of the effective tax rate on dividends. The change in the deduction did not represent a departure from the historical policy of mitigating multiple taxation of corporate earnings.

The proposed reduction in the dividends received deduction also is fundamentally unfair because it applies to existing and outstanding stock and thus is retroactive in its impact. The vast majority of the revenue being raised by the provision comes from this retroactive feature. This is clearly illustrated by a letter which I received from Ron Pearlman, chief of staff of the Joint Committee on Taxation, on July 13, 1988. In that letter Mr. Pearlman indicated that the revenue raised from the proposed reduction of the dividends received deduction would be reduced from $1.7 billion over 3 years in its retroactive form to $104 million if it is made prospective only so that it would apply only to newly issued stock. This clearly illustrates that most of the revenue being raised results from the retroactive feature of the legislation—a patently unfair result.

Don Chapoton best summed up the analysis of this proposed reduction when he made the following observation about it on July 13, 1988, "We must look at what we are doing before we drop this bomb on the corporate tax structure."

I believe that the bill should be sent back to committee to delete, or should I say defuse, this unwise provision.

To the extent that the bill passes I would strongly encourage the House to instruct its conferees to recede on this provision as it is unlikely that the Senate Finance Committee will include any such provisions.

I urge my colleagues to vote "no" on H.R. 4333.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the very fine gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I rise in support of the Miscellaneous Revenue Act of 1988. It is a good bill that contains many, many technical corrections to the 1986 Tax Reform Act that would have been enacted last fall except for the Budget Summit Agreement. It also contains technical corrections discovered since that time, but needed just as badly now. I think our constituents have waited too long for these clarifications, and that we must make every effort to enact these technicals this year.

H.R. 4333 also contains several extensions of expiring tax provisions which are important to a number of specific industries, such as high-tech industries, the housing industry, and mutual funds. We pay for these tax benefits by increasing the tax burden on other specific industries, such as defense and insurance. During the committee deliberations, I supported both the revenue raisers and the revenue expenditures, and continue to do so.

As with any bill, this bill contains drafting errors. When they are discovered after a bill is enacted into law, they form the basis of a new technical corrections bill. When they are discovered prior to the beginning of a conference committee, they can easily be corrected at that point during the conference. It is my hope, and my expectation, that drafting errors in this bill—be they of great significance or little significance—will be corrected at that time so that the intent of the committee will be carried out.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, today I rise in support of the Miscellaneous Revenue Act of 1988. Although my support for the bill is tempered by the fact that it contains provisions that are particularly onerous, I, nevertheless, believe that it should pass the House today because it contains many provisions that are of vital importance to millions of taxpayers.

These necessary and important provisions provide for both the extension of popular tax provisions and the clarification of past tax bills that have left many taxpayers baffled and confused over congressional intent.

The bill's most important element provides technical corrections to the Tax Reform Act of 1986. These provisions have been pending for nearly 2 years now as Congress has failed to pass legislation that would eliminate the uncertainty surrounding many of the provisions in the Tax Reform Act. I believe any further delay in enacting these provisions would mean prolonged uncertainty, inequity, and unfairness for literally millions of taxpayers.

As important as the technical correction provisions are, they are not particularly glamorous and they are not what has propelled the bill through the Ways and Means Committee—at least not entirely. The bill also provides for extension of several expired and expiring tax provisions.

Provisions such as the R&D tax credit, allocation and apportionment of R&D expenses, employer provided educational assistance, mortgage revenue bond authority, the low-income rental housing tax credit and the targeted jobs tax credit were all extended for 2 years.

Some of these provisions include new restrictions and expiration dates which better target the provisions and reduce the overall cost of their extension. While I would have preferred permanent extensions to provide a degree of certainty for taxpayers, I recognize the severe budgetary constraints in which the Congress must operate.

In addition, exemption from paying the diesel fuel excise tax for off-highway users of diesel fuel is permanently extended as is the exemption for mutual fund shareholders from the so-called phantom income tax. I strongly favor these provisions to remove the unintended and inequitable situations that arose because of past legislation. Individual taxpayers need the certainty of permanence in these two measures.

As I mentioned earlier, however, my strong support for these provisions is tempered by objections to some of the revenue raising provisions that are in-

cluded in the bill. Foremost on this list is the reduction in the dividends received deduction [DRD] from 70 to 50 percent for portfolio stock.

A reduction in the DRD is at direct odds with our system of taxing income earned by corporations. Our system imposes double taxation on corporate equity income. By reducing the DRD we are subjecting that income to triple taxation.

This erosion in the DRD will discourage the use of equity financing and will enhance the tax bias toward debt which will result in the deterioration of corporate balance sheets and increase the corporate vulnerability to insolvency and bankruptcy. It will also mean a more expensive capital structure which will make U.S. firms less competitive in international competition.

Other provisions such as the one that disallows a marital deduction for foreigners for purposes of the Federal estate and gift tax are simply unfair and in some cases may be unconstitutional.

It would be my hope that as this bill moves through the legislative process, that Congress will have the opportunity to delete and tidy up several of the more onerous provisions in the bill. I recognize the need to raise revenue to pay for the revenue losing provisions, but there are better and more equitable ways to do it than the ways this bill proposes.

I rise in support of this bill today, but I do so mostly with the hope that Congress will have an opportunity to amend it at a later time in conference. I commend the chairman and the ranking minority member for the bipartisan basis upon which this bill was put together. I hope we can continue this bipartisan effort as we continue to improve the bill.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Chairman, I rise in strong support of the bill. The enactment of technical corrections to the Tax Reform Act of 1986 has been postponed too long already, and taxpayers are depending on us to follow through on these small but important changes.

I would like to say a few words about the portion of the bill which deals with the extension and modification of expiring provisions of the Internal Revenue Code. Such worthwhile programs as employer-provided educational assistance, the research and development tax credit, the Mortgage Revenue Bond Program, and the targeted jobs tax credit enjoy wide support here in Congress and among taxpayers as well.

The fact that all of these important programs had to be reined in as they were reauthorized is bound to be a disappointment to some. I am sorry that the reauthorizations could not be more generous. But the way these extenders had to be modified reflects both the stark reality of the deficit and the scarcity of revenue.

I suggest that the extenders, as they stand in the bill before us today, are consistent with the spirit of tax reform. We were able to retain useful programs by targeting them more precisely to those Americans most in need of the benefits they confer.

The compromises that were made to get the extender package we have in this bill were not made lightly. Deciding how to pay for it required some tough choices, but those tough choices were made. This bill is modest all the way around, but it is an honest package that deserves your support.

□ 1330

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Chairman, I rise to express my regret that the committee did not see fit to include in this bill a provision to extend the taxable consequences now under current law for the FDIC assistance that is given to the troubled institutions and for the tax loss carry forward those transactions represent to an acquiring institution.

We heard yesterday in the Committee on Banking, Finance and Urban Affairs, Mr. Seidman, the Chairman of FDIC, tell us that the resolution of the savings and loan insurance corporation problem is probably going to represent a $50 billion expense to the taxpayers of this Nation. To eliminate the desirability of the attractiveness of additional capital to troubled thrifts and banks in this Nation is, in my opinion, shortsighted.

Mr. Chairman, to get a few dollars for the Treasury and cost billions for the resolution of this problem is, in my opinion, an oversight the committee should have addressed, and I hope it will take care of that problem in its processes in the future.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY of New York. Mr. Chairman, "Poets are the unacknowledged legislators of the world." So wrote Percy Bysshe Shelley, the 19th century English poet.

Unfortunately, poets were in short supply when we drafted a footnote to the Tax Reform Act of 1986 that has become the bane of American writers, photographers, and artists.

Technically, this footnote tells professional creative people that they cannot recover their costs until their books or paintings produce income and that they have to allocate specific expenses to specific projects.

What does it really mean? Well, imagine Matthew Brady sitting down in the middle of some battlefield calculating his expenses and projected income before shooting his next classic Civil War photograph—or missing it.

Fortunately, the muse of poetry cast her watchful eye over the Ways and Means Committee while we drafted the Miscellaneous Revenue Act of 1988. Our bill frees writers, photographers, and artists from the strictures of uniform capitalization. I urge my colleagues to support H.R. 4333 because it achieves not only tax justice but poetic justice as well.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. MILLER].

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of this bill.

I feel this bill does much to tighten the U.S. Tax Code and alleviate the nightmare that accountants and others have been tackling, as a result of the two previous tax reform bills signed into law. This is a good government bill, in that it rights many of the wrongs, of these previous bills.

I was encouraged to see this bill incorporate some very necessary tax preference extensions, such as the Educational Assistance Program, the targeted jobs tax credit, the Mortgage Revenue Bond Program and the repeal of the diesel fuel excise tax collection process, which has been causing major problems for off-road users of diesel fuel.

In conclusion, I would like to add that in my judgment the practical benefits of this bill far outweigh any of the tax liabilities associated with this legislation. The tax incentive provisions ensure that the focus of our Tax Code is geared toward helping promote growth, while at the same time, minimizing tax burdens. Also, I would like to commend my colleagues on the Ways and Means Committee for their thoughtful and comprehensive consideration of this legislation and I urge my colleagues to join me in supporting this necessary measure.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, this bill reaffirms our committee to at least four basic principles:

First. Fairness. Fairness to farmers and other off-highway users of diesel fuel.

In our zeal to catch tax cheaters, our 1986 Tax Reform Act required farmers and businesses, whose vehicles don't generally use highways, to pay the 15-cents-per-gallon diesel fuel tax anyway and to file later on for a refund of a tax they really didn't owe.

At a time when American farmers are reeling from drought, we don't want to require them to make an interest-free loan to the U.S. Government. This bill corrects a basic inequity.

Second. Competitiveness. Enhancing the competitiveness of the United States in the world marketplace. How? In two ways: By extending the tax credit for research and development; and by restoring an expired provision so that employees will once again have a tax incentive to continue their education leading to a more productive work force.

Third. Shelter. The need to provide safe and decent shelter for American families. The extension and retargeting of the mortgage revenue bonds and mortgage credit certificates will help put home ownership within reach of tens of thousands of additional low-income and lower-middle income families. Similarly, the extension of the low-income housing tax credit will encourage the construction, rehabilitation and acquisition of many units of rental housing for American families unable to buy their own homes but needing a place to live.

Fourth. Employment opportunity. Helping people off of public assistance rolls on to payrolls by extending the targeted jobs tax credit. This bill states that if you are a welfare recipient, an economically disadvantaged youth, a Vietnam-era veteran or a former convict, and you want to work, we'll provide an incentive for an employer to give you a chance.

I realize this bill is not perfect, but the good in it clearly outweighs the bad. The committee and its chairman are to be commended. Their bill deserves our support.

Mr. ARCHER. Mr. Chairman, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Chairman, I am not sure the bill is good poetry, but it is very good prose. It is responsible legislation. It belies the notion that we in Congress sit around here eagerly looking forward to raising revenues.

It is not an easy task. There are compromises that have to be made, and we were responding within the committee to express needs: Extension of the R&D tax credit, for example, and education assistance. We trimmed those, but we wanted to sustain them. We had to leave out some programs. Some of them many of us thought were good programs, like legal assistance in terms of tax treatment.

But there was a balancing that had to be undertaken between clear, unmet needs and revenues that had to be raised. As a relatively new member of this committee, I am proud of the process. It is a good product. I hope that no Member will vote against it because it is a tax bill. This is a responsible revenue measure. It should be supported overwhelmingly within this House.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas [Mr. ANTHONY].

Mr. ANTHONY. Mr. Chairman, I rise in support of H.R. 4333, and I would also like to commend the chairman of the committee, the gentleman from Illinois [Mr. ROSTENKOWSKI], and the ranking minority member, the gentleman from Texas [Mr. ARCHER], for the good work they did.

To the accountants and the tax practitioners who have been pulling their hair out since 1986, since passage of the Tax Reform Act, let me say that we have finally responded. This is the second time this bill has passed. We are trying to help them out.

To the farmers in my area who have called and have written, let me say that we have taken care of their problem not only with the so-called heifer tax but also putting them within the payment system, although they were exempt and continued to be exempt from paying tax on diesel fuel.

For my people who say they want continued research and development so we can keep jobs here, create creativeness, and have the innovations for the future, they should take a look at the research and development tax credits and something I personally worked on for over a year and a half, the 861 section. Those 2 sections were both contained in the President's budget submitted to the Congress, and I recommend a yes vote on those.

For the mortgage bonds and the mortgage credit certificates, they would be extended. The housing industry, the real estate agents, and the home builders have been asking for that. That is in there.

For our youth who still are unemployed and are continually subject to unemployment, a reauthorization of the targeted jobs credit will be extended, and that will help them. If one is on the low-income scale and needs low-income rental housing tax credits, that provision is extended.

So, Mr. Chairman, I commend to my colleagues that this is a broad-ranging piece of legislation that does lots of good. It corrects mistakes and keeps good programs going. I urge a "yes" vote for the bill.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana [Mr. HOLLOWAY].

Mr. HOLLOWAY. Mr. Chairman, I support H.R. 4333, the Miscellaneous Revenue Act of 1988. Besides making many necessary corrections and clarifications in the Tax Reform Act of 1986, it contains at least two provisions in which I am particularly interested and strongly support.

Probably the best result of passage of this bill will be the reinstatement of the diesel fuel tax exemption for users of off-highway vehicles and equipment. Before April of this year, farmers, oilfield and construction contractors, commercial fishermen, and others who use diesel fuel have been exempt from paying Federal fuel taxes, since they don't use the fuel on the Nation's highways. Last December, Congress passed a law which all of a sudden required them to start paying the tax, fill out and send in a bunch of forms, and wait for a refund from the Government.

This created a tremendous paperwork burden and severely limited the cashflow of farmers and other small businessmen. Early on, I cosponsored legislation to reinstate the exemption and asked the IRS to delay enforcing the new law. Today we can take another step toward restoring the exemption. When Congress finally restores common sense and fairness to this issue, and I hope that doesn't take too much longer, it will not be soon enough, as far as I'm concerned.

I also want to mention another provision in this bill, which will help nearly 2,000 employees of CLECO [Central Louisiana Electric Cooperative] in my district. Section 111B(i) of the bill clarifies the tax rules and the qualification requirements relating to distributions from tax-credit employee stock ownership plans [ESOP's].

The workers and management of CLECO want to terminate their existing ESOP and put the assets into a 401(k) employee benefit plan. Enactment of this bill will allow them to do so without fear of losing the tax benefits. The bill allows them to terminate the ESOP within the exception of the 84-month rule provided under the law, without regard to whether CLECO establishes a successor plan, including an ESOP.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, one item which I believe has not yet been mentioned in this debate, one which is an extremely important component of this legislation, is the extension of the long bond authority to the Treasury of the United States, which permits them the flexibility to arrange the borrowing for the entire country and benefits all taxpayers by practically permitting a reduction in the overall interest rate. I applaud the chairman of the committee for including that provision in this bill. It is extremely important to all taxpayers within the United States.

Ms. SNOWE. Mr. Chairman, I rise in support of H.R. 4333, the Miscellaneous Revenue Act of 1988. This legislation has several provisions that are very important to the people of Maine that I will briefly review, and I urge my colleagues in the House to support it.

Most importantly, as reported by the House Ways and Means Committee, H.R. 4333 includes language that will correct a problem in the current procedure for collecting the 15-cents-per-gallon Federal diesel fuel excise tax. This measure will permit off-highway users of diesel fuel to purchase diesel fuel directly from producers and wholesalers without having to pay the Federal highway user tax.

The committee correctly decided that current tax law on this issue, which required off-highway diesel fuel users to first pay the 15 cents tax and apply for a refund from the Internal Revenue Service later, was not working properly and needed to be changed. Thus, this bill simply restores off-highway diesel fuel users to their prior status of being exempt from the tax. Farmers, loggers, and fishermen in Maine have been quite concerned about this problem, and I am particularly pleased that the committee adopted provisions to address their concerns.

Mr. Chairman, this measure will renew for 2 years a valuable tax policy that allows employees to exclude from their taxable income educational assistance provided by their employer. In extending the employer-provided educational assistance exclusion, however, the committee narrowed the exclusion to $1,500 per employee per year, and mandated that the exclusion not be available for graduate-level education courses. Nonetheless, for the many people in Maine who are holding down a job while taking classes to help improve themselves, this provision will be very helpful.

H.R. 4333 also extends the authority of State and local governments to issue tax-exempt mortgage revenue bonds through 1990. Mortgage revenue bonds are commonly used to provide reduced-rate mortgages for low- and middle-income first-time home-buying families. In approving this 2-year extension, the committee added some new language to the program in order to focus its assistance on those individuals who benefit most from these reduced-rate mortgages. For crafting legislation that will help low-income families in Maine buy their first home, the committee should be commended as well.

Mr. Chairman, H.R. 4333 will exempt freelance writers, artists, and photographers from current uniform capitalization rules, thus enabling them to deduct expenses associated with their businesses as these expenses are incurred. This move will provide for an easier record-keeping process, and will bring their tax treatment in line with that of other businesses that provide personal services. In this regard, the committee-approved bill will correct a real problem for America's creative writers, artists, and photographers.

Mr. Chairman, H.R. 4333 is important tax legislation that the 100th Congress should enact. This measure makes necessary technical corrections to our Tax Code, extends a series of valuable tax provisions that are due to expire shortly and modifies other existing provisions within the Internal Revenue Code that will be of great value to the people of Maine. I urge adoption of this measure.

Mrs. LLOYD. Mr. Chairman, after much deliberation about this bill, I believe there are several issues that have not been addressed to my satisfaction. There are many provisions that I have supported and was pleased to see in the bill, but as a whole the negatives outweigh the positives.

The positives include the targeted jobs tax credit provisions, the repeal of the onerous provisions concerning the collection of the diesel fuel excise tax, the provision restoring artists' rights to take expenses as ordinary deductions in the year they were incurred. I either cosponsored or supported bills to do these things, and would have voted for them had they come before us on a separate vote.

My reservations about this bill being a tax increase in disguise have not been allayed. I will not vote for a bill that could mean more taxes on individuals and businesses. The net effect in the out-years could represent a tax increase that is not fully foreseen. The increase of $5.6 billion in corporate taxes is something that must be evaluated in terms of the impact on economic growth and employment.

Many provisions are not technical in nature and cause me some concern. These include the repeal of the "completed contract" method of accounting—particularly as it will affect the housing market, the restrictions on life insurance and employer-provided education assistance, and the alteration of depreciation rules for property used in farming so as to reduce the percentage of the total deductions that can be taken in the early years. This latter provision is a slap in the face to farmers who are already suffering great economic losses due to the drought.

I commend my colleagues on the Ways and Means Committee for all the difficult work they have done on this bill. There were many hard decisions to make.

On balance, though, I am voting "no" to send it back to committee for a more favorable bill.

Mr. ROWLAND of Georgia. Mr. Chairman, H.R. 4333, the Miscellaneous Revenue Act of 1988, gives us an opportunity to right a wrong which was dealt to farmers and other off-highway users of diesel fuel.

Until recently, these individuals could purchase this fuel without payment of the highway excise tax. However, the Budget Reconciliation Act of 1987 repealed this method of purchase and required payment of the tax, allowing for a refund later.

In this creative manner, the users of the tax-exempt fuel were treated to an increase in paperwork and loss of cash flow in the process. This is simply unfair and another example of bureaucratic red tape.

H.R. 4333 will repeal these burdensome rules and allow farmers and other off-highway users to again purchase diesel fuel without the payment of tax. I urge my colleagues to support H.R. 4333.

Mr. COYNE. Mr. Chairman, the 1986 Tax Reform Act was the right bill at the right time. No one enjoys paying taxes—but because of the Tax Reform Act, which was written under the capable leadership of Chairman DAN ROSTENKOWSKI, we have moved towards a system that distributes the tax burden much more fairly than before. The 1986 legislation took millions of the working poor off of the tax rolls altogether. And the law gave millions of middle-income taxpayers tax relief that was badly needed and long overdue.

As much as the Tax Reform Act accomplished—and it has accomplished a lot—it's easy to see that an enormously complex document of 878 pages was not perfect. In any legislation so wide-ranging and technical, it was inevitable that it would contain some mistakes which had to be corrected. H.R. 4333 makes those corrections.

Some of the most important features of H.R. 4333 are its extensions of several Tax Code provisions that have expired or were about to expire.

For example, it would extend through 1990 a measure that would allow taxpayers to exclude from taxable income the educational assistance that their employers provide. H.R. 4333 does not go as far as I would like. It would reduce the maximum amount of the exclusion from $5,250 to $1,500. But it is still better to retain a $1,500 exclusion than to have none at all, and I support it.

H.R. 4333 extends through 1990 the tax credit for owners of residential rental property used for low-income housing that is newly constructed, rehabilitated, or newly acquired.

H.R. 4333 extends for 2 years the authority for State and local governments—such as Pittsburgh and Allegheny County—to issue tax-exempt mortgage revenue bonds. This will keep mortgages within reach for many low- and middle-income individuals buying homes for the first time.

H.R. 4333 will have a constructive effect on research and development. It extends for 2 years the 20-percent tax credit for some research expenditures, and it reforms the temporary rules on allocating research expenses between domestic and foreign income for firms that conduct research here but produce abroad.

H.R. 4333 extends the present tax credit for employers who hire economically disadvantaged youth, Vietnam-era veterans, individuals needing vocational rehabilitation services, former convicts, and recipients of various public assistance benefits.

And H.R. 4333 makes it easier for individual shareholders of mutual funds to deduct some of their investment expenses.

All of these changes need to be made. That is why I urge my colleagues to support H.R. 4333.

Mr. WELDON. Mr. Chairman, I rise in support of the bill and to commend Chairman ROSTENKOWSKI and the members of the Ways and Means Committee for keeping revenue losses resulting from targeted relief provisions to a minimum. The benefits to the taxpayers in this bill outweigh the costs associated with the limited number of targeted relief provisions contained in the bill. I intend to vote for this bill.

In a letter to me, Chairman ROSTENKOWSKI pointed out that "during its markup of H.R. 4333 the Committee on Ways and Means did not add any new targeted rifleshot provisions to the bill." New is the operative word here. I wish to emphasize that the bill does contain targeted provisions that were originally intended to be in either the Tax Reform Act of 1986 or the continuing resolution for that year that was never enacted.

I believe it is a bad precedent to accept these targeted provisions simply on the

grounds that they were intended to be in legislation that was never enacted in a prior Congress.

These targeted provisions will have a minimal impact on the budget because they are already assumed by the staff to be the law. This too is a bad precedent.

Chairman ROSTENKOWSKI, in his letter, stated that "many amendments were rejected by the committee solely because they were viewed to be rifleshots." I hope this will serve as a precedent for the committee when it considers future tax legislation.

Mr. TRAFICANT. Mr. Chairman, I would like to commend the members of the Ways and Means Committee for working diligently and producing a technical corrections bill which will extend some valuable programs, as well as clarify portions of our current tax law.

H.R. 4333 is a good bill because it addresses some of the sections of the 1986 Tax Reform Act which have created problems for the taxpayers and Congress. The bill is also revenue neutral; the extended programs are paid for by revenue-raising provisions.

Extension of the Employer Educational Assistance Program means that students will be able to exclude a portion of their assistance moneys from taxable income. It will provide students a little help as they battle the ever-rising costs of education. I would also like to draw attention to the Targeted Jobs Tax Credit Program. By extending this program through 1990, disadvantaged youth and people on public assistance can claim some of their income back through this tax credit. The people in my district of Ohio have voiced their strong support for these extensions. Education and jobs are two valuable commodities in my area and help in getting them is crucial.

As I mentioned, while the bill makes plenty of extensions, there are also provisions which raise revenue, primarily through closing a loophole on contract income and reducing the deduction on corporate dividends.

I think it's high time we review the mistakes made in the 1986 Tax Reform Act before taxpayers are subjected to additional uncertainty and unfairness. While this bill will in no way please everybody, it was crafted with bipartisan support. I urge my colleagues to support this fair and revisionary tax measure.

Mr. HATCHER. Mr. Chairman, I rise today in support of the Miscellaneous Revenue Act of 1988, also known as the Technical Corrections Act to the 1986 tax reform legislation. An important provision of this bill will restore that right of agricultural and off-highway users to purchase diesel fuel without collection of the excise tax.

Although off-highway users such as farmers and construction workers have always been exempt from the tax, changes in tax collection procedures that took effect on April 1 of this year required the tax to be paid at the time of the sale and the user to then seek a refund.

My constituents have legitimately questioned the current law which requires them to pay a 15.1-cents-per-gallon tax only to apply for a refund at a later date. The language of the legislation before us today will allow these off-highway users to purchase diesel fuel directly from producers and wholesale distributors without payment of the Federal excise tax, as long as they were permitted to make such purchases before April 1 of this year. As approved, this new policy would be retroactive to July 1, 1988.

For the past several months my constituents in south Georgia have been required to pay this unfair and burdensome tax when purchasing diesel fuel. As a result, many farmers have been forced to borrow additional operating funds, accruing more debt in order to pay the tax. This additional borrowing brings further interest costs on an agriculture economy that is already burdened by the drought and other financial problems.

I urge my colleagues to support this legislation so that we can finally end this unfair tax on our farmers and small businesses.

Mr. PARRIS. Mr. Chairman, today the House is considering H.R. 4333, legislation to make technical corrections to the Tax Reform Act of 1986 and the Omnibus Budget Reconciliation Act of 1987. While this legislation addresses numerous provisions of the Tax Code, I am concerned that H.R. 4333 does not address two provisions, which I feel are very important in aiding failing financial institutions and lessening the enormous burden that the Federal Savings and Loan Insurance Corporation [FSLIC] and the FDIC currently shoulders.

The provisions to which I am referring were originally adopted in 1981 and were later extended in 1986. Unfortunately, both will expire at the end of this year.

These tax provisions provide that Federal insurance assistance is treated as a tax free income to the recipient and that net operating losses of an acquired troubled thrift are available to a purchaser. I believe that, in some cases, mergers can be the most cost-effective means of resolving problem cases for the insurance funds. I also believe that these provisions are vital if the FSLIC is to attract qualified bidders and minimize its ever-increasing caseload. The rules which provide for tax-free treatment of FSLIC assistance have made it possible for the beleaguered insurance fund to focus its resources on a broader range of problems than would otherwise have been possible.

This concept was favorably recognized by the Department of the Treasury during original consideration of the Tax Reform Act of 1986. In "Treasury I" the Department recommended extending these provisions to 1991.

Mr. Chairman, we are all aware of the problems confronting the FSLIC and the thrift industry. I believe it is imperative the Congress do all it can to stabilize the S&L industry and lighten the enormous caseload of both of the Federal insurance funds, which will cost billions of dollars to resolve. Extending the preferred tax treatment of financially troubled financial institutions will help achieve this objective.

I would urge that before a final conference report on this legislation is filed it include the necessary language to extend these provisions, which are currently contained in the Internal Revenue Code.

Mr. CRANE. Mr. Chairman, today we will consider H.R. 4333, the Miscellaneous Revenue Act of 1988. Unfortunately what was supposed to be a technical corrections bill has turned into a conglomeration of hefty tax burdens to certain business communities. As a senior member of the Ways and Means Committee, I cannot support this bill. As stated before, it is unfortunate that such worthy tax relief for preproductive period expensing also known as the heifer tax and the collection of diesel fuel taxes on sales to retailers are included in a bill that raises over $7 billion in new taxes. In particular, I have serious reservations on three revenue raising items. These include the ludicrous elimination of the completed contract method of accounting [CCM], the taxation of inside buildup in single premium life insurance policies and the lowering of the dividends received deduction [DRD].

The extinction of CCM has been at the forefront of the last two tax bills. In 1986, Congress decided to accelerate the taxes paid by many large defense contractors at the insistence of the Ways and Means Committee. A compromise agreement was achieved, but before the ink was dry from the 1986 tax bill, CCM was once again being considered. In 1987, the Ways and Means Committee was back garnering a larger slice of the proverbial long-term contract pie. Thus they have achieved the result they were seeking. The elimination of CCM.

Cost-to-cost percentage of completion does not raise revenue that otherwise would not have been collected. It only accelerates the time when these taxes must be paid. Under current law, long-term contractors are required to pay tax on 70 percent of their income from long-term contracts before it is earned under cost-to-cost percentage of completion. The other 30 percent uses the completed contract method of accounting. This system requires income from a long-term contract to be reported as costs are incurred on a contract. It assumes that the contractor earns the same margin of profit on each dollar of cost incurred. You do not need to be a Ph.D in economics or a CPA to know that incurred cost does not reflect the manner in which income is earned. In 1986, Congress imposed the cost-to-cost method on all long-term contractors, including many small businesses. Now we propose to eliminate CCM and our support for the business that engage in long-term contracts in favor of the greedy cost-to-cost method.

Another classic example of the shortsightedness of the Ways and Means Committee is the singling out of single premium life insurance policies for taxation. Single premium policies are those policies that can be purchased with one large payment. The "abuse" concern is that the purchaser then takes out an immediate loan on the equity and deducts the interest paid back, but does not have to pay taxes on the proceeds. Original bills on this issue would treat any and all distributions from an insurance policy as a taxable event. Eventually, through the committee process, the Kennelly-Guarini substitute was passed.

While this amendment would simple apply the annuity distribution rules to a limited number of life insurance contracts which failed to meet the seven-pay standard, the whole premise is flawed. The newly created taxation of single premium policies will no doubt tend to discourage some individuals from utilizing life insurance products as a combination death protection-long term savings vehicle. It

will also limit to a certain extent the flexibility of the life insurance industry in designing insurance products to meet consumers' needs. I feel that both single premium whole life and single premium deferred annuities serve a socially desirable purpose. The typical purchaser of these plans is an individual between 51 and 55 years old, with approximately $15,000 to allocate to life or annuity policy. Their hope is that the policy will provide financial security and supplement future retirement income. Generally, the money utilized to purchase these policies comes from the sale of a home or family business, or alternatively as the proceeds from the estate of a deceased relative. The level of borrowing against these policies is very low. Once again, Congress is trying to raise revenues by taxing certain perceived problems. Unfortunately, all we do is discourage savings for the taxpayers of this country.

I also have strong objections to the portion of the bill that would reduce the dividends received deduction from its current level of 70 percent to 55 percent in 1989, 52.5 percent in 1990, and 50 percent in 1991 and thereafter. This proposed change represents fundamentally bad tax policy and can only be characterized as a "money grab" to pay for other provisions. The proposed reduction in the DRD is unfair because it applies to existing and outstanding stock and thus is retroactive in its impact.

The vast majority of the revenue being raised by the provision comes from this retroactive feature. This is clearly illustrated in a letter I received from Ron Pearlman, chief of staff of the Joint Committee on Taxation, on July 13, 1988. In that letter, Mr. Pearlman indicated that the revenue raised from the proposed reduction of the DRD would be reduced from $1.7 billion over 3 years in its retroactive form to $104 million if it's made prospective only so that it would apply to newly issued stocks alone. This clearly illustrates that most of the revenue being raised results from the retroactive feature of the legislation—a patently unfair result. Don Chapoton best summed up the analysis of this proposed reduction when he made the following observation about it on July 13, 1988, "We must look at what we are doing before we drop this bomb on the corporate tax structure."

The time has come for the Members of Congress to recognize that we cannot continue to tax indiscriminately without regard to the response of our actions. Too often we create taxes to regulate the growth of an industry as in the case of life insurance. Let us stop the continued taxation for revenue sake to pay for our foolish spending habits. Let us send our business community the message that Congress is ready to step back and let them make their own business decisions. After all, is that not what is meant by "free enterprise?" I urge my colleagues to oppose H.R. 4333 as it is a detriment to the business community.

Mr. ROTH. Mr. Chairman, the bill before us today includes two important provisions which will provide tax relief to the farmers in northeast Wisconsin—repeal of the diesel fuel tax requirement and the heifer tax.

Over the past year, many farmers in my district have contacted me about the severe impact of the diesel fuel tax collection and heifer tax on their operating costs, not to mention the nightmare of added paperwork that they now face. I have strongly advocated the repeal of these provisions and in fact, introduced H.R. 3903 which specifically calls for the repeal of the heifer tax.

Last December, the House enacted the Budget Reconciliation Act which contained many unwise provisions, including the diesel fuel tax requirement. I voted against that bill.

For the past 4 months, farmers and other off-road users have been required to prepay the diesel fuel tax, from which they are exempt, and then submit a request for a rebate. Since application for a refund can only be made after $1,000 in taxes has been prepaid or at the end of the year, many farmers have felt the pinch of a tightening cash flow. In fact, the Farm Bureau Federation estimated that the diesel fuel requirement could tie up as much as $420 million in farm income.

H.R. 4333 repeals this unfair requirement and ensures that farmers in Wisconsin and throughout the Nation will no longer have to pay a tax they don't owe. In addition, it provides relief from a paperwork burden that farmers can well do without. No one should be required to pay a tax they do not owe.

Likewise, the requirement to capitalize preproduction expenses needlessly penalizes small farmers by increasing their tax liability on young stock. For many years up till 1987, farmers and ranchers were allowed to write-off production expenses for raising young stock in the year incurred. As the law now stands, farmers must keep detailed records on the feed, housing, utilities, and medical treatment allocated for each individual animal with a preproductive of more than 2 years.

Although, farmers supposedly have the option of capitalizing these expenditures or using the cash accounting method, in reality, the farmer faces a significant penalty for electing to use the cash accounting method of recordkeeping. Either way, the farmer loses.

If a farmer capitalizes his expenses, it costs an estimated $100 per head to add a young animal to the herd. This new cost is attributed solely to the change in the accounting method.

Earlier this year, I introduced the Family Farm Tax Accounting Relief Act, H.R. 3903, to repeal this complicated capitalization requirement. My legislation was designed to restore some simplicity and fairness in the Tax Code for farmers. I am pleased that H.R. 4333 contains language similar to my proposal.

Repeal of the heifer tax will put money back into the farmer's pockets and eliminate a staggering recordkeeping burden. During this past tax filing season, many Wisconsin farmers were forced to file for extensions because of the difficulty in calculating the capital costs and finding tax accountants willing to tackle the job.

Mr. Chairman, while I am deeply concerned about some of the provisions in the tax technical corrections bill, I applaud the committee's efforts to address the concerns of our Nation's farmers. Repealing the diesel fuel requirement and heifer tax bill help many Wisconsin farmers who are experiencing severe cash flow problems due to the drought.

Clearly, now is not the time to saddle our farmers with excessive tax burdens. I strongly urge my colleagues to continue to support these responsible changes to the Tax Code.

Mr. GARCIA. Mr. Chairman, I rise to lend my support to certain provisions in H.R. 4333, the Miscellaneous Revenue Act of 1988, which extends certain expiring programs that have a positive impact on my congressional district in the South Bronx.

These provisions include the low-income housing tax credit that provides tax incentives for individual investments in housing for low-income families. These provisions also include the extension of authority for State and local governments to issue mortgage revenue bonds. These bonds allow low- and moderate-income families to become first-time homeowners.

I hope that we all recognize that the solution to America's housing crisis will be no easy solution and will be accomplished through no small national effort. But I believe that in conjunction with a renewed national commitment to provide adequate levels of assistance and assistance in the appropriate format.

We must provide a panoply of housing assistance. This includes assistance to families for rent payments and mortgage payments and to low-income housing developers for increased production and rehabilitation. These tax incentives also play a part in housing production and they should not be allowed to expire. But our time has long since expired in the field of low-income housing assistance. Today the challenge remains to renew our commitment and make things happen.

In addition to incentives for housing assistance, this bill provides tax credits for targeted job creations for disadvantaged youth, Vietnam veterans and welfare recipients. It is essential that we keep alive the hope of work and the opportunity of self-improvement for these groups that have historically been underemployed even in the best of times. I strongly support jobs programs that involve public and private participation and support the extension of these incentives.

The bill also provides tax credits for research and development and provides tax deductions for educational assistance provided to workers by employers. If we as a nation are going to remain competitive in the world marketplace and if we hope to nurture our economy and work force for a better tomorrow here at home, we must provide incentives for meaningful industrial expansion through research and development and we must provide incentives for private sector participation in providing educational opportunities to America's work force.

We are a mobile people and it is time to retain and create new programs and incentives to provide opportunities of upward mobility to our working people. A well trained and well educated work force is the foundation for economic expansion. It is not money alone. It is not good times for the very wealthy. It is accomplishments and capabilities among the larger group that makes up America's working men and women that will provide our economic success in this generation and in the next.

I believe that we must be forward looking and that we must make our hopes and dreams as individuals and as a nation become

realities. These provisions in the tax measure before us today will help and I urge my colleagues to vote in favor of their extensions.

Mr. MARLENEE. Mr. Chairman, the IRS is engaged in an all-out bloodletting that is gradually bleeding the American taxpayer dry. This bloodletting is draining the life out of American businesses, withering their attempts to expand and create new jobs and forcing hard-working Americans to scream for protection from this blood-thirsty tax monster.

This bloodletting has became a real-life nightmare and Congress must seize the opportunity to do something to turn back the tax monster. H.R. 4333, the Miscellaneous Revenue Act of 1988, offers such an opportunity.

While I don't like every one of its provisions and wish it contained more, quote-unquote, "corrections" to the Tax Code, the bill does offer some relief from onerous and burdensome requirements imposed on the American taxpayer by the Tax Reform Act of 1986—a bill I voted against because I saw what it would do to the taxpayers, businesses, and workers of this country.

H.R. 4333 at least lifts some of the paperwork burden off the backs of business, makes it a little easier for businesses to create jobs and protects workers from having to pay new taxes.

This bill will assist businesses in creating jobs by continuing tax credits for hiring the poor, the disabled, and disadvantaged youths.

Businesses and workers alike would also benefit from provisions that extend tax credits for research and continue tax breaks for workers who want to further their education.

H.R. 4333 offers relief for farmers and ranchers. No longer would these off-road users of diesel fuel have to shoulder the burden of collecting fuel taxes they don't owe. No longer would cattle raisers be subjected to absurd rules that demand they try to figure the costs of feeding cattle that haven't even been born.

H.R. 4333 offers relief for public schoolteachers and State and local government workers. This bill throws up a roadblock against IRS plans to tax benefits like sick leave and vacation pay—benefits they may never get a chance to use.

H.R. 4333 offers relief for free-lance artists from complicated accounting rules that stifle creativity and are counterproductive to a better life for Americans. No longer would they have to be certified public accountants in order to profitably pursue their chosen professions.

In addition, H.R. 4333 assists rural mail carriers, giving them a better deduction for expenses involved in using their own vehicles to deliver mail, and assists first-time homebuyers by continuing the availability of affordable financing through issuance of mortgage revenue bonds.

Finally, H.R. 4333 offers desperately needed relief for accountants—and the taxpayers who pay their fees—from some of the ambiguous provisions of the 1986 tax law—provisions that have created 115 million manhours of new paperwork so far, according to the Office of Management and Budget [OMB].

Mr. Chairman, this bill should never have been needed. Two years ago I stood on this floor and warned my colleagues that the Tax Reform Act of 1986 was tax fraud, not tax reform; tax law confusion, not tax law simplification. Unfortunately, I was right and the bill under consideration today is the evidence of that.

I urge my colleagues to vote "yes" on H.R. 4333 and help put our Tax Code on the road to fairness and sensibility.

Mr. YOUNG of Alaska. Mr. Chairman, I rise today in opposition of a provision of the technical corrections bill, H.R. 4333 which would terminate the sale of net operating losses by the Alaska Native corporations. This legislation is unfair, and is not consistent with traditional notions of fairness and equity.

The Tax Reform Acts of 1984 and 1986 terminated the sale of net operating losses, but allowed an exemption for Alaska Native corporations. This exemption was seen as a way to allow the native corporations to rebuild their financial base consistent with existing law. Indeed, the exemption worked, and many of these corporations are operating at a surplus.

Suddenly, and without warning, H.R. 4333 was introduced. This legislation terminates the exemption granted to the native corporations. The effective date of the legislation is set at April 26, 1988, the date of the bill's introduction into the House. This date, should the bill become law, would effectively cancel all NOL transactions that were in the process of negotiation, but not yet completed. Many of these sales were ready to be closed when the bill was introduced. In fact, native corporations have expended great sums of money in preparing and negotiating the sale of NOL's, all acting in good faith and in compliance with the law.

Mr. Chairman, in these days of fiscal restraint and mounting deficits, there isn't anyone who is not interested in saving money. This provision reportedly will save an estimated $853 million over 5 years. These figures, however, are just estimates, and it is my belief that they are inflated. Nonetheless, the native corporations are not asking that this exemption be continued. All they are simply asking for is a fair and just transition period that would allow them to complete what they have already begun.

In some cases, the success of financial restructuring for some of these corporations hinges upon the completion of NOL transactions entered into on or before April 26. Should this legislation pass as written, this provision of the Technical Tax Correction Act would sound the death-knell of certain Alaska Native corporations.

Tax legislation of this nature has always contained a fair and just transition period. This situation should be no different. A transition period that would allow native corporations to complete NOL transactions entered into when this bill was introduced is fair, it is just, and it is the right thing to do. People should not be punished for good faith compliance with the laws passed by this Congress.

I would like to remind my colleagues of one more thing. NOL transactions are subject to the careful and meticulous scrutiny of an Internal Revenue audit. Some concern has been expressed that a fair transition period in this legislation would only open the starting gate in an all out race to generate as many NOL transactions as possible, many of which would be somewhat suspect. Nonsense.

Without IRS approval an NOL transaction cannot be legally recognized. Furthermore, any corporation which completes such a suspect transaction that does not pass IRS muster must pay taxes on that sale, complete with interest and any appropriate penalties.

As the ravenous watchdog for every penny that flows in and out of the American Treasury, the IRS will not allow a single cent to slip past its able-bodied team of auditors realized from NOL transactions completed in a fair and just transition period, completed in strict compliance with the law.

Mr. BERMAN. Mr. Chairman, I rise in support of the technical corrections bill. There are many good provisions in this bill that will further the goals of tax equity and simplicity, but one is particularly important to me and to a large number of my constituents—the repeal of the capitalization rule for writers, artists, and photographers.

I commend the Ways and Means Committee, and particularly its chairman, DAN ROSTENKOWSKI, for their decision to include a provision to repeal this unfair and onerous tax rule. Two years ago, congressional tax aides and Treasury officials decided to extend the capitalization rules to writers, artists, and photographers without prior discussion by Congress. They defended this action on the grounds of principle, even though the substantial accounting and forecasting burdens of the new tax rule threatened the livelihood of our Nation's writers and artists. By adopting the technical corrections bill today, which repeals the capitalization tax rules for the creative community, the House is saying that there is another principle that deserves to be heard: Tax rules should be no more intrusive than they have to be to collect reasonable revenue and assure reasonable equity.

Mr. Chairman, we have a long and rich history of supporting our Nation's writers and artists. Much of our unique American culture can be attributed to the free and unencumbered environment in which our creative community is allowed to work and create. By repealing this unfair tax rule, the House today is reaffirming our past support for the arts and promoting the greatness that is yet to come.

Mr. Chairman, I strongly support the adoption of the technical corrections bill and urge my colleagues to support final passage of the bill.

Mr. MACK. Mr. Chairman, I rise today in opposition to H.R. 4333, the Technical Tax Correction Act. I object to the tax increases included in this bill which would raise $7.1 billion in taxes over fiscal years 1988–91.

There are many provisions of the Technical Tax Correction Act which I fully support, including extension of the research and development tax credit, restoring credits for employer educational assistance, exempting livestock producers from uniform capitalization rules—the heifer tax—and removing farmers and other off-highway diesel fuel users from the diesel fuel excise tax. I have cosponsored various bills for these purposes and will continue to work hard for enactment of these provisions.

However, I strongly oppose the tax increases included in H.R. 4333. Especially objectionable are provisions to reduce the corporate portfolio "dividends-received" deduction from 70 to 50 percent over 3 years and to repeal the "completed contract" method of accounting. Because of these and other tax increases, I cannot support the bill. These provisions will only drive up costs and constrain our Nation's strong economic growth.

The correct approach is one that stimulates economic growth and investment. Therefore, it would be much better to reduce the capital gains tax rate from 28 to 15 percent to raise the revenues necessary to pay for the desirable tax preferences included in the bill. Harvard economist Lawrence Lindsay estimates that such a reduction in the capital gains rate would raise $31 billion over 3 years—more than four times as much as the cost of the tax preferences. I have introduced H.R. 3552 to reduce the capital gains tax rate. A reduction in the capital gains rate will spur investment and the creation of new jobs.

Mr. Chairman, I hope that when the other body considers this legislation that the objectionable tax increases are dropped from the bill. I am still confident that we can produce a final conference report that we can all support.

Mr. McEWEN. Mr. Chairman, I rise in support of H.R. 4333 and for a very specific reason. This bill repeals two burdens placed on the American farmer known as the diesel tax and the heifer tax. The diesel tax placed an unnecessary burden on farmers by requiring them to pay a tax on diesel fuel used for off-highway purposes, and then go through the long and tedious process of applying for a rebate. The heifer tax refers to the uniform capitalization rules which were applied to taxpayers involved in the production of animals. As a cosponsor of H.R. 3884, H.R. 3865, and H.R. 3881, I advocated the removal of the diesel tax. At the same time I cosponsored H.R. 3907 to eliminate the heifer tax. I commend the committee for its wisdom in incorporating these measures into H.R. 4333. Last week, Mr. Chairman, this body showed its support for our Nation's agricultural producers by approving the Drought Assistance Act of 1988. Now let's show our farmers that we will not only help them during an emergency, but we'll also work to restore equity to their everyday lives. I call upon this House today to support H.R. 4333.

Mr. CLINGER. Mr. Chairman, I rise today in support of H.R. 4333, the Technical Corrections Act of 1988. I would like to take this opportunity to talk about just one of the many provisions of this bill because I feel it is so critically important.

The grinding issue of diesel fuel tax collection has been a burden to our many farmers and other off-road users long enough. If enacted, H.R. 4333, will repeal the 15.1-cent-per-gallon tax imposed on off-road diesel users.

As it stands now, off-highway users must pay the tax up front and apply to the Treasury for a refund either quarterly or annually. It has been apparent to me for some time that this system has placed a tremendous and unnecessary burden on our agriculture, water transportation, construction, and timber industries. The tax has caused problems far more burdensome and unfair to users than any benefits originally envisioned by enactment of the law. I congratulate the Ways and Means Committee chairman, DAN ROSTENKOWSKI, and the ranking minority member, BILL ARCHER, for responding to the concerns over this issue raised by so many Members of this body.

The bill before us today will allow off-highway users to remain exempt from payment upon purchase fuel tax collection and will eliminate up-front production costs and unnecessary paperwork. Finally, it will reverse the profound effect the new law has had on the cash-flow and interest funds of our producers.

Mr. Chairman, I urge support for this bill and remind Members that the other body has also addressed this issue. It is important for all of us to recognize the need to pass this legislation.

Mr. GOODLING. Mr. Chairman, I rise today in support of the Miscellaneous Revenue Act of 1988. This long awaited legislation contains a number of provisions of benefit to the American taxpayer, and I wish to commend the Committee on Ways and Means for producing such legislation in a timely and deficit neutral manner.

Public employee's retirement plans in the States of Pennsylvania, Hawaii, and Oregon have been adversely affected by a section of the Tax Reform Act of 1986 which eliminated the 3-year basis recovery rule for Federal employees and changed the way in which lump-sum distributions were taxed.

Unfortunately the public employee's retirement plans of these three States were inadvertently excluded from the transition rule grandfathering preannuity lump-sum distributions of after tax contributions made prior to 1987.

Language correcting the situation is included in this bill, as are provisions clarifying the law regarding the taxation of State and local government employees' benefits, repeal of diesel fuel excise tax provisions so burdensome to the farmer and other off-road user, and an exemption to the uniform capitalization rules for artists and authors, who cannot reasonably meet the requirements of current law.

This legislation is responsive to the concerns of those who have been the victims of drafting errors and other small misunderstandings occurring as a result of the comprehensive overhaul of the Tax Code in 1986. I urge my colleagues to support the bill and hope the other body will give it favorable consideration in a timely manner.

Mr. DENNY SMITH. Mr. Chairman, I rise in opposition to H.R. 4333, the Miscellaneous Revenue Act of 1988. Clearly, the tax system we have now is far from perfrect, and due in large part of the Tax Reform Act of 1986, has evolved into a convoluted entanglement of rules, regulations, and redtape that even CPA's have trouble deciphering. However, there comes a time when our attempts to fix the inequities of the system only serve to complicate the mess further. I believe that H.R. 4333 is another such attempt.

Since I came to Congress in 1981, over 3,000 tax-related bills have been introduced in both the House and the Senate, and we have voted nine times on major pieces of tax legislation. In spite of all this, the tax system is not simple and it is not fair—nor will it be after the passage of H.R. 4333, a 960-page behemoth designed to make technical corrections. The results are predictable: we reform the tax system, we make technical corrections to the reforms, and ultimately, we will be making technical corrections to the technical corrections. With all the reforms and corrections we are making, it should come as a surprise to no one that the tax system is in the mess it is in today.

H.R. 4333 is bad policy for several reasons. Changing the rules every few years not only confuses taxpayers and business people in America, it also creates financial hardship to those who make decisions under the old rules only to have the rug pulled out from them by the reformers and the technical correctors. In a time when competitiveness is one of the watchwords of the day, it makes absolutely no sense to create an economic environment that is more unpredictable than it would be ordinarily. Stability is a vital component of our economic strength.

H.R. 4333 contains some necessry provisions, such as the diesel tax exemption for farmers and off-road users, and the extension of the exclusion for employer-provided educational assistance. However, because this bill must be deficit neutral, these good provisions must be countered by $7.1 billion in tax increases that individuals and businesses must bear. This defeats the very pyrpose of the legislation—fairness to the taxpayers.

Most of all, H.R. 4333 is bad policy because it fails to address the underlying cause of our problems—the budget deficit. If we could summon the courage necessary to balance the budget, we would no longer find ourselves in the position of having to make wholesale changes in the Tax Code, in which each corrective measure must be offset by a tax increase. This must be our No. 1 priority, and I believe we must do it by enacting a spending freeze immediately. We can no longer afford to muddle the tax system any further.

Mr. ARCHER. Mr. Chairman, I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute, now printed in the reported bill, as modified by the amendments printed in House Report 100-812, shall be considered as an original bill for the purpose of amendment and shall be considered as having been read.

No amendments to said substitute, as modified, are in order.

The text of the committee amendment in the nature of a substitute, as modified, is as follows:

H.R. 4333

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Miscellaneous Revenue Act of 1988".

(b) DEFINITIONS.—For purposes of this Act—

(1) 1986 CODE.—The term "1986 Code" means the Internal Revenue Code of 1986.

(2) REFORM ACT.—Except where incompatible with the intent, the term "Reform Act" means the Tax Reform Act of 1986.

(c) CLERICAL AMENDMENT.—Paragraph (29) of section 7701(a) of the 1986 Code is amended by striking out "of 1954" and inserting in lieu thereof "of 1986".

TITLE I—TECHNICAL CORRECTIONS TO TAX REFORM ACT OF 1986

SEC. 101. AMENDMENTS RELATED TO TITLE I OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 101 OF THE REFORM ACT.—

(1) Paragraph (2) of section 6867(b) of the 1986 Code is amended by striking out "at a 50-percent rate" and inserting in lieu thereof "at the highest rate of tax specified in section 1".

(2)(A) Section 531 of the 1986 Code is amended to read as follows:

"SEC. 531. IMPOSITION OF ACCUMULATED EARNINGS TAX.

"In addition to other taxes imposed by this chapter, there is hereby imposed for each taxable year on the accumulated taxable income (as defined in section 535) of each corporation described in section 532, an accumulated earnings tax equal to 28 percent of the accumulated taxable income."

(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1987. Such amendment shall not be treated as a change in a rate of tax for purposes of section 15 of the 1986 Code.

(3) The last sentence of section 1(g)(2) of the 1986 Code is amended by inserting before the period at the end thereof the following: "and subparagraph (B) shall be applied as if a deduction for a personal exemption were allowable under section 151 to such individual for such individual's spouse."

(b) AMENDMENTS RELATED TO SECTION 102 OF THE REFORM ACT.—

(1) Paragraph (5) of section 63(c) of the 1986 Code is amended—

(A) by striking out "the standard deduction applicable" and inserting in lieu thereof "the basic standard deduction applicable", and

(B) by striking out "STANDARD DEDUCTION" in the paragraph heading and inserting in lieu thereof "BASIC STANDARD DEDUCTION".

(2) Subclause (I) of section 6012(a)(1)(C)(i) of the 1986 Code is amended to read as follows:

"(I) income (other than earned income) in excess of the sum of the amount in effect under section 63(c)(5)(A) plus the additional standard deduction (if any) to which the individual is entitled, or".

(3)(A) Subparagraph (A) of section 62(a)(2) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The fact that the reimbursement may be provided by a third party shall not be determinative of whether or not the preceding sentence applies."

(B) Paragraph (2) of section 527(e) of the 1986 Code (defining exempt function) is amended by adding at the end thereof the following new sentence: "Such term includes the making of expenditures relating to an office described in the preceding sentence which, if incurred by the individual, would be allowable as a deduction under section 162(a)."

(c) AMENDMENT RELATED TO SECTION 111 OF THE REFORM ACT.—Paragraph (3) of section 32(i) of the 1986 Code is amended to read as follows:

"(3) ROUNDING.—If any dollar amount after being increased under paragraph (1) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10 (or, if such dollar amount is a multiple of $5, such dollar amount shall be increased to the next higher multiple of $10)."

(d) AMENDMENTS RELATED TO SECTION 123 OF THE REFORM ACT.—

(1)(A) Clause (ii) of section 4941(d)(2)(G) of the 1986 Code is amended to read as follows:

"(ii) scholarships and fellowship grants which would be subject to the provisions of section 117(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) and are to be used for study at an educational organization described in section 170(b)(1)(A)(ii),".

(B) Paragraph (1) of section 4945(g) of the 1986 Code is amended to read as follows:

"(1) the grant constitutes a scholarship or fellowship grant which would be subject to the provisions of section 117(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) and is to be used for study at an educational organization described in section 170(b)(1)(A)(ii),".

(2)(A) The second sentence of section 1441(b) of the 1986 Code is amended to read as follows: "The items of income referred to in subsection (a) from which tax shall be deducted and withheld at the rate of 14 percent are amounts which are received by a nonresident alien individual who is temporarily present in the United States as a nonimmigrant under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act and which are—

"(1) incident to a qualified scholarship to which section 117(a) applies, but only to the extent includible in gross income; or

"(2) in the case of an individual who is not a candidate for a degree at an educational organization described in 170(b)(1)(A)(ii), granted by—

"(A) an organization described in section 501(c)(3) which is exempt from tax under section 501(a),

"(B) a foreign government,

"(C) an international organization, or a binational or multinational educational and cultural foundation or commission created or continued pursuant to the Mutual Educational and Cultural Exchange Act of 1961, or

"(D) the United States, or an instrumentality or agency thereof, or a State, or a possession of the United States, or any political subdivision thereof, or the District of Columbia,

as a scholarship or fellowship for study, training, or research in the United States."

(B) Subsection (c) of section 871 of the 1986 Code is amended—

(i) by striking out "section 1441(b)(1) or (2)" and inserting in lieu thereof "the second sentence of section 1441(b)"; and

(ii) by striking out "(F) or (J)" each place it appears and inserting in lieu thereof "(F), (J), or (M)".

(C) The following provisions of the 1986 Code are each amended by striking out "(F) or (J)" each place it appears and inserting in lieu thereof "(F), (J), or (M)":

(i) Section 3121(b)(19).

(ii) Section 3231(e)(1).

(iii) Section 3306(c)(19).

(D) Clause (i)(I) of section 7701(b)(5)(D) of the 1986 Code is amended by striking out "subparagraph (F)" and inserting in lieu thereof "subparagraph (F) or (M)".

(E) Section 210(a)(19) of the Social Security Act is amended by striking out "(F) or (J)" each place it appears and inserting in lieu thereof "(F), (J), or (M)".

(e) AMENDMENT RELATED TO SECTION 131 OF THE REFORM ACT.—Subsection (f) of section 86 of the 1986 Code is amended by inserting "and" at the end of paragraph (3), by striking out paragraph (4), and by redesignating paragraph (5) as paragraph (4).

(f) AMENDMENTS RELATED TO SECTION 132 OF THE REFORM ACT.—

(1) Section 67 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) COORDINATION WITH OTHER LIMITATION.—This section shall be applied before the application of the dollar limitation of the last sentence of section 162(a) (relating to trade or business expenses)."

(2) Paragraph (4) of section 67(b) of the 1986 Code is amended—

(A) by striking out "deduction" and inserting in lieu thereof "deductions", and

(B) by inserting before the comma at the end thereof "and section 642(c) (relating to deduction for amounts paid or permanently set aside for a charitable purpose)".

(3) Subsection (e) of section 67 of the 1986 Code is amended to read as follows:

"(e) DETERMINATION OF ADJUSTED GROSS INCOME IN CASE OF ESTATES AND TRUSTS.—For purposes of this section, the adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that—

"(1) the deductions for costs which are paid or incurred in connection with the administration of the estate or trust and which would not have been incurred if the property were not held in such trust or estate, and

"(2) the deductions allowable under sections 642(b), 651, and 661,

shall be treated as allowable in arriving at adjusted gross income. Under regulations, appropriate adjustments shall be made in the application of part I of subchapter J of this chapter to take into account the provisions of this section."

(4) Subsection (c) of section 67 of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following: "The preceding sentence shall not apply—

"(1) with respect to cooperatives and real estate investment trusts, and

"(2) except as provided in regulations, with respect to estates and trusts."

(g) AMENDMENTS RELATED TO SECTION 142 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 274(n)(2) of the 1986 Code is amended to read as follows:

"(A) such expense is described in paragraph (2), (3), (4), (7), (8), or (9) of subsection (e),".

(2) Paragraph (2) of section 274(k) of the 1986 Code is amended to read as follows:

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) any expense described in paragraph (2), (3), (4), (7), (8), or (9) of subsection (e), and

"(B) any other expense to the extent provided in regulations."

(3) Clause (ii) of section 274(m)(1)(B) of the 1986 Code is amended to read as follows:

"(ii) any expense described in paragraph (2), (3), (4), (7), (8), or (9) of subsection (e).".

(4)(A) Paragraph (2) of section 274(n) of the 1986 Code is amended—

(i) by striking "or" at the end of subparagraph (C),

(ii) by striking the period at the end of subparagraph (D) and inserting ", or", and

(iii) by adding at the end thereof the following:

"(E) in the case of an employer who pays or reimburses moving expenses of an employee, such expenses are includible in the income of the employee under section 82.

In the case of the employee, the exception of subparagraph (A) shall not apply to expenses described in subparagraph (E)."

(B) The following provisions of the 1986 Code are each amended by striking out "section 217" and inserting in lieu thereof "section 217 (determined without regard to section 274(n))":

(i) Section 3121(a)(11).

(ii) Section 3306(b)(9).

(iii) Section 3401(a)(15).

(C) Section 209(k) of the Social Security Act is amended by striking out "section 217 of the Internal Revenue Code of 1954" and inserting in lieu thereof "section 217 of the Internal Revenue Code of 1986 (determined without regard to section 274(n) of such Code)".

(5) Paragraphs (1) and (2) of section 274(h) of the 1986 Code are each amended by striking out "trade or business that" and inserting in lieu thereof "trade or business and that".

(h) AMENDMENTS RELATED TO SECTION 143 OF THE REFORM ACT.—

(1) Paragraph (5) of section 280A(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Any amount taken into account for any taxable year under the preceding sentence shall be subject to the limitation of the 1st sentence of this paragraph whether or not the dwelling unit is used as a residence during such taxable year."

(2) Clause (ii) of section 280A(c)(5)(B) of the 1986 Code is amended by striking out "trade or business" and inserting in lieu thereof "trade or business (or rental activity)".

SEC. 102. AMENDMENTS RELATED TO TITLE II OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 201 OF THE REFORM ACT.—

(1) Subsection (d) of section 1250 of the 1986 Code is amended by striking out paragraph (11).

(2) Subparagraph (B) of section 201(d)(14) of the Reform Act is amended by striking out "section 168(c)(2)(F)" and inserting in lieu thereof "within the meaning of section 168(c)(2)(F)".

(3) Paragraph (4) of section 312(k) of the 1986 Code is amended by striking out "paragraphs (1) and (3)" and inserting in lieu thereof "paragraph (1)".

(4) Paragraph (4) of section 46(e) of the 1986 Code is amended—

(A) by striking out "168(j)(6)" in subparagraph (B) and inserting in lieu thereof "168(i)(3)",

(B) by striking out "paragraphs (8) and (9) of section 168(j)" in subparagraph (D) and inserting in lieu thereof "paragraphs (5) and (6) of section 168(h)",

(C) by striking out "168(j)" in subparagraph (E) and inserting in lieu thereof "168(h)", and

(D) by striking out "168(j)(4)" in subparagraph (E) and inserting in lieu thereof "168(h)(2)".

(5) Clause (i) of section 168(d)(3)(A) of the 1986 Code is amended by striking out "and which are".

(6)(A) Subparagraph (B) of section 168(f)(5) of the 1986 Code is amended—

(i) by striking out "1st full taxable year" in clause (ii) and inserting in lieu thereof "1st taxable year", and

(ii) by striking out "or" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(iii) any property to which this section (as amended by the Tax Reform Act of 1986) applied in the hands of the transferor."

(B) Paragraph (5) of section 168(f) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE.—In the case of any property to which this section would apply but for this paragraph, the depreciation deduction under section 167 shall be determined under the provisions of this section as in effect before the amendments made by section 201 of the Tax Reform Act of 1986."

(7)(A) Subparagraph (A) of section 168(i)(7) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In any case where this section was in effect before the amendments made by section 201 of the Tax Reform Act of 1986 applied to the property in the hands of the transferor, the reference in the preceding sentence to this section shall be treated as a reference to this section as so in effect."

(B) Subparagraph (B) of section 168(i)(7) of the 1986 Code is amended to read as follows:

"(B) TRANSACTIONS COVERED.—The transactions described in this subparagraph are—

"(i) any transaction described in section 332, 351, 361, 371(a), 374(a), 721, or 731, and

"(ii) any transaction between members of the same affiliated group during any taxable year for which a consolidated return is made by such group.

Subparagraph (A) shall not apply in the case of a termination of a partnership under section 708(b)(1)(B)."

(C) Subparagraph (D) of section 168(i)(7) of the 1986 Code is hereby repealed.

(8) Subparagraph (B) of section 168(h)(2) of the 1986 Code is amended to read as follows:

"(B) EXCEPTION FOR CERTAIN PROPERTY SUBJECT TO UNITED STATES TAX AND USED BY FOREIGN PERSON OR ENTITY.—Clause (iii) of subparagraph (A) shall not apply with respect to any property if more than 50 percent of the gross income for the taxable year derived by the foreign person or entity from the use of such property is—

"(i) subject to tax under this chapter, or

"(ii) included under section 951 in the gross income of a United States shareholder for the taxable year with or within which ends the taxable year of the controlled foreign corporation in which such income was derived.

For purposes of the preceding sentence, any exclusion or exemption shall not apply for purposes of determining the amount of the gross income so derived, but shall apply for purposes of determining the portion of such gross income subject to tax under this chapter."

(9) Subsection (a) of section 178 of the 1986 Code is amended by striking out "the deduction allowable to a lessee of a lease for any taxable year for amortization under section 167, 169, 179, 185, 190, 193, or 194" and inserting in lieu thereof "the deduction allowable to a lessee for exhaustion, wear and tear, obsolescence, or amortization".

(10) Subparagraph (A) of section 280F(d)(3) of the 1986 Code is amended by striking out "any recovery deduction" and inserting in lieu thereof "any depreciation deduction".

(11)(A) Paragraph (2) of section 168(b) of the 1986 Code is amended to read as follows:

"(2) 150 PERCENT DECLINING BALANCE METHOD IN CERTAIN CASES.—Paragraph (1) shall be applied by substituting '150 percent' for '200 percent' in the case of—

"(A) any 15-year or 20-year property, or

"(B) any property (other than property described in paragraph (3)) with respect to which the taxpayer elects under paragraph (5) to have the provisions of this paragraph apply."

(B) Paragraph (5) of section 168(b) of the 1986 Code is amended by striking out "under paragraph (3)(C)" and inserting in lieu thereof "under paragraph (2)(B) or (3)(C)".

(C) Subsection (c) of section 168 of the 1986 Code is amended to read as follows:

"(c) APPLICABLE RECOVERY PERIOD.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the applicable recovery period shall be determined in accordance with the following table:

"In the case of:	The applicable recovery period is:
3-year property	3 years
5-year property	5 years
7-year property	7 years
10-year property	10 years
15-year property	15 years
20-year property	20 years
Residential rental property	27.5 years
Nonresidential real property	31.5 years.

"(2) PROPERTY FOR WHICH 150 PERCENT METHOD ELECTED.—In the case of property to which an election under subsection (b)(2)(B) applies, the applicable recovery period shall be determined under the table contained in subsection (g)(2)(C)."

(12) Clause (i) of section 56(a)(1)(C) of the 1986 Code is amended by striking out "do not apply" and inserting in lieu thereof "do not apply by reason of section 203, 204, or 251(d) of such Act".

(13) The heading of paragraph (24) of section 381(c) of the 1986 Code is amended by striking out "RECOVERY ALLOWANCE FOR RECOVERY PROPERTY" and inserting in lieu thereof "DEPRECIATION DEDUCTION".

(14) Paragraph (5) of section 48(a) of the 1986 Code is amended—

(A) by striking out "168(j)(4)(C)" and inserting in lieu thereof "168(h)(2)(C)",

(B) by striking out "168(j)(4)(A)(iii)" and inserting in lieu thereof "168(h)(2)(A)(iii)",

(C) by striking out "168(j)(4)(B)" and inserting in lieu thereof "168(h)(2)(B)",

(D) by striking out "168(j)(6)" and inserting in lieu thereof "168(i)(3)",

(E) by striking out "168(j)(3)(C)(ii)" and inserting in lieu thereof "168(h)(1)(C)(ii)",

(F) by striking out "paragraphs (8) and (9) of section 168(j)" and inserting in lieu thereof "paragraphs (5) and (6) of section 168(h)", and

(G) by striking out subparagraph (E) and inserting in lieu thereof the following:

"(E) CROSS REFERENCE.—

"For provision providing special rules for the application of this paragraph and paragraph (4), see section 168(h)."

(15) The last sentence of section 46(e)(3) of the 1986 Code is amended—

(A) by striking out "recovery property (within the meaning of section 168)" and inserting in lieu thereof "property to which section 168 applies",

(B) by striking out "present class life" and inserting in lieu thereof "class life", and

(C) by striking out "168(g)(2)" and inserting in lieu thereof "168(i)(1)".

(16)(A) Subsection (s) of section 48 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(9) TERMINATION.—This subsection shall not apply to any property placed in service after December 31, 1985, unless such property is transition property (as defined in section 49(e)(1))."

(B) Paragraph (4) of section 168(f) of the 1986 Code is amended to read as follows:

"(4) SOUND RECORDINGS.—Any works which result from the fixation of a series of musical, spoken, or other sounds, regardless of the nature of the material (such as discs, tapes, or other phonorecordings) in which such sounds are embodied."

(17) Paragraph (7) of section 46(c) of the 1986 Code is amended—

(A) by striking out "recovery property" and inserting in lieu thereof "property to which section 168 applies",

(B) by striking out "168(c)" each place it appears and inserting in lieu thereof "168(e)",

(C) by striking out "168(f)(3)(B)" and inserting in lieu thereof "168(f)(3)(B) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986)", and

(D) by striking out "RECOVERY PROPERTY" in the paragraph heading and inserting in lieu thereof "PROPERTY TO WHICH SECTION 168 APPLIES".

(18) Paragraph (1) of section 47(d) of the 1986 Code is amended by striking out "section 48(c)(8)(C)"
and inserting in lieu thereof "section 46(c)(8)(C)".

(19) Paragraph (1) of section 179(d) of the 1986 Code is amended by striking out "recovery property" and inserting in lieu thereof "tangible property (to which section 168 applies)".

(20) Section 48 of the 1986 Code is amended by redesignating the subsection (s) relating to cross references as subsection (t).

(21) Clause (v) of section 168(e)(3)(B) of the 1986 Code is amended by striking out "any property" and inserting in lieu thereof "any section 1245 property".

(22) The last sentence of section 167(l)(3)(G) of the 1986 Code is amended by striking out "section 168(e)(3)(C)" and inserting in lieu thereof "section 168(i)(9)(B)".

(23) Subparagraph (B) of section 168(d)(3) of the 1986 Code is amended to read as follows:

"(B) CERTAIN PROPERTY NOT TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), there shall not be taken into account—

"(i) any nonresidential real property and residential rental property, and

"(ii) any other property placed in service and disposed of during the same taxable year."

(24) Subsection (a) of section 167 of the 1986 Code is amended by striking out the last sentence.

(25) Subparagraph (B) of section 46(d)(1) of the 1986 Code is amended—

(A) by striking out "recovery property (within the meaning of section 168)" in clause (i) and inserting in lieu thereof "property to which section 168 applies", and

(B) by striking out "which is not recovery property (within the meaning of section 168)" in clause (ii) and inserting in lieu thereof "to which section 168 does not apply".

(26)(A) Subparagraph (E) of section 47(a)(5) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(v) TREATMENT AS RECOVERY PROPERTY.—Any reference in this paragraph to recovery property shall be treated as including a reference to any property to which section 168 (as amended by the Tax Reform Act of 1986) applies."

(B) Subparagraph (D) of section 47(a)(5) of the 1986 Code is amended by striking out the last sentence.

(C) Clause (iii) of section 47(a)(5)(E) of the 1986 Code is amended by striking out "section 168(c)" and inserting in lieu thereof "section 168(e)".

(27) Subparagraph (A) of section 47(a)(9) of the 1986 Code is amended by striking out "section 168(j)(4)(C)" and inserting in lieu thereof "section 168(h)(2)".

(28) Clause (i) of section 47(d)(3)(C) of the 1986 Code is amended—

(A) by striking out "present class life (as defined in section 168(g)(2))" and inserting in lieu thereof "class life (as defined in section 168(i)(1))", and

(B) by striking out "no present class life" and inserting in lieu thereof "no class life".

(29) Paragraph (1) of section 48(a) of the 1986 Code is amended by striking out "recovery property (within the meaning of section 168)" in the material following subparagraph (G) and inserting in lieu thereof "property to which section 168 applies".

(30) Subparagraph (C) of section 48(1)(2) of the 1986 Code is amended by striking out "which is recovery property (within the meaning of section 168)" and inserting in lieu thereof "to which section 168 applies".

(31) Subsection (d) of section 167 of the 1986 Code is amended by striking out "recovery property defined in section 168" and inserting in lieu thereof "property to which section 168 applies".

(b) AMENDMENTS RELATED TO SECTION 202 OF THE REFORM ACT.—

(1) Paragraph (3) of section 179(b) of the 1986 Code is amended to read as follows:

"(3) LIMITATION BASED ON INCOME FROM TRADE OR BUSINESS.—

"(A) IN GENERAL.—The amount allowed as a deduction under subsection (a) for any taxable year (determined after the application of paragraphs (1) and (2)) shall not exceed the aggregate amount of taxable income of the taxpayer for such taxable year which is derived from the active conduct by the taxpayer of any trade or business during such taxable year.

"(B) CARRYOVER OF DISALLOWED DEDUCTION.—The amount allowable as a deduction under subsection (a) for any taxable year shall be increased by the lesser of—

"(i) the aggregate amount disallowed under subparagraph (A) for all prior taxable years (to the extent not previously allowed as a deduction by reason of this subparagraph), or

"(ii) the excess (if any) of—

"(I) the limitation of paragraphs (1) and (2) (or if lesser, the aggregate amount of taxable income referred to in subparagraph (A)), over

"(II) the amount allowable as a deduction under subsection (a) for such taxable year without regard to this subparagraph.

"(C) COMPUTATION OF TAXABLE INCOME.—For purposes of this paragraph, taxable income derived from the conduct of a trade or business shall be computed without regard to the deduction allowable under this section."

(2) Paragraph (1) of section 280F(d) of the 1986 Code is amended by striking out "subsections (a) and (b)" and inserting in lieu thereof "subsections (a) and (b), and the limitation of paragraph (3) of this subsection,".

(c) AMENDMENTS RELATED TO SECTION 203 OF THE REFORM ACT.—

(1) Subparagraph (B) of section 203(a)(1) of the Reform Act is amended by adding at the end thereof the following new sentence: "No election may be made under this subparagraph with respect to property to which section 168 of the Internal Revenue Code of 1986 would not apply by reason of section 168(f)(5) of such Code if such property were placed in service after December 31, 1986."

(2) Subsection (d) of section 203 of the Reform Act is amended—

(A) by striking out "the case of any taxable year" and inserting in lieu thereof "the case of any taxable year beginning before October 1, 1987", and

(B) by adding at the end thereof the following new sentence: "The preceding sentence shall only apply to property which would be taken into account if such amendments did apply."

(3) Notwithstanding section 203 of the Reform Act, the amendments made by section 201 of the Reform Act shall apply to any real property which was acquired before January 1, 1987, and was converted on or after such date from personal use to a use for which depreciation is allowable.

(4) Paragraph (1) of section 203(b) of the Reform Act is amended by adding at the end thereof the following new sentence:

"For purposes of this paragraph, all members of the same affiliated group of corporations (within the meaning of section 1504 of the Internal Revenue Code of 1986) filing a consolidated return shall be treated as one taxpayer."

(5) Paragraph (1) of section 203(c) of the Reform Act is amended by striking out "Subparagraph" and inserting in lieu thereof "Except as otherwise provided in this subsection or section 204, subparagraph".

(6) Clause (i) of section 203(b)(2)(C) of the Reform Act is amended by striking out "shall be the class life" and inserting in lieu thereof "applies shall be the class life".

(7) Paragraph (3) of section 203(b) of the Reform Act is amended—

(A) by inserting before the comma at the end of subparagraph (A) "(or would have met such requirements if placed in service by such person)", and

(B) by inserting ", or is leased to such person," before "not later than".

(8) Paragraph (2) of section 203(a) of the Reform Act is amended to read as follows:

"(2) SECTION 202.—

"(A) IN GENERAL.—The amendments made by section 202 shall apply to property placed in service after December 31, 1986, in taxable years ending after such date.

"(B) SPECIAL RULE FOR FISCAL YEARS INCLUDING JANUARY 1, 1987.—In the case of any taxable year (other than a calendar year) which includes January 1, 1987, for purposes of applying the amendments made by section 202 to property placed in service during such taxable year and after December 31, 1986—

"(i) the limitation of section 179(b)(1) of the Internal Revenue Code of 1986 (as amended by section 202) shall be reduced by the aggregate deduction under section 179 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) for section 179 property placed in service during such taxable year and before January 1, 1987,

"(ii) the limitation of section 179(b)(2) of such Code (as so amended) shall be applied by taking into account the cost of all section 179 property placed in service during such taxable year, and

"(iii) the limitation of section 179(b)(3) of such Code shall be applied by taking into account the taxable income for the entire taxable year reduced by the amount of any deduction under section 179 of such Code for property placed in service during such taxable year and before January 1, 1987."

(d) AMENDMENTS RELATED TO SECTION 204 OF THE REFORM ACT.—

(1) Subparagraph (B) of section 204(a)(1) of the Reform Act is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and by inserting after clause (iii) the following new clause:

"(iv) described in subparagraph (F) or (H)."

(2) Subparagraph (C) of section 204(a)(1) of the Reform Act is amended by striking out the last sentence and inserting in lieu thereof the following:

"For purposes of this subparagraph, section 203(b)(2) shall be applied by substituting 'January 1, 1994' for 'January 1, 1991' each place it appears."

(3) Subparagraph (E) of section 204(a)(1) of the Reform Act is amended by striking out the last sentence and inserting in lieu thereof the following: "For purposes of this subparagraph, section 203(b)(2) shall be applied by substituting 'January 1, 1998' for 'January 1, 1991' each place it appears."

(4) Subparagraph (F) of section 204(a)(1) of the Reform Act is amended—

(A) by striking out "paragraph" and inserting in lieu thereof "subparagraph",

(B) by striking out ", or" at the end of clause (iii) and inserting in lieu thereof a period, and

(C) by striking out so much of clause (iv) as precedes subclause (I) thereof and inserting in lieu thereof the following:

"A project is also described in this subparagraph if it is a mixed-use development which is—".

(5) The last sentence of section 204(a)(1)(F) of the Reform Act is amended—

(A) by striking out "subsection (b)(2)" and inserting in lieu thereof "section 203(b)(2)", and

(B) by striking out "1993" and inserting in lieu thereof "1998".

(6) Subparagraph (H) of section 204(a)(1) of the Reform Act is amended by striking out "July 1, 1986" and inserting in lieu thereof "June 30, 1986".

(7)(A) Paragraph (4) of section 204(a) of the Reform Act is amended to read as follows:

"(4) PROPERTY TREATED UNDER PRIOR TAX ACTS.—The amendments made by section 201 shall not apply—

"(A) to property described in section 12(c)(2) (as amended by the Miscellaneous Revenue Act of 1988), 31(g)(5), or 31(g)(17)(J) of the Tax Reform Act of 1984,

"(B) to property described in section 209(d)(1)(B) of the Tax Equity and Fiscal Responsibility Act of 1982, as amended by the Tax Reform Act of 1984, and

"(C) to property described in section 216(b)(3) of the Tax Equity and Fiscal Responsibility Act of 1982."

(B) Paragraph (2) of section 12(c) of the Tax Reform Act of 1984 is amended by striking out "which is placed in service before January 1, 1988".

(8) Subparagraph (K) of section 204(a)(5) of the Reform Act is amended—

(A) by striking out "either" in the matter preceding clause (i),

(B) by striking out "super calendar" in clause (i) and inserting in lieu thereof "supercalendered",

(C) by striking out "were incurred" in clause (i) and inserting in lieu thereof "was incurred", and

(D) by inserting "the project" before "involves" in clause (v).

(9) Paragraph (5) of section 204(a) of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(Z) A project is described in this subparagraph if—

"(i) such project involves a fiber optic network of at least 475 miles, passing through Minnesota and Wisconsin; and

"(ii) before January 1, 1986, at least $15,000,000 was expended or committed for electronic equipment or fiber optic cable to be used in constructing the network."

(10)(A) Paragraph (8) of section 204(a) of the Reform Act is amended by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a comma, and by adding at the end thereof the following new subparagraphs:

"(D) a bond volume carryforward election was made for the facility and the facility is for Chattanooga, Knoxville, or Kingsport, Tennessee, or

"(E) such facility is to serve Haverhill, Massachusetts."

(B) Paragraph (8) of section 204(a) of the Reform Act is amended by striking out ", and section 203(c),".

(11) Paragraph (10) of section 204(a) of the Reform Act is amended—

(A) by striking out "either" in the material preceding subparagraph (A),

(B) by striking out "wastewater treatment facility" in subparagraph (C) and inserting in lieu thereof "wastewater treatment facility serving Greenville, South Carolina", and

(C) by striking out "the letter of intent and service agreement described in subparagraph (A)(2) of this paragraph" in subparagraph (D) and inserting in lieu thereof "such letter of intent and service agreement".

(12) Paragraph (11) of section 204(a) of the Reform Act is amended—

(A) by striking out "Kansas, Florida, Georgia, or Texas" in subparagraph (A) and inserting in lieu thereof "the United States",

(B) by striking out "the purchase" in subparagraph (C) and inserting in lieu thereof "the purchaser", and

(C) by striking out the last sentence.

(13) Paragraph (14) of section 204(a) of the Reform Act is amended by striking out the period at the end of subparagraph (E) and inserting in lieu thereof a comma, and by inserting after subparagraph (E) the following:

"(F) the project has a planned scheduled capacity of approximately 38,000 kilowatts, the project property is placed in service before January 1, 1991, and the project is operated, established, or constructed pursuant to certain agreements, the negotiation of which began before 1986, with public or municipal utilities conducting business in Massachusetts, or

"(G) the Board of Regents of Oklahoma State University took official action on July 25, 1986, with respect to the project.

In the case of the project described in subparagraph (F), section 203(b)(2)(A) shall be applied by substituting 'January 1, 1991' for 'January 1, 1989'."

(14) Paragraph (15) of section 204(a) of the Reform Act is amended—

(A) by adding "located in New Mexico" after "to a project",

(B) by striking out "$72,000" and inserting in lieu thereof "$72,000,000", and

(C) by striking out the last sentence and inserting in lieu thereof the following:

"For purposes of this paragraph, section 203(b)(2) shall be applied by substituting 'January 1, 1996' for 'January 1, 1991' each place it appears."

(15) Paragraph (24) of section 204(a) of the Reform Act is amended by adding at the end thereof the following new subparagraphs:

"(E) The amendments made by section 201 shall not apply to the Muskegon, Michigan, Cross-Lake Ferry project having a projected cost of approximately $7,200,000.

"(F) The amendments made by section 201 shall not apply to a new automobile carrier vessel, the contract price for which is no greater than $28,000,000, and which will be constructed for and placed in service by OSG Car Carriers, Inc., to transport, under the United States flag and with an American crew, foreign automobiles to North America in a case where negotiations for such transportation arrangements commenced in 1985, and definitive transportation contracts were awarded before June 1986."

(16) Paragraph (25) of section 204(a) of the Reform Act is amended by striking out "wood energy products" and inserting in lieu thereof "wood energy projects".

(17) Paragraph (27) of section 204(a) of the Reform Act is amended—

(A) in subparagraph (A)—

(i) by striking out "$400,000,000" and inserting in lieu thereof "$500,000,000", and

(ii) by striking out "letter of intent" and inserting in lieu thereof "memorandum of terms",

(B) in subparagraph (B), by striking out "525,000" and inserting in lieu thereof "540,000",

(C) in subparagraph (C)—

(i) by striking out "$32,000,000" and inserting in lieu thereof "$22,000,000", and

(ii) by striking out "before" and inserting in lieu thereof "on",

(D) in subparagraph (D), by striking out "and 7th Avenue", and

(E) in subparagraph (H), by striking out "$62,000" and inserting in lieu thereof "$62,600,000".

(18) Paragraph (27) of section 204(a) of the Reform Act is amended by adding at the end thereof the following:

"(I) A 600,000 square foot mixed use building known as Flushing Center with respect to which a letter of intent was executed on March 26, 1986.

In the case of the building described in subparagraph (I), section 203(b)(2)(A) shall be applied by substituting 'January 1, 1993' for the applicable date which would otherwise apply."

(19) Paragraph (31) of section 204(a) of the Reform Act is amended by striking out "$10,200,000" and inserting in lieu thereof "$10,500,000".

(20) Paragraph (32) of section 204(a) of the Reform Act is amended—

(A) in subparagraph (A)—

(i) by striking out "July 30, 1984" and inserting in lieu thereof "December 26, 1985",

(ii) by striking out "February 28, 1985" and inserting in lieu thereof "July 2, 1986", and

(iii) by striking out "on June 17, 1985" and inserting in lieu thereof "in May 1985",

(B) in subparagraph (B)—

(i) by striking out "August 30, 1984" and inserting in lieu thereof "December 26, 1985",

(ii) by striking out "May 4, 1985" and inserting in lieu thereof "July 2, 1986", and

(iii) by striking out "on July 3, 1985" and inserting in lieu thereof "in July 1985",

(C) in subparagraph (E)—

(i) by striking out "$2,200,000" and inserting in lieu thereof "$5,000,000",

(ii) by striking out "on January 27, 1986" and inserting "in 1986", and

(iii) by inserting "in Masontown, Pennsylvania," after "plant",

(D) by amending subparagraph (K) to read as follows:

"(K) A 250 megawatt coal-fired electric plant in northeastern Nevada estimated to cost $600,000,000 and known as the Thousand Springs project, on which the Sierra Pacific Power Company, a subsidiary of Sierra Pacific Resources, began in 1980 work to design, finance, construct, and operate (and section 203(b)(2) shall be applied with respect to such plant by substituting 'January 1, 1995' for 'January 1, 1991'),",

(E) in subparagraph (L), by inserting "in connection with" after "housing",

(F) by amending subparagraph (M) to read as follows:

"(M) property which is part of the Kenosha Downtown Redevelopment Project and which is financed with the proceeds of bonds issued pursuant to section 1317(6)(W),",

(G) in subparagraph (O), by striking out "New Orleans, Louisiana" and inserting in lieu thereof "Pensacola, Florida", and

(H) in subparagraph (S)—

(i) by inserting "to be" before "placed",

(ii) by inserting "Coal" before "Company",

(iii) by inserting "(or any subsidiary thereof)" after "Company", and

(iv) by striking out "on December 31, 1985" and inserting in lieu thereof "by December 31, 1985".

(21) Subparagraph (T) of section 204(a)(32) of the Reform Act is amended to read as follows:

"(T) a portion of a fiber optics network placed in service by LDX NET after December 31, 1988, but only to the extent the cost of such portion does not exceed $25,000,000,".

(22) Subparagraph (U) of section 204(a)(32) of the Reform Act is amended by striking out "placed in service" and inserting in lieu thereof "constructed".

(23) Subparagraph (X) of section 204(a)(32) of the Reform Act is amended by striking out "the home rule city and the State housing finance agency adopted inducement resolutions on December 20, 1985" and inserting in lieu thereof "the home rule city on December 4, 1985, and the State housing finance agency on December 20, 1985, adopted inducement resolutions".

(24) Subparagraph (C) of paragraph (33) of section 204(a) of the Reform Act is amended to read as follows:

"(C)(i) a waste-to-energy project in Derry, New Hampshire, costing approximately $60,000,000, and

"(ii) a waste-to-energy project in Manchester, New Hampshire, costing approximately $60,000,000,".

(25) Paragraph (33) of section 204(a) of the Reform Act is amended by striking out "and" at the end of subparagraph (J), by striking out the period at the end of subparagraph (K) and inserting in lieu thereof ", and", and by inserting after subparagraph (K) the following:

"(L) a cogeneration facility to be built at a paper company in Turners Falls, Massachusetts, with respect to which a letter of intent was executed on behalf of the paper company on September 26, 1985."

(26) Subsection (a) of section 204 of the Reform Act is amended by adding at the end thereof the following new paragraphs:

"(34) The amendments made by section 201 shall not apply to an approximately 240,000 square foot beverage container manufacturing plant located in Batesville, Mississippi, or plant equipment used exclusively on the plant premises if—

"(A) a 2-year supply contract was signed by the taxpayer and a customer on November 1, 1985,

"(B) such contract further obligated the customer to purchase beverage containers for an additional 5-year period if physical signs of construction of the plant are present before September 1986,

"(C) ground clearing for such plant began before August 1986, and

"(D) construction is completed, the equipment is installed, and operations are commenced before July 1, 1987.

"(35) The amendments made by section 201 shall not apply to any property which is part of the multifamily housing at the Columbia Point Project in Boston, Massachusetts. A project shall be treated as not described in the preceding sentence and as not described in section 252(f)(1)(D) unless such project includes a nonprofit community health center—

(A) which receives funds under secton 330 of the Public Health Service Act (42 U.S.C. 254(c)),

(B) which covers at least 12,000 (but not more than 18,000) square feet, and

(C) which is granted a lease for a period not ending before the close of the 20th year after the project is placed in service and the rent under which per square foot cannot exceed the average rent per square foot payable for rent-restricted units in the project.

"(36) The amendments made by section 201 shall not apply to any ethanol facility located in Blair, Nebraska, if—

"(A) in July of 1984 an initial binding construction contract was entered into for such facility,

"(B) in June of 1986, certain Department of Energy recommended contract changes required a change of contractor, and

"(C) in September of 1986, a new contract to construct such facility, consistent with such recommended changes, was entered into.

"(37) The amendments made by section 201 shall not apply to any property which is part of a sewage treatment facility if, prior to January 1, 1986, the City of Conyers, Georgia, selected a privatizer to construct such facility, received a guaranteed maximum price bid for the construction of such facility, signed a letter of intent and began substantial negotiations of a service agreement with respect to such facility.

"(38) The amendments made by section 201 shall not apply to—

"(A) a $28,000,000 wood resource complex for which construction was authorized by the Board of Directors on August 9, 1985,

"(B) an electrical cogeneration plant in Bethel, Maine which is to generate 2 megawatts of electricity from the burning of wood residues, with respect to which a contract was entered into on July 10, 1984, and with respect to which $200,000 of the expected $2,000,000 cost had been committed before June 15, 1986,

"(C) a mixed income housing project in Portland, Maine which is known as the Back Bay Tower and which is expected to cost $17,300,000,

"(D) the Eastman Place project and office building in Rochester, New York, which is projected to cost $20,000,000, with respect to which an inducement resolution was adopted in December 1986, and for which a binding contract of $500,000 was entered into on April 30, 1986,

"(E) the Marquis Two project in Atlanta, Georgia which has a total budget of $72,000,000 and the construction phase of which began under a contract entered into on March 26, 1986,

"(F) a 166-unit continuing care retirement center in New Orleans, Louisiana, the construction contract for which was signed on February 12, 1986, and is for a maximum amount not to exceed $8,500,000,

"(G) the expansion of the capacity of an oil refining facility in Rosemont, Minnesota from 137,000 to 207,000 barrels per day which is expected to be completed by December 31, 1990, and

"(H) a project in Ransom, Pennsylvania which will burn coal waste (known as 'culm') with an approximate cost of $64,000,000 and for which a certification from the Federal Energy Regulatory Commission was received on March 11, 1986.

"(39) The amendments made by section 201 shall not apply to any facility for the manufacture of an improved particle board if a binding contract to purchase such equipment was executed March 3, 1986, such equipment will be placed in service by January 1, 1988, and such facility is located in or near Moncure, North Carolina."

(27) Subsection (b) of section 204 of the Reform Act is amended by inserting "(as amended by the Tax Reform Act of 1984)" immediately before the period at the end thereof.

(28) Subparagraph (A) of section 204(c)(1) of the Reform Act is amended by inserting "located in Pennsylvania and" before "constructed pursuant".

(29) Paragraph (3) of section 204(c) of the Reform Act is amended—

(A) by striking out "for the applicable date" and inserting in lieu thereof "(or, in the case of a project described in subparagraph (B), by substituting 'April 1, 1992') for the applicable date",

(B) by striking out "before April 1, 1986" in subparagraph (A) and inserting in lieu thereof "on or before April 1, 1986", and

(C) by adding at the end thereof the following:

"In the case of an aircraft described in subparagraph (A), section 203(b)(1)(A) shall be applied by substituting 'April 1, 1986' for 'March 1, 1986' and section 49(e)(1)(B) of the Internal Revenue Code of 1986 shall not apply."

(30)(A) Paragraph (4) of section 204(c) of the Reform Act is amended by striking out all that precedes subparagraph (L) and inserting in lieu thereof the following:

"(4) The amendments made by section 201 shall not apply to a limited amount of the following property or a limited amount of property set forth in a submission before September 16, 1986, by the following taxpayers:

"(A) Arena project, Michigan, but only with respect to $78,000,000 of investments.

"(B) Campbell Soup Company, Pennsylvania, California, North Carolina, Ohio, Maryland, Florida, Nebraska, Michigan, South Carolina, Texas, New Jersey, and Delaware, but only with respect to $9,329,000 of regular investment tax credits.

"(C) The Southeast Overtown/Park West development, Florida, but only with respect to $9,000,000 of investments.

"(D) Equipment placed in service and operated by Leggett and Platt before July 1, 1987, but only with respect to $2,000,000 of regular investment tax credits, and subsections (c) and (d) of section 49 of the Internal Revenue Code of 1986 shall not apply to such equipment.

"(E) East Bank Housing Project.

"(F) $1,561,215 of investments by Standard Telephone Company.

"(G) Five aircraft placed in service before January 1, 1987, by Presidential Air.

"(H) A rehabilitation project by Ann Arbor Railroad, but only with respect to $2,900,000 of investments.

"(I) Property that is part of a cogeneration project located in Ada, Michigan, but only with respect to $30,000,000 of investments.

"(J) Anchor Store Project, Michigan, but only with respect to $21,000,000 of investments.

"(K) A waste-fired electrical generating facility of Biogen Power, but only with respect to $34,000,000 of investments."

(B) Paragraph (4) of section 204(c) of the Reform Act is amended by striking out all that follows subparagraph (L) and inserting in lieu thereof the following:

"(M) Interests of Samuel A. Hardage (whether owned individually or in partnership form).

"(N) Two aircraft of Mesa Airlines with an aggregate cost of $5,723,484.

"(O) Yarn-spinning equipment used at Spray Cotton Mills, but only with respect to $3,000,000 of investments.

"(P) 328 units of low-income housing at Angelus Plaza, but only with respect to $20,500,000 of investments.

"(Q) One aircraft of Continental Aviation Services with a cost of approximately $15,000,000 that was purchased pursuant to a contract entered into during March of 1983 and that is placed in service by December 31, 1988."

(31) Paragraph (29) of section 204(a) of the Reform Act is amended—

(A) by striking out "January 18" in subparagraph (A) and inserting in lieu thereof "January 25", and

(B) by striking out "law suits filed on June 22, 1984, and November 21, 1985" in subparagraph (B) and inserting in lieu thereof "a law suit filed on October 25, 1985".

(32) Subparagraph (J) of section 204(a)(33) of the Reform Act, as amended by paragraph (25), is amended to read as follows:

"(J) A 25.85 megawatt alternative energy facility located in Deblois, Maine, with respect to which certification by the Federal Energy Regulatory Commission was made on April 3, 1986,".

(33) Paragraph (3) of section 204(c) of the Reform Act is amended—

(A) by inserting "and" at the end of subparagraph (B),

(B) by striking out subparagraph (C), and

(C) by redesignating subparagraph (D) as subparagraph (C).

(34) Subclause (II) of section 204(a)(5)(J)(ii) of the Reform Act is amended to read as follows:

"(II) the Board of Directors of an automobile manufacturer approved a written plan for the conversion of existing facilities to produce new models of a vehicle not currently produced in the United States, such facilities will be placed in service by July 1, 1987, and such Board action occurred in July 1985 with respect to a $602,000,000 expenditure, a $438,000,000 expenditure, and a $321,000,000 expenditure."

(35) Subparagraph (T) of section 204(a)(5) of the Reform Act is amended to read as follows:

"(T) A project is described in this subparagraph if it is a plant facility on Alaska's North Slope which is placed in service before January 1, 1988, and—

"(i) the approximate cost of which is $675,000,000, of which approximately $400,000,000 was spent on off-site construction,

"(ii) the approximate cost of which is $445,000,000, of which approximately $400,000,000 was spent on off-site construction and more than 50 percent of the project cost was spent prior to December 31, 1985, or

"(iii) the approximate cost of which is $375,000,000, of which approximately $260,000,000 was spent on off-site construction."

(e) AMENDMENTS RELATING TO SECTION 211 OF THE REFORM ACT.—

(1) Paragraph (1) of section 49(d) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—In the case of periods after December 31, 1985, with respect to so much of the credit determined under section 46(a) with respect to transition property as is attributable to the regular investment credit (as defined in subsection (c)(5)(B))—

"(A) paragraphs (1), (2), and (7) of section 48(q) and section 48(d)(5) shall be applied by substituting '100 percent' for '50 percent' each place it appears, and

"(B) sections 48(q)(4) and 196(d) shall not apply."

(2) Subparagraph (B) of section 49(c)(4) of the 1986 Code is amended to read as follows:

"(B) NO CARRYBACK FOR YEARS STRADDLING JULY 1, 1987; GROSS UP OF CARRYFORWARDS.—In any case to which paragraph (3) applies—

"(i) the amount of the reduction under paragraph (3) may not be carried back to any taxable year, but

"(ii) there shall be added to the carryforwards from the taxable year (before applying paragraph (2)) an amount equal to the amount which bears the same ratio to the carryforwards from such taxable year (determined without regard to this clause) as—

"(I) the applicable percentage, bears to

"(II) 1 minus the applicable percentage."

(3) Clause (i) of section 49(c)(5)(B) of the 1986 Code is amended to read as follows:

"(i) IN GENERAL.—The term 'regular investment credit' means the credit determined under section 46(a) to the extent attributable to the regular percentage."

(4) Paragraph (1) of section 211(e) of the Reform Act is amended by adding at the end thereof the following new sentence: "Section 49(c) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply to taxable years ending after June 30, 1987, and to amounts carried to such taxable years."

(5) Paragraph (4)(A) of section 211(e) of the Reform Act is amended—

(A) by striking out "Paragraphs (c) and (d) of section 49 of the Internal Revenue Code of 1954" and inserting in lieu thereof "Subsections (c) and (d) of section 49 of the Internal Revenue Code of 1986", and

(B) by striking out "1935" and inserting in lieu thereof "1985".

(6) Paragraph (4)(B) of section 211(e) of the Reform Act is amended by striking out "shall be treated as transition property" and inserting in lieu thereof "shall be treated as transition property and subsections (c) and (d) of section 49 of such Code shall not apply to such property".

(7) Paragraph (4) of section 211(e) of the Reform Act is amended by adding at the end thereof the following new subparagraphs:

"(C) Any solid waste disposal facility which will process and incinerate solid waste of one or more public or private entities including Dakota County, Minnesota, and with respect to which a bond carryforward from 1985 was elected in an amount equal to $12,500,000 shall be treated as transition property within the meaning of section 49(e) of the Internal Revenue Code of 1986.

"(D) For purposes of section 49 of such Code, the following property shall be treated as transition property:

"(i) 2 catamarans built by a shipbuilder incorporated in the State of Washington in 1964, the contracts for which were signed on April 22, 1986 and November 12, 1985, and 1 barge built by such shipbuilder the contract for which was signed on August 7, 1985.

"(ii) 2 large passenger ocean-going United States flag cruise ships with a passenger rated capacity of up to 250 which are built by the shipbuilder described in clause (i), which are the first such ships built in the United States since 1952, and which were designed at the request of a Pacific Coast cruise line pursuant to a contract entered into in October 1985. This clause shall apply only to that portion of the cost of each ship which does not exceed $40,000,000.

"(iii) Property placed in service during 1986 by Satellite Industries, Inc., with headquarters in Minneapolis, Minnesota, to the extent that the cost of such property does not exceed $1,950,000.

"(E) Subsections (c) and (d) of section 49 of such Code shall not apply to property described in section 204(a)(4) of this Act."

(8)(A) Subsection (d) of section 38 is amended to read as follows:

"(d) ORDERING RULES.—For purposes of sections 46(f), 47(a), 196(a), and any other provision of this title where it is necessary to ascertain the extent to which the credits determined under any section referred to in subsection (b) are used in a taxable year or as a carryback or carryforward—

"(1) IN GENERAL.—The order in which such credits are used shall be determined on the basis of the order in which they are listed in subsection (b) as of the close of the taxable year in which the credit is used.

"(2) COMPONENTS OF INVESTMENT CREDIT.—The order in which credits attributable to a percentage referred to in section 46(a) are used shall be determined on the basis of the order in which such percentages are listed in section 46(a) as of the close of the taxable year in which the credit is used.

"(3) CREDITS NO LONGER LISTED.—For purposes of this subsection—

"(A) the credit allowable by section 40, as in effect on the day before the date of the enactment of the Tax Reform Act of 1984, (relating to expenses of work incentive programs) and the credit allowable by section 41(a), as in effect on the day before the date of the enactment of the Tax Reform Act of 1986, (relating to employee stock ownership credit) shall be treated as referred to in that order after the last paragraph of subsection (b), and

"(B) the employee plan percentage (as defined in section 46(a)(2)(E), as in effect on the day before the date of the enactment of the Tax Reform Act of 1984) shall be treated as referred to after section 46(a)(2)."

(B) Subparagraph (C) of section 49(c)(5) of the 1986 Code is hereby repealed.

(C) The amendments made by this paragraph shall apply to taxable years beginning after December 31, 1983, and to carrybacks from such years.

(f) AMENDMENTS RELATED TO SECTION 212 OF THE REFORM ACT.—

(1) Paragraph (2) of section 212(f) of the Reform Act is amended by striking out so much of such paragraph as precedes subparagraph (A) and insert in lieu thereof the following:

"(2) SPECIAL RULE.—In the case of the LTV Corporation, in lieu of the requirements of paragraph (1)—".

(2) Subclause (I) of section 212(f)(2)(B)(i) of the Reform Act is amended by striking out "such involvement begins" and inserting in lieu thereof "when the corporation receives the refund".

(3) Subsection (g) of section 212 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR RESTRUCTURING.—In the case of any corporation, any restructuring shall not limit, increase, or otherwise affect the benefits which would have been available under this section but for such restructuring."

(4) Section 212 of the Reform Act is amended by adding at the end thereof the following new subsection:

"(h) TENTATIVE REFUNDS.—Rules similar to the rules of section 6425 of the Internal Revenue Code of 1986 shall apply to any overpayment resulting from the application of this section."

(5) Subparagraph (B) of section 212(g)(2) of the Reform Act is amended by striking out "determined under" and inserting in lieu thereof "determined for periods before January 1, 1986, under".

(6) Paragraph (2) of section 212(f) of the Reform Act is amended by adding at the end thereof the following new sentence:

"In the case of the corporation referred to in the preceding sentence, no offset to any refund under this section may be made by reason of any tax imposed by section 4971 of the Internal Revenue Code of 1986 (or any interest or penalty attributable to any such tax), and the date on which any such refund is to be paid shall be determined without regard to such corporation's status under title 11, United States Code."

(g) AMENDMENT RELATED TO SECTION 213 OF THE REFORM ACT.—Subparagraph (B) of section 213(e)(2) of the Reform Act is amended by striking out "determined under" and inserting in lieu thereof "determined for periods before January 1, 1986, under".

(h) AMENDMENTS RELATED TO SECTION 231 OF THE REFORM ACT.—

(1) Subsection (g) of section 41 of the 1986 Code is amended by adding at the end thereof the following new sentence: "If the amount determined under subsection (a) for any taxable year exceeds the limitation of the preceding sentence, such amount may be carried to other taxable years under the rules of section 39; except that the limitation of the preceding sentence shall be taken into account in lieu of the limitation of section 38(c) in applying section 39."

(2) Subsection (c) of section 6411 of the 1986 Code is amended by striking out "unused research credit,".

(3) Section 936(h)(5)(C)(i)(IV)(c) of the 1986 Code is amended—

(A) by striking out "section 30" and inserting in lieu thereof "section 41", and

(B) by striking out "section 30(f)" and inserting in lieu thereof "section 41(f)".

(i) AMENDMENTS RELATED TO SECTIONS 241 AND 242 OF THE REFORM ACT.—

(1) Section 167 of the 1986 Code is amended by redesignating subsection (r) as subsection (s) and by inserting after subsection (q) the following new subsection:

"(r) TRADEMARK OR TRADE NAME EXPENDITURES NOT DEPRECIABLE.—

"(1) IN GENERAL.—No depreciation deduction shall be allowable under this section (and no depreciation or amortization deduction shall be allowable under any other provision of this subtitle) with respect to any trademark or trade name expenditure.

"(2) TRADEMARK OR TRADE NAME EXPENDITURE.—For purposes of this subsection, the term 'trademark or trade name expenditure' means any expenditure which is directly connected with the acquisition, protection, expansion, registration (Federal, State, or foreign), or defense of a trademark or trade name."

"(2)(A) Paragraph (1) of section 168(c) of the 1986 Code (as amended by section 102(a)) is amended by adding at the end thereof the following new item:

"Any railroad grading or tunnel bore	50 years."

(B)(i) Paragraph (3) of section 168(b) of the 1986 Code is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) Any railroad grading or tunnel bore."

(ii) Paragraph (5) of section 168(b) of the 1986 Code (as amended by section 102(a)) is amended by striking out "(3)(C)" and inserting in lieu thereof "(3)(D)".

(C) Subsection (e) of section 168 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) RAILROAD GRADING OR TUNNEL BORE.—The term 'railroad grading or tunnel bore' means all improvements resulting from excavations (including tunneling), construction of embankments, clearings, diversions of roads and streams, sodding of slopes, and from similar work necessary to provide, construct, reconstruct, alter, protect, improve, replace, or restore a roadbed or right-of-way for railroad track."

(D) Paragraph (2) of section 168(d) of the 1986 Code is amended by striking out "and" at the end of subparagraph (A), by inserting "and" at the end of subparagraph (B), and by inserting after subparagraph (B) the following new subparagraph:

"(C) any railroad grading or tunnel bore,".

(E) Clause (i) of section 168(d)(3)(B) of the 1986 Code (as amended by section 102(a)) is amended by striking out "and residential rental property" and inserting in lieu thereof "residential rental property, and railroad grading or tunnel bore".

(F) The table contained in paragraph (2)(C) of section 168(g) of the 1986 Code is amended by adding at the end thereof the following new item:

"(iv) Any railroad grading or tunnel bore.	50 years."

(G) Subparagraph (E) of section 168(i)(1) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(iii) SPECIAL RULE FOR RAILROAD GRADING OR TUNNEL BORES.—In the case of any property which is a railroad grading or tunnel bore—

"(I) such property shall be treated as an assigned property,

"(II) the recovery period applicable to such property shall be treated as an assigned item, and

"(III) clause (ii) of subparagraph (D) shall not apply."

(H) The table contained in subparagraph (A) of section 467(e)(3) of the 1986 Code is amended by adding at the end thereof the following new item:

"Any railroad grading or tunnel bore	50 years."

(j) AMENDMENTS RELATED TO SECTION 243 OF THE REFORM ACT.—

(1) Section 243 of the Reform Act (related to deduction of bus and freight forwarder operating authority) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) APPLICATION OF SECTION 334(b)(2).—For purposes of subsections (a) and (b), the reference to section 334(b)(2) in section 266(c)(2)(A)(ii) of the Economic Recovery Tax Act of 1981 shall be a reference to such section as in effect before its repeal."

(2) The heading of subparagraph (A) of section 243(b)(2) of the Reform Act is amended by striking out "TO BEGIN IN 1987".

(k) AMENDMENTS RELATED TO SECTION 251 OF THE REFORM ACT.—

(1) Paragraph (2)(B) of section 251(d) of the Reform Act is amended by striking out clause (i) and redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.

(2) Subparagraph (P) of section 251(d)(3) of the Reform Act is amended by striking out "San Francisco" and inserting in lieu thereof "San Jose, California".

(3) Paragraph (4) of section 251(d) of the Reform Act is amended—

(A) by striking out "Lakeland Marble Arcade" in subparagraph (K) and inserting in lieu thereof "Marble Arcade office building",

(B) by striking out "and" at the end of subparagraph (Y), and

(C) by striking out subparagraph (Z) and inserting in lieu thereof the following:

"(Z) the Bigelow-Hartford Carpet Mill in Enfield, Connecticut,

"(AA) properties abutting 125th street in New York County from 7th Avenue west to Morningside and the pier area on the Hudson River at the end of such 125th Street,

"(BB) the Bristol Carpet Mill project rehabilitating 2 buildings for approximately 156 apartment units and accompanying commercial and office use,

"(CC) the City of Los Angeles Central Library project pursuant to an agreement dated December 28, 1983,

"(DD) the Warehouse Row project in Chattanooga, Tennessee,

"(EE) any project described in section 204(a)(1)(F) of this Act,

"(FF) the Wood Street Commons project in Pittsburgh, Pennsylvania,

"(GG) the John Fitch Court in Windsor, Connecticut,

"(HH) any project described in section 803(d)(6) of this Act,

"(II) Union Station, Indianapolis, Indiana,

"(JJ) the Mattress Factory project in Pittsburgh, Pennsylvania,

"(KK) Union Station in Providence, Rhode Island,

"(LL) South Pack Plaza, Asheville, North Carolina,

"(MM) Old Louisville Trust Project, Louisville, Kentucky,

"(NN) Stewarts Rehabilitation Project, Louisville, Kentucky,

"(OO) Bernheim Officenter, Louisville, Kentucky,

"(PP) Springville Mill Project, Rockville, Connecticut, and

"(QQ) the D.J. Stewart Company Building, State and Main Streets, Rockford, Illinois."

(4) Subsection (d) of section 251 of the Reform Act is amended by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) EXPENSING OF REHABILITATION EXPENSES FOR THE FRANKFORD ARSENAL.—In the case of any expenditures paid or incurred in connection with improvements (including repairs and maintenance) of the Frankford Arsenal pursuant to a contract and partnership agreement during the 8-year period specified in the contract or agreement, all such expenditures to be made during the period 1986 through and including 1993 shall—

"(A) be treated as made (and allowable as a deduction) during 1986,

"(B) be treated as qualified rehabilitation expenditures made during 1986, and

"(C) be allocated in accordance with the partnership agreement.

"(7) SPECIAL RULE.—In the case of the rehabilitation of the Willard Hotel in Washington, D.C., section 205(c)(1)(B)(ii) of the Tax Equity and Fiscal Responsibility Act of 1982 shall be applied by substituting '1987' for '1986'."

(5) Subparagraph (B) of section 251(d)(3) of the Reform Act is amended by striking out "Pontabla" and inserting in lieu thereof "Pontalba".

(6) Subparagraph (T) of section 251(d)(4) of the Reform Act is amended by striking out "Louisville" and inserting in lieu thereof "Covington".

(l) AMENDMENTS RELATED TO SECTION 252 OF THE REFORM ACT.—

(1)(A) Subparagraph (A) of section 42(b)(2) of the 1986 Code is amended by striking out "for the month" and all that follows and inserting in lieu thereof "for the earlier of—

"(i) the month in which such building is placed in service, or

"(ii) at the election of the taxpayer—

"(I) the month in which the taxpayer and the housing credit agency enter into an agreement with respect to such building (which is binding on such agency, the taxpayer, and all successors in interest) as to the housing credit dollar amount to be allocated to such building, or

"(II) in the case of any building to which subsection (h)(4)(B) applies, the month in which the tax-exempt obligations are issued.

A month may be elected under clause (ii) only if the election is made not later than the 5th day after the close of such month. Such an election, once made, shall be irrevocable."

(B) Clause (ii) of section 42(b)(2)(C) of the 1986 Code is amended by striking out "the month in which the building was placed in service" and inserting in lieu thereof "the month applicable under clause (i) or (ii) of subparagraph (A)".

(2)(A) Subparagraph (A) of section 42(c)(2) of the 1986 Code (defining qualified low-income building) is amended to read as follows:

"(A) which is part of a qualified low-income housing project at all times during the period—

"(i) beginning on the 1st day in the compliance period on which such building is part of such a project, and

"(ii) ending on the last day of the compliance period with respect to such building, and".

(B) Paragraph (1) of section 42(f) of the 1986 Code (defining credit period) is amended by striking out "beginning with" and all that follows and inserting in lieu thereof "beginning with—

"(A) the taxable year in which the building is placed in service, or

"(B) at the election of the taxpayer, the succeeding taxable year,

but only if the building is a qualified low-income building as of the close of the 1st year of such period. The election under subparagraph (B), once made, shall be irrevocable."

(3) Clause (ii) of section 42(d)(2)(D) of the 1986 Code is amended to read as follows:

"(ii) SPECIAL RULES FOR CERTAIN TRANSFERS.—For purposes of determining under subparagraph (B)(ii) when a building was last placed in service, there shall not be taken into account any placement in service—

"(I) in connection with the acquisition of the building in a transaction in which the basis of the building in the hands of the person acquiring it is determined in whole or in part by reference to the adjusted basis of such building in the hands of the person from whom acquired,

"(II) by a person whose basis in such building is determined under section 1014(a) (relating to property acquired from a decedent),

"(III) by any governmental unit or qualified nonprofit organization (as defined in subsection (h)(5)) if the requirements of subparagraph (B)(ii) are met with respect to the placement in service by such unit or organization and all the income from such property is exempt from Federal income taxation, or

"(IV) by any person who acquired such building by foreclosure (or by instrument in lieu of foreclosure) of any purchase-money security interest held by such person if the requirements of subparagraph (B)(ii) are met with respect to the placement in service by such person and such building is resold within 12 months after the date such building is placed in service by such person after such foreclosure."

(4) Paragraph (3) of section 42(d) of the 1986 Code is amended to read as follows:

"(3) ELIGIBLE BASIS REDUCED WHERE DISPROPORTIONATE STANDARDS FOR UNITS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the eligible basis of any building shall be reduced by an amount equal to the portion of the adjusted basis of the building which is attributable to residential rental units in the building which are not low-income units and which are above the average quality standard of the low-income units in the building.

"(B) EXCEPTION WHERE TAXPAYER ELECTS TO EXCLUDE EXCESS COSTS.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to a residential rental unit in a building which is not a low-income unit if—

"(I) the excess described in clause (ii) with respect to such unit is not greater than 15 percent of the cost described in clause (ii)(II), and

"(II) the taxpayer elects to exclude from the eligible basis of such building the excess described in clause (ii) with respect to such unit.

"(ii) EXCESS.—The excess described in this clause with respect to any unit is the excess of—

"(I) the cost of such unit, over

"(II) the amount which would be the cost of such unit if the average cost per square foot of low-income units in the building were substituted for the cost per square foot of such unit.

The Secretary may by regulation provide for the determination of the excess under this clause on a basis other than square foot costs."

(5) Subparagraph (A) of section 42(d)(5) of the 1986 Code is amended by inserting before the period "(increased, in the case of an existing building which meets the requirements of paragraph (2)(B), by the amounts described in paragraph (2)(A)(i)(II))".

(6)(A) Paragraph (5) of section 42(d) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) ELIGIBLE BASIS NOT TO INCLUDE EXPENDITURES WHERE 167(k) ELECTED.—The eligible basis of any building shall not include any portion of its adjusted basis which is attributable to amounts with respect to which an election is made under section 167(k)."

(B) Subparagraph (A) of section 42(d)(5) of the 1986 Code is amended by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B) and (C)".

(7) Subparagraph (A) of section 42(d)(6) of the 1986 Code is amended by inserting "or" at the end of clause (i), by striking out ", or" at the end of clause (ii) and inserting in lieu thereof a period, and by striking out clause (iii).

(8) Clause (ii) of section 42(d)(6)(B) of the 1986 Code (defining federally assisted building) is amended by striking out "of 1934".

(9)(A) Paragraph (3) of section 42(f) of the 1986 Code is amended to read as follows:

"(3) DETERMINATION OF APPLICABLE PERCENTAGE WITH RESPECT TO INCREASES IN QUALIFIED BASIS AFTER 1ST YEAR OF CREDIT PERIOD.—

"(A) IN GENERAL.—In the case of any building which was a qualified low-income building as of the close of the 1st year of the credit period, if—

"(i) as of the close of any taxable year in the compliance period (after the 1st year of the credit period) the qualified basis of such building exceeds

"(ii) the qualified basis of such building as of the close of the 1st year of the credit period,

the applicable percentage which shall apply under subsection (a) for the taxable year to such excess shall be the percentage equal to ⅔ of the applicable percentage which (after the application of subsection (h)) would but for this paragraph apply to such basis.

"(B) 1ST YEAR COMPUTATION APPLIES.—A rule similar to the rule of paragraph (2)(A) shall apply to any increase in qualified basis to which subparagraph (A) applies for the 1st year of such increase."

(B) Paragraph (3) of section 42(b) of the 1986 Code is amended to read as follows:

"(3) CROSS REFERENCES.—

"(A) For treatment of certain rehabilitation expenditures as separate new buildings, see subsection (e).

"(B) For determination of applicable percentage for increases in qualified basis after the 1st year of the credit period, see subsection (f)(3).

"(C) For authority of housing credit agency to limit applicable percentage and qualified basis which may be taken into account under this section with respect to any building, see subsection (h)(6)."

(10) Subparagraph (B) of section 42(g)(2) of the 1986 Code (defining gross rent) is amended by striking out "Federal rental assistance" and inserting in lieu thereof "rental assistance".

(11) Paragraph (2) of section 42(g) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) UNITS WHERE FEDERAL RENTAL ASSISTANCE IS REDUCED AS TENANT'S INCOME INCREASES.—If the gross rent with respect to a residential unit exceeds the limitation

under subparagraph (A) by reason of the fact that the income of the occupants thereof exceeds the income limitation applicable under paragraph (1), such unit shall, nevertheless, be treated as a rent-restricted unit for purposes of paragraph (1) if—

"(i) a Federal rental assistance payment described in subparagraph (B)(i) is made with respect to such unit or its occupants, and

"(ii) the sum of such payment and the gross rent with respect to such unit does not exceed the sum of the amount of such payment which would be made and the gross rent which would be payable with respect to such unit if—

"(I) the income of the occupants thereof did not exceed the income limitation applicable under paragraph (1), and

"(II) such unit were rent-restricted within the meaning of subparagraph (A).

The preceding sentence shall apply to any unit only if the result described in clause (ii) is required by Federal statute as of the date of the enactment of this subparagraph and as of the date the Federal rental assistance payment is made."

(12) Paragraph (3) of section 42(g) of the 1986 Code is amended to read as follows:

"(3) DATE FOR MEETING REQUIREMENTS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, a building shall be treated as a qualified low-income building only if the project (of which such building is a part) meets the requirements of paragraph (1) not later than the close of the 12-month period beginning on the date the building is placed in service.

"(B) BUILDINGS WHICH RELY ON LATER BUILDINGS FOR QUALIFICATION.—

"(i) IN GENERAL.—In determining whether a building (hereinafter in this subparagraph referred to as the 'prior building') is a qualified low-income building, the taxpayer may take into account 1 or more additional buildings placed in service during the 12-month period described in subparagraph (A) with respect to the prior building only if the taxpayer elects to apply clause (ii) with respect to each additional building taken into account.

"(ii) TREATMENT OF ELECTED BUILDINGS.—In the case of a building which the taxpayer elects to take into account under clause (i), the period under subparagraph (A) for such building shall end at the close of the 12-month period applicable to the prior building.

"(iii) DATE PRIOR BUILDING IS TREATED AS PLACED IN SERVICE.—For purposes of determining the credit period and the compliance period for the prior building, the prior building shall be treated for purposes of this section as placed in service on the most recent date any additional building elected by the taxpayer (with respect to such prior building) was placed in service.

"(C) SPECIAL RULE.—A building—

"(i) other than the 1st building placed in service as part of a project, and

"(ii) other than a building which is placed in service during the 12-month period described in subparagraph (A) with respect to a prior building which becomes a qualified low-income building,

shall in no event be treated as a qualified low-income building unless the project is a qualified low-income housing project (without regard to such building) on the date such building is placed in service."

(13) Paragraph (4) of section 42(g) of the 1986 Code is amended by inserting before the period "; except that, in applying such provisions (other than section 142(d)(4)(B)(iii)) for such purposes, the term 'gross rent' shall have the meaning given such term by paragraph (2)(B) of this subsection".

(14)(A) Paragraph (1) of section 42(h) of the 1986 Code is amended to read as follows:

"(1) CREDIT MAY NOT EXCEED CREDIT AMOUNT ALLOCATED TO BUILDING.—

"(A) IN GENERAL.—The amount of the credit determined under this section for any taxable year with respect to any building shall not exceed the housing credit dollar amount allocated to such building under this subsection.

"(B) TIME FOR MAKING ALLOCATION.—Except in the case of an allocation which meets the requirements of subparagraph (C) or (D), an allocation shall be taken into account under subparagraph (A) only if it is made not later than the close of the calendar year in which the building is placed in service.

"(C) EXCEPTION WHERE BINDING COMMITMENT.—An allocation meets the requirements of this subparagraph if there is a binding commitment (not later than the close of the calendar year in which the building is placed in service) by the housing credit agency to allocate a specified housing credit dollar amount to such building beginning in a specified later taxable year.

"(D) EXCEPTION WHERE INCREASE IN QUALIFIED BASIS.—

"(i) IN GENERAL.—An allocation meets the requirements of this subparagraph if such allocation is made not later than the close of the calendar year in which ends the taxable year to which it will 1st apply but only to the extent the amount of such allocation does not exceed the limitation under clause (ii).

"(ii) LIMITATION.—The limitation under this clause is the amount of credit allowable under this section (without regard to this subsection) for a taxable year with respect to an increase in the qualified basis of the building equal to the excess of—

"(I) the qualified basis of such building as of the close of the 1st taxable year to which such allocation will apply, over

"(II) the qualified basis of such building as of the close of the 1st taxable year to which the most recent prior housing credit allocation with respect to such building applied.

"(iii) HOUSING CREDIT DOLLAR AMOUNT REDUCED BY FULL ALLOCATION.—Notwithstanding clause (i), the full amount of the allocation shall be taken into account under paragraph (2)."

(B) Clause (ii) of section 42(h)(6)(B) of the 1986 Code is hereby repealed.

(15) Subparagraph (A) of section 42(h)(4) of the 1986 Code is amended by striking out "financed" and all that follows and inserting in lieu thereof "financed by any obligation the interest on which is exempt from tax under section 103 if—

"(i) such obligation is taken into account under section 146, and

"(ii) principal payments on such financing are applied within a reasonable period to redeem obligations the proceeds of which were used to provide such financing."

(16) Paragraph (5) of section 42(h) of the 1986 Code is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) TREATMENT OF CERTAIN SUBSIDIARIES.—

"(i) IN GENERAL.—For purposes of this paragraph, a qualified nonprofit organization shall be treated as satisfying the material participation test of subparagraph (B) if any qualified corporation in which such organization holds stock satisfies such test.

"(ii) QUALIFIED CORPORATION.—For purposes of clause (ii), the term 'qualified corporation' means any corporation if 100 percent of the stock of such corporation is held by 1 or more qualified nonprofit organizations at all times during the period such corporation is in existence."

(17)(A) Subparagraph (B) of section 42(h)(6) of the 1986 Code is amended by adding after clause (i) the following new clause:

"(ii) CARRYFORWARD WHERE SECRETARY DETERMINES UNFORESEEN DELAY IN PLACING BUILDING IN SERVICE.—A housing credit dollar amount which was allocated to a building for a calendar year after 1987 may be carried forward to the succeeding calendar year for such building if—

"(I) it was reasonable to believe that such building would be placed in service during the earlier calendar year but was not solely because of unforeseen conditions which, as determined by the Secretary, were not within the control of the taxpayer, and

"(II) such building is placed in service during such succeeding calendar year."

(B) Clause (i) of section 42(h)(6)(B) of the 1986 Code is amended by striking out "The portion" and inserting in lieu thereof "Except as provided in clause (ii), the portion".

(18) Subparagraph (D) of section 42(h)(6) of the 1986 Code is amended to read as follows:

"(D) CREDIT REDUCED IF ALLOCATED CREDIT DOLLAR AMOUNT IS LESS THAN CREDIT WHICH WOULD BE ALLOWABLE WITHOUT REGARD TO PLACED IN SERVICE CONVENTION, ETC.—

"(i) IN GENERAL.—The amount of the credit determined under this section with respect to any building shall not exceed the clause (ii) percentage of the amount of the credit which would (but for this subparagraph) be determined under this section with respect to such building.

"(ii) DETERMINATION OF PERCENTAGE.—For purposes of clause (i), the clause (ii) percentage with respect to any building is the percentage which—

"(I) the housing credit dollar amount allocated to such building bears to

"(II) the credit amount determined in accordance with clause (iii).

"(iii) DETERMINATION OF CREDIT AMOUNT.—The credit amount determined in accordance with this clause is the amount of the credit which would (but for this subparagraph) be determined under this section with respect to the building if—

"(I) this section were applied without regard to paragraphs (2)(A) and (3)(B) of subsection (f), and

"(II) subsection (f)(3)(A) were applied without regard to 'the percentage equal to ⅔ of'."

(19) Paragraph (6) of section 42(h) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E) HOUSING CREDIT AGENCY TO SPECIFY APPLICABLE PERCENTAGE AND MAXIMUM QUALIFIED BASIS.—In allocating a housing credit dollar amount to any building, the housing credit agency shall specify the applicable percentage and the maximum qualified basis which may be taken into account under this section with respect to such building. The applicable percentage and maximum qualified basis so specified shall not exceed the applicable percentage and qualified basis determined under this section without regard to this subsection."

(20)(A) Subparagraph (A) of section 42(i)(2) of the 1986 Code is amended—

(i) by inserting "or any prior taxable year" after "such taxable year",

(ii) by striking out "there is outstanding" and inserting in lieu thereof "there is or was outstanding", and

(iii) by striking out "are used" and inserting in lieu thereof "are or were used".

(B) Subparagraph (B) of section 42(i)(2) of the 1986 Code is amended to read as follows:

"(B) ELECTION TO REDUCE ELIGIBLE BASIS BY BALANCE OF LOAN OR PROCEEDS OF OBLIGATIONS.—A loan or tax-exempt obligation shall not be taken into account under subparagraph (A) if the taxpayer elects to exclude from the eligible basis of the building for purposes of subsection (d)—

"(i) in the case of a loan, the principal amount of such loan, and

"(ii) in the case of a tax-exempt obligation, the proceeds of such obligation."

(C) Paragraph (2) of section 42(i) of the 1986 Code is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) SPECIAL RULE FOR SUBSIDIZED CONSTRUCTION FINANCING.—Subparagraph (A) shall not apply to any tax-exempt obligation or below market Federal loan used to provide construction financing for any building if—

"(i) such obligation or loan (when issued or made) identified the building for which the proceeds of such obligation or loan would be used, and

"(ii) such obligation is redeemed, and such loan is repaid, before such building is placed in service."

(D) Subparagraph (D) of section 42(i)(2) of the 1986 Code is amended by striking out "subparagraph (A)" and inserting in lieu thereof "this paragraph".

(21) Paragraph (4) of section 42(j) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(F) NO RECAPTURE WHERE DE MINIMIS CHANGES IN FLOOR SPACE.—The Secretary may provide that the increase in tax under this subsection shall not apply with respect to any building if—

"(i) such increase results from a de minimis change in the floor space fraction under subsection (c)(1), and

"(ii) the building is a qualified low-income building after such change."

(22) Clause (i) of section 42(j)(5)(B) of the 1986 Code is amended to read as follows:

"(i) more than ½ the capital interests, and more than ½ the profit interests, in which are owned by a group of 35 or more partners each of whom is a natural person or an estate, and".

(23) Paragraph (6) of section 42(j) of the 1986 Code is amended—

(A) by inserting "(OR INTEREST THEREIN)" after "BUILDING" in the heading, and

(B) by inserting "or an interest therein" after "disposition of a building" in the text.

(24) Subparagraph (B) of section 42(k)(2) of the 1986 Code is amended by inserting before the period at the end thereof the following: ", except that this subparagraph shall not apply in the case of a federally assisted building described in subsection (d)(6)(B) if—

"(i) a security interest in such building is not permitted by a Federal agency holding or insuring the mortgage secured by such building, and

"(ii) the proceeds from the financing (if any) are applied to acquire or improve such building."

(25)(A) Subsection (l) of section 42 of the 1986 Code is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) ANNUAL REPORTS TO THE SECRETARY.—The Secretary may require taxpayers to submit an information return (at such time and in such form and manner as the Secretary prescribes) for each taxable year setting forth—

"(A) the qualified basis for the taxable year of each qualified low-income building of the taxpayer,

"(B) the information described in paragraph (1)(C) for the taxable year, and

"(C) such other information as the Secretary may require.

The penalty under section 6652(j) shall apply to any failure to submit the return required by the Secretary under the preceding sentence on the date prescribed therefor."

(B) The subsection heading of subsection (l) of section 42 is amended to read as follows:

"(l) CERTIFICATIONS AND OTHER REPORTS TO SECRETARY.—".

(26) Paragraph (1) of section 42(n) of the 1986 Code is amended by inserting before the period at the end thereof the following: ", and, except for any building described in paragraph (2)(B), subsection (h)(4) shall not apply to any building placed in service after 1989".

(27) Subsection (d) of section 39 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) NO CARRYBACK OF LOW-INCOME HOUSING CREDIT BEFORE 1987.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 42 (relating to low-income housing credit) may be carried back to a taxable year ending before January 1, 1987."

(28) Paragraph (1) of section 55(c) of the 1986 Code (defining regular tax) is amended by striking out "section 42(j)" and inserting in lieu thereof "subsection (j) or (k) of section 42".

(29) Subparagraph (A) of section 252(f)(1) of the Reform Act is amended by striking out "and" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof a comma, and by inserting after clause (ii) the following new clauses:

"(iii) the eligible basis of such building shall be treated, for purposes of section 42(h)(4)(A) of such Code, as if it were financed by an obligation the interest on which is exempt from tax under section 103 of such Code and which is taken into account under section 146 of such Code, and

"(iv) the amendments made by section 803 shall not apply."

(30) Subparagraph (E) of section 252(f)(1) of the Reform Act is amended by striking out "maximum annual additional credit" and inserting in lieu thereof "maximum present value of additional credits".

(31) Subparagraph (E) of section 252(f)(2) of the Reform Act is amended by adding at the end thereof the following new sentence: "The preceding sentence shall apply to any building only to the extent of the portion of the additional housing credit dollar amount (allocated to such agency under subparagraph (A)) allocated to such building."

(32) Subsection (f) of section 252 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) TRANSITIONAL RULE.—In the case of any rehabilitation expenditures incurred with respect to units located in the neighborhood strategy area within the community development block grant program in Ft. Wayne, Indiana—

"(A) the amendments made by this section shall not apply, and

"(B) paragraph (1) of section 167(k) of the Internal Revenue Code of 1986, shall be applied as if it did not contain the phrase 'and before January 1, 1987'.

The number of units to which the preceding sentence applies shall not exceed 150."

(33) Subsection (g) of section 42 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE WHERE DE MINIMIS EQUITY CONTRIBUTION.—Property shall not be treated as failing to be residential rental property for purposes of this section merely because the occupant of a residential unit in the project pays (on a voluntary basis) to the lessor a de minimis amount to be held toward the purchase by such occupant of a residential unit in such project if—

"(A) all amounts so paid are refunded to the occupant on the cessation of his occupancy of a unit in the project, and

"(B) the purchase of the unit is not permitted until after the close of the compliance period with respect to the building in which the unit is located.

Any amount paid to the lessor as described in the preceding sentence shall be included in gross rent under paragraph (2) for purposes of determining whether the unit is rent-restricted."

(m) AMENDMENTS RELATED TO SECTION 261 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 7518(g)(6) of the 1986 Code, is amended by striking out "section 1(i)" and inserting in lieu thereof "section 1(j)".

(2) Subparagraph (A) of section 607(h)(6) of the Merchant Marine Act, 1936 is amended by striking out "section 1(i)" and inserting in lieu thereof "section 1(j)".

SEC. 103. AMENDMENTS RELATED TO TITLE III OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 301 OF THE REFORM ACT.—

(1) Subparagraph (B) of section 172(d)(4) of the 1986 Code is amended by striking out ", (2)(B),".

(2) Paragraph (1) of section 3402(m) of the 1986 Code is amended by striking out "section 62) (other than paragraph (13) thereof)" and inserting in lieu thereof "section 62(a) (other than paragraph (10) thereof))".

(3)(A) Subsection (b) of section 1211 of the 1986 Code is amended by striking out all that follows "gains)" and inserting in lieu thereof "whichever of the following is the smallest:

"(1) $3,000 ($1,500 in the case of a married individual filing a separate return),

"(2) the excess of such losses over such gains, or

"(3) the taxable income for the taxable year.

For purposes of paragraph (3), taxable income shall be computed without regard to gains or losses from sales or exchanges of capital assets and without regard to the deductions provided in section 151 (relating to personal exemptions) or any deduction in lieu thereof."

(B) Paragraph (2) of section 1212(b) of the 1986 Code is amended by striking out "paragraph (1) or (2) of section 1211(b)" and inserting in lieu thereof "paragraph (1), (2), or (3) of section 1211(b)".

(b) AMENDMENTS RELATED TO SECTION 302 OF THE REFORM ACT.—

(1) Section 302 of the Reform Act is amended by striking out subsection (c).

(2)(A) Paragraph (2) of section 904(b) of the 1986 Code is amended to read as follows:

"(2) CAPITAL GAINS.—For purposes of this section—

"(A) IN GENERAL.—Taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income.

"(B) SPECIAL RULES WHERE CAPITAL GAIN RATE DIFFERENTIAL.—In the case of any taxable year for which there is a capital gain rate differential—

"(i) in lieu of applying subparagraph (A), the taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only in an amount equal to foreign source capital gain net income reduced by the rate differential portion of foreign source net capital gain,

"(ii) the entire taxable income shall include gain from the sale or exchange of capital assets only in an amount equal to capital gain net income reduced by the rate differential portion of net capital gain, and

"(iii) for purposes of determining taxable income from sources outside the United States, any net capital loss (and any amount which is a short-term capital loss under section 1212(a)) from sources outside the United States to the extent taken into account in determining capital gain net income for the taxable year shall be reduced by an amount equal to the rate differential portion of the excess of net capital gain from sources within the United States over net capital gain."

(B) Paragraph (3) of section 904(b) of the 1986 Code is amended by striking out subparagraph (D) and inserting in lieu thereof the following new subparagraphs:

"(D) CAPITAL GAIN RATE DIFFERENTIAL.—There is a capital gain rate differential for any taxable year if—

"(i) in the case of a taxpayer other than a corporation, subsection (j) of section 1 applies to such taxable year, or

"(ii) in the case of a corporation, any rate of tax imposed by section 11, 511, or 831 (a) or (b) (whichever applies) exceeds the alternative rate of tax under section 1201(a) (determined without regard to the last sentence of section 11(b)).

"(E) RATE DIFFERENTIAL PORTION.—

"(i) IN GENERAL.—The rate differential portion of foreign source net capital gain, net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, is the same proportion of such amount as—

"(I) the excess of the highest applicable tax rate over the alternative tax rate, bears to

"(II) the highest applicable tax rate.

"(ii) HIGHEST APPLICABLE TAX RATE.—For purposes of clause (i), the term 'highest applicable tax rate' means—

"(I) in the case of a taxpayer other than a corporation, the highest rate of tax set forth in subsection (a), (b), (c), (d), or (e) of section 1 (whichever applies), or

"(II) in the case of a corporation, the highest rate of tax specified in section 11(b).

"(iii) ALTERNATIVE TAX RATE.—For purposes of clause (i), the term 'alternative tax rate' means—

"(I) in the case of a taxpayer other than a corporation, the alternative rate of tax determined under section 1(j), or

"(II) in the case of a corporation, the alternative rate of tax under section 1201(a)."

(3) Effective for taxable years beginning after December 31, 1987, paragraph (1) of section 1445(e) of the 1986 Code is amended by striking out "34 percent" and inserting in lieu thereof "34 percent (or, to the extent provided in regulations, 28 percent)".

(c) AMENDMENTS RELATED TO SECTION 311 OF THE REFORM ACT.—

(1) Subsection (a) of section 1201 of the 1986 Code is amended by striking out "831(a)" and inserting in lieu thereof "831 (a) or (b)".

(2) Subsection (c) of section 311 of the Reform Act is amended by inserting before the period at the end thereof the following: "; except that the amendment made by subsection (b)(4) shall apply to payments made after December 31, 1986".

(3) Subparagraph (D) of section 593(b)(2) of the 1986 Code is amended by striking out "and" at the end of clause (iii), by striking out the period at the end of clause (iv) and inserting in lieu thereof ", and", and by adding at the end thereof the following new clause:

"(v) if there is a capital gain rate differential (as defined in section 904(b)(3)(D)) for the taxable year, by excluding from gross income the rate differential portion (within the meaning of section 904(b)(3)(E)) of the lesser of—

"(I) the net long-term capital gain for the taxable year, or

"(II) the net long-term capital gain for the taxable year from the sale or exchange of property other than property described in clause (iii)."

(d) AMENDMENT RELATED TO SECTION 321 OF THE REFORM ACT.—

(1)(A) Subsection (b) of section 422A of the 1986 Code is amended by adding at the end thereof the following new sentence:

"Such term shall not include any option if (as of the time the option is granted) the terms of such option provide that it will not be treated as an incentive stock option."

(B) In the case of an option granted after December 31, 1986, and on or before the date of the enactment of this Act, such option shall not be treated as an incentive stock option if the terms of such option are amended before the date 90 days after such date of enactment to provide that such option will not be treated as an incentive stock option.

(2)(A) Section 422A of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(d) $100,000 PER YEAR LIMITATION.—

"(1) IN GENERAL.—To the extent that the aggregate fair market value of stock with respect to which incentive stock options (determined without regard to this subsection) are exercisable for the 1st time by any individual during any calendar year (under all plans of the individual's employer corporation and its parent and subsidiary corporations) exceeds $100,000, such options shall be treated as options which are not incentive stock options.

"(2) ORDERING RULE.—Paragraph (1) shall be applied by taking options into account in the order in which they were granted.

"(3) DETERMINATION OF FAIR MARKET VALUE.—For purposes of paragraph (1), the fair market value of any stock shall be determined as of the time the option with respect to such stock is granted."

(B) Subsection (b) of section 422A of the 1986 Code is amended by adding "and" at the end of paragraph (5), by striking out "; and" at the end of paragraph (6) and inserting in lieu thereof a period, and by striking out paragraph (7).

(C) Paragraph (1) of section 422A(c) of the 1986 Code is amended by striking out "paragraph (7) of subsection (b)" and inserting in lieu thereof "subsection (d)".

SEC. 104. AMENDMENTS RELATED TO TITLE IV OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 405 OF THE REFORM ACT.—

(1) Paragraph (1) of section 108(a) of the 1986 Code is amended by striking out "or" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", or" and by adding at the end thereof the following new subparagraph:

"(C) the indebtedness discharged is qualified farm indebtedness."

(2) Paragraph (2) of section 108(a) of the 1986 Code is amended to read as follows:

"(2) COORDINATION OF EXCLUSIONS.—

"(A) TITLE 11 EXCLUSION TAKES PRECEDENCE.—Subparagraphs (B) and (C) of paragraph (1) shall not apply to a discharge which occurs in a title 11 case.

"(B) INSOLVENCY EXCLUSION TAKES PRECEDENCE OVER QUALIFIED FARM EXCLUSION.—Subparagraph (C) of paragraph (1) shall not apply to a discharge to the extent the taxpayer is insolvent."

(3) Subsection (b) of section 108 of the 1986 Code is amended—

(A) by striking out "subparagraph (A) or (B)" in paragraph (1) and inserting in lieu thereof "subparagraph (A), (B), or (C)", and

(B) by striking out "IN TITLE 11 CASE OR INSOLVENCY" in the subsection heading.

(4) Subsection (g) of section 108 of the 1986 Code is amended to read as follows:

"(g) SPECIAL RULES FOR DISCHARGE OF QUALIFIED FARM INDEBTEDNESS.—

"(1) DISCHARGE MUST BE BY QUALIFIED PERSON.—

"(A) IN GENERAL.—Subparagraph (C) of subsection (a)(1) shall apply only if the discharge is by a qualified person.

"(B) QUALIFIED PERSON.—For purposes of subparagraph (A), the term 'qualified person' has the meaning given to such term by section 46(c)(8)(D)(iv); except that such term shall include any Federal, State, or local government or agency or instrumentality thereof.

"(2) QUALIFIED FARM INDEBTEDNESS.—For purposes of this section, indebtedness of a taxpayer shall be treated as qualified farm indebtedness if—

"(A) such indebtedness was incurred directly in connection with the operation by the taxpayer of the trade or business of farming, and

"(B) 50 percent or more of the aggregate gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the discharge of such indebtedness occurs is attributable to the trade or business of farming.

"(3) AMOUNT EXCLUDED CANNOT EXCEED SUM OF TAX ATTRIBUTES AND BUSINESS AND INVESTMENT ASSETS.—

"(A) IN GENERAL.—The amount excluded under subparagraph (C) of subsection (a)(1) shall not exceed the sum of—

"(i) the adjusted tax attributes of the taxpayer, and

"(ii) the aggregate adjusted bases of qualified property held by the taxpayer as of the beginning of the taxable year following the taxable year in which the discharge occurs.

"(B) ADJUSTED TAX ATTRIBUTES.—For purposes of subparagraph (A), the term 'adjusted tax attributes' means the sum of the tax attributes described in subparagraphs (A), (B), (C), and (E) of subsection (b)(2) determined by taking into account $3 for each $1 of the attributes described in subparagraphs (B) and (E) of subsection (b)(2).

"(C) QUALIFIED PROPERTY.—For purposes of this paragraph, the term 'qualified property'

means any property which is used or is held for use in a trade or business or for the production of income.

"(D) COORDINATION WITH INSOLVENCY EXCLUSION.—For purposes of this paragraph, the adjusted basis of any qualified property and the amount of the adjusted tax attributes shall be determined after any reduction under subsection (b) by reason of amounts excluded from gross income under subsection (a)(1)(B)."

(5) Paragraph (4) of section 1017(b) of the 1986 Code is amended to read as follows:

"(4) SPECIAL RULES FOR QUALIFIED FARM INDEBTEDNESS.—

"(A) IN GENERAL.—Any amount which under subsection (b)(2)(D) of section 108 is to be applied to reduce basis and which is attributable to an amount excluded under subsection (a)(1)(C) of section 108—

"(i) shall be applied only to reduce the basis of qualified property held by the taxpayer, and

"(ii) shall be applied to reduce the basis of qualified property in the following order:

"(I) First the basis of qualified property which is depreciable property.

"(II) Second the basis of qualified property which is land used or held for use in the trade or business of farming.

"(III) Then the basis of other qualified property.

"(B) QUALIFIED PROPERTY.—For purposes of this paragraph, the term 'qualified property' has the meaning given to such term by section 108(g)(3)(C).

"(C) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subparagraph (C), (D), and (E) of paragraph (3) shall apply for purposes of this paragraph and section 108(g)."

(6)(A) Paragraphs (6) and (7) of section 108(d) of the 1986 Code are each amended by striking out "subsections (a) and (b)" and inserting in lieu thereof "subsections (a), (b), and (g)".

(B) The subsection heading for section 108(d) of the 1986 Code is amended by striking out "SUBSECTIONS (a), AND (b)" and inserting in lieu thereof "SUBSECTIONS (a), (b), AND (g)".

(C) The headings for paragraphs (6) and (7)(A) of section 108(d) of the 1986 Code are each amended by striking out "SUBSECTIONS (a) AND (b)" and inserting in lieu thereof "SUBSECTIONS (a), (b), AND (g)".

(b) AMENDMENT RELATED TO SECTION 406 OF THE REFORM ACT.—Section 406 of the Reform Act is amended—

(1) by inserting "before October 1, 1987," after "from the sale", and

(2) by striking out "to the extent such gain" and all that follows down through the period at the end thereof and inserting in lieu thereof "to the extent such gain is properly taken into account under the taxpayer's method of accounting during 1987.".

(c) AMENDMENT RELATED TO SECTION 413 OF THE REFORM ACT.—Subsection (a) of section 1254 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) ADJUSTMENT FOR AMOUNTS INCLUDED IN GROSS INCOME UNDER SECTION 617(b)(1)(A).—The amount of the expenditures referred to in paragraph (1)(A)(i) shall be properly adjusted for amounts included in gross income under section 617(b)(1)(A)."

SEC. 105. AMENDMENTS RELATED TO TITLE V OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 501 OF THE REFORM ACT.—

(1) Clause (ii) of section 469(e)(1)(A) of the 1986 Code (relating to certain income not treated as income from passive activity) is amended by inserting "not derived in the ordinary course of a trade or business which is" after "gain or loss".

(2)(A) Subparagraph (A) of section 469(g)(1) of the 1986 Code (relating to disposition of interests in passive activities in fully taxable transactions) is amended to read as follows:

"(A) IN GENERAL.—If all gain or loss realized on such disposition is recognized, the excess of—

"(i) the sum of—

"(I) any loss from such activity for such taxable year (determined after application of subsection (b)), plus

"(II) any loss realized on such disposition, over

"(ii) net income or gain for such taxable year from all passive activities (determined without regard to losses described in clause (i)),

shall be treated as a loss which is not from a passive activity."

(B) Subparagraph (C) of section 469(g)(1) of the 1986 Code is amended to read as follows:

"(C) INCOME FROM PRIOR YEARS.—To the extent provided in regulations, income or gain from the activity for preceding taxable years shall be taken into account under subparagraph (A)(ii) for the taxable year to the extent necessary to prevent the avoidance of this section."

(3) Subparagraph (A) of section 469(g)(2) of the 1986 Code is amended—

(A) by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1)(A)"; and

(B) by striking out "such losses" the first place it appears and inserting in lieu thereof "losses described in paragraph (1)(A)".

(4) Section 469(g)(3) of the 1986 Code is amended—

(A) by striking out "realized (or to be realized)" and inserting in lieu thereof "(realized or to be realized", and

(B) by inserting a closing parenthesis after "completed".

(5) Paragraph (4) of section 469(h) of the 1986 Code (relating to certain closely held C corporations and personal service corporations) is amended by inserting "only" before "if".

(6) Paragraph (1) of section 469(i) of the 1986 Code (relating to $25,000 offset for rental real estate activities) is amended by striking out "in the taxable year in which such portion of such loss or credit arose" and inserting in lieu thereof "in such taxable year (and if any portion of such loss or credit arose in another taxable year, in such other taxable year)".

(7) Subparagraph (C) of section 469(i)(6) of the 1986 Code (relating to interest as a limited partner) is amended by striking out "No" and inserting in lieu thereof "Except as provided in regulations, no".

(8) Subparagraph (A) of section 469(j)(6) of the 1986 Code (relating to special rule for gifts) is amended by inserting "with respect to which a deduction has not been allowed by reason of subsection (a)" before ",and".

(9) Section 469(j) of the 1986 Code (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraphs:

"(10) COORDINATION WITH SECTION 280A.—If a passive activity involves the use of a dwelling unit to which section 280A(c)(5) applies for any taxable year, any income, deduction, gain, or loss allocable to such use shall not be taken into account for purposes of this section for such taxable year.

"(11) AGGREGATION OF MEMBERS OF AFFILIATED GROUPS.—Except as provided in regulations, all members of an affiliated group which files a consolidated return shall be treated as 1 corporation."

(10) Section 501(c) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(4) INCOME FROM SALES OF PASSIVE ACTIVITIES IN TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1987.—If—

"(A) gain is recognized in a taxable year beginning after December 31, 1986, from a sale or exchange of an interest in an activity in a taxable year beginning before January 1, 1987, and

"(B) such gain would have been treated as gain from a passive activity had section 469 of the Internal Revenue Code of 1986 (as added by this section) been in effect for the taxable year in which the sale or exchange occurred and for all succeeding taxable years,

then such gain shall be treated as gain from a passive activity for purposes of such section."

(11) Subsection (j) of section 469 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(12) SPECIAL RULE FOR DISTRIBUTIONS BY ESTATES OR TRUSTS.—If any interest in a passive activity is distributed by an estate or trust—

"(A) the basis of such interest immediately before such distribution shall be increased by the amount of any passive activity losses allocable to such interest, and

"(B) such losses shall not be allowable as a deduction for any taxable year."

(12) Subsection (m) of section 469 of the 1986 Code, as redesignated by section 10211 of the Revenue Act of 1987, is amended by striking all that precedes subparagraph (B) of paragraph (3) thereof and inserting in lieu thereof the following:

"(m) PHASE-IN OF DISALLOWANCE OF LOSSES AND CREDITS FOR INTEREST HELD BEFORE DATE OF ENACTMENT.—

"(1) IN GENERAL.—In the case of any passive activity loss or passive activity credit for any taxable year beginning in calendar years 1987 through 1990, subsection (a) shall not apply to the applicable percentage of that portion of such loss (or such credit) which is attributable to pre-enactment interests.

"(2) APPLICABLE PERCENTAGE.—For purposes of this subsection, the applicable percentage shall be determined in accordance with the following table:

"In the case of taxable years beginning in:	The applicable percentage is:
1987	65
1988	40
1989	20
1990	10

"(3) PORTION OF LOSS OR CREDIT ATTRIBUTABLE TO PRE-ENACTMENT INTERESTS.—For purposes of this subsection—

"(A) IN GENERAL.—The portion of the passive activity loss (or passive activity credit) for any taxable year which is attributable to pre-enactment interests is the lesser of—

"(i) the amount of the passive activity loss (or passive activity credit) which is disallowed for the taxable year under subsection (a) (without regard to this subsection), or

"(ii) the amount of the passive activity loss (or passive activity credit) which would be disallowed for the taxable year (without regard to this subsection and without regard to any amount allocable to an activity for the taxable year under subsection (b))

taking into account only pre-enactment interests."

(b) AMENDMENTS RELATED TO SECTION 502 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 502(d)(1) of the Reform Act (defining qualified investor) is amended to read as follows:

"(A) if—

"(i) in the case of a project placed in service on or before August 16, 1986, such person held an interest in such project on August 16, 1986, and such person made his initial investment after December 31, 1983, or

"(ii) in the case of a project placed in service after August 16, 1986, such person made his initial investment after December 31, 1983, and such person held an interest in such project on December 31, 1986, and".

(2) Subsection (d) of section 502 of the Reform Act (defining qualified investor) is amended by adding after paragraph (2) the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN PARTNERSHIPS.—In the case of any property which is held by a partnership—

"(A) which placed such property in service on or after December 31, 1985, and before August 17, 1986, and continuously held such property through the close of the taxable year for which the determination is being made, and

"(B) which was not treated as a new partnership or as terminated at any time on or after the date on which such property was placed in service and through the close of the taxable year for which the determination is being made,

paragraph (1)(A)(i) shall be applied by substituting 'December 31, 1988' for 'August 16, 1986' the 2nd place it appears."

(3) The subsection (d) of section 502 of the Reform Act which relates to special rules is redesignated as subsection (e).

(c) AMENDMENTS RELATED TO SECTION 511 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 163(d)(3) of the 1986 Code (defining investment interest) is amended by striking out "incurred or continued to purchase or carry" and inserting in lieu thereof "properly allocable to".

(2) Subparagraph (B) of section 163(d)(4) of the 1986 Code is amended to read as follows:

"(B) INVESTMENT INCOME.—The term 'investment income' means the sum of—

"(i) gross income (other than gain taken into account under clause (ii)) from property held for investment, and

"(ii) any net gain attributable to the disposition of property held for investment."

(3) Subparagraph (A) of section 163(d)(6) of the 1986 Code is amended to read as follows:

"(A) IN GENERAL.—The amount of interest paid or accrued during any such taxable year which is disallowed under this subsection shall not exceed the sum of—

"(i) the amount which would be disallowed under this subsection if—

"(I) paragraph (1) were applied by substituting 'the sum of the ceiling amount and the net investment income' for 'the net investment income', and

"(II) paragraphs (4)(E) and (5)(A)(ii) did not apply, and

"(ii) the applicable percentage of the excess of—

"(I) the amount which (without regard to this paragraph) is not allowable as a deduction under this subsection for the taxable year, over

"(II) the amount described in clause (i).

The preceding sentence shall not apply to any interest treated as paid or accrued during the taxable year under paragraph (2)."

(4) Subparagraph (A) of section 163(h)(2) of the 1986 Code is amended by striking out "incurred or continued in connection with the conduct of" and inserting in lieu thereof "properly allocable to".

(5) Subparagraph (C) of section 163(h)(3) of the 1986 Code (defining qualified residence interest) is amended to read as follows:

"(C) COST NOT LESS THAN BALANCE OF INDEBTEDNESS INCURRED ON OR BEFORE AUGUST 16, 1986.—

"(i) IN GENERAL.—The amount under subparagraph (B)(ii)(I) at any time after August 16, 1986, shall not be less than the outstanding principal amount (as of such time) of indebtedness—

"(I) which was incurred on or before August 16, 1986, and which was secured by the qualified residence on August 16, 1986, or

"(II) which is secured by the qualified residence and was incurred after August 16, 1986, to refinance indebtedness described in subclause (I) (or refinanced indebtedness meeting the requirements of this subclause) to the extent (immediately after the refinancing) the principal amount of the indebtedness resulting from the refinancing does not exceed the principal amount of the refinanced indebtedness (immediately before the refinancing).

"(ii) LIMITATION ON PERIOD OF REFINANCING.—Subclause (II) of clause (i) shall not apply to any indebtedness after—

"(I) the expiration of the term of the indebtedness described in clause (i)(I), or

"(II) if the principal of the indebtedness described in clause (i)(I) is not amortized over its term, the expiration of the term of the 1st refinancing of such indebtedness (or if earlier, the date which is 30 years after the date of such refinancing)."

(6)(A) The heading for section 163(h)(5) of the 1986 Code is amended to read as follows:

"(5) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—".

(B) Paragraph (5) of section 163(h) of the 1986 Code is amended—

(i) by striking out "For purposes of this subsection—" in subparagraph (A), and

(ii) by striking out "For purposes of this paragraph, any" in subparagraph (B) and inserting in lieu thereof "Any".

(7) Clause (iii) of section 163(h)(5)(A) of the 1986 Code is amended by striking out "USED OR" in the heading thereof and by striking out "or use".

(8) Section 163(h)(5) of the 1986 Code is amended by adding at the end thereof the following new subparagraphs:

"(C) UNENFORCEABLE SECURITY INTERESTS.—Indebtedness shall not fail to be treated as secured by any property solely because, under any applicable State or local homestead or other debtor protection law in effect on August 16, 1986, the security interest is ineffective or the enforceability of the security interest is restricted.

"(D) SPECIAL RULES FOR ESTATES AND TRUSTS.—For purposes of determining whether any interest paid or accrued by an estate or trust is qualified residence interest, any residence held by such estate or trust shall be treated as a qualified residence of such estate or trust if such estate or trust establishes that such residence is a qualified residence of a beneficiary who has a present interest in such estate or trust or an interest in the residuary of such estate or trust."

(9) Paragraph (6) of section 163(h) of the 1986 Code is amended by striking out "subsection" the 3rd place it appears and inserting in lieu thereof "paragraph".

(10) Paragraph (2)(A) of section 511(d) of the Reform Act is amended to read as follows:

"(2)(A) Sections 467(c)(5) and 1255(b)(2) are each amended by striking out '163(d),'."

(11) If—

(A) any amount was disallowed as a deduction under section 163(d) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Reform Act),

(B) such amount would (but for this paragraph) be treated as investment interest paid or accrued by the taxpayer in the taxpayer's first taxable year beginning after December 31, 1986, and

(C) the taxpayer makes an election under this paragraph at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe,

to the extent such amount is attributable to an activity subject to the limitations of section 469 of the 1986 Code, such amount shall not be treated as investment interest but shall be treated as a deduction allocable to such activity for such first taxable year. Subsection (m) of section 469 of the 1986 Code and section 501(c)(2) of the Reform Act shall not apply to any amount so treated.

(12) Subparagraph (E) of section 163(h)(2) of the 1986 Code is amended by inserting before the period "or under section 6166A (as in effect before its repeal by the Economic Recovery Tax Act of 1981)".

(13) For purposes of applying the amendments made by this subsection and the amendments made by section 10102 of the Revenue Act of 1987, the provisions of this subsection shall be treated as having been enacted immediately before the enactment of the Revenue Act of 1987.

(14)(A) For purposes of applying section 163(h) of the 1986 Code to any taxable year beginning during 1987, if, incident to a divorce or legal separation—

(i) an individual acquires the interest of a spouse or former spouse in a qualified residence in a transfer to which section 1041 of the 1986 Code applies, and

(ii) such individual incurs indebtedness which is secured by such qualified residence,

the amount determined under paragraph (3)(B)(ii)(I) of section 163(h) of the 1986 Code (as in effect before the amendments made by the Revenue Act of 1987) with respect to such qualified residence shall be increased by the amount determined under subparagraph (B).

(B) The amount determined under this subparagraph shall be equal to the excess (if any) of—

(i) the lesser of the amount of the indebtedness described in subparagraph (A)(ii), or the fair market value of the spouse's or former spouse's interest in the qualified residence as of the time of the transfer, over

(ii) the basis of the spouse or former spouse in such interest in such residence (adjusted only by the cost of any improvements to such residence).

(15) Clause (i) of section 7872(d)(1)(E) of the 1986 Code is amended by striking out "section 163(d)(3)" and inserting in lieu thereof "section 163(d)(4)".

SEC. 106. AMENDMENTS RELATED TO TITLE VI OF THE REFORM ACT.

(a) AMENDMENT RELATED TO SECTION 601 OF THE REFORM ACT.—Section 15 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) REFERENCES TO HIGHEST RATE.—If the change referred to in subsection (a) involves a change in the highest rate of tax imposed by section 1 or 11(b), any reference in this chapter to such highest rate (other than in a provision imposing a tax by reference to such rate) shall be treated as a reference to the weighted average of the highest rates before and after the change determined on the basis of the respective portions of the taxable year before the date of the change and on or after the date of the change."

(b) AMENDMENTS RELATED TO SECTIONS 611 AND 612 OF THE REFORM ACT.—

(1) In the case of dividends received or accrued during 1987—

(A) subparagraph (B) of section 245(c)(1) of the 1986 Code shall be applied by substituting "80 percent" for the percentage specified therein, and

(B) subparagraph (B) of section 861(a)(2) of the 1986 Code shall be applied by substituting "$^{100}/_{80}$ths" for the fraction specified therein.

(2) Paragraph (3) of section 854(b) of the 1986 Code is amended to read as follows:

"(3) AGGREGATE DIVIDENDS.—For purposes of this subsection—

"(A) IN GENERAL.—In computing the amount of aggregate dividends received, there shall only be taken into account dividends received from domestic corporations.

"(B) DIVIDENDS.—For purposes of subparagraph (A), the term 'dividend' shall not include any distribution from—

"(i) a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations), or

"(ii) a real estate investment trust which, for the taxable year of the trust in which the dividend is paid, qualifies under part II of subchapter M (section 856 and following).

"(C) LIMITATIONS ON DIVIDENDS FROM REGULATED INVESTMENT COMPANIES.—In determining the amount of any dividend for purposes of this paragraph, a dividend received from a regulated investment company shall be subject to the limitations prescribed in this section."

(c) AMENDMENTS RELATED TO SECTION 614 OF THE REFORM ACT.—

(1) Section 1059(d) of the 1986 Code (relating to extension to certain property distributions) is amended by striking out paragraph (5) and redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(2) Section 1059(d)(5) of the 1986 Code (defining dividend announcement date), as redesignated by paragraph (1), is amended by inserting "amount or" before "payment".

(3) Section 1059(d)(6) of the 1986 Code (relating to exception where stock held during entire existence of corporation), as redesignated by paragraph (1), is amended to read as follows:

"(6) EXCEPTION WHERE STOCK HELD DURING ENTIRE EXISTENCE OF CORPORATION.—

"(A) IN GENERAL.—Subsection (a) shall not apply to any extraordinary dividend with respect to any share of stock of a corporation if—

"(i) such stock was held by the taxpayer during the entire period such corporation was in existence, and

"(ii) except as provided in regulations, no earnings and profits of such corporation were attributable to transfers of property from (or earnings and profits of) a corporation which is not a qualified corporation.

"(B) QUALIFIED CORPORATION.—For purposes of subparagraph (A), the term 'qualified corporation' means any corporation (including a predecessor corporation)—

"(i) with respect to which the taxpayer holds directly or indirectly during the entire period of such corporation's existence at least the same ownership interest as the taxpayer holds in the corporation distributing the extraordinary dividend, and

"(ii) which has no earnings and profits—

"(I) which were earned by, or

"(II) which are attributable to gain on property which accrued during a period the corporation holding the property was,

a corporation not described in clause (i).

"(C) APPLICATION OF PARAGRAPH.—This paragraph shall not apply to any extraordinary dividend to the extent such application is inconsistent with the purposes of this section."

(4) Paragraph (1) of section 1059(e) of the 1986 Code (relating to treatment of partial liquidation) is amended by striking out "for purposes of this section (without regard to the holding period of the stock)" and inserting in lieu thereof: "to which paragraphs (1) and (2) of subsection (a) apply without regard to the period the taxpayer held such stock".

(5) Paragraph (2) of section 1059(e) of the 1986 Code (relating to qualifying dividends) is amended to read as follows:

"(2) QUALIFYING DIVIDENDS.—

"(A) IN GENERAL.—Except as provided in regulations, the term 'extraordinary dividend' does not include any qualifying dividend (within the meaning of section 243).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any portion of a dividend which is attributable to earnings and profits which—

"(i) were earned by a corporation during a period it was not a member of the affiliated group, or

"(ii) are attributable to gain on property which accrued during a period the corporation holding the property was not a member of the affiliated group."

(6) Subparagraph (A) of section 1059(e)(3) of the 1986 Code (relating to qualified preferred dividends) is amended to read as follows:

"(A) IN GENERAL.—In the case of 1 or more qualified preferred dividends with respect to any share of stock—

"(i) this section shall not apply to such dividends if the taxpayer holds such stock for more than 5 years, and

"(ii) if the taxpayer disposes of such stock before it has been held for more than 5 years, the aggregate reduction under subsection (a)(1) with respect to such dividends shall not be greater than the excess (if any) of—

"(I) the qualified preferred dividends paid with respect to such stock during the period the taxpayer held such stock, over

"(II) the qualified preferred dividends which would have been paid during such period on the basis of the stated rate of return."

(7) Clause (i) of section 1059(e)(3)(C) of the 1986 Code is amended—

(A) by striking out "any dividend payable" and inserting in lieu thereof "any fixed dividend payable", and

(B) by adding at the end thereof the following new sentence:

"Such term shall not include any dividend payable with respect to any share of stock if the actual rate of return on such stock exceeds 15 percent."

(8) Subparagraph (B) of section 1059(e)(3) of the 1986 Code is amended—

(A) by striking out "subparagraph (A)" and the material preceding clause (i) and inserting in lieu thereof "this paragraph", and

(B) by striking out "subparagraph (B)(i)(II)" in clause (ii) and inserting in lieu thereof "clause (i)(II)".

(9) Subsection (f) of section 1059 of the 1986 Code is amended by inserting before the period at the end thereof the following: "and in the case of stock held by pass-thru entities".

(d) AMENDMENTS RELATED TO SECTION 621 OF THE REFORM ACT.—

(1)(A) Section 382(e)(2) of the 1986 Code is amended—

(i) by inserting "or other corporate contraction" after "redemption" each place it appears, and

(ii) by inserting "OR OTHER CORPORATE CONTRACTION" after "REDEMPTION" in the heading thereof.

(B) Clause (ii) of section 382(h)(3)(A) of the 1986 Code is amended—

(i) by inserting "or other corporate contraction" after "redemption " each place it appears, and

(ii) by inserting "OR OTHER CORPORATE CONTRACTIONS" after "REDEMPTIONS" in the heading thereof.

(C) Section 382(m) of the 1986 Code is amended by inserting "and" at the end of paragraph (3), by striking out paragraph (4), and by redesignating paragraph (5) as paragraph (4).

(D) The amendments made by this paragraph shall apply with respect to ownership changes after June 10, 1987.

(2) Section 382(g)(4)(C) of the 1986 Code is amended by inserting "rules similar to" before "the rules".

(3)(A) Section 382(h)(1)(C) of the 1986 Code is amended to read as follows:

"(C) SPECIAL RULES FOR CERTAIN SECTION 338 GAINS.—If an election under section 338 is made in connection with an ownership change and the net unrealized built-in gain is zero by reason of paragraph (3)(B), then, with respect to such change, the section 382 limitation for the post-change year in which gain is recognized by reason of such election shall be increased by the lesser of—

"(i) the recognized built-in gains by reason of such election, or

"(ii) the net unrealized built-in gain (determined without regard to paragraph (3)(B))."

(B) Paragraph (5) of section 382(h) of the 1986 Code is amended by striking out "recognized built-in gains and losses" and inserting in lieu thereof "recognized built-in gains to the extent such gains increased the section 382 limitation for the year (or recognized built-in losses to the extent such losses are treated as pre-change losses)".

(4) Section 382(i)(3) of the 1986 Code is amended—

(A) by inserting "the earlier of" before "the 1st day", and

(B) by inserting "or the taxable year in which the transaction being tested occurs" after "1st post-change year".

(5)(A) Section 382(k)(1) of the 1986 Code is amended by inserting "or having a net operating loss for the taxable year in which the ownership change occurs" after "carryover".

(B) Section 382(k)(2) of the 1986 Code is amended to read as follows:

"(2) OLD LOSS CORPORATION.—The term 'old loss corporation' means any corporation—

"(A) with respect to which there is an ownership change, and

"(B) which (before the ownership change) was a loss corporation."

(6) Section 382(l)(3)(A) of the 1986 Code is amended by striking out "and" at the end of clause (iii), and by striking out clause (iv) and inserting in lieu thereof the following new clauses:

"(iv) except to the extent provided in regulations, an option to acquire stock shall be treated as exercised if such exercise results in an ownership change, and

"(v) in attributing stock from an entity under paragraph (2) of section 318(a), there shall not be taken into account—

"(I) in the case of attribution from a corporation, stock which is not treated as stock for purposes of this section, or

"(II) in the case of attribution from another entity, an interest in such entity similar to stock described in subclause (I)."

(7) Clause (ii) of section 382(l)(5)(A) of the 1986 Code is amended by striking out "immediately after such ownership change" and inserting in lieu thereof "after such ownership change and as a result of being shareholders or creditors immediately before such change".

(8) Section 382(l)(5)(F) of the 1986 Code is amended—

(A) by inserting "'1504(a)(2)(B)' for '1504(a)(2)' and" after "substituting" in clause (i)(I), and

(B) by striking out "deposits described in subclause (II)" in clause (ii)(III) and inserting in lieu thereof "the amount of deposits in the new loss corporation immediately after the change".

(9) Paragraph (6) of section 382(l) of the 1986 Code is amended by striking out "shall be the value of the new loss corporation immediately after the ownership change" and inserting in lieu thereof "shall reflect the increase (if any) in value of the old loss corporation resulting from any surrender or cancellation of creditors' claims in the transaction".

(10) Section 382(l) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) PREDECESSOR AND SUCCESSOR ENTITIES.—Except as provided in regulations, any entity and any predecessor or successor entities of such entity shall be treated as 1 entity."

(11) Paragraph (1) of section 621(f) of the Reform Act is amended to read as follows:

"(1) AMENDMENTS MADE BY SUBSECTIONS (a), (b), and (c).—

"(A) IN GENERAL.—

"(i) CHANGES AFTER 1986.—The amendments made by subsections (a), (b), and (c) shall apply to any ownership change after December 31, 1986.

"(ii) PLANS OF REORGANIZATION ADOPTED BEFORE 1987.—For purposes of clause (i), any equity structure shift pursuant to a plan of reorganization adopted before January 1, 1987, shall be treated as occurring when such plan was adopted.

"(B) TERMINATION OF OLD SECTION 382.—Except in a case described in any of the following paragraphs—

"(i) section 382(a) of the Internal Revenue Code of 1954 (as in effect before the amendment made by subsection (a) and the amendments made by section 806 of the Tax Reform Act of 1976) shall not apply to any increase in percentage points occurring after December 31, 1988, and

"(ii) section 382(b) of such Code (as so in effect) shall not apply to any reorganization occurring pursuant to a plan of reorganization adopted after December 31, 1986.

In no event shall sections 382 (a) and (b) of such Code (as so in effect) apply to any ownership change described in subparagraph (A).

"(C) COORDINATION WITH SECTION 382(i).—For purposes of section 382(i) of the Internal Revenue Code of 1986 (as added by this section), any equity structure shift pursuant to a plan of reorganization adopted before January 1, 1987, shall be treated as occurring when such plan was adopted."

(12)(A) Section 621(f)(2)(C) of the Reform Act is amended by inserting "and reincorporated in Delaware in 1987," after "1924,".

(B) Clause (ii) of section 621(f)(2)(C) of the Reform Act is amended to read as follows:

"(ii) the amendments made by subsections (e) and (f) of section 806 of the Tax Reform Act of 1976 shall not apply to such debt restructuring, except that the amendment treated as part of such subsections under section 59(b) of the Tax Reform Act of 1984 (relating to qualified workouts) shall apply to such debt restructuring."

(13) Subparagraph (D) of section 621(f)(2) of the Reform Act is amended by striking out "or reorganization".

(14) Section 621(f)(3) of the Reform Act is amended by striking out "after December 31, 1986".

(15) Paragraph (4) of section 621(f) of the Reform Act is amended by striking out the last sentence and inserting in lieu thereof the following:

"Any regulations prescribed under section 382 of the Internal Revenue Code of 1986 (as added by subsection (a)) which have the effect of treating a group of shareholders as a separate 5-percent shareholder by reason of a public offering shall not apply to any public offering before January 1, 1989, for the benefit of institutions described in section 591 of such Code. Unless the corporation otherwise elects, an underwriter of any offering of stock in a corporation before September 19, 1986 (January 1, 1989, in the case of an offering for the benefit of an institution described in the preceding sentence), shall not be treated as acquiring any stock of such corporation by reason of a firm commitment underwriting to the extent the stock is disposed of pursuant to the offering (but in no event later than 60 days after the initial offering)."

(16) Subparagraph (A) of section 621(f)(7) of the Reform Act is amended by striking out "the parent corporation referred to in section 203(d)(13)(B)" and inserting in lieu thereof "a parent corporation incorporated in March 1980 under the laws of Delaware".

(17)(A) Subsection (e) of section 382 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF FOREIGN CORPORATIONS.—Except as otherwise provided in regulations, in determining the value of any old loss corporation which is a foreign corporation, there shall be taken into account only items treated as connected with the conduct of a trade or business in the United States."

(B) The amendment made by subparagraph (A) shall apply to any ownership change after June 10, 1987. For purposes of the preceding sentence, any equity structure shift pursuant to a plan of reorganization adopted on or before June 10, 1987, shall be treated as occurring when such plan was adopted.

(18) Subparagraph (C) of section 382(l)(5) of the 1986 Code is amended to read as follows:

"(C) REDUCTION OF TAX ATTRIBUTES WHERE DISCHARGE OF INDEBTEDNESS.—

"(i) IN GENERAL.—In any case to which subparagraph (A) applies, 50 percent of the amount which, but for the application of section 108(e)(10)(B), would have been applied to reduce tax attributes under section 108(b) shall be so applied.

"(ii) CLARIFICATION WITH SUBPARAGRAPH (B).—In applying clause (i), there shall not be taken into account any indebtedness for interest described in subparagraph (B)."

(19) Subparagraph (E) of section 382(l)(5) of the 1986 Code is amended by striking out so much of such subparagraph as precedes clause (i) thereof and inserting in lieu thereof the following:

"(E) ONLY CERTAIN STOCK TAKEN INTO ACCOUNT.—For purposes of subparagraph (A)(ii), stock transferred to a creditor shall be taken into account only to the extent such stock is transferred in satisfaction of indebtedness and only if such indebtedness—".

(20) Paragraph (4) of section 382(h) of the 1986 Code is amended—

(A) by inserting before the comma at the end of subparagraph (A) the following: "(or to the extent the amount so disallowed is attributable to capital losses, under rules similar to the rules for the carrying forward of net capital losses)", and

(B) by striking out "TREATED AS A NET OPERATING LOSS" in the paragraph heading and inserting in lieu thereof "ALLOWED AS A CARRYFORWARD".

(21) Paragraph (1) of section 382(g) of the 1986 Code is amended—

(A) by striking out "new loss corporation" and inserting in lieu thereof "loss corporation", and

(B) by striking out "old loss corporation" and inserting in lieu thereof "loss corporation".

(22) Paragraph (6) of section 382(h) of the 1986 Code is amended to read as follows:

"(6) TREATMENT OF CERTAIN BUILT-IN ITEMS.—

"(A) INCOME ITEMS.—Any item of income which is properly taken into account during the recognition period but which is attributable to periods before the change date shall be treated as a recognized built-in gain for the taxable year in which it is properly taken into account.

"(B) DEDUCTION ITEMS.—Any amount which is allowable as a deduction during the recognition period but which is attributable to periods before the change date shall be treated as a recognized built-in loss for the taxable year for which it is allowable as a deduction.

"(C) ADJUSTMENTS.—The amount of the net unrealized built-in gain or loss shall be properly adjusted for amounts treated as recognized built-in gains or losses under this paragraph."

(23) Paragraph (9) of section 382(h) of the 1986 Code is amended by striking out "is transferred" and inserting in lieu thereof "was acquired (or is subsequently transferred)".

(24) Subsection (m) of section 382 of the 1986 Code (as amended by paragraph (1)) is amended by striking out "and" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", and", and by adding at the end thereof the following:

"(5) providing, in the case of any group of corporations described in section 1563(a) (determined by substituting '50 percent' for '80 percent' each place it appears and determined without regard to paragraph (4) thereof), appropriate adjustments to value, built-in gain or loss, and other items so that items are not omitted or taken into account more than once."

(25) Clause (ii) of section 382(l)(5)(A) of the 1986 Code is amended by striking out

"stock of controlling corporation" and inserting in lieu thereof "stock of a controlling corporation".

(26) Clause (ii) of section 382(h)(3)(B) of the 1986 Code is amended by striking out "there shall not" and inserting in lieu thereof "except as provided in regulations, there shall not".

(27) Subparagraph (B) of section 382(1)(5) of the 1986 Code is amended by striking out "the net operating loss deduction under section 172(a) for any post-change year shall be determined" and inserting in lieu thereof "the pre-change losses and excess credits (within the meaning of section 383(a)(2)) which may be carried to a post-change year shall be computed".

(28)(A) Clause (ii) of section 382(h)(3)(A) of the 1986 Code is amended by striking out "determinations under clause (i)" and inserting in lieu thereof "to the extent provided in regulations, determinations under clause (i)".

(B) The amendment made by subparagraph (A) shall apply in the case of ownership changes on or after June 21, 1988.

(29) Subclause (I) of section 382(1)(5)(F)(iii) of the 1986 Code is amended by striking out "section 368(a)(D)(ii)" and inserting in lieu thereof "section 368(a)(3)(D)(ii)".

(e) AMENDMENTS RELATED TO SECTION 631 OF THE REFORM ACT.—

(1) Clause (ii) of section 336(d)(2)(B) of the 1986 Code is amended to read as follows:

"(ii) CERTAIN ACQUISITIONS TREATED AS PART OF PLAN.—For purposes of clause (i), any property described in clause (i)(I) acquired by the liquidated corporation after the date 2 years before the date of the adoption of the plan of complete liquidation shall, except as provided in regulations, be treated as acquired as part of a plan described in clause (i)(II)."

(2) Paragraph (3) of section 336(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The preceding sentence shall apply to any distribution to the 80-percent distributee only if subsection (a) or (b)(1) of section 337 applies to such distribution."

(3) Subsection (e) of section 336 of the 1986 Code is amended by striking out "such corporation may elect" and inserting in lieu thereof "an election may be made".

(4) Subparagraph (B) of section 337(b)(2) of the 1986 Code is amended—

(A) by striking out "or 511(b)(2)" in clause (i),

(B) by striking out "in an unrelated trade or business (as defined in section 513)" in clause (i) and inserting in lieu thereof "in an activity the income from which is subject to tax under section 511(a)", and

(C) by striking out "an unrelated trade or business of such organization" in clause (ii) and inserting in lieu thereof "an activity referred to in clause (i)".

(5) Subsection (d) of section 337 of the 1986 Code is amended—

(A) by striking out "made to this subpart by the Tax Reform Act of 1986" and inserting in lieu thereof "made by subtitle D of title VI of the Tax Reform Act of 1986", and

(B) by inserting "or through the use of a regulated investment company, real estate investment trust, or tax-exempt entity" after "subchapter)" in paragraph (1).

(6) Subsection (b) of section 334 of the 1986 Code is amended to read as follows:

"(b) LIQUIDATION OF SUBSIDIARY.—

"(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332(a) applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that, in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution.

"(2) CORPORATE DISTRIBUTEE.—For purposes of this subsection, the term 'corporate distributee' means only the corporation which meets the stock ownership requirements specified in section 332(b)."

(7)(A) Subparagraph (B) of section 453(h)(1) of the 1986 Code is amended by striking out "to one person" and inserting in lieu thereof "to 1 person in 1 transaction".

(B) Subparagraph (E) of section 453(h)(1) of the 1986 Code is amended by striking out "section 368(c)(1)" and inserting in lieu thereof "section 368(c)".

(8)(A) Part VII of subchapter C of chapter 1 of the 1986 Code is hereby repealed.

(B) Subsection (b) of section 311 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS OF PARTNERSHIP OR TRUST INTERESTS.—If the property distributed consists of an interest in a partnership or trust, the Secretary may by regulations provide that the amount of the gain recognized under paragraph (1) shall be computed without regard to any loss attributable to property contributed to the partnership or trust for the principal purpose of recognizing such loss on the distribution."

(C) The table of parts for subchapter C of chapter 1 of the 1986 Code is amended by striking out the item relating to part VII.

(9) Paragraph (1) of section 267(a) of the 1986 Code is amended—

(A) by striking out "(other than a loss in case of a distribution in corporate liquidation)", and

(B) by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any loss of the distributing corporation (or the distributee) in the case of a distribution in complete liquidation."

(10) Paragraph (1) of section 301(b) of the 1986 Code is amended to read as follows:

"(1) GENERAL RULE.—For purposes of this section, the amount of any distribution shall be the amount of money received, plus the fair market value of the other property received."

(11) Subsection (d) of section 301 of the 1986 Code is amended to read as follows:

"(d) BASIS.—The basis of property received in a distribution to which subsection (a) applies shall be the fair market value of such property."

(12) Section 301 of the 1986 Code is amended by striking out subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(13)(A) Subsection (a) of section 367 of the 1986 Code is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) PARAGRAPHS (2) AND (3) NOT TO APPLY TO CERTAIN SECTION 361 TRANSACTIONS.—Paragraphs (2) and (3) shall not apply in the case of an exchange described in section 361. Subject to such basis adjustments and such other conditions as shall be provided in regulations, the preceding sentence shall not apply if the transferor corporation is controlled (within the meaning of section 368(c)) by 5 or fewer domestic corporations. For purposes of the preceding sentence, all members of the same affiliated group (within the meaning of section 1504) shall be treated as 1 corporation."

(B) The amendment made by subparagraph (A) shall apply to exchanges on or after June 21, 1988.

(C) Section 367(e)(2) of the 1986 Code (as amended by the Reform Act) shall not apply in the case of any corporation completely liquidated before June 10, 1987, into a corporation organized in a country which has an income tax treaty with the United States.

(14)(A) Subsection (d) of section 1248 of the 1986 Code is amended by striking out paragraph (2).

(B) Subparagraph (B) of section 1248(f)(1) of the 1986 Code is amended to read as follows:

"(B) such domestic corporation distributes stock of such foreign corporation in a distribution to which section 311(a), 337, or 361(c)(1) applies,".

(C) Paragraph (1) of section 1248(f) of the 1986 Code is amended by striking out "distribution, sale, or exchange" in the last sentence and inserting in lieu thereof "distribution".

(D) Subsection (f) of section 1248 of the 1986 Code is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(E) The subsection heading for section 1248(f) of the 1986 Code is amended by striking out "SECTION 311, 336, OR 337 TRANSACTIONS" and inserting in lieu thereof "NONRECOGNITION TRANSACTIONS".

(15) Paragraph (1) of section 995(c) of the 1986 Code is amended by inserting "or" at the end of subparagraph (A), by striking out ", or" at the end of subparagraph (B) and inserting in lieu thereof a period, and by striking out subparagraph (C) and the sentence following subparagraph (C).

(16) Subsection (d) of section 245 of the 1986 Code is hereby repealed.

(17) Paragraph (14) of section 1223 of the 1986 Code is amended to read as follows:

"(14) CROSS REFERENCE.—

"For special holding period provision relating to certain partnership distributions, see section 735(b)."

(18) Clause (ii) of section 341(e)(1)(C) of the 1986 Code is amended—

(A) by striking out "sale or exchange" the first place it appears and inserting in lieu thereof "liquidating sale or exchange", and

(B) by striking out ", gain or loss on which was not recognized to such other corporation under section 337(a),".

(19) Subsection (l) of section 897 of the 1986 Code is hereby repealed.

(20) Paragraph (7) of section 338(h) of the 1986 Code is hereby repealed.

(21)(A) The heading of subsection (b) of section 336 of the 1986 Code is amended by striking out "IN EXCESS OF BASIS".

(B) The heading of paragraph (2) of section 311(b) of the 1986 Code is amended by striking out "IN EXCESS OF BASIS".

(22) Section 453B of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(h) CERTAIN LIQUIDATING DISTRIBUTIONS BY S CORPORATIONS.—IF—

"(1) an installment obligation is distributed by an S corporation in a complete liquidation, and

"(2) receipt of the obligation is not treated as payment for the stock by reason of section 453(h)(1),

then, except for purposes of any tax imposed by subchapter S, no gain or loss with respect to the distribution of the obligation shall be recognized by the distributing corporation. Under regulations prescribed by the Secretary, the character of the gain or loss to the shareholder shall be determined in accordance with the principles of section 1366(b)."

(f) AMENDMENTS RELATED TO SECTION 632 OF THE REFORM ACT.—

(1) Subsection (a) of section 1374 of the 1986 Code is amended by striking out "a recognized built-in gain" and inserting in lieu thereof "a net recognized built-in gain".

(2) Subsection (b) of section 1374 of the 1986 Code is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be computed by applying the highest rate of tax specified in section 11(b) to the net recognized built-in gain of the S corporation for the taxable year.

"(2) NET OPERATING LOSS CARRYFORWARDS FROM C YEARS ALLOWED.—Notwithstanding section 1371(b)(1), any net operating loss carryforward arising in a taxable year for which the corporation was a C corporation shall be allowed for purposes of this section as a deduction against the net recognized built-in gain of the S corporation for the taxable year. For purposes of determining the amount of any such loss which may be carried to subsequent taxable years, the amount of the net recognized built-in gain shall be treated as taxable income. Rules similar to the rules of the preceding sentences of this paragraph shall apply in the case of a capital loss carryforward arising in a taxable year for which the corporation was a C corporation."

(3) Subparagraph (B) of section 1374(b)(4) of the 1986 Code is amended to read as follows:

"(B) the amount of the net recognized built-in gain shall be treated as the taxable income."

(4) Paragraph (2) of section 1374(c) of the 1986 Code is amended by striking out "recognized built-in gains" each place it appears and inserting in lieu thereof "net recognized built-in gain".

(5)(A) Section 1374 of the 1986 Code is amended by striking out all that follows paragraph (1) of subsection (d) and inserting in lieu thereof the following:

"(2) NET RECOGNIZED BUILT-IN GAIN.—

"(A) IN GENERAL.—The term 'net recognized built-in gain' means, with respect to any taxable year in the recognized period, the lesser of—

"(i) the amount which would be the taxable income of the S corporation for such taxable year if (except as provided in subsection (b)(2)) only recognized built-in gains and recognized built-in losses were taken into account, or

"(ii) such corporation's taxable income for such taxable year (determined as provided in section 1375(b)(1)(B)).

"(B) CARRYOVER.—If, for any taxable year, the amount referred to in clause (i) of subparagraph (A) exceeds the amount referred to in clause (ii) of subparagraph (A), such excess shall be treated as a recognized built-in gain in the succeeding taxable year. The preceding sentence shall apply only in the case of a corporation treated as an S corporation by reason of an election made on or after March 31, 1988.

"(3) RECOGNIZED BUILT-IN GAIN.—The term 'recognized built-in gain' means any gain recognized during the recognition period on the disposition of any asset except to the extent that the S corporation establishes that—

"(A) such asset was not held by the S corporation as of the beginning of the 1st taxable year for which it was an S corporation, or

"(B) such gain exceeds the excess (if any) of—

"(i) the fair market value of such asset as of the beginning of such 1st taxable year, over

"(ii) the adjusted basis of the asset as of such time.

"(4) RECOGNIZED BUILT-IN LOSSES.—The term 'recognized built-in loss' means any loss recognized during the recognition period on the disposition of any asset to the extent that the S corporation establishes that—

"(A) such asset was held by the S corporation as of the beginning of the 1st taxable year referred to in paragraph (3), and

"(B) such loss does not exceed the excess of—

"(i) the adjusted basis of such asset as of the beginning of such 1st taxable year, over

"(ii) the fair market value of such asset as of such time.

"(5) TREATMENT OF CERTAIN BUILT-IN ITEMS.—

"(A) INCOME ITEMS.—Any item of income which is properly taken into account during the recognition period but which is attributable to periods before the 1st taxable year for which the corporation was an S corporation shall be treated as a recognized built-in gain for the taxable year in which it is properly taken into account.

"(B) DEDUCTION ITEMS.—Any amount which is allowable as a deduction during the recognition period but which is attributable to periods before the 1st taxable year referred to in subparagraph (A) shall be treated as a recognized built-in loss for the taxable year for which it is allowable as a deduction.

"(C) ADJUSTMENT TO NET UNREALIZED BUILT-IN GAIN.—The amount of the net unrealized built-in gain shall be properly adjusted for amounts treated as recognized built-in gains or losses under this paragraph.

"(6) TREATMENT OF CERTAIN PROPERTY.—If the adjusted basis of any asset is determined (in whole or in part) by reference to the adjusted basis of any other asset held by the S corporation as of the beginning of the 1st taxable year referred to in paragraph (3)—

"(A) such asset shall be treated as held by the S corporation as of the beginning of such 1st taxable year, and

"(B) any determination under paragraph (3)(B) or (4)(B) with respect to such asset shall be made by reference to the fair market value and adjusted basis of such other asset as of the beginning of such 1st taxable year.

"(7) RECOGNITION PERIOD.—The term 'recognition period' means the 10-year period beginning with the 1st day of the 1st taxable year for which the corporation was an S corporation.

"(8) TREATMENT OF TRANSFER OF ASSETS FROM C CORPORATION TO S CORPORATION.—

"(A) IN GENERAL.—Except to the extent provided in regulations, if—

"(i) an S corporation acquires any asset, and

"(ii) the S corporation's basis in such asset is determined (in whole or in part) by reference to the basis of such asset (or any other property) in the hands of a C corporation,

then a tax is hereby imposed on any net recognized built-in gain attributable to any such assets for any taxable year beginning in the recognition period. The amount of such tax shall be determined under the rules of this section as modified by subparagraph (B).

"(B) MODIFICATIONS.—For purposes of this paragraph, the modifications of this subparagraph are as follows:

"(i) IN GENERAL.—The preceding paragraphs of this subsection shall be applied by taking into account the day on which the assets were acquired by the S corporation in lieu of the beginning of the 1st taxable year for which the corporation was an S corporation.

"(ii) SUBSECTION (C)(1) NOT TO APPLY.—Subsection (c)(1) shall not apply.

"(9) REFERENCE TO 1ST TAXABLE YEAR.—Any reference in this section to the 1st taxable year for which the corporation was an S corporation shall be treated as a reference to the 1st taxable year for which the corporation was an S corporation pursuant to its most recent election under section 1362.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section including regulations providing for the appropriate treatment of successor corporations."

(B) Subparagraph (B) of section 1375(b)(1) of the 1986 Code is amended to read as follows:

"(B) LIMITATION.—The amount of the excess net passive income for any taxable year shall not exceed the amount of the corporation's taxable income for such taxable year as determined under section 63(a)—

"(i) without regard to the deductions allowed by part VIII of subchapter B (other than the deduction allowed by section 248, relating to organization expenditures), and

"(ii) without regard to the deduction under section 172."

(C) Subsection (b) of section 1375 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) COORDINATION WITH SECTION 1374.—Notwithstanding paragraph (3), the amount of passive investment income shall be determined by not taking into account any recognized built-in gain or loss of the S corporation for any taxable year in the recognition period. Terms used in the preceding sentence shall have the same respective meanings as when used in section 1374."

(D) Subsection (c) of section 1375 of the 1986 Code is amended to read as follows:

"(c) CREDITS NOT ALLOWABLE.—No credit shall be allowed under part IV of subchapter A of this chapter (other than section 34) against the tax imposed by subsection (a)."

(E) Paragraph (2) of section 1366(f) of the 1986 Code is amended by striking out "as defined in section 1374(d)(2)" and inserting in lieu thereof "within the meaning of section 1374".

(6) Paragraph (3) of section 1362(d) of the 1986 Code is amended—

(A) by striking out clause (v) of subparagraph (D), and

(B) by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE FOR OPTIONS AND COMMODITY DEALINGS.—

"(i) IN GENERAL.—In the case of any options dealer or commodities dealer, passive investment income shall be determined by not taking into account any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 con-

tracts) from any section 1256 contract or property related to such a contract.

"(ii) DEFINITIONS.—For purposes of this subparagraph—

"(I) OPTIONS DEALER.—The term 'options dealer' has the meaning given such term by section 1256(g)(8).

"(II) COMMODITIES DEALER.—The term 'commodities dealer' means a person who is actively engaged in trading section 1256 contracts and is registered with a domestic board of trade which is designated as a contract market by the Commodities Futures Trading Commission.

"(III) SECTION 1256 CONTRACT.—The term 'section 1256 contract' has the meaning given to such term by section 1256(b)."

(7) The subsection (d) of section 1363 of the 1986 Code which relates to distributions of appreciated property, and subsection (e) of section 1363 of the 1986 Code, are hereby repealed.

(g) AMENDMENTS RELATED TO SECTION 633 OF THE REFORM ACT.—

(1) Subsection (b) of section 633 of the Reform Act is amended to read as follows:

"(b) BUILT-IN GAINS OF S CORPORATIONS.—

"(1) IN GENERAL.—The amendments made by section 632 (other than subsection (b) thereof) shall apply to taxable years beginning after December 31, 1986, but only in cases where the return for the taxable year is filed pursuant to an S election made after December 31, 1986.

"(2) APPLICATION OF PRIOR LAW.—In the case of any taxable year of an S corporation which begins after December 31, 1986, and to which the amendments made by section 632 (other than subsection (b) thereof) do not apply, paragraph (1) of section 1374(b) of the Internal Revenue Code of 1954 (as in effect on the date before the date of the enactment of this Act) shall be applied as if it read as follows:

"'(1) an amount equal to 34 percent of the amount by which the net capital gain of the corporation for the taxable year exceeds $25,000, or' ".

(2) Subparagraph (B) of section 633(c)(1) of the Reform Act is amended by striking out "50 percent or more" and inserting in lieu thereof "more than 50 percent".

(3) Paragraph (1) of section 633(d) of the Reform Act is amended—

(A) by striking out "this section" and inserting in lieu thereof "this subtitle",

(B) by striking out "would be recognized and inserting in lieu thereof "would be recognized by the liquidating corporation", and

(C) by adding at the end thereof the following new sentence: "Section 333 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) shall continue to apply to any complete liquidation described in the preceding sentence.".

(4) Subparagraph (C) of section 633(d)(2) of the Reform Act is amended to read as follows:

"(C) any gain on an asset acquired by the qualified corporation if—

"(i) the basis of such asset in the hands of the qualified corporation is determined (in whole or in part) by reference to the basis of such asset in the hands of the person from whom acquired, and

"(ii) a principal purpose for the transfer of such asset to the qualified corporation was to secure the benefits of this subsection."

(5)(A) Subparagraph (A) of section 633(d)(5) of the Reform Act is amended by striking out "10 or fewer qualified persons" and inserting in lieu thereof "a qualified group".

(B) Paragraph (6) of section 633(d) of the Reform Act is amended to read as follows:

"(6) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) QUALIFIED GROUP.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'qualified group' means any group of 10 or fewer qualified persons who at all times during the 5-year period ending on the date of the adoption of the plan of complete liquidation (or, if shorter, the period during which the corporation or any predecessor was in existence) owned (or was treated as owning under the rules of subparagraph (C)) more than 50 percent (by value) of the stock in such corporation.

"(ii) 5-YEAR OWNERSHIP REQUIREMENT NOT TO APPLY IN CERTAIN CASES.—In the case of—

"(I) any complete liquidation pursuant to a plan of liquidation adopted before March 31, 1988,

"(II) any distribution not in liquidation made before March 31, 1988,

"(III) an election to be an S corporation filed before March 31, 1988, or

"(IV) a transaction described in section 338 of the Internal Revenue Code of 1986 where the acquisition date (within the meaning of such section 338) is before March 31, 1988,

the term 'qualified group' means any group of 10 or fewer qualified persons.

"(B) QUALIFIED PERSON.—The term 'qualified person' means—

"(i) an individual,

"(ii) an estate, or

"(iii) any trust described in clause (ii) or clause (iii) of section 1361(c)(2)(A) of the Internal Revenue Code of 1986.

"(C) ATTRIBUTION RULES.—

"(i) IN GENERAL.—Any stock owned by a corporation, trust (other than a trust referred to in subparagraph (B)(iii), or partnership shall be treated as owned proportionately by its shareholders, beneficiaries, or partners, and shall not be treated as owned by such corporation, trust, or partnership. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(ii) FAMILY MEMBERS.—Stock owned (or treated as owned) by members of the same family (within the meaning of section 318(a)(1) of the Internal Revenue Code of 1986) shall be treated as owned by 1 person, and shall be treated as owned by such 1 person for any period during which it was owned (or treated as owned) by any such member.

"(iii) TREATMENT OF CERTAIN TRUSTS.—Stock owned (or treated as owned) by the estate of any decedent or by any trust referred to in subparagraph (B)(iii) with respect to such decedent shall be treated as owned by 1 person and shall be treated as owned by such 1 person for the period during which it was owned (or treated as owned) by such estate or any such trust or by the decedent.

"(D) SPECIAL HOLDING PERIOD RULES.—Any property acquired by reason of the death of an individual shall be treated as owned at all times during which such property was owned (or treated as owned) by the decedent.

"(E) CONTROLLED GROUP OF CORPORATIONS.—All members of the same controlled group (as defined in section 267(f)(1) of such Code) shall be treated as 1 corporation for purposes of determining whether any of such corporations met the requirement of paragraph (5)(B) and for purposes of determining the applicable percentage with respect to any of such corporations. For purposes of the preceding sentence, an S corporation shall not be treated as a member of a controlled group unless such corporation was a C corporation for its taxable year which includes August 1, 1986, or it was not described for such taxable year in paragraph (1) or (2) of section 1374(c) of such Code (as in effect on the day before the date of the enactment of this Act)."

(6) Subsection (d) of section 633 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(9) APPLICATION TO NONLIQUIDATING DISTRIBUTIONS.—The provisions of this subsection shall also apply in the case of any distribution (not in complete liquidation) made by a qualified corporation before January 1, 1989, without regard to whether such corporation is completely liquidated."

(7) Paragraph (8) of the section 633(d) of the Reform Act is amended by striking out "becomes an S corporation for a taxable year beginning before January 1, 1989" and inserting in lieu thereof "makes an election to be an S corporation under section 1362 of such Code before January 1, 1989, without regard to whether such corporation is completely liquidated".

(8) Section 633 of the Reform Act is amended by redesignating the subsections following the first subsection (d) as subsections (e), (f), and (g), respectively.

(9) Subsection (f)(2) of section 633 of the Reform Act (as so redesignated) is amended by striking out "May 9, 1929" and inserting in lieu thereof "May 9, 1929 (or any direct or indirect subsidiary of such corporation)".

(10) Paragraph (3) of section 633(f) of the Reform Act (as so redesignated) is amended by striking out "of such Code)" in the last sentence thereof and inserting in lieu thereof "of such Code".

(11) Subclause (I) of section 633(f)(4)(A)(i) of the Reform Act (as so redesignated) is amended by striking out "binding on the selling corporation to sell substantially all its assets" and inserting in lieu thereof "to sell substantially all of the assets of a selling corporation organized under the laws of Massachusetts on October 20, 1976,".

(12) Subparagraph (A) of section 633(f)(5) of the Reform Act (as so redesignated) is amended to read as follows:

"(A) a voting trust established not later than December 31, 1987, shall qualify as a trust permitted as a shareholder of an S corporation and shall be treated as only 1 shareholder if the holders of beneficial interests in such voting trust are—

"(i) employees or retirees of such corporation, or

"(ii) in the case of stock or voting trust certificates acquired from an employee or retiree of such corporation, the spouse, child, or estate of such employee or retiree or a trust created by such employee or retiree which is described in section 1361(c)(2) of the Internal Revenue Code of 1986 (or treated as described in such section by reason of section 1361(d) of such Code), and".

(h) AMENDMENTS RELATED TO SECTION 641 OF THE REFORM ACT.—

(1) Paragraph (3) of section 1060(b) of the 1986 Code is amended by striking out "the Secretary may find necessary" and inserting in lieu thereof "the Secretary deems necessary".

(2) Section 1060 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(d) TREATMENT OF CERTAIN PARTNERSHIP TRANSACTIONS.—In the case of a distribution of partnership property or a transfer of an interest in a partnership—

"(1) the rules of subsection (a) shall apply but only for purposes of determining the value of goodwill or going concern value (or similar items) for purposes of applying section 755, and

"(2) if section 755 applies, such distribution or transfer (as the case may be) shall be treated as an applicable asset acquisition for purposes of subsection (b)."

(3)(A) Subparagraph (B) of section 6724(d)(1) of the 1986 Code (defining information return) is amended by striking out "or" at the end of clause (ix), by striking out the period at the end of clause (x) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(xi) section 1060(b) (relating to reporting requirements of transferors and transferees in certain asset acquisitions)."

(B) Section 1060 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) CROSS REFERENCE.—

"For provisions relating to penalties for failure to file a return required by this section, see section 6721."

(i) AMENDMENTS RELATED TO SECTION 642 OF THE REFORM ACT.—

(1) Paragraph (1) of section 453(g) of the 1986 Code is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) subsection (a) shall not apply,

"(B) for purposes of this title—

"(i) except as provided in clause (ii), all payments to be received shall be treated as received in the year of the disposition, and

"(ii) in the case of any payments which are contingent as to the amount but with respect to which the fair market value may not be reasonably ascertained, the basis shall be recovered ratably, and

"(C) the purchaser may not increase the basis of any property acquired in such sale by any amount before the time such amount is includible in the gross income of the seller."

(2)(A) Section 453(g) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) RELATED PERSONS.—For purposes of this subsection, the term 'related persons' has the meaning given to such term by section 1239(b), except that such term shall include 2 or more partnerships having a relationship to each other described in section 707(b)(1)(B)."

(B) Section 453(g)(1) of the 1986 Code is amended by striking out "(within the meaning of section 1239(b))".

(3) The heading of paragraph (2) of section 642(c) of the Reform Act is amended by striking out "TRADITIONAL" and inserting in lieu thereof "TRANSITIONAL".

(j) AMENDMENTS RELATED TO SECTION 643 OF THE REFORM ACT.—

(1)(A) Subsection (e) of section 171 of the 1986 Code is amended to read as follows:

"(e) TREATMENT AS OFFSET TO INTEREST PAYMENTS.—Except as provided in regulations, in the case of any taxable bond—

"(1) the amount of any bond premium shall be allocated among the interest payments on the bond under rules similar to the rules of subsection (b)(3), and

"(2) in lieu of any deduction under subsection (a), the amount of any premium so allocated to any interest payment shall be applied against (and operate to reduce) the amount of such interest payment.

For purposes of the preceding sentence, the term 'taxable bond' means any bond the interest of which is not excludable from gross income."

(B) Paragraph (5) of section 1016(a) of the 1986 Code is amended by striking out "allowable pursuant to section 171(a)(1)" and inserting in lieu thereof "allowable pursuant to section 171(a)(1) (or the amount applied to reduce interest payments under section 171(e)(2))".

(C) The amendments made by this paragraph shall apply in the case of obligations acquired after December 31, 1987; except that the taxpayer may elect to have such amendment apply to obligations acquired after October 22, 1986.

(2) Paragraph (2) of section 643(b) of the Reform Act is amended by striking out "issued after" and inserting in lieu thereof "acquired after".

(k) AMENDMENTS RELATED TO SECTION 646 OF THE REFORM ACT.—

(1) Paragraph (2) of section 646(b) of the Reform Act is amended to read as follows:

"(2) such entity is exclusively engaged in the leasing of mineral property and activities incidental thereto, and".

(2) Paragraph (3) of section 646(b) of the Reform Act is amended by inserting "as of October 22, 1986," after "publicly traded".

(3) Subparagraph (A) of section 646(c)(1) of the Reform Act is amended by inserting "before January 1, 1991" after "entity".

(4) Paragraph (2) of section 646(c) of the Reform Act is amended to read as follows:

"(2) AGREEMENT.—

"(A) IN GENERAL.—The agreement described in this paragraph is a written agreement signed by the board of trustees of the entity which provides that the entity will not acquire any additional property other than property described in subparagraph (B).

"(B) PERMISSIBLE ACQUISITIONS.—Property is described in this paragraph if it is—

"(i) surface rights to property the acquisition of which—

"(I) is necessary to mine mineral rights held on October 22, 1986, and

"(II) is required by a written binding agreement between the entity and an unrelated person entered into on or before October 22, 1986,

"(ii) surface rights to property which are not described in clause (i) and which—

"(I) are acquired in an exchange to which section 1031 applies, and

"(II) are necessary to mine mineral rights held on October 22, 1986,

"(iii) tangible personal property incidental to the leasing of mineral property and activities incidental thereto, or

"(iv) part of any required reserves of the entity."

(5) Paragraph (1) of section 646(d) of the Reform Act is amended by striking out subparagraph (B) and inserting in lieu thereof:

"(B) for purposes of section 333 of such Code (as so in effect)—

"(i) any person holding an income interest in such entity as of such time shall be treated as a qualified electing shareholder, and

"(ii) the earnings and profits, and the value of money or stock or securities, of such entity shall be apportioned ratably among persons described in clause (i).

The amendments made by subtitle D of this title and section 1804 of this Act shall not apply to any liquidation under this paragraph."

(6)(A) Paragraph (2) of section 646(d) of the Reform Act is amended to read as follows:

"(2) TERMINATION OF ELECTION.—If an entity ceases to be described in subsection (b) or violates any term of the agreement described in subsection (c)(2), the entity shall, for purposes of the Internal Revenue Code of 1986, be treated as a corporation for the taxable year in which such cessation or violation occurs and for all subsequent taxable years."

(B) Paragraph (3) of section 646(c) of the Reform Act is amended to read as follows:

"(3) BEGINNING OF PERIOD FOR WHICH ELECTION IS IN EFFECT.—The period during which an election is in effect under this subsection shall begin on the 1st day of the 1st taxable year beginning after the date of the enactment of this Act and following the taxable year in which the election is made."

(7)(A) Subsection (e) of section 646 of the Reform Act is amended to read as follows:

"(e) SPECIAL RULE FOR PERSONS HOLDING INCOME INTERESTS.—In applying subpart E of part I of subchapter J of chapter 1 of the Internal Revenue Code of 1986 to any entity to which this section applies—

"(1) a reversionary interest shall not be taken into account until it comes into possession, and

"(2) all items of income, gain, loss, deduction, and credit shall be allocated to persons holding income interests for the period of the allocation."

(B) Section 646(d)(3) of the Reform Act is amended by striking out "or by reason of subsection (e)".

(l) AMENDMENTS RELATED TO SECTION 651 OF THE REFORM ACT.—

(1)(A) Paragraph (6) of section 852(b) of the 1986 Code (as added by section 651(b)(1)(A) of the Reform Act) is redesignated as paragraph (7).

(B) Subsection (b) of section 855 of the 1986 Code is amended by striking out "section 852(b)(6)" and inserting in lieu thereof "section 852(b)(7)".

(2) Paragraph (2) of section 4982(e) of the 1986 Code is amended to read as follows:

"(2) CAPITAL GAIN NET INCOME.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'capital gain net income' has the meaning given such term by section 1222(9) (determined by treating the 1-year period ending on October 31 of any calendar year as the company's taxable year).

"(B) REDUCTION BY NET ORDINARY LOSS FOR CALENDAR YEAR.—The amount determined under subparagraph (A) shall be reduced (but not below the net capital gain) by the amount of the company's net ordinary loss for the calendar year.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) NET CAPITAL GAIN.—The term 'net capital gain' has the meaning given such term by section 1222(11) (determined by treating the 1-year period ending on October 31 of the calendar year as the company's taxable year).

"(ii) NET ORDINARY LOSS.—The net ordinary loss for the calendar year is the amount which would be the net operating loss of the company for the calendar year if the amount of such loss were determined in the same manner as ordinary income is determined under paragraph (1)."

(3) Paragraph (2) of section 852(c) of the 1986 Code is amended to read as follows:

"(2) COORDINATION WITH TAX ON UNDISTRIBUTED INCOME.—For purposes of applying this chapter to distributions made by a regulated investment company with respect to any calendar year, the earnings and profits of such company shall be determined without regard to any net capital loss (or net foreign currency loss) attributable to transactions after October 31 of such year and with such

other adjustments as the Secretary may by regulations prescribe. The preceding sentence shall apply—

"(A) only to the extent that the amount distributed by the company with respect to the calendar year does not exceed the required distribution for such calendar year (as determined under section 4982 by substituting '100 percent' for each percentage set forth in section 4982(b)(1)), and

"(B) except as provided in regulations, only if an election under section 4982(e)(4) is not in effect with respect to such company."

(4) Subparagraph (C) of section 852(b)(3) of the 1986 Code is amended—

(A) by striking out "net capital loss" each place it appears in the 3rd sentence and inserting in lieu thereof "net capital loss or net long-term capital loss", and

(B) by striking out "regulated investment company taxable income" in the last sentence and inserting in lieu thereof "the taxable income of the regulated investment company".

(5) Subsection (e) of section 4982 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF FOREIGN CURRENCY GAINS AND LOSSES AFTER OCTOBER 31 OF CALENDAR YEAR.—Any foreign currency gain or loss which is attributable to a section 988 transaction and which is properly taken into account for the portion of the calendar year after October 31 shall not be taken into account in determining the amount of the ordinary income of the regulated investment company for such calendar year but shall be taken into account in determining the ordinary income of the investment company for the following calendar year. In the case of any company making an election under paragraph (4), the preceding sentence shall be applied by substituting the last day of the company's taxable year for October 31."

(6) Section 4982 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) EXCEPTION FOR CERTAIN REGULATED INVESTMENT COMPANIES.—This section shall not apply to any regulated investment company for any calendar year if at all times during such calendar year each shareholder in such company was either—

"(1) a trust described in section 401(a) and exempt from tax under section 501(a), or

"(2) a segregated asset account of a life insurance company held in connection with variable contracts (as defined in section 817(d)).

For purposes of the preceding sentence, any shares attributable to an investment in the regulated investment company (not exceeding $250,000) made in connection with the organization of such company shall not be taken into account."

(7) Subsection (b) of section 852 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) SPECIAL RULE FOR TREATMENT OF CERTAIN FOREIGN CURRENCY LOSSES.—To the extent provided in regulations, the taxable income of a regulated investment company (other than a company to which an election under section 4982(e)(4) applies) shall be computed without regard to any net foreign currency loss attributable to transactions after October 31 of such year, and any such net foreign currency loss shall be treated as arising on the 1st day of the following taxable year."

(8) Subsection (a) of section 852 of the 1986 Code is amended by adding at the end thereof the following new sentence:

"The Secretary may waive the requirements of paragraph (1) for any taxable year if the regulated investment company establishes to the satisfaction of the Secretary that it was unable to meet such requirements by reason of distributions previously made to meet the requirements of section 4982."

(9) Effective with respect to dividends declared in 1988 and subsequent calendar years, paragraph (7) of section 852(b) of the 1986 Code (as redesignated by paragraph (1)) is amended—

(A) by striking out "in December" and inserting in lieu thereof "in October, November, or December",

(B) by striking out "in such month" and inserting in lieu thereof "in such a month",

(C) by striking out "on such date" in subparagraphs (A) and (B) and inserting in lieu thereof "on December 31 of such calendar year", and

(D) by striking out "before February 1" and inserting in lieu thereof "during January".

(10) Paragraph (1) of section 852(e) of the 1986 Code is amended by striking out "subsection (a)(3)" and inserting in lieu thereof "subsection (a)(2)".

(m) AMENDMENTS RELATED TO SECTION 652 OF THE REFORM ACT.—

(1) Paragraph (1) of section 851(a) of the 1986 Code is amended to read as follows:

"(1) which, at all times during the taxable year—

"(A) is registered under the Investment Company Act of 1940, as amended (15 U.S.C. 80a-1 to 80b-2) as a management company or unit investment trust, or

"(B) has in effect an election under such Act to be treated as a business development company, or".

(2) Paragraph (1) of section 851(e) of the 1986 Code is amended by striking out "a registered management company or registered business development company" and inserting in lieu thereof "a management company or a business development company described in subsection (a)(1)".

(n) AMENDMENTS RELATED TO SECTION 653 OF THE REFORM ACT.—

(1) Subsection (b) of section 851 of the 1986 Code is amended by adding at the end thereof the following new sentence: "Income derived from a partnership or trust shall be treated as described in paragraph (2) only to the extent such income is attributable to items of income of the partnership or trust (as the case may be) which would be described in paragraph (2) if realized by the regulated investment company in the same manner as realized by the partnership or trust."

(2)(A) Paragraph (3) of section 851(b) of the 1986 Code is amended to read as follows:

"(3) less than 30 percent of its gross income is derived from the sale or disposition of any of the following which was held for less than 3 months:

"(A) stock or securities (as defined in section 2(a)(36) of the Investment Company Act of 1940, as amended),

"(B) options, futures, or forward contracts (other than options, futures, or forward contracts on foreign currencies), or

"(C) foreign currencies (or options, futures, or forward contracts on foreign currencies) but only if such currencies (or options, futures, or forward contracts) are not directly related to the company's principal business of investing in stock or securities (or options and futures with respect to stocks or securities), and".

(B) Subsection (b) of section 851 of the 1986 Code is amended by striking out "which are not ancillary" in the material following paragraph (4), and inserting in lieu thereof "which are not directly related".

(C) Subparagraph (C) of section 851(b)(3) of the 1986 Code (as amended by subparagraph (A)), and the amendment made by subparagraph (B), shall apply to taxable years beginning after the date of the enactment of this Act.

(4) Clause (i) of section 851(g)(2)(A) of the 1986 Code (defining designated hedge) is amended by striking out "contractual option" and inserting in lieu thereof "contractual obligation".

(5) Subsection (b) of section 851 of the 1986 Code is amended by adding at the end thereof the following new sentence: "In the case of the taxable year in which a regulated investment company is completely liquidated, there shall not be taken into account under paragraph (3) any gain from the sale, exchange, or distribution of any property after the adoption of the plan of complete liquidation."

(o) AMENDMENTS RELATED TO SECTION 654 OF THE REFORM ACT.—Subsection (q) of section 851 of the 1986 Code (as added by section 654 of the Reform Act)—

(1) is redesignated as subsection (h), and

(2) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR ABNORMAL REDEMPTIONS.—

"(A) IN GENERAL.—Any fund treated as a separate corporation under paragraph (1) shall not be disqualified under subsection (b)(3) for any taxable year by reason of sales resulting from abnormal redemptions on any day and occurring before the close of the 5th business day after such day if—

"(i) the sum of the percentages determined under subparagraph (B) for the abnormal redemptions on such day and for abnormal redemptions on prior days during such taxable year exceeds 30 percent; and

"(ii) the regulated investment company of which such fund is a part would meet the requirements of subsection (b)(3) for such taxable year if all the funds which are part of such company were treated as a single company.

"(B) ABNORMAL REDEMPTIONS.—For purposes of subparagraph (A), the term 'abnormal redemptions' means redemptions occurring on any day if the net redemptions on such day exceed 1 percent of the fund's net asset value.

"(C) DETERMINATION OF NET ASSET VALUE.—For purposes of this paragraph, net asset value for any day shall be determined as of the close of the preceding day.

"(D) LIMITATION.—For purposes of subparagraph (A), any sale or other disposition of stock or securities held less than 3 months occurring during any day shall be deemed to result from abnormal redemptions until the cumulative proceeds from such sales or dispositions occurring during such day, plus the cumulative net positive cash flow of the fund for preceding business days (if any) following the day with abnormal redemptions, exceed the amount of net redemptions on the day with abnormal redemptions."

(p) AMENDMENTS RELATED TO SECTION 662 OF THE REFORM ACT.—

(1) Subclause (I) of section 856(c)(6)(D)(i) of the 1986 Code (as added by section 662 of the Reform Act) is amended by striking out "debt instrument" and inserting in lieu thereof "debt instrument (within the meaning of section 1275(a)(1))".

(2) Notwithstanding section 669 of the Reform Act, the amendment made by section 662(c) of the Reform Act shall apply to tax-

able years beginning after December 31, 1986, but only in the case of obligations acquired after October 22, 1986.

(3) Subsection (c) of section 856 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) TREATMENT OF LIQUIDATING GAINS.—In the case of the taxable year in which a real estate investment trust is completely liquidated, there shall not be taken into account under paragraph (4) any gain from the sale, exchange, or distribution of any property after the adoption of the plan of complete liquidation."

(4)(A) Paragraph (6) of section 856(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(G) TREATMENT OF INCOME RECEIVED UNDER CERTAIN AGREEMENTS LIMITING INTEREST RATE RISK.—

"(i) IN GENERAL.—In the case of any agreement described in clause (ii)—

"(I) any payment to the real estate investment trust under such agreement (and any gain from the sale or other disposition of such agreement) shall be treated as income qualifying under paragraph (2), and

"(II) such agreement shall be treated as a security for purposes of paragraph (4)(A).

"(ii) DESCRIPTION OF AGREEMENT.—An agreement is described in this clause if such agreement is a bona fide interest rate swap or interest rate cap agreement which protects the real estate investment trust from interest rate fluctuations under any variable rate indebtedness of such trust incurred to acquire (or carry) real property or interests in real property or committed to such an acquisition."

(B) The amendment made by subparagraph (A) shall apply to taxable years ending after the date of the enactment of this Act.

(5) Subclause (I) of section 856(c)(6)(D)(ii) of the 1986 Code (as added by section 662 of the Reform Act) is amended by striking out "stock in" and inserting in lieu thereof "stock (or certificates of beneficial interests) in".

(q) AMENDMENTS RELATED TO SECTION 663 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 856(d)(6) of the 1986 Code is amended to read as follows:

"(A) IN GENERAL.—If—

"(i) a real estate investment trust receives or accrues, with respect to real or personal property, amounts from a tenant which derives substantially all of its income with respect to such property from the subleasing of substantially all of such property, and

"(ii) a portion of the amount such tenant receives or accrues, directly or indirectly, from subtenants consists of qualified rents,

then the amounts which the trust receives or accrues from the tenant shall not be excluded from the term 'rents from real property' by reason of being based on the income or profits of such tenant to the extent the amounts so received or accrued are attributable to qualified rents received or accrued by such tenant."

(2) Subsection (f) of section 856 of the 1986 Code is amended to read as follows:

"(f) INTEREST.—

"(1) IN GENERAL.—For purposes of paragraphs (2)(B) and (3)(B) of subsection (c), the term 'interest' does not include any amount received or accrued, directly or indirectly, if the determination of such amount depends in whole or in part on the income or profits of any person except that—

"(A) any amount so received or accrued shall not be excluded from the term 'interest' solely by reason of being based on a fixed percentage or percentages of receipts or sales, and

"(B) where a real estate investment trust receives any amount which would be excluded from the term 'interest' solely because the debtor of the real estate investment trust receives or accrues any amount the determination of which depends in whole or in part on the income or profits of any person, only a proportionate part (determined pursuant to regulations prescribed by the Secretary) of the amount received or accrued by the real estate investment trust from the debtor will be excluded from the term 'interest'.

"(2) SPECIAL RULE.—If—

"(A) a real estate investment trust receives or accrues with respect to an obligation secured by a mortgage on real property or an interest in real property amounts from a debtor which derives substantially all of its gross income with respect to such property (not taking into account any grain on any disposition) from the leasing of substantially all of its interests in such property to tenants, and

"(B) a portion of the amount which such debtor receives or accrues, directly or indirectly, from tenants consists of qualified rents (as defined in subsection (d)(6)(B)),

then the amounts which the trust receives or accrues from such debtor shall not be excluded from the term 'interest' by reason of being based on the income or profits of such debtor to the extent the amounts so received are attributable to qualified rents received or accrued by such debtor."

(r) AMENDMENT RELATED TO SECTION 664 OF THE REFORM ACT.—Clause (i) of section 857(e)(2)(B) of the 1986 Code is amended by striking out "as original issue discount on instruments" and inserting "with respect to instruments".

(s) AMENDMENTS RELATED TO SECTION 668 OF THE REFORM ACT.—

(1) Paragraph (2) of section 4981(e) of the 1986 Code is amended to read as follows:

"(2) CAPITAL GAIN NET INCOME.—

"(A) IN GENERAL.—The term 'capital gain net income' has the meaning given such term by section 1222(9) (determined by treating the calendar year as the trust's taxable year).

"(B) REDUCTION FOR NET ORDINARY LOSS.—The amount determined under subparagraph (A) shall be reduced by the amount of the trust's net ordinary loss for the taxable year.

"(C) NET ORDINARY LOSS.—For purposes of this paragraph, the net ordinary loss for the calendar year is the amount which would be net operating loss of the trust for the calendar year if the amount of such loss were determined in the same manner as ordinary income is determined under paragraph (1)."

(2) Subparagraph (C) of section 857(b)(3) of the 1986 Code is amended by striking out "real estate investment trust taxable income" in the last sentence and inserting in lieu thereof "the taxable income of the real estate investment trust".

(3) Subparagraph (A) of section 4981(c)(1) of the 1986 Code is amended by striking out "such calendar year" and inserting in lieu thereof "such calendar year (but computed without regard to that portion of such deduction which is attributable to the amount excluded under section 857(b)(2)(D))".

(4) Subsection (a) of section 857 of the 1986 Code is amended by adding at the end thereof the following new sentence:

"The Secretary may waive the requirements of paragraph (1) for any taxable year if the real estate investment trust establishes to the satisfaction of the Secretary that it was unable to meet such requirements by reason of distributions previously made to meet the requirements of section 4981."

(5) Effective with respect to dividends declared in 1988 and subsequent calendar years, paragraph (8) of section 857(b) of the 1986 Code is amended—

(A) by striking out "in December" and inserting in lieu thereof "in October, November, or December",

(B) by striking out "in such month" and inserting in lieu thereof "in such a month",

(C) by striking out "on such date" in subparagraphs (A) and (B) and inserting in lieu thereof "on December 31 of such calendar year", and

(D) by striking out "before February 1" and inserting in lieu thereof "during January".

(t) AMENDMENTS RELATED TO SECTION 671 OF THE REFORM ACT.—

(1) Paragraph (1) of section 860C(e) of the 1986 Code is amended to read as follows:

"(1) AMOUNTS TREATED AS ORDINARY.—Any amount taken into account under subsection (a) by any holder of a residual interest in a REMIC shall be treated as ordinary income or ordinary loss, as the case may be."

(2)(A) Paragraph (4) of section 860D(a) of the 1986 Code is amended—

(i) by striking out "4th month ending after" and inserting in lieu thereof "3rd month beginning after", and

(ii) by striking out "and each quarter ending thereafter" and inserting in lieu thereof "and at all times thereafter".

(B) The amendment made by subparagraph (A)(ii) shall take effect on January 1, 1988.

(3)(A) Clause (i) of section 860F(a)(2)(A) of the 1986 Code is amended to read as follows:

"(i) the substitution of a qualified replacement mortgage for a qualified mortgage (or the repurchase in lieu of substitution of a defective obligation),".

(B)(i) Paragraph (2) of section 860F(a) of the 1986 Code is amended by striking out the last sentence of subparagraph (A).

(ii) Subsection (a) of section 860F of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) EXCEPTIONS.—Notwithstanding subparagraphs (A) and (D) of paragraph (1), the term 'prohibited transaction' shall not include any disposition—

"(A) required to prevent default on a regular interest where the threatened default resulted from a default on 1 or more qualified mortgages, or

"(B) to facilitate a clean-up call (as defined in regulations)."

(C) Subparagraph (D) of section 860F(a)(2) of the 1986 Code is amended by striking out "described in subsection (b)".

(4) Subparagraph (A) of section 860F(b)(1) of the 1986 Code is amended by striking out "the transfer of any property to a REMIC" and inserting in lieu thereof "the transfer of any property to a REMIC in exchange for regular or residual interests in such REMIC".

(5)(A) Paragraph (1) of section 860G(a) of the 1986 Code is amended to read as follows:

"(1) REGULAR INTEREST.—The term 'regular interest' means any interest in a REMIC which is issued on the startup day with fixed terms and which is designated as a regular interest if—

"(A) such interest unconditionally entitles the holder to receive a specified principal amount (or other similar amount), and

"(B) interest payments (or other similar amount), if any, with respect to such interest at or before maturity—

"(i) are payable based on a fixed rate (or to the extent provided in regulations, at a variable rate), or

"(ii) consist of a specified portion of the interest payments on qualified mortgages and such portion does not vary during the period such interest is outstanding.

The interest shall not fail to meet the requirements of subparagraph (A) merely because the timing (but not the amount) of the principal payments (or other similar amounts) may be contingent on the extent of prepayments on qualified mortgages and the amount of income from permitted investments."

(B) Paragraph (2) of section 860G(a) of the 1986 Code is amended to read as follows:

"(2) RESIDUAL INTEREST.—The term 'residual interest' means an interest in a REMIC which is issued on the startup day, which is not a regular interest, and which is designated as a residual interest."

(C) Paragraph (3) of section 860G(a) of the 1986 Code is amended—

(i) by striking out "on or before the startup day" in subparagraph (A)(i) and inserting in lieu thereof "on the startup day in exchange for regular or residual interests in the REMIC",

(ii) by inserting "if, except as provided in regulations, such purchase is pursuant to a fixed-price contract in effect on the startup day" before the comma at the end of subparagraph (A)(ii), and

(iii) by striking out "on or before the startup day" in subparagraph (C) and inserting in lieu thereof "on the startup day in exchange for regular or residual interests in the REMIC".

(D) Subparagraph (A) of section 860G(a)(4) of the 1986 Code is amended to read as follows:

"(A) which would be a qualified mortgage if transferred on the startup day in exchange for regular or residual interests in the REMIC, and".

(E) Paragraph (9) of section 860G(a) of the 1986 Code is amended to read as follows:

"(9) STARTUP DAY.—The term 'startup day' means the day on which the REMIC issues all of its regular and residual interests. To the extent provided in regulations, all interests issued (and all transfers to the REMIC) during any period (not exceeding 10 days) permitted in such regulations shall be treated as occurring on the day during such period selected by the REMIC for purposes of this paragraph."

(F) The amendments made by this paragraph shall not apply to any REMIC where the startup day (as defined in section 860G(a)(9) of the 1986 Code as in effect on the day before the date of the enactment of this Act) is before July 1, 1987.

(6) Paragraph (3) of section 860G(a) of the 1986 Code is amended—

(A) by striking out "directly or indirectly," in subparagraph (A), and

(B) by adding at the end thereof the following new sentence:

"For purposes of this subparagraph, any obligation secured by stock held by a person as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as so defined) shall be treated as secured by an interest in real property."

(7) Subparagraph (B) of section 860G(a)(7) of the 1986 Code is amended by inserting before the period at the end of the 1st sentence the following: "or lower than expected returns on cash flow investments".

(8)(A) Paragraph (8) of section 860G(a) of the 1986 Code is amended—

(i) by striking out "section 856(e)" in subparagraph (A) and inserting in lieu thereof "section 856(e) (without regard to paragraph (5) thereof)", and

(ii) by striking out the last sentence and inserting in lieu thereof the following:

"Solely for purposes of section 860D(a), the determination of whether any property is foreclosure property shall be made without regard to section 856(e)(4)."

(B) Section 860G of the 1986 Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) TAX ON INCOME FROM FORECLOSURE PROPERTY.—

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the net income from foreclosure property of each REMIC. Such tax shall be computed by multiplying the net income from foreclosure property by the highest rate of tax specified in section 11(b).

"(2) NET INCOME FROM FORECLOSURE PROPERTY.—For purposes of this part, the term 'net income from foreclosure property' means the amount which would be the REMIC's net income from foreclosure property under section 857(b)(4)(B) if the REMIC were a real estate investment trust."

(C) Paragraph (1) of section 860C(b) of the 1986 Code is amended by striking out "and" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(E) the amount of the net income from foreclosure property (if any) shall be reduced by the amount of the tax imposed by section 860G(c)."

(9)(A) Section 860G of the 1986 Code (as amended by paragraph (8)) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) TAX ON CONTRIBUTIONS AFTER STARTUP DATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if any amount is contributed to a REMIC after the startup day, there is hereby imposed a tax for the taxable year of the REMIC in which the contribution is received equal to 100 percent of the amount of such contribution.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to any contribution which is made in cash and is described in any of the following subparagraphs:

"(A) Any contribution to facilitate a clean-up call (as defined in regulations) or a qualified liquidation.

"(B) Any payment in the nature of a guarantee.

"(C) Any contribution during the 3-month period beginning on the startup day.

"(D) Any contribution to a qualified reserve fund by any holder of a residual interest in the REMIC.

"(E) Any other contribution permitted in regulations."

(B) The amendment made by subparagraph (A) shall not apply to any REMIC where the startup day (as defined in section 860G(a)(9) of the 1986 Code as in effect on the day before the date of the enactment of this Act) is before July 1, 1987.

(10) Subsection (e) of section 860G of the 1986 Code (as redesignated by paragraph (9)) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof a comma, and by adding at the end thereof the following new paragraphs:

"(4) providing appropriate rules for treatment of transfers of qualified replacement mortgages to the REMIC where the transferor holds any interest in the REMIC, and

"(5) providing that a mortgage will be treated as a qualified replacement mortgage only if it is part of a bona fide replacement (and not part of a swap of mortgages)."

(11) Paragraph (6) of section 856(c) of the 1986 Code is amended by redesignating the last subparagraph as subparagraph (F) and by striking out the subparagraph (D) added by section 671(b)(1) of the Reform Act and inserting in lieu thereof the following:

"(E) A regular or residual interest in a REMIC shall be treated as a real estate asset, and any amount includable in gross income with respect to such an interest shall be treated as interest on an obligation secured by a mortgage on real property; except that, if less than 95 percent of the assets of such REMIC are real estate assets (determined as if the real estate investment trust held such assets), such real estate investment trust shall be treated as holding directly (and as receiving directly) its proportionate share of the assets and income of the REMIC. For purposes of determining whether any interest in a REMIC qualifies under the preceding sentence, any interest held by such REMIC in another REMIC shall be treated as a real estate asset under principles similar to the principles of the preceding sentence, except that, if such REMIC's are part of a tiered structure, they shall be treated as one REMIC for purposes of this subparagraph."

(12) Clause (xi) of section 7701(a)(19)(C) of the 1986 Code is amended by striking out "are loans described" and inserting in lieu thereof "are assets described".

(13) Subparagraph (B) of section 860E(c)(2) of the 1986 Code is amended by striking out "issue price of residual interest" and inserting in lieu thereof "issue price of the residual interest".

(14) Clause (ii) of section 860F(b)(1)(D) of the 1986 Code is amended by striking out "the real estate mortgage pool" and inserting in lieu thereof "the REMIC".

(15) Subsection (a) of section 860E of the 1986 Code is amended by adding at the end thereof the following new paragraphs:

"(3) SPECIAL RULE FOR AFFILIATED GROUPS.—All members of an affiliated group filing a consolidated return shall be treated as 1 taxpayer for purposes of this subsection, except that paragraph (2) shall be applied separately with respect to each corporation which is a member of such group and to which section 593 applies.

"(4) TREATMENT OF CERTAIN SUBSIDIARIES.—

"(A) IN GENERAL.—For purposes of this subsection, a corporation to which section 593 applies and each qualified subsidiary of such corporation shall be treated as a single corporation to which section 593 applies.

"(B) QUALIFIED SUBSIDIARY.—For purposes of this subsection, the term 'qualified subsidiary' means any corporation—

"(i) all the stock of which, and substantially all the indebtedness of which, is held directly by the corporation to which section 593 applies, and

"(ii) which is organized and operated exclusively in connection with the organization and operation of 1 or more REMIC's."

(16)(A) Subsection (a) of section 860D of the 1986 Code is amended by striking out "and" at the end of paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof ", and", and

by adding at the end thereof the following new paragraph:

"(6) with respect to which there are reasonable arrangements designed to ensure that—

"(A) residual interests in such entity are not held by disqualified organizations (as defined in section 860E(e)(5)), and

"(B) information necessary for the application of section 860E(e) will be made available by the entity."

(B) Section 860E of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) TAX ON TRANSFERS OF RESIDUAL INTERESTS TO CERTAIN ORGANIZATIONS, ETC.—

"(1) IN GENERAL.—A tax is hereby imposed on any transfer of a residual interest in a REMIC to a disqualified organization.

"(2) AMOUNT OF TAX.—The amount of the tax imposed by paragraph (1) on any transfer of a residual interest shall be equal to the product of—

"(A) the amount (determined under regulations) equal to the present value of the total anticipated excess inclusions with respect to such interest for periods after such transfer, multiplied by

"(B) the highest rate of tax specified in section 11(b)(1).

"(3) LIABILITY.—The tax imposed by paragraph (1) on any transfer shall be paid by the transferor; except that, where such transfer is through an agent for a disqualified organization, such tax shall be paid by such agent.

"(4) TRANSFEREE FURNISHES AFFIDAVIT.—The person (otherwise liable for any tax imposed by paragraph (1)) shall be relieved of liability for the tax imposed by paragraph (1) with respect to any transfer if—

"(A) the transferee furnishes to such person an affidavit that the transferee is not a disqualified organization, and

"(B) as of the time of the transfer, such person does not have actual knowledge that such affidavit is false.

"(5) DISQUALIFIED ORGANIZATION.—For purposes of this section, the term 'disqualified organization' means—

"(A) the United States, any State or political subdivision thereof, any foreign government, any international organization, or any agency or instrumentality of any of the foregoing,

"(B) any organization (other than a cooperative described in section 521) which is exempt from tax imposed by this chapter unless such organization is subject to the tax imposed by section 511, and

"(C) any organization described in section 1381(a)(2)(C).

For purposes of subparagraph (A), the rules of section 168(h)(2)(D) (relating to treatment of certain taxable instrumentalities) shall apply; except that, in the case of the Federal Home Loan Mortgage Corporation, clause (ii) of such section shall not apply.

"(6) TREATMENT OF PASS-THRU ENTITIES.—

"(A) IMPOSITION OF TAX.—If, at any time during any taxable year of a pass-thru entity, a disqualified organization is the record holder of an interest in such entity, there is hereby imposed on such entity for such taxable year a tax equal to the product of—

"(i) the amount of excess inclusions for such taxable year allocable to the interest held by such disqualified organization, multiplied by

"(ii) the highest rate of tax specified in section 11(b)(1).

"(B) PASS-THRU ENTITY.—For purposes of this paragraph, the term 'pass-thru entity' means—

"(i) any regulated investment company, real estate investment trust, or common trust fund,

"(ii) any partnership, trust, or estate, and

"(iii) any organization to which part I of subchapter T applies.

Except as provided in regulations, a person holding an interest in a pass-thru entity as a nominee for another person shall, with respect to such interest, be treated as a pass-thru entity.

"(C) TAX TO BE DEDUCTIBLE.—Any tax imposed by this paragraph with respect to any excess inclusion of any pass-thru entity for any taxable year shall, for purposes of this title (other than this subsection), be applied against (and operate to reduce) the amount included in gross income with respect to the residual interest involved.

"(D) EXCEPTION WHERE HOLDER FURNISHES AFFIDAVIT.—No tax shall be imposed by subparagraph (A) with respect to any interest in a pass-thru entity for any period if—

"(i) the record holder of such interest furnishes to such pass-thru entity an affidavit that such record holder is not a disqualified organization, and

"(ii) during such period, the pass-thru entity does not have actual knowledge that such affidavit is false.

"(7) WAIVER.—The Secretary may waive the tax imposed by paragraph (1) on any transfer if—

"(A) within a reasonable time after discovery that the transfer was subject to tax under paragraph (1), steps are taken so that the interest is no longer held by the disqualified organization, and

"(B) there is paid to the Secretary such amounts as the Secretary may require."

(C) Paragraph (2) of section 26(b) of the 1986 Code is amended by striking out "and" at the end of subparagraph (J), by striking out the period at the end of subparagraph (K) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(L) section 860E(e) (relating to taxes with respect to certain residual interests)."

(D)(i) The amendments made by subparagraph (A) shall apply in the case of any REMIC where the start-up day (as defined in section 860G(a)(9) of the 1986 Code, as in effect on the day before the date of the enactment of this Act) is after March 31, 1988; except that such amendments shall not apply in the case of a REMIC formed pursuant to a binding written contract in effect on such date.

(ii) The amendments made by subparagraphs (B) and (C) (except to the extent they relate to paragraph (6) of section 860E(e) of the 1986 Code as added by such amendments) shall apply to transfers after March 31, 1988; except that such amendments shall not apply to any transfer pursuant to a binding written contract in effect on such date.

(iii) Except as provided in clause (iv), the amendments made by subparagraphs (B) and (C) (to the extent they relate to paragraph (6) of section 860E(e) of the 1986 Code as so added) shall apply to excess inclusions for periods after March 31, 1988 but only to the extent such inclusions are—

(I) allocable to an interest in a pass-thru entity acquired after March 31, 1988, or

(II) allocable to an interest in a pass-thru entity acquired on or before March 31, 1988, but attributable to a residual interest acquired by the pass-thru entity after March 31, 1988.

For purposes of the preceding sentence, any interest in a pass-thru entity (or residual interest) acquired after March 31, 1988, pursuant to a binding written contract in effect on such date shall be treated as acquired before such date.

(iv) In the case of any real estate investment trust, regulated investment company, common trust fund, or publicly traded partnership, no tax shall be imposed under section 860E(e)(6) of the 1986 Code (as added by the amendment made by subparagraph (B)) for any taxable year beginning before January 1, 1989.

(17) Subparagraph (B) of section 860E(c)(2) of the 1986 Code is amended—

(A) by inserting "(adjusted for contributions)" after "residual interest" the second place it appears, and

(B) by striking "decreased by" in clause (ii) and inserting in lieu thereof "decreased (but not below zero) by".

(18)(A) Subsection (e) of section 860F of the 1986 Code is amended by adding at the end thereof the following new sentences: "Such return shall be filed by the REMIC. The determination of who may sign such return shall be made without regard to the first sentence of this subsection."

(B) Unless the REMIC otherwise elects, the amendment made by subparagraph (A) shall not apply to any REMIC where the start-up day (as defined in section 860G(a)(9) of the 1986 Code as in effect on the day before the date of the enactment of this Act) is before the date of the enactment of this Act.

(19) Subsection (a) of section 860D of the 1986 Code is amended by adding at the end thereof the following new sentence:

"In the case of a qualified liquidation (as defined in section 860F(a)(4)(A)), paragraph (4) shall not apply during the liquidation period (as defined in section 860F(a)(4)(B)."

(20) Subsection (a) of section 860A of the 1986 Code is amended by striking out "this chapter" each place it appears and inserting in lieu thereof "this subtitle".

(21) Paragraph (1) of section 860C(b) of the 1986 Code is amended by striking out "and in the same manner" and inserting in lieu thereof "and, except as provided in regulations, in the same manner".

(22) The following sections of the 1986 Code are each amended by striking out "real estate mortgage pool" and inserting in lieu thereof "REMIC":

(A) Section 382(l)(4)(B)(ii).

(B) Section 860F(a)(2)(A)(iii).

(C) Section 860F(a)(2)(C).

(D) Section 860F(b)(1)(C)(ii).

(E) Section 860F(b)(1)(D)(ii).

(23) Subsection (d) of section 860E of the 1986 Code is amended by adding at the end thereof the following new sentence:

"Rules similar to the rules of the preceding sentence shall apply also in the case of regulated investment companies, common trust funds, and organizations to which part I of subchapter T applies."

(24) Subparagraph (C) of section 6049(d)(7) of the 1986 Code is amended by striking out "the issue price" and inserting in lieu thereof "the adjusted issue price".

(25)(A) Paragraph (19) of section 7701(a) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of determining whether any interest in a REMIC qualifies under clause (xi), any regular interest in another REMIC held by such REMIC shall be treated as a loan described in a preceding clause under principles similar to the principles of clause (xi); except that, if such REMIC's are part of a tiered structure, they shall be treated as 1 REMIC for purposes of clause (xi)."

(B) Paragraph (4) of section 593(d) of the 1986 Code is amended by adding at the end thereof the following new sentence "For purposes of determining whether any interest in a REMIC qualifies under the preceding sentence, any interest in another REMIC held by such REMIC shall be treated as a qualifying real property loan under principles similar to the principles of the preceding sentence, except that if such REMIC's are part of a tiered structure, they shall be treated as 1 REMIC for purposes of this paragraph."

(26) Section 860E of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF VARIABLE INSURANCE CONTRACTS.—Except as provided in regulations, with respect to any variable contract (as defined in section 817), there shall be no adjustment in the reserve to the extent of any excess inclusion."

(27) Subsection (a) of section 860E of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) COORDINATION WITH SECTION 172.—Any excess inclusion for any taxable year shall not be taken into account—

"(A) in determining under section 172 the amount of any net operating loss for such taxable year, and

"(B) in determining taxable income for such taxable year for purposes of the 2nd sentence of section 172(b)(2)."

(u) AMENDMENTS RELATED TO SECTION 672 OF THE REFORM ACT.—

(1) Subparagraph (B) of section 163(e)(2) of the 1986 Code is amended by striking out "paragraph (6)" and inserting in lieu thereof "paragraph (7)".

(2) Subparagraph (B) of section 1278(a)(4) of the 1986 Code is amended by striking out "section 1272(a)(6)" and inserting in lieu thereof "section 1272(a)(7)".

(3) Section 1288(a) of the 1986 Code is amended by striking out "paragraph (6)" each place it appears and inserting in lieu thereof "paragraph (7)".

(4) Sections 1271(a)(2)(A)(ii) and 1275(a)(4)(B)(ii)(I) of the 1986 Code are each amended by striking out "subsection (a)(6)" and inserting in lieu thereof "subsection (a)(7)".

(v) AMENDMENT RELATED TO SECTION 674 OF THE REFORM ACT.—Subparagraph (A) of section 6049(d)(7) of the 1986 Code is amended by inserting "(and such amounts shall be treated as paid when includible in gross income under section 860B(b))" before the period at the end thereof.

(w) AMENDMENTS RELATED TO SECTION 675 OF THE REFORM ACT.—

(1) Subsection (a) of section 675 of the Reform Act is amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this subtitle shall take effect on January 1, 1987."

(2) Section 675 of the Reform Act is amended by adding at the end thereof the following new subsection:

"(d) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study of the operation of the amendments made by this part and their competitive impact on savings and loan institutions and similar financial institutions. Not later than January 1, 1990, the Secretary shall submit a report of such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (together with such recommendations as he may deem advisable)."

SEC. 107. AMENDMENTS RELATED TO TITLE VII OF THE REFORM ACT.

(a) AMENDMENTS TO SECTION 55 OF THE 1986 CODE.—

(1) Paragraph (1) of section 55(c) of the 1986 Code is amended by inserting before the period at the end of the first sentence the following: "and the section 936 credit allowable under section 27(b)".

(2) Paragraph (2) of section 55(b) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"If a taxpayer is subject to the regular tax, such taxpayer shall be subject to the tax imposed by this section (and, if the regular tax is determined by reference to an amount other than taxable income, such amount shall be treated as the taxable income of such taxpayer for purposes of the preceding sentence)."

(3) Effective with respect to taxable years ending after the date of the enactment of this Act, paragraph (3) of section 55(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In the case of a taxpayer described in paragraph (1)(C)(i), alternative minimum taxable income shall be increased by the lesser of (i) 25 percent of the excess of alternative minimum taxable income (determined without regard to this sentence) over $155,000, or (ii) $20,000.".

(b) AMENDMENTS TO SECTION 56 OF THE 1986 CODE.—

(1) Paragraph (3) of section 56(a) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, in the case of a contract described in section 460(e)(1), the percentage of the contract completed shall be determined under section 460(b)(2) by using the simplified procedures for allocation of costs prescribed under section 460(b)(4)."

(2) Subparagraph (E) of section 56(b)(1) of the 1986 Code is amended to read as follows:

"(E) STANDARD DEDUCTION AND DEDUCTION FOR PERSONAL EXEMPTIONS NOT ALLOWED.—The standard deduction under section 63(c), the deduction for personal exemptions under section 151, and the deduction under section 642(b) shall not be allowed."

(3) Subparagraph (C) of section 56(b)(1) of the 1986 Code is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof a comma, and by adding at the end thereof the following new clauses:

"(iv) in lieu of the exception under section 163(d)(3)(B)(i), the term 'investment interest' shall not include any qualified housing interest (as defined in subsection (e)), and

"(v) the adjustments of this section and sections 57 and 58 shall apply in determining net investment income under section 163(d)."

(4) Clause (iii) of section 56(b)(1)(C) of the 1986 Code is amended—

(A) by striking out "specified activity bond" and inserting in lieu thereof "specified private activity bond", and

(B) by striking out "section 56(a)(5)(B)" and inserting in lieu thereof "section 57(a)(5)(B)".

(5) Subparagraph (A) of section 56(d)(2) of the 1986 Code is amended—

(A) by striking out "(other than subsection (a)(6) thereof)", and

(B) by adding at the end thereof the following new sentence:

"An item of tax preference shall be taken into account under clause (ii) only to the extent such item increased the amount of the net operating loss for the taxable year under section 172(c)."

(6)(A) Paragraph (1) of section 56(e) of the 1986 Code is amended—

(i) by striking out "interest which is" and inserting in lieu thereof "interest which is qualified residence interest (as defined in section 163(h)(3)) and is", and

(ii) by striking out "section 163(h)(3)" in subparagraph (B) and inserting in lieu thereof "section 163(h)(4)".

(B) Paragraph (3) of section 56(e) of the 1986 Code is amended by striking out "interest paid or accrued" and inserting in lieu thereof "interest which is qualified residence interest (as defined in section 163(h)(3)) and is paid or accrued".

(7) The last sentence of section 56(f)(2)(B) of the 1986 Code is amended by striking out "any such taxes" and inserting in lieu thereof "any such taxes (otherwise eligible for the credit provided by section 901 without regard to section 901(j))".

(8) Clause (iii) of section 56(f)(3)(A) of the 1986 Code is amended by striking out "an income statement" and inserting in lieu thereof "an income statement for a substantial nontax purpose".

(9) Subparagraph (B) of section 56(f)(3) of the 1986 Code is amended by striking out "paragraph (3)(A)" and inserting in lieu thereof "this subsection".

(10) Subparagraph (C) of section 56(f)(3) of the 1986 Code is amended by adding at the end thereof the following new sentence: "If the taxpayer has 2 or more statements described in the clause (or subclause) with the lowest number designation, the applicable financial statement shall be the one of such statements specified in regulations."

(11)(A) Subparagraph (F) of section 56(f)(2) of the 1986 Code is amended to read as follows:

"(F) TREATMENT OF TAXES ON DIVIDENDS FROM 936 CORPORATIONS.—

"(i) IN GENERAL.—For purposes of determining the alternative minimum tax foreign tax credit, 50 percent of any withholding tax or income tax paid to a possession of the United States with respect to dividends received from a corporation eligible for the credit provided by section 936 shall be treated as a tax paid to a foreign country by the corporation receiving the dividend.

"(ii) LIMITATION.—If the aggregate amount of the dividends referred to in clause (i) for any taxable year exceeds the excess referred to in paragraph (1), the amount treated as a tax paid to a foreign country under clause (i) shall not exceed the amount which would be so treated without regard to this clause multiplied by a fraction—

"(I) the numerator of which is the excess referred to in paragraph (1), and

"(II) the denominator of which is the aggregate amount of such dividends.

"(iii) TREATMENT OF TAXES IMPOSED ON 936 CORPORATION.—For purposes of this subparagraph, taxes paid by any corporation eligible for the credit provided by section 936 to a possession of the United States shall be treated as a withholding tax paid with respect to any dividend paid by such corporation to the extent such taxes would be treated as paid by the corporation receiving the dividend under rules similar to the rules of section 902 (and the amount of any such dividend shall be increased by the amount so treated)."

(B) Clause (iii) of section 56(g)(4)(C) of the 1986 Code is amended by striking out "clause (ii)(I)" and inserting in lieu thereof "clause (i)".

(12) Clause (iii) of section 56(g)(4)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any annuity contract held under a plan described in section 403(a)."

(13) Paragraph (1) of section 56(c) of the 1986 Code is amended—

(A) by striking out "ADJUSTED EARNINGS AND PROFITS" in the paragraph heading and inserting in lieu thereof "ADJUSTED CURRENT EARNINGS", and

(B) by striking out "ADJUSTED EARNINGS AND PROFITS" in the heading of subparagraph (B) and inserting in lieu thereof "ADJUSTED CURRENT EARNINGS".

(14)(A) Subsection (b) of section 56 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF INCENTIVE STOCK OPTIONS.—Section 421 shall not apply to the transfer of stock acquired (in a taxable year beginning after December 31, 1986) pursuant to the exercise of an incentive stock option (as defined in section 422A). The adjusted basis of any stock so acquired shall be determined on the basis of the treatment prescribed by the preceding sentence."

(B) Paragraph (3) of section 57(a) of the 1986 Code is hereby repealed.

(C) The amendments made by this paragraph shall apply with respect to options exercised after October 16, 1987.

(15) Clause (i) of section 56(a)(1)(A) of the 1986 Code is amended by striking out "REAL" in the heading and inserting in lieu thereof "PERSONAL".

(16) The heading of paragraph (1) of section 56(b) of the 1986 Code is amended by striking out "ITEMIZED".

(17) Subparagraph (A) of section 56(g)(4) of the 1986 Code is amended by adding at the end thereof the following new clauses:

"(vi) ELECTION TO HAVE CUMULATIVE LIMITATION.—

"(I) IN GENERAL.—In the case of any property placed in service during a taxable year to which an election under this clause applies, in lieu of applying clause (i), the depreciation deduction for such property for any taxable year shall be the lesser of the accumulated 168(g) depreciation or the accumulated book depreciation, reduced by the aggregate amount of the depreciation deductions determined under this subclause with respect to such property for prior taxable years.

"(II) ACCUMULATED 168(g) DEPRECIATION.—For purposes of this clause, the term 'accumulated section 168(g) depreciation' means the aggregate amount of the depreciation deductions determined under the alternative system of section 168(g) with respect to the property for all periods before the close of the taxable year.

"(III) ACCUMULATED BOOK DEPRECIATION.—For purposes of this clause, the term 'accumulated book depreciation' means the aggregate amount of the depreciation deductions determined under the method used for book purposes with respect to the property for all periods before the close of the taxable year.

"(IV) ELECTION.—The taxpayer may make an election under this clause for any taxable year beginning after 1989. Such an election, once made with respect to any such taxable year, shall apply to all property placed in service during such taxable year, and shall be irrevocable.

"(V) SIMILAR RULES FOR PROPERTY DESCRIBED IN CLAUSE (i), (iii), OR (iv).—Rules similar to the rules of the preceding provisions of this clause shall also apply in the case of property to which clause (ii), (iii), or (iv) applies.

"(vii) SPECIAL RULE FOR CERTAIN PROPERTY.—In the case of any property described in paragraph (1), (2), (3), or (4) of section 168(f), the amount of depreciation allowable for purposes of the regular tax shall be treated as the amount allowable under the alternative system of section 168(g)."

(18) Paragraph (4) of section 56(g) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(I) ADJUSTED BASIS.—The adjusted basis of any property with respect to which an adjustment under this paragraph applies shall be determined by applying the treatment prescribed in this paragraph."

(19) Subsection (a) of section 56 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) SECTION 87 NOT APPLICABLE.—Section 87 (relating to alcohol fuel credit) shall not apply."

(c) AMENDMENTS TO SECTION 57 OF THE 1986 CODE.—

(1) Clause (iii) of section 57(a)(5)(C) of the 1986 Code is amended by inserting "(whether a current or advance refunding)" after "any refunding bond".

(2) Clause (i) of section 57(a)(5)(C) of the 1986 Code is amended to read as follows:

"(i) IN GENERAL.—For purposes of this part, the term 'specified private activity bond' means any private activity bond (as defined in section 141) which is issued after August 7, 1986, and the interest on which is not includible in gross income under section 103."

(3) Subparagraph (A) of section 57(a)(6) of the 1986 Code is amended by inserting "or 642(c)" after "section 170".

(d) AMENDMENTS TO SECTION 58 OF THE 1986 CODE.—

(1) Paragraph (2) of section 58(a) of the 1986 Code is amended—

(A) by striking out "(as modified by section 461(i)(4)(A))", and

(B) by striking out "section 469(d), without regard to paragraph (1)(B) thereof" and inserting in lieu thereof "section 469(c)".

(2) Paragraph (3) of section 58(a) of the 1986 Code is amended by striking out "section 469(g)(1)(C)" and inserting in lieu thereof "section 469(j)(2)".

(3) Subsection (a) of section 58 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) DETERMINATION OF LOSS.—In determining the amount of the loss from any tax shelter farm activity, the adjustments of sections 56 and 57 shall apply."

(4) Subsection (b) of section 58 of the 1986 Code is amended by striking out paragraphs (1), (2), and (3), and inserting in lieu thereof the following:

"(1) the adjustments of sections 56 and 57 shall apply,

"(2) the provisions of section 469(m) (relating to phase-in of disallowance) shall not apply, and

"(3) in lieu of applying section 469(j)(7), the passive activity loss of a taxpayer shall be computed without regard to qualified housing interest (as defined in section 56(e))."

(e) AMENDMENTS TO SECTION 59 OF THE 1986 CODE.—

(1) Paragraph (2) of section 59(e) of the 1986 Code is amended by striking out "would have been allowable as a deduction" and inserting in lieu thereof "would have been allowable as a deduction (determined without regard to section 291)".

(2) Subsection (h) of section 59 of the 1986 Code is amended by striking out "taxable year—" and all that follows and inserting in lieu thereof "taxable year with the adjustments of sections 56, 57, and 58."

(3) Paragraph (1) of section 59(a) of the 1986 Code is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(D) the determination of whether any income is high-taxed income for purposes of section 904(d)(2) were made on the basis of the applicable rate specified in section 55(b)(1)(A) in lieu of the highest rate of tax specified in section 1 or 11 (whichever applies)."

(4) Subsection (i) of section 59 of the 1986 Code is amended—

(A) by striking out "of this subtitle" and inserting in lieu thereof "of this subtitle (other than this part)", and

(B) by striking out "by this title" and inserting in lieu thereof "by this subtitle".

(f) TRANSITIONAL PROVISIONS.—

(1) In the case of the taxable year of an estate or trust which begins before January 1, 1987, and ends on or after such date, the items of tax preference apportioned to any beneficiary of such estate or trust under section 58(c) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) shall be taken into account for purposes of determining the amount of the tax imposed by section 55 of the Internal Revenue Code of 1986 (as amended by the Tax Reform Act of 1986) on such beneficiary for such beneficiary's taxable year in which such taxable year of the estate or trust ends.

(2) The last sentence of subparagraph (B) of section 701(f)(6) of the Reform Act is amended to read as follows: "The aggregate amount of investment tax credits with respect to the unit in Mississippi allowed solely by reason of being described in this subparagraph shall not exceed $141,000,000."

(3) Subsection (f) of section 701 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(7) AGREEMENT VESSEL DEPRECIATION ADJUSTMENT.—

"(A) For purposes of part VI of subchapter A of chapter 1 of the Internal Revenue Code of 1986, in the case of a qualified taxpayer, alternative minimum taxable income for the taxable year shall be reduced by an amount equal to the agreement vessel depreciation adjustment.

"(B) For purposes of this paragraph, the agreement vessel depreciation adjustment shall be an amount equal to the depreciation deduction that would have been allowable for such year under section 167 of such Code with respect to agreement vessels placed in service before January 1, 1987, if the basis of such vessels had not been reduced under section 607 of the Merchant Marine Act of 1936, as amended, and if depreciation with respect to such vessel had been computed using the 25-year straight-line method. The aggregate amount by which basis of a qualified taxpayer is treated as not reduced by reason of this subparagraph shall not exceed $100,000,000.

"(C) For purposes of this paragraph, the term 'qualified taxpayer' means a parent corporation incorporated in the State of Delaware on December 1, 1972, and engaged in water transportation, and includes any other corporation which is a member of the affiliated group of which the parent corporation is the common parent. No taxpayer shall be treated as a qualified corporation for any taxable year beginning after December 31, 1991."

(4)(A) If any property to which this paragraph applies is placed in service in a taxable year which begins before January 1, 1987, and ends on or after August 1, 1986, the item of tax preference determined under section 57(a) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) with respect to such property shall be the excess of—

(i) the amount allowable as a deduction for depreciation or amortization for such taxable year, over

(ii) the amount which would be determined for such taxable year under the rules of paragraph (1) or (5) (whichever is appropriate) of section 56(a) of the Internal Revenue Code of 1954 (as amended by the Tax Reform Act of 1986).

(B) This paragraph shall apply to any property—

(i) which is described in paragraph (4) or (12) of section 57(a) of the Internal Revenue Code of 1954 (as so in effect), and

(ii) to which paragraph (1) or (5) of section 56(a) of the Internal Revenue Code of 1986 would apply if the taxable year referred to in subparagraph (A) began after December 31, 1986.

(5) In determining the amount of the alternative minimum tax foreign tax credit under section 59 of the 1986 Code, there shall not be taken into account any taxes paid or accrued in a taxable year beginning after December 31, 1986, which are treated under section 904(c) of the 1986 Code as paid or accrued in a taxable year beginning on or before December 31, 1986.

(g) MISCELLANEOUS AMENDMENTS.—

(1) Subparagraph (K) of section 26(b)(2) of the 1986 Code is amended by striking out the comma at the end thereof and inserting in lieu thereof ").".

(2)(A) So much of section 38(c) as precedes paragraph (4) thereof is amended to read as follows:

"(c) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of the taxpayer's net income tax over the greater of—

"(A) the tentative minimum tax for the taxable year, or

"(B) 25 percent of so much of the taxpayer's net regular tax liability as exceeds $25,000.

For purposes of the preceding sentence, the term 'net income tax' means the sum of the regular tax liability and the tax imposed by section 55, reduced by the credits allowable under subparts A and B of this part, and the term 'net regular tax liability' means the regular tax liability reduced by the sum of the credits allowable under subparts A and B of this part.

"(2) REGULAR INVESTMENT TAX CREDIT MAY OFFSET 25 PERCENT OF MINIMUM TAX.—

"(A) IN GENERAL.—In the case of a C corporation, the amount determined under paragraph (1)(A) shall be reduced by the lesser of—

"(i) the portion of the regular investment tax credit not used against the normal limitation, or

"(ii) 25 percent of the taxpayer's tentative minimum tax for the taxable year.

"(B) PORTION OF REGULAR INVESTMENT TAX CREDIT NOT USED AGAINST NORMAL LIMIT.—For purposes of subparagraph (A), the portion of the regular investment tax credit for any taxable year not used against the normal limitation is the excess (if any) of—

"(i) the portion of the credit under subsection (a) which is attributable to the application of the regular percentage under section 46, over

"(ii) the limitation of paragraph (1) (without regard to this paragraph) reduced by the portion of the credit under subsection (a) which is not so attributable.

"(C) LIMITATION.—In no event shall this paragraph permit the allowance of a credit which would result in a net chapter 1 tax less than an amount equal to 10 percent of the amount determined under section 55(b)(1)(A) without regard to the alternative tax net operating loss deduction. For purposes of the preceding sentence, the term 'net chapter 1 tax' means the sum of the regular tax liability for the taxable year and the tax imposed by section 55 for the taxable year, reduced by the sum of the credits allowable under this part for the taxable year (other than under section 34)."

(B) Subsection (c) of section 38 of the 1986 Code is amended—

(i) by redesignating paragraph (4) as paragraph (3), and

(ii) by striking out "subparagraphs (A) and (B) of paragraph (1)" each place it appears in such paragraph and inserting in lieu thereof "subparagraph (B) of paragraph (1)".

(3)(A) Subsection (c) of section 47 of the 1986 Code is amended by striking out "or D" and inserting in lieu thereof "D, or G".

(B) Subparagraph (D) of section 42(j)(4) of the 1986 Code is amended by striking out "or D" and inserting in lieu thereof "D, or G".

(4) The last sentence of clause (ii) of section 53(d)(1)(B) of the 1986 Code is amended by striking out "earnings and profits" and inserting in lieu thereof "current earnings".

(5) Sections 173(b), 174(e)(2), and 263(c) of the 1986 Code are each amended by striking out "section 59(d)" and inserting in lieu thereof "section 59(e)".

(6) Section 511 of the 1986 Code is amended by striking out subsection (d).

(7) Sections 616(e) and 617(j) of the 1986 Code are each amended by striking out "section 58(i)" and inserting in lieu thereof "section 59(e)".

(8) Paragraph (4) of section 701(c) of the Reform Act is amended by striking out "section 631(a)" and inserting in lieu thereof "section 221(a)".

(9) Subparagraph (B) of section 1362(e)(5) of the 1986 Code is amended by striking out "Subsection (d)(2)" and inserting in lieu thereof "Subsection (d)".

(10) Subsection (a) of section 6154 of the 1986 Code (as in effect before its repeal by the Revenue Act of 1987) is amended by striking out "11, 59A" and inserting in lieu thereof "11, 55, 59A".

(11) Paragraph (1) of section 962(a) of the 1986 Code is amended—

(A) by striking out "section 1" and inserting in lieu thereof "sections 1 and 55", and

(B) by striking out "section 11" and inserting in lieu thereof "sections 11 and 55".

(12) Subsection (h) of section 32 of the 1986 Code is amended by striking out "for taxpayers other than corporations".

(13)(A) Subsection (d) of section 2 of the 1986 Code is amended by striking out "the tax imposed by section 1" and inserting in lieu thereof "the taxes imposed by sections 1 and 55".

(B) Subsection (d) of section 11 of the 1986 Code is amended by striking out "the tax imposed by subsection (a)" and inserting in lieu thereof "the taxes imposed by subsection (a) and section 55".

SEC. 108. AMENDMENTS RELATED TO TITLE VIII OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 801 OF THE REFORM ACT.—

(1)(A) Subparagraph (B) of section 448(d)(2) of the 1986 Code (defining qualified personal service corporation) is amended by striking out "or indirectly" and inserting in lieu thereof "(or indirectly through 1 or more partnerships, S corporations, or qualified personal service corporations not described in paragraph (2) or (3) of subsection (a))".

(B) Section 448(d) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) USE OF RELATED PARTIES, ETC.—The Secretary shall prescribe such regulations as may be necessary to prevent the use of related parties, pass-thru entities, or intermediaries to avoid the application of this section."

(2) Subparagraph (C) of section 448(d)(4) of the 1986 Code (relating to special rules for application of paragraph (2)) is amended by striking out "all such members" and inserting in lieu thereof "such group".

(3) Paragraph (2) of section 461(i) of the 1986 Code is amended to read as follows:

"(2) SPECIAL RULE FOR SPUDDING OF OIL OR GAS WELLS.—

"(A) IN GENERAL.—In the case of a tax shelter, economic performance with respect to amounts paid during the taxable year for drilling an oil or gas well shall be treated as having occurred within a taxable year if drilling of the well commences before the close of the 90th day after the close of the taxable year.

"(B) DEDUCTION LIMITED TO CASH BASIS.—

"(i) TAX SHELTER PARTNERSHIPS.—In the case of a tax shelter which is a partnership, in applying section 704(d) to a deduction or loss for any taxable year attributable to an item which is deductible by reason of subparagraph (A), the term 'cash basis' shall be substituted for the term 'adjusted basis'.

"(ii) OTHER TAX SHELTERS.—Under regulations prescribed by the Secretary, in the case of a tax shelter other than a partnership, the aggregate amount of the deductions allowable by reason of subparagraph (A) for any taxable year shall be limited in a manner similar to the limitation under clause (i).

"(C) CASH BASIS DEFINED.—For purposes of subparagraph (B), a partner's cash basis in a partnership shall be equal to the adjusted basis of such partner's interest in the partnership, determined without regard to—

"(i) any liability of the partnership, and

"(ii) any amount borrowed by the partner with respect to such partnership which—

"(I) was arranged by the partnership or by any person who participated in the organization, sale, or management of the partnership (or any person related to such person within the meaning of section 465(b)(3)(C)), or

"(II) was secured by any asset of the partnership."

(4) Section 464 of the 1986 Code (relating to limitations on deductions for certain farming expenses) is amended by adding at the end thereof the following new subsection:

"(g) TERMINATION.—Except as provided in subsection (f), subsections (a) and (b) shall not apply to any taxable year beginning after December 31, 1986."

(5) Paragraph (4) of section 801(d) of the Reform Act is amended by striking out "the completed contract method" and inserting in lieu thereof "a method of accounting for long-term contracts".

(6) Section 801(d) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE FOR PARAGRAPHS (2) AND (3).—If any loan, lease, contract, or evidence of any transaction to which paragraph (2) or (3) applies is transferred after June 10, 1987, to a person other than a related party (within the meaning of paragraph (2)), paragraph (2) or (3) shall cease to apply on and after the date of such transfer."

(7) Paragraph (3) of section 448(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "An S corporation shall not be treated as a tax shelter for purposes of this section merely by reason of being required to file a notice of exemption from registration with a State agency described in section 461(i)(3)(A), but only if there is a requirement applicable to all corporations organized or offered in the State that to be exempt from such registration the corporation must file such a notice."

(8) Subparagraph (C) of section 448(d)(4) of the 1986 Code is amended by striking out "substantially all of" and inserting in lieu thereof "90 percent or more of".

(9) Paragraph (3) of section 448(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) TREATMENT OF PREDECESSORS.—Any reference in this subsection to an entity shall include a reference to any predecessor of such entity."

(b) AMENDMENTS RELATED TO SECTION 803 OF THE REFORM ACT.—

(1) Paragraph (2) of section 263A(a) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Any cost which (but for this subsection) could not be taken into account in computing taxable income for any taxable year shall not be treated as a cost described in this paragraph."

(2) Section 263A(c) of the 1986 Code (relating to general exceptions) is amended—

(A) by striking out "263(c), 616(a), or 617(a)" and inserting in lieu thereof "263(c), 263(i), 291(b)(2), 616, or 617", and

(B) by adding at the end thereof the following new paragraph:

"(6) COORDINATION WITH SECTION 59(e).—Paragraphs (2) and (3) shall apply to any amount allowable as a deduction under section 59(e) for qualified expenditures described in subparagraphs (B), (C), (D), and (E) of paragraph (2) thereof."

(3) Subparagraph (B) of section 263A(d)(2) of the 1986 Code (relating to special rule for person with minority interest who materially participates) is amended—

(A) by striking out "such grove, orchard, or vineyard" in clause (i) and inserting in lieu thereof "the plants described in subparagraph (A) at all times during the taxable year in which such amounts were paid or incurred", and

(B) by striking out "such grove, orchard, or vineyard during the 4-taxable year period beginning with the taxable year in which the grove, orchard, or vineyard was lost or damaged" and inserting in lieu thereof "the plants described in subparagraph (A) during the taxable year in which such amounts were paid or incurred".

(4) Paragraph (3) of section 263A(f) of the 1986 Code (relating to interest relating to property used to produce property) is amended—

(A) by striking out "incurred or continued in connection with" and inserting in lieu thereof "allocable (as determined under paragraph (2)) to", and

(B) by inserting "(as so determined)" after "allocable".

(5) Section 447(b) of the 1986 Code is amended—

(A) by striking out "of" before "expenses", and

(B) by striking out "OF" before "EXPENSES" in the heading thereof.

(6) Section 447(g)(1) of the 1986 Code is amended by striking out "trade or business of farming" each place it appears and inserting in lieu thereof "qualified farming trade or business".

(7) Paragraph (4)(A)(i) of section 803(d) of the Reform Act is amended by striking out "203" each place it appears and inserting in lieu thereof "204".

(8) The allocation used in the regulations prescribed under section 263A(h)(2) of the Internal Revenue Code of 1986 for apportioning storage costs and related handling costs shall be determined by dividing the amount of such costs by the beginning inventory balances and the purchases during the year.

(c) AMENDMENTS RELATED TO SECTION 804 OF THE REFORM ACT.—

(1) Paragraph (3) of section 460(b) of the 1986 Code is amended—

(A) by striking out "subparagraph" and inserting in lieu thereof "paragraph",

(B) by striking out "paragraph (1)" each place it appears in subparagraph (B) and inserting in lieu thereof "subparagraph (A)", and

(C) by striking out "paragraph (1)" in subparagraph (C) and inserting in lieu thereof "subparagraph (B)".

(2)(A) Section 460(b) of the 1986 Code (relating to percentage of completion method) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULES.—

"(A) SIMPLIFIED METHOD OF COST ALLOCATION.—In the case of any long-term contract, the Secretary may prescribe a simplified procedure for allocation of costs to such contract in lieu of the method of allocation under subsection (c).

"(B) LOOK-BACK METHOD NOT TO APPLY TO CERTAIN CONTRACTS.—Paragraph (2)(B) and subsection (a)(2) shall not apply to any contract—

"(i) the gross price of which (as of the completion of the contract) does not exceed the lesser of—

"(I) $1,000,000, or

"(II) 1 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the contract was completed, and

"(ii) which is completed within 2 years of the contract commencement date.

For purposes of this subparagraph, rules similar to the rules of subsections (e)(2) and (f)(3) shall apply."

(B) Section 460(b)(2) of the 1986 Code is amended by striking out "In" and inserting in lieu thereof "Except as provided in paragraph (4), in".

(3) Subparagraph (B) of section 804(d)(2) of the Reform Act is amended by striking out "section 263A(c)(5)" and inserting in lieu thereof "section 460(c)(5)".

(4)(A) Paragraph (3) of section 460(b) of the 1986 Code is amended by adding at the end thereof the following new sentences:

"For purposes of the preceding sentence, any amount received or accrued after completion of the contract shall be taken into account by discounting (using the Federal mid-term rate determined under section 1274(d) as of the time such amount was received or accrued) such amount to its value as of the completion of the contract. The taxpayer may elect with respect to any contract to have the preceding sentence not apply to such contract."

(B) Subparagraph (B) of section 460(b)(2) of the 1986 Code is amended by striking out "completion of the contract" and inserting in lieu thereof "completion of the contract (or, with respect to any amount received or accrued after completion of the contract, when such amount is so received or accrued)".

(d) AMENDMENT RELATED TO SECTION 805 OF THE REFORM ACT.—

(1) Section 166(d)(1)(A) of the 1986 Code is amended by striking out "subsections (a) and (c)" and inserting in lieu thereof "subsection (a)".

(2) Subsection (b) of section 805 of the Reform Act is amended by inserting ", as amended by section 901(d)(4)," after "Section 166".

(3) Subsection (a) of section 582 of the 1986 Code is amended by striking out "subsections (a), (b), and (c) of section 166" and inserting in lieu thereof "subsections (a) and (b) of section 166".

(e) AMENDMENTS RELATED TO SECTION 806 OF THE REFORM ACT.—

(1)(A) Clause (i) of section 706(b)(1)(B) of the 1986 Code is amended to read as follows:

"(i) the majority interest taxable year (as defined in paragraph (4)),".

(B) Paragraph (4) of section 706(b) of the 1986 Code is amended to read as follows:

"(4) MAJORITY INTEREST TAXABLE YEAR; LIMITATION ON REQUIRED CHANGES.—

"(A) MAJORITY INTEREST TAXABLE YEAR DEFINED.—For purposes of paragraph (1)(B)(i)—

"(i) IN GENERAL.—The term 'majority interest taxable year' means the taxable year (if any) which, on each testing day, constituted the taxable year of 1 or more partners having (on such day) an aggregate interest in partnership profits and capital of more than 50 percent.

"(ii) TESTING DAYS.—The testing days shall be—

"(I) the 1st day of the partnership taxable year (determined without regard to clause (i)), or

"(II) the days during such representative period as the Secretary may prescribe.

"(B) FURTHER CHANGE NOT REQUIRED FOR 3 YEARS.—Except as provided in regulations necessary to prevent the avoidance of this section, if, by reason of paragraph (1)(B)(i), the taxable year of a partnership is changed, such partnership shall not be required to change to another taxable year for either of the 2 taxable years following the year of change."

(2) Clause (iii) of section 706(b)(1)(B) of the 1986 Code is amended by striking out "or such other period as the Secretary may prescribe in regulations" and inserting in lieu thereof "unless the Secretary by regulations prescribes another period".

(3) Section 706(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) APPLICATION WITH OTHER SECTIONS.—Except as provided in regulations, for purposes of determining the taxable year to which a partnership is required to change by reason of this subsection, changes in taxable years of other persons required by this subsection, section 441(i), section 584(h), section 645, or section 1378(a) shall be taken into account."

(4) Paragraph (2) of section 441(i) of the 1986 Code (defining personal service corpo-

ration) is amended by adding at the end thereof the following:

"A corporation shall not be treated as a personal service corporation unless more than 10 percent of the stock (by value) in such corporation is held by employee-owners (within the meaning of section 269A(b)(2), as modified by the preceding sentence). If a corporation is a member of an affiliated group filing a consolidated return, all members of such group shall be taken into account in determining whether such corporation is a personal service corporation."

(5)(A) Section 584 of the 1986 Code (relating to common trust funds) is amended by adding at the end thereof the following new subsection:

"(h) TAXABLE YEAR OF COMMON TRUST FUND.—For purposes of this subtitle, the taxable year of any common trust fund shall be the calendar year."

(B) The amendment made by subparagraph (A) shall apply only to taxable years beginning after December 31, 1987. For purposes of section 806(e)(2) of the Reform Act—

(i) a participant in a common trust fund shall be treated in the same manner as a partner, and

(ii) subparagraph (C) thereof shall be applied by substituting "December 31, 1987" for "December 31, 1986".

(6) Section 806(c)(2) of the Reform Act is amended by striking out "Section 267(a)" and inserting in lieu thereof "Section 267(a)(2)".

(7) Subparagraph (C) of section 806(e)(2) of the Reform Act is amended—

(A) by striking out "(including such short taxable year)", and

(B) by striking out "short taxable year" the second place it appears and inserting in lieu thereof "the partner's or shareholder's taxable year with or within which the partnership's or S corporation's short taxable year ends".

(8) Section 806(e)(2) of the Reform Act is amended—

(A) by striking out "any taxable year" and inserting in lieu thereof "the taxpayer's first taxable year beginning after December 31, 1986", and

(B) by striking out "taxpayer" each place it appears and inserting in lieu thereof "partnership, S corporation, or personal service corporation".

(9) Nothing in section 806 of the Reform Act or in any legislative history relating thereto shall be construed as requiring the Secretary to permit an automatic change of a taxable year.

(10) Subsection (e) of section 806 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(3) BASIS, ETC. RULES.—

"(A) BASIS RULE.—The adjusted basis of any partner's interest in a partnership or shareholder's stock in an S corporation shall be determined as if all of the income to be taken into account ratably in the 4 taxable years referred to in paragraph (2)(C) were included in gross income for the 1st of such taxable years.

"(B) TREATMENT OF DISPOSITIONS.—If any interest in a partnership or stock in an S corporation is disposed of before the last taxable year in the spread period, all amounts which would be included in the gross income of the partner or shareholder for subsequent taxable years in the spread period under paragraph (2)(C) and attributable to the interest or stock disposed of shall be included in gross income for the taxable year in which the disposition occurs. For purposes of the preceding sentence, the term 'spread period' means the period consisting of the 4 taxable years referred to in paragraph (2)(C)."

(f) AMENDMENTS RELATED TO SECTION 811 OF THE REFORM ACT.—

(1) Paragraph (4) of section 453C(b) of the 1986 Code is amended—

(A) by striking out "at any time during" and inserting in lieu thereof "as of the close of", and

(B) by striking out "as of the close of such taxable year in lieu" and inserting in lieu thereof "as of the close of such taxable year (determined by not taking into account any indebtedness described in paragraph (3)(B)) in lieu".

(2) So much of paragraph (2) of section 453C(d) of the 1986 Code as precedes subparagraph (A) is amended to read as follows:

"(2) EXCESS ALLOCABLE INSTALLMENT INDEBTEDNESS.—If the allocable installment indebtedness for any taxable year exceeds the amount which may be allocated under paragraph (1) to applicable installment obligations arising in (and outstanding as of the close of) such taxable year, such excess shall—".

(3) Subparagraph (A) of section 453C(e)(1) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"Such term also includes any obligation held by any person if the basis of such obligation in the hands of such person is determined (in whole or in part) by reference to the basis of such obligation in the hands of another person and such obligation was an applicable installment obligation in the hands of such other person."

(4) Paragraph (2) of section 453C(e) of the 1986 Code (relating to aggregation rules) is amended by striking out "For" and inserting in lieu thereof "Except as provided in regulations, for".

(5) Subparagraph (B) of section 453C(e)(4) of the 1986 Code is amended by striking out "or (3)".

(6) Paragraph (4) of section 811(c) of the Reform Act is amended by striking out the second subparagraphs (D) and (E).

(7) Paragraph (5) of section 811(c) of the Reform Act is amended by striking out "October 23, 1985" each place it appears and inserting in lieu thereof "October 23, 1984".

(8) Section 811(c) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(9) SPECIAL RULES.—For purposes of section 453C of the 1986 Code (as added by subsection (a))—

"(A) REVOLVING CREDIT PLANS, ETC.—The term 'applicable installment obligation' shall not include any obligation arising out of any disposition or sale described in paragraph (1) or (2) of section 453(k) of such Code (as added by section 812(a)).

"(B) CERTAIN DISPOSITIONS DEEMED MADE ON FIRST DAY OF TAXABLE YEAR.—In the case of a taxpayer's 1st taxable year ending after December 31, 1986, dispositions after February 28, 1986, and before the 1st day of such taxable year shall be treated as made on such 1st day."

(9) For purposes of applying the amendments made by this subsection and the amendments made by section 10202 of the Revenue Act of 1987, the provisions of this subsection shall be treated as having been enacted immediately before the enactment of the Revenue Act of 1987.

(g) AMENDMENTS RELATED TO SECTION 812 OF THE REFORM ACT.—

(1) Section 453 of the 1986 Code is amended by redesignating the subsection (j) added by section 812 of the Reform Act as subsection (k).

(2) Subsection (c) of section 453A of the 1986 Code (as in effect on the date before the date of the enactment of the Revenue Act of 1987) is amended by striking out "453(j)" and inserting in lieu thereof "453(k)".

(3) Paragraph (1) of section 812(c) of the Reform Act is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)".

(4) Subsection (c) of section 812 of the Reform Act is amended by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

"(2) SALES OF STOCK, ETC.—Section 453(k)(2) of the Internal Revenue Code of 1986, as added by subsection (a), shall apply to sales after December 31, 1986, in taxable years ending after such date."

(5) Paragraph (3) of section 812(c) of the Reform Act (as so redesignated) is amended by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:

"(B) such change shall be treated as having been made with the consent of the Secretary,

"(C) the period for taking into account adjustments under section 481 of such Code by reason of such change shall be equal to 4 years, and

"(D) except as provided in paragraph (4), the amount taken into account in each of such 4 years shall be the applicable percentage (determined in accordance with the following table) of the net adjustment:

"In the case of the:	The applicable percentage is:
1st taxable year.....	15
2nd taxable year.....	25
3rd taxable year.....	30
4th taxable year.....	30.

If the taxpayer's last taxable year beginning before January 1, 1987, was the taxpayer's 1st taxable year in which sales were made under a revolving credit plan, all adjustments under section 481 of such Code shall be taken into account in the taxpayer's 1st taxable year beginning after December 31, 1986."

(6) Subsection (c) of section 812 of the Reform Act is amended by adding at the end thereof the following new paragraphs:

"(4) ACCELERATION OF ADJUSTMENTS WHERE CONTRACTION IN AMOUNT OF INSTALLMENT OBLIGATIONS.—

"(A) IN GENERAL.—If the percentage determined under subparagraph (B) for any taxable year in the adjustment period exceeds the percentage which would otherwise apply under paragraph (3)(D) for such taxable year (determined after the application of this paragraph for prior taxable years in the adjustment period)—

"(i) the percentage determined under subparagraph (B) shall be substituted for the applicable percentage which would otherwise apply under paragraph (3)(D), and

"(ii) any increase in the applicable percentage by reason of clause (i) shall be applied to reduce the applicable percentage determined under paragraph (3)(D) for subsequent taxable years in the adjustment period (beginning with the 1st of such subsequent taxable years).

"(B) DETERMINATION OF PERCENTAGE.—For purposes of subparagraph (A), the percentage determined under this subparagraph for any taxable year in the adjustment period is the excess (if any) of—

"(i) the percentage determined by dividing the aggregate contraction in revolving in-

stallment obligations by the aggregate face amount of such obligations outstanding as of the close of the taxpayer's last taxable year beginning before January 1, 1987, over

"(ii) the sum of the applicable percentages under paragraph (3)(D) (as modified by this paragraph) for prior taxable years in the adjustment period.

"(C) AGGREGATE CONTRACTION IN REVOLVING INSTALLMENT OBLIGATIONS.—For purposes of subparagraph (B), the aggregate contraction in revolving installment obligations is the amount by which—

"(i) the aggregate face amount of the revolving installment obligations outstanding as of the close of the taxpayer's last taxable year beginning before January 1, 1987, exceeds

"(ii) the aggregate face amount of the revolving installment obligations outstanding as of the close of the taxable year involved.

"(D) REVOLVING INSTALLMENT OBLIGATIONS.—For purposes of this paragraph, the term 'revolving installment obligations' means installment obligations arising under a revolving credit plan.

"(E) TREATMENT OF CERTAIN OBLIGATIONS DISPOSED OF ON OR BEFORE OCTOBER 26, 1987.—For purposes of subparagraphs (B)(i) and (C)(i), in determining the aggregate face amount of revolving installment obligations outstanding as of the close of the taxpayer's last taxable year beginning before January 1, 1987, there shall not be taken into account any obligation—

"(i) which was disposed of to an unrelated person on or before October 26, 1987, or

"(ii) was disposed of to an unrelated person on or after such date pursuant to a binding written contract in effect on October 26, 1987, and at all times thereafter before such disposition.

For purposes of the preceding sentence, the term 'unrelated person' means any person who is not a related person (as defined in section 453(g) of the Internal Revenue Code of 1986).

"(5) LIMITATION ON LOSSES FROM SALES OF OBLIGATIONS UNDER REVOLVING CREDIT PLANS.—If 1 or more obligations arising under a revolving credit plan and taken into account under paragraph (3) are disposed of during the adjustment period, then, notwithstanding any other provision of law—

"(A) no losses from such dispositions shall be recognized, and

"(B) the aggregate amount of the adjustment for taxable years in the adjustment period (in reverse order of time) shall be reduced by the amount of such losses.

"(6) ADJUSTMENT PERIOD.—For purposes of paragraphs (4) and (5), the adjustment period is the 4-year period under paragraph (3)."

(h) AMENDMENT RELATED TO SECTION 821 OF THE REFORM ACT.—Section 821(b)(3) of the Reform Act is amended by adding at the end thereof the following new sentence: "The preceding sentence shall also apply to any taxable year beginning after August 16, 1986, and before January 1, 1987, if the taxpayer treated such income in the same manner for the taxable year preceding such taxable year."

(i) AMENDMENT RELATED TO SECTION 822 OF THE REFORM ACT.—Paragraph (1) of section 703(b) of the 1986 Code is amended by striking out "or (d)(4)".

(j) AMENDMENTS RELATED TO SECTION 824 OF THE REFORM ACT.—

(1) Section 6501(o) of the 1986 Code which relates to cross references is amended by striking out paragraph (3).

(2) Paragraph (4) of section 824(c) of the Reform Act is amended by striking out "an indemnity agreement" and inserting in lieu thereof "an underwriting agreement".

SEC. 109. AMENDMENTS RELATED TO TITLE IX OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 901 OF THE REFORM ACT.—

(1) Subparagraph (C) of section 46(e)(4) of the 1986 Code is amended by adding at the end thereof the following new sentences: "Notwithstanding the preceding provisions of this subparagraph, any such election shall terminate effective with respect to the 1st taxable year of the organization making such election which begins after 1986 and during which such organization (or any successor organization) was not at any time the lessee under any lease of regular investment tax credit property. For purposes of the preceding sentence, the term 'regular investment tax credit property' means any section 38 property if the regular percentage applied to such property and the amount of qualified investment with respect to such property would have been reduced under paragraph (1) but for an election under this subparagraph."

(2)(A) Paragraph (5) of section 585(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) ELECTION BINDING ON ALL MEMBERS OF GROUP.—Any election under this subsection made by a member of a parent-subsidiary controlled group shall be binding on all banks which are members of such group for the taxable year of the election."

(B) Subclause (I) of section 585(c)(3)(A)(iii) of the 1986 Code is amended by striking out "or such greater amount as the taxpayer may designate" and inserting in lieu thereof "or such higher percentage of such net amount as the taxpayer may elect".

(C) Clause (ii) of section 585(c)(3)(B) of the 1986 Code is amended by striking out "designates an amount" and inserting in lieu thereof "elects a higher percentage".

(3) Paragraph (4) of section 585(c) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"If the amount of the reserve referred to in subparagraph (B) as of the close of any taxable year exceeds the outstanding balance (as of such time) of the loans referred to in subparagraph (B), such excess shall be included in gross income for such taxable year."

(b) AMENDMENTS RELATED TO SECTION 902 OF THE REFORM ACT.—

(1) Paragraph (3) of section 902(f) of the Reform Act is amended—

(A) in subparagraph (F), by striking out "distribution company" and inserting in lieu thereof "distribution facility",

(B) in subparagraph (L), by striking out "waterfront project" and inserting in lieu thereof "2 Festival Market Place projects at Union Pier Terminal and 1 project at the Remount Road Container Yard, State Pier No. 15 at North Charleston Terminal",

(C) in subparagraph (M), by striking out "Pontabla" and inserting in lieu thereof "Pontalba",

(D) in subparagraph (P), by striking out "Birmingham, Alabama," and inserting in lieu thereof "Homewood, Alabama, the", and

(E) by adding at the end thereof the following new subparagraphs:

"(T) Bellows Falls, Vermont—building project.

"(U) East Broadway Project, Louisville, Kentucky.

"(V) O.K. Industries, Oklahoma."

(2) Paragraph (4) of section 902(f) of the Reform Act is amended by striking out "subparagraph" and inserting in lieu thereof "paragraph".

(3)(A) Paragraph (3) of section 265(b) of the 1986 Code is amended to read as follows:

"(3)EXCEPTION FOR CERTAIN TAX-EXEMPT OBLIGATIONS.—

"(A) IN GENERAL.—Any qualified tax-exempt obligation acquired after August 7, 1986, shall be treated for purposes of paragraph (2) and section 291(e)(1)(B) as if it were acquired on August 7, 1986.

"(B) QUALIFIED TAX-EXEMPT OBLIGATION.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the term 'qualified tax-exempt obligation' means a tax-exempt obligation—

"(I) which is issued after August 7, 1986, by a qualified small issuer,

"(II) which is not a private activity bond (as defined in section 141), and

"(III) which is designated by the issuer for purposes of this paragraph.

"(ii) CERTAIN BONDS NOT TREATED AS PRIVATE ACTIVITY BONDS.—For purposes of clause (i)(II), there shall not be treated as a private activity bond—

"(I) any qualified 501(c)(3) bond (as defined in section 145), or

"(II) any obligation issued to refund (or which is part of a series of obligations issued to refund) an obligation issued before August 8, 1986, which was not an industrial development bond (as defined in section 103(b)(2) as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) or a private loan bond (as defined in section 103(o)(2)(A), as so in effect, but without regard to any exemption from such definition other than section 103(o)(2)(A)).

"(C) QUALIFIED SMALL ISSUER.—

"(i) IN GENERAL.—For purposes of subparagraph (B), the term 'qualified small issuer' means, with respect to obligations issued during any calendar year, any issuer if the reasonably anticipated amount of tax-exempt obligations (other than obligations described in clause (ii)) which will be issued by such issuer during such calendar year does not exceed $10,000,000.

"(ii) OBLIGATIONS NOT TAKEN INTO ACCOUNT IN DETERMINING STATUS AS QUALIFIED SMALL ISSUER.—For purposes of clause (i), an obligation is described in this clause if such obligation is—

"(I) a private activity bond (other than a qualified 501(c)(3) bond, as defined in section 145),

"(II) an obligation to which section 141(a) does not apply by reason of section 1312, 1313, 1316(g), or 1317 of the Tax Reform Act of 1986 and which would (if issued on August 15, 1986) have been an industrial development bond (as defined in section 103(b)(2) as in effect on the day before the date of the enactment of such Act) or a private loan bond (as defined in section 103(o)(2)(A), as so in effect, but without regard to any exception from such definition other than section 103(o)(2)(A)), or

"(III) an obligation issued to refund (other than to advance refund within the meaning of section 149(d)(5)) any obligation to the extent the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligation.

"(iii) ALLOCATION OF AMOUNT OF ISSUE IN CERTAIN CASES.—In the case of an issue under which more than 1 governmental entity receives benefits, if—

"(I) all governmental entities receiving benefits from such issue irrevocably agree (before the date of issuance of the issue) on an allocation of the amount of such issue for purposes of this subparagraph, and

"(II) such allocation bears a reasonable relationship to the respective benefits received by such entities,

then the amount of such issue so allocated to an entity (and only such amount with respect to such issue) shall be taken into account under clause (i) with respect to such entity.

"(D) LIMITATION ON AMOUNT OF OBLIGATIONS WHICH MAY BE DESIGNATED.—

"(i) IN GENERAL.—Not more than $10,000,000 of obligations issued by an issuer during any calendar year may be designated by such issuer for purposes of this paragraph.

"(ii) CERTAIN REFUNDINGS OF DESIGNATED OBLIGATIONS DEEMED DESIGNATED.—Except as provided in clause (iii), in the case of a refunding (or series of refundings) of a qualified tax-exempt obligation, the refunding obligation shall be treated as a qualified tax-exempt obligation (and shall not be taken into account under clause (i)) if—

"(I) the refunding obligation was not taken into account under subparagraph (C) by reason of clause (ii)(III) thereof,

"(II) the average maturity date of the refunding obligations issued as part of the issue of which such refunding obligation is a part is not later than the average maturity date of the obligations to be refunded by such issue, and

"(III) the refunding obligation has a maturity date which is not later than the date which is 30 years after the date the original qualified tax-exempt obligation was issued.

Subclause (II) shall not apply if the average maturity of the issue of which the original qualified tax-exempt obligation was a part (and of the issue of which the obligations to be refunded are a part) is 3 years or less. For purposes of this clause, average maturity shall be determined in accordance with section 147(b)(2)(A).

"(iii) CERTAIN OBLIGATIONS MAY NOT BE DESIGNATED OR DEEMED DESIGNATED.—No obligation issued as part of an issue may be designated under this paragraph (or may be treated as designated under clause (ii)) if—

"(I) any obligation issued as part of such issue is issued to refund another obligation, and

"(II) the aggregate face amount of such issue exceeds $10,000,000.

"(E) AGGREGATION OF ISSUERS.—For purposes of subparagraphs (C) and (D)—

"(i) an issuer and all entities which issue obligations on behalf of such issuer shall be treated as 1 issuer,

"(ii) all obligations issued by a subordinate entity shall, for purposes of applying subparagraphs (C) and (D) to each other entity to which such entity is subordinate, be treated as issued by such other entity, and

"(iii) an entity formed (or, to the extent provided by the Secretary, availed of) to avoid the purposes of subparagraph (C) or (D) and all entities benefiting thereby shall be treated as 1 issuer.

"(F) TREATMENT OF COMPOSITE ISSUES.—In the case of an obligation which is issued as part of a direct or indirect composite issue, such obligation shall not be treated as a qualified tax-exempt obligation unless—

"(i) the requirements of this paragraph are met with respect to such composite issue (determined by treating such composite issue as a single issue), and

"(ii) the requirements of this paragraph are met with respect to each separate lot of obligations which are part of the issue (determined by treating each such separate lot as a separate issue)."

(B) In the case of any obligation issued after August 7, 1986, and before January 1, 1987, the time for making a designation with respect to such obligation under section 265(b)(3)(B)(iii) of the 1986 Code shall not expire before January 1, 1989.

(C) If—

(i) an obligation is issued on or after January 1, 1986, and on or before August 7, 1986,

(ii) when such obligation was issued, the issuer made a designation that it intended to qualify under section 802(e)(3) of H.R. 3838 of the 99th Congress as passed by the House of Representatives, and

(iii) the issuer makes an election under this subparagraph with respect to such obligation,

for purposes of section 265(b)(3) of the 1986 Code, such obligation shall be treated as issued on August 8, 1986.

(D)(i) Except as provided in clause (ii), the following provisions of section 265(b)(3) of the 1986 Code (as amended by this subparagraph (A)) shall apply to obligations issued after June 30, 1987:

(I) subparagraph (C)(ii)(III),

(II) clauses (ii) and (iii) of subparagraph (D), and

(III) subparagraphs (E) and (F).

(ii) At the election of an issuer (made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe), the provisions referred to in clause (i) shall apply to such issuer as if included in the amendments made by section 902(a) of the Tax Reform Act of 1986.

(4) Subparagraph (B) of section 291(e)(1) of the 1986 Code is amended by redesignating the clause (iv) added by section 902(c)(2) of the Reform Act as clause (v).

(5) Clause (i) of section 291(e)(1)(B) of the 1986 Code is amended by striking out "section 582(a)(2)" and inserting in lieu thereof "section 585(a)(2)".

(6) Paragraph (1) of section 902(e) of the Reform Act is amended by striking out "Section 163(h)(12)" and inserting in lieu thereof "Section 163(i)(2) (as redesignated by section 511(b) of this Act)".

(7) Paragraph (4) of section 902(f) of the Reform Act is amended—

(A) by inserting "and qualified 501(c)(3) bonds designated by such Governor for purposes of this paragraph," after "1987),", and

(B) by striking out "subparagraph" in the last sentence and inserting in lieu thereof "paragraph".

(c) AMENDMENTS RELATED TO SECTION 903 OF THE REFORM ACT.—

(1) Paragraph (1) of section 172(b) of the 1986 Code is amended by redesignating subparagraphs (L) and (M) as subparagraphs (K) and (L), respectively.

(2) Subparagraph (A) of section 172(b)(1) of the 1986 Code is amended by striking out "Except" and all that follows down through "a net operating loss" and inserting in lieu thereof "Except as otherwise provided in this paragraph, a net operating loss".

(3) Subparagraph (B) of section 172(b)(1) of the 1986 Code is amended to read as follows:

"(B) Except as otherwise provided in this paragraph, a net operating loss for any taxable year ending after December 31, 1975, shall be a net operating loss carryover to each of the 15 taxable years following the taxable year of the loss."

(d) AMENDMENTS RELATED TO SECTION 905 OF THE REFORM ACT.—

(1) Subsection (l) of section 165 of the 1986 Code is amended by redesignating paragraph (6) as paragraph (7) and by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) ELECTION TO TREAT AS ORDINARY LOSS.—

"(A) IN GENERAL.—In lieu of any election under paragraph (1), the taxpayer may elect to treat the amount referred to in paragraph (1) for the taxable year as an ordinary loss described in subsection (c)(2) incurred during the taxable year.

"(B) LIMITATIONS.—

"(i) DEPOSIT MAY NOT BE FEDERALLY INSURED.—No election may be made under subparagraph (A) with respect to any loss on a deposit in a qualified financial institution if part or all of such deposit is insured under Federal law.

"(ii) DOLLAR LIMITATION.—With respect to each financial institution, the aggregate amount of losses attributable to deposits in such financial institution to which an election under subparagraph (A) may be made by the taxpayer for any taxable year shall not exceed $20,000 ($10,000 in the case of a separate return by a married individual). The limitation of the preceding sentence shall be reduced by the amount of any insurance proceeds under any State law which can reasonably be expected to be received with respect to losses on deposits in such institution.

"(6) ELECTION.—Any election by the taxpayer under this subsection for any taxable year—

"(A) shall apply to all losses for such taxable year of the taxpayer on deposits in the institution with respect to which such election was made, and

"(B) may be revoked only with the consent of the Secretary."

(2) Paragraph (1) of section 905(c) of the Reform Act is amended to read as follows:

"(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1981, and, except as provided in paragraph (2), the amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1982."

(3) The subsection (f) of section 451 of the 1986 Code which was added by section 905(b) of the 1986 Reform Act is redesignated as subsection (g).

(4) If on the date of the enactment of this Act (or at any time before the date 1 year after such date of enactment) credit or refund of any overpayment of tax attributable to amendments made by section 905 of the Reform Act or by this subsection (or the assessment of any underpayment of tax so attributable) is barred by any law or rule of law—

(A) credit or refund of any such overpayment may nevertheless be made if claim therefore is filed before the date 1 year after such date of enactment, and

(B) assessment of any such underpayment may nevertheless be made if made before the date 1 year after such date of enactment.

SEC. 110. AMENDMENTS RELATED TO TITLE X OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1011 OF THE REFORM ACT.—

(1) Paragraph (1) of section 813(a) of the 1986 Code (relating to foreign life insurance companies) is amended by striking out "the special life insurance company deduction and".

(2) Paragraph (1) of section 1011(d) of the Reform Act is amended—

(A) by striking out "any bond" and inserting in lieu thereof "any market discount bond (as defined in section 1278 of the Internal Revenue Code of 1986)",

(B) by striking out "28 percent" and inserting in lieu thereof "31.6 percent", and

(C) by adding at the end thereof the following new sentence: "The preceding sentence shall apply only if the tax determined under the preceding sentence is less than the tax which would otherwise be imposed."

(3) Paragraph (2) of section 1011(d) of the Reform Act is amended to read as follows:

"(2) QUALIFIED LIFE INSURANCE COMPANY.—For purposes of paragraph (1), the term 'qualified life insurance company' means any life insurance company subject to tax under part I of subchapter L of chapter 1 of the Internal Revenue Code of 1986."

(b) AMENDMENTS RELATED TO SECTION 1012 OF THE REFORM ACT.—

(1) Clause (iv) of section 1012(c)(4)(C) of the Reform Act is amended to read as follows:

"(iv) dental benefit coverage provided by a Delta Dental Plans Association organization through contracts with independent professional service providers so long as the provision of such coverage is the principal activity of such organization."

(2) Clause (ii) of section 1012(c)(4)(C) of the Reform Act is amended by striking out "Association" and inserting in lieu thereof "Plan".

(3) The Secretary of the Treasury or his delegate may prescribe rules providing proper adjustments for taxpayers which become subject to subchapter L of chapter 1 of the 1986 Code by reason of the amendments made by section 1012 of the Reform Act with respect to short taxable years which begin during 1987 by reason of section 843 of such Code.

(4)(A) Paragraph (3) of section 501(m) of the 1986 Code is amended by striking out "and" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(E) charitable gift annuities."

(B) Subsection (m) of section 501 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) CHARITABLE GIFT ANNUITY.—For purposes of paragraph (3)(E), the term 'charitable gift annuity' means an annuity if—

"(A) a portion of the amount paid in connection with the issuance of the annuity is allowable as a deduction under section 170 or 2055, and

"(B) the annuity is described in section 514(c)(5) (determined as if any amount paid in cash in connection with such issuance were property)."

(C) Not later than January 1, 1989, the Secretary of the Treasury or his delegate shall revise the tables used in determining the amount of the charitable contribution in the case of annuity contracts so that such determination will reflect the value of such contribution based on market interest rates at the time such contract was issued and more recent mortality experience.

(c) AMENDMENTS RELATED TO SECTION 1021 OF THE REFORM ACT.—

(1)(A) Subparagraph (C) of section 832(b)(7) of the 1986 Code (relating to special rules for determining premiums earned) is amended by striking out "this part" and inserting in lieu thereof "section 831(a)".

(B) The subparagraph heading for such subparagraph is amended by striking out "NONLIFE INSURANCE COMPANY" and inserting in lieu thereof "INSURANCE COMPANY TAXABLE UNDER SECTION 831(a)".

(2) Paragraph (7) of section 832(b) of the 1986 Code is amended by adding at the end thereof the following new subparagraphs:

"(D) TREATMENT OF COMPANIES WHICH BECOME TAXABLE UNDER SECTION 831(a).—

"(i) EXCEPTION TO PHASE-IN FOR COMPANIES WHICH WERE NOT TAXABLE, ETC., BEFORE 1987.—Subparagraph (C) of paragraph (4) shall not apply to any insurance company which, for each taxable year beginning before January 1, 1987, was not subject to the tax imposed by section 821(a) or 831(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) by reason of being—

"(I) subject to tax under section 821(c) (as so in effect), or

"(II) described in section 501(c) (as so in effect) and exempt from tax under section 501(a).

"(ii) PHASE-IN BEGINNING AT LATER DATE FOR COMPANIES NOT 1ST TAXABLE UNDER SECTION 831(a) IN 1987.—In the case of an insurance company—

"(I) which was not subject to the tax imposed by section 831(a) for its 1st taxable year beginning after December 31, 1986, by reason of being subject to tax under section 831(b), or described in section 501(c) and exempt from tax under section 501(a), and

"(II) which, for any taxable year beginning before January 1, 1987, was subject to the tax imposed by section 821(a) or 831(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986),

subparagraph (C) of paragraph (4) shall apply beginning with the 1st taxable year beginning after December 31, 1986, for which such company is subject to the tax imposed by section 831(a) and shall be applied by substituting the last day of the preceding taxable year for 'December 31, 1986' and the 1st day of the 7th succeeding taxable year for 'January 1, 1993'.

"(E) TREATMENT OF CERTAIN RECIPROCAL INSURERS.—In the case of a reciprocal (within the meaning of section 835(a)) which reports (as required by State law) on its annual statement reserves on unearned premiums net of premium acquisition expenses, subparagraphs (B) and (C) of paragraph (4) shall be applied by treating unearned premiums as including an amount equal to such expenses."

(3) Paragraph (5) of section 832(e) of the 1986 Code is amended by striking out "and" at the end of subparagraph (A) and by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a comma.

(d) AMENDMENTS RELATED TO SECTION 1022 OF THE REFORM ACT.—

(1) Section 832 of the 1986 Code (defining insurance company taxable income) is amended by adding at the end thereof the following new subsection:

"(g) DIVIDENDS WITHIN GROUP.—In the case of an insurance company subject to tax under section 831(a) filing or required to file a consolidated return under section 1501 with respect to any affiliated group for any taxable year, any determination under this part with respect to any dividend paid by one member of such group to another member of such group shall be made as if such group were not filing a consolidated return."

(2) Subclause (II) of section 832(b)(5)(B)(ii) of the 1986 Code (relating to losses incurred) is amended by inserting "(directly or indirectly)" after "attributable".

(3) For purposes of section 832(b)(5)(C)(i) of the 1986 Code, any stock or obligation acquired on or after August 8, 1986, by an insurance company subject to the tax imposed by section 831 of the 1986 Code (hereinafter in this paragraph referred to as the "acquiring company") from another insurance company so subject (hereinafter in this paragraph referred to as the "transferor company") shall be treated as acquired on the date on which such stock or obligation was acquired by the transferor company if—

(A) the transferor company acquired such stock or obligation before August 8, 1986, and

(B) at all times after the date on which such stock or obligation was acquired by the transferor company and before the date of the acquisition by the acquiring company, the transferor company and the acquiring company were members of the same affiliated group filing a consolidated return.

For purposes of the preceding sentence, the date on which the stock or obligation was acquired by the transferor company shall be determined with regard to any prior application of the preceding sentence. For purposes of this paragraph, if the acquiring corporation or transferor corporation was a party to a reorganization described in section 368(a)(1)(F) of the 1986 Code, any reference to such corporation shall include a reference to any predecessor thereof involved in such reorganization.

(e) AMENDMENTS RELATED TO SECTION 1023 OF THE REFORM ACT.—

(1) Subparagraph (B) of section 846(f)(6) of the 1986 Code (relating to special rule for certain accident and health insurance lines of business) is amended by striking out "paid during the year" and inserting in lieu thereof "paid in the middle of the year".

(2) Subsection (g) of section 846 of the 1986 Code is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) regulations providing appropriate adjustments in the application of this section to a taxpayer having a taxable year which is not the calendar year."

(3) Subsection (e) of section 1023 of the Reform Act (relating to discounting of unpaid losses and certain unpaid expenses) is amended by adding at the end thereof the following new paragraph:

"(4) APPLICATION OF FRESH START TO COMPANIES WHICH BECOME SUBJECT TO SECTION 831(a) TAX IN LATER TAXABLE YEAR.—If—

"(A) an insurance company was not subject to tax under section 831(a) of the Internal Revenue Code of 1986 for its 1st taxable year beginning after December 31, 1986, by reason of being—

"(i) subject to tax under section 831(b) of such Code, or

"(ii) described in section 501(c) of such Code and exempt from tax under section 501(a) of such Code, and

"(B) such company becomes subject to tax under such section 831(a) for any later taxable year,

paragraph (2) and subparagraphs (A) and (C) of paragraph (3) shall be applied by treating such later taxable year as its 1st taxable year beginning after December 31, 1986, and by treating the calendar year in which such later taxable year begins as 1987; and paragraph (3)(B) shall not apply."

(f) AMENDMENTS RELATED TO SECTION 1024 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 831(b)(2) of the 1986 Code (relating to companies to which alternative tax applies) is amended

by adding at the end thereof the following new sentence:

"The election under clause (ii) shall apply to the taxable year for which made and for all subsequent taxable years for which the requirements of clause (i) are met. Such an election, once made, may be revoked only with the consent of the Secretary."

(2) Subsection (a) of section 835 of the 1986 Code (relating to election by reciprocal) is amended by striking out "section 821(a)" and inserting in lieu thereof "section 831(a)".

(3) Subsection (f) of section 835 of the 1986 Code is amended by striking out "subsection (e)" and inserting in lieu thereof "subsection (d)".

(4) Paragraph (6) of section 243(b) of the 1986 Code (relating to special rules for insurance companies) is amended by striking out "or 821".

(5) Subsection (c) of section 543 of the 1986 Code (relating to gross income of insurance companies other than life or mutual) is amended—

(A) by striking out "OR MUTUAL" in the heading and inserting in lieu thereof "INSURANCE COMPANIES", and

(B) by striking out "life or mutual" in the text and inserting in lieu thereof "a life insurance company".

(6) Subsection (g) of section 816 of the 1986 Code (relating to burial and funeral benefit insurance companies) is amended by striking out "section 821 or".

(7) The table of sections for part II of subchapter L of chapter 1 of the 1986 Code (relating to other insurance companies) is amended by striking out the item relating to section 831 and inserting in lieu thereof the following new item:

"Sec. 831. Tax on insurance companies other than life insurance companies."

(8) Paragraph (1) of section 1024(d) of the Reform Act is amended by adding at the end thereof the following new sentence: "In the case of a company taxable under section 831(b) of the Internal Revenue Code of 1986 (as amended by subsection (a)), any amount included in gross income under this paragraph shall be treated as gross investment income."

(g) AMENDMENTS RELATED TO SECTION 1031 OF THE REFORM ACT.—

(1) Paragraph (1) of section 1031(a) of the Reform Act is amended by inserting "(whether made in a lump sum or a series of substantially equal payments over a period of not more than 6 years)" after "any initial payment".

(2) Paragraph (2) of section 1031(a) of the Reform Act is amended by striking out "initial payment" each place it appears and inserting in lieu thereof "initial payment referred to in paragraph (1)".

(3) Paragraph (2) of section 1031(a) of the Reform Act is amended by striking out "this title" each place it appears and inserting in lieu thereof "the Internal Revenue Code of 1986".

(h) SPECIAL RULE FOR MUTUAL LIFE INSURANCE COMPANY.—

(1) IN GENERAL.—Paragraph (2) of section 217(i) of the Tax Reform Act of 1984 is amended to read as follows:

"(2) EFFECT OF ELECTION ON SUBSIDIARIES OF ELECTING PARENT.—For purposes of determining the amount of the small life insurance company deduction of any controlled group which includes a mutual company which made an election under paragraph (1), the taxable income of such electing company shall be taken into account under section 806(b)(2) of the Internal Revenue Code of 1954 (relating to phaseout of small life insurance company deduction)."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1986, and before January 1, 1992.

(3) REVENUE LOSS LIMITED.—The decrease in the amount of Federal revenue by reason of the amendment made by this subsection shall not exceed $300,000 per taxable year.

(i) DELAY IN EFFECTIVE DATE FOR DIVERSIFICATION REQUIREMENTS WITH RESPECT TO ACCOUNTS FOR CERTAIN IMMEDIATE ANNUITIES.—Section 817(h) of the 1986 Code shall not apply until January 1, 1989, with respect to a variable contract (as defined in section 817(d) of the 1986 Code) if—

(1) such contract provides for the payment of an immediate annuity (as defined in section 72(u)(4) of the 1986 Code),

(2) such contract was outstanding on September 12, 1986, and

(3) the segregated asset account on which such contract is based was, on September 12, 1986, wholly invested in deposits insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

(j) TREATMENT OF ALTERNATIVE MINIMUM TAX WITH RESPECT TO SHAREHOLDERS SURPLUS ACCOUNT.—

(1) Paragraph (2) of section 815(c) of the 1986 Code (relating to shareholders surplus account) is amended by adding at the end thereof the following new sentence:

"If for any taxable year a tax is imposed by section 55, under regulations proper adjustments shall be made for such year and all subsequent taxable years in the amounts taken into account under subparagraphs (A) and (B) of this paragraph and subparagraph (B) of subsection (d)(3)."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

(k) TREATMENT OF CERTAIN ITEMS AS NOT INTEREST FOR SOURCE RULES, ETC.—Subsection (f) of section 818 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) ITEMS DESCRIBED IN SECTION 807(C) TREATED AS NOT INTEREST FOR SOURCE RULES, ETC.—For purposes of part I of subchapter N, items described in any paragraph of section 807(c) shall be treated as amounts which are not interest."

SEC. 111. AMENDMENTS RELATED TO PARTS I AND II OF SUBTITLE A OF TITLE XI OF THE REFORM ACT.

(a) AMENDMENT RELATED TO SECTION 1101 OF THE REFORM ACT.—

(1) Paragraph (4) of section 219(g) of the 1986 Code (relating to special rule for married individuals filing separately) is amended to read as follows:

"(4) SPECIAL RULE FOR MARRIED INDIVIDUALS FILING SEPARATELY AND LIVING APART.—A husband and wife who—

"(A) file separate returns for any taxable year, and

"(B) live apart at all times during such taxable year,

shall not be treated as married individuals for purposes of this subsection."

(2)(A) Except as provided in subparagraph (B), the amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1987.

(B) A taxpayer may elect to have the amendment made by paragraph (1) apply to any taxable year beginning in 1987.

(b) AMENDMENTS RELATED TO SECTION 1102 OF THE REFORM ACT.—

(1) Sections 408(d)(2)(C) and 408(o)(4)(B)(iv) of the 1986 Code are each amended by striking out "with or within which the taxable year ends" and inserting in lieu thereof "in which the taxable year begins".

(2)(A) Section 408(d)(4) of the 1986 Code (relating to excess contributions returned before due date of return) is amended by striking out "to the extent that such contribution exceeds the amount allowable as a deduction under section 219".

(B) Section 408(d)(4) of the 1986 Code is amended—

(i) by striking out "excess" each place it appears, and

(ii) by striking out "EXCESS CONTRIBUTIONS" in the heading and inserting in lieu thereof "CONTRIBUTIONS".

(3) Sections 408(d)(5) and 4973(b) of the 1986 Code are each amended by striking out all that follows "section 219" in the last sentence thereof and inserting in lieu thereof "shall be computed without regard to section 219(g).".

(4)(A) Section 6693(b) of the 1986 Code (relating to overstatement of designated nondeductible contributions) is amended to read as follows:

"(b) PENALTIES RELATING TO NONDEDUCTIBLE CONTRIBUTIONS.—

"(1) OVERSTATEMENT OF DESIGNATED NONDEDUCTIBLE CONTRIBUTIONS.—Any individual who—

"(A) is required to furnish information under section 408(o)(4) as to the amount of designated nondeductible contributions made for any taxable year, and

"(B) overstates the amount of such contributions made for such taxable year,

shall pay a penalty of $100 for each such overstatement unless it is shown that such overstatement is due to reasonable cause.

"(2) FAILURE TO FILE FORM.—Any individual who fails to file a form required to be filed by the Secretary under section 408(o)(4) shall pay a penalty of $50 for each such failure unless it is shown that such failure is due to reasonable cause."

(B)(i) The heading for section 6693 of the 1986 Code is amended by striking out "overstatement of" and inserting in lieu thereof "penalties relating to".

(ii) The item relating to section 6693 in the table of sections for subchapter B of chapter 68 is amended by striking out "overstatement of" and inserting in lieu thereof "penalties relating to".

(c) AMENDMENTS RELATED TO SECTION 1105 OF THE REFORM ACT.—

(1) Section 402(g)(2)(C) of the 1986 Code (relating to taxation of distribution) is amended—

(A) by striking out "(and no tax shall be imposed under section 72(t))" in clause (i),

(B) by striking out "such excess deferral is made" in clause (ii) and inserting in lieu thereof "such income is distributed", and

(C) by inserting at the end thereof the following new flush sentence:

"No tax shall be imposed under section 72(t) on any distribution described in the preceding sentence."

(2) Section 402(g)(2) is amended by striking out "REQUIRED DISTRIBUTION" in the heading thereof and inserting in lieu thereof "DISTRIBUTION".

(3) Section 402(g)(2) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) PARTIAL DISTRIBUTIONS.—If a plan distributes only a portion of any excess deferral and income allocable thereto, such portion shall be treated as having been distributed ratably from the excess deferral and the income."

(4) Section 402(g)(3) of the 1986 Code (defining elective deferral) is amended by striking out "paragraph" and inserting in lieu thereof "subsection".

(5)(A) Clause (iii) of section 402(g)(8)(A) of the 1986 Code (relating to special rule for certain organizations) is amended by inserting "(determined in the manner prescribed by the Secretary)" after "taxable years".

(B) Section 402(g)(8) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) YEARS OF SERVICE.—For purposes of this paragraph, the term 'years of service' has the meaning given such term by section 403(b)."

(6)(A) Section 402(g) of the 1986 Code, as added by section 1852(b)(3)(A) of the Reform Act, is redesignated as subsection (i).

(B) Section 402(g) of the 1986 Code, as added by section 1854(f)(2) of the Reform Act, is redesignated as subsection (j).

(C) Section 1854(f)(4)(C) of the Reform Act is amended by striking out "section 402(g)" and inserting in lieu thereof "section 402(j)".

(7)(A) Section 401(a) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(30) LIMITATIONS ON ELECTIVE DEFERRALS.—In the case of a trust which is part of a plan under which elective deferrals (within the meaning of section 402(g)(3)) may be made with respect to any individual during a calendar year, such trust shall not constitute a qualified trust under this subsection unless the plan provides that the amount of such deferrals under such plan and all other plans, contracts, or arrangements of an employer maintaining such plan may not exceed the amount of the limitation in effect under section 402(g)(1) for taxable years beginning in such calendar year."

(B) Section 403(b)(1) of the 1986 Code is amended by striking out "and" at the end of subparagraph (C), by inserting "and" at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

"(E) in the case of a contract purchased under a plan which provides a salary reduction agreement, the plan meets the requirements of section 401(a)(30),".

(C) Subparagraph (A) of section 408(k)(6) of the 1986 Code, as amended by subsection (f)(1), is amended by adding at the end thereof the following new clause:

"(iv) LIMITATIONS ON ELECTIVE DEFERRALS.—Clause (i) shall not apply to a simplified employee pension unless the requirements of section 401(a)(30) are met."

(D) Subparagraph (D) of section 501(c)(18) of the 1986 Code is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and by inserting after clause (iii) the following new clause:

"(iv) the requirements of section 401(a)(30) are met."

(E)(i) Except as provided in clause (ii), the amendments made by this paragraph shall apply to plan years beginning after December 31, 1987.

(ii) In the case of a plan described in section 1105(c)(2) of the Reform Act, the amendments made by this paragraph shall not apply to contributions made pursuant to an agreement described in such section for plan years beginning before the earlier of—

(I) the later of January 1, 1988, or the date on which the last of such agreements terminates (determined without regard to any extension thereof after February 28, 1986), or

(II) January 1, 1989.

(8) Section 1105(c)(2)(A) of the Reform Act is amended by striking out "the last of such collective bargaining agreements" and inserting in lieu thereof "such agreement".

(9) Section 1105(c) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(6) REPORTING REQUIREMENTS.—The amendments made by subsection (b) shall apply to calendar years beginning after December 31, 1986."

(10) Notwithstanding any other provision of law, a plan may incorporate by reference the dollar limitations under section 402(g) of the Internal Revenue Code of 1986.

(11) Section 402(g)(3) of the 1986 Code is amended by inserting at the end thereof the following new sentence: "An employer contribution shall not be treated as an elective deferral described in subparagraph (C) if under the salary reduction agreement such contribution is made pursuant to a one-time irrevocable election made by the employee at the time of initial eligibility to participate in the agreement or is made pursuant to a similar arrangement specified in regulations."

(12) Subparagraph (A) of section 403(b)(12) of the 1986 Code is amended by inserting after clause (ii) the following new sentence:

"For purposes of clause (i), a contribution shall be treated as not made pursuant to a salary reduction agreement if under the agreement it is made pursuant to a 1-time irrevocable election made by the employee at the time of initial eligibility to participate in the agreement or is made pursuant to a similar arrangement specified in regulations."

(d) AMENDMENTS RELATED TO SECTION 1106 OF THE REFORM ACT.—

(1) Section 404(l) of the 1986 Code (relating to limitation on amount of compensation which may be taken into account) is amended by adding at the end thereof the following new sentence: "For purposes of clause (i), (ii), or (iii) of subsection (a)(1)(A), and in computing the full funding limitation, any adjustment under the preceding sentence shall not be taken into account for any year before the year for which such adjustment first takes effect.".

(2) Section 415(b)(5)(D) of the 1986 Code (relating to application to changes in benefit structures) is amended by striking out "this paragraph" and inserting in lieu thereof "subparagraph (A)".

(3) Paragraph (2) of section 415(k) of the 1986 Code (relating to contributions to provide cost-of-living protection under defined benefit plans), as added by section 1106(c) of the Reform Act, is amended—

(A) by striking out "to the arrangement" in subparagraph (C)(ii) and inserting in lieu thereof "to such increase", and

(B) by striking out subparagraph (D) and inserting in lieu thereof:

"(D) ARRANGEMENT ELECTIVE; TIME FOR ELECTION.—An arrangement meets the requirements of this subparagraph only if it is elective, it is available under the same terms to all participants, and it provides that such election may at least be made in the year in which the participant—

"(i) attains the earliest retirement age under the defined benefit plan (determined without regard to any requirement of separation from service), or

"(ii) separates from service."

(4) Sections 401(a)(17) and 404(l) of the 1986 Code are each amended by adding at the end thereof the following new sentence: "In determining the compensation of an employee, the rules of section 414(q)(6) shall apply, except that in applying such rules, the term 'family' shall include only the spouse of the employee and any lineal descendants of the employee who have not attained age 19 before the close of the year."

(5) Paragraph (4) of section 1106(i) of the Reform Act is amended by striking the period at the end thereof and inserting in lieu thereof "(determined as if the amendments made by this section were in effect for such year).".

(6) Section 415(b)(5)(B) of the 1986 Code is amended by inserting "and subsection (e)" after "paragraphs (1)(B) and (4)".

(7) Subparagraph (A) of section 415(c)(6) of the 1986 Code is amended—

(A) by striking out "paragraph (c)(1)(A) (as adjusted for such year pursuant to subsection (d)(1))", and inserting in lieu thereof "paragraph (1)(A)"; and

(B) by striking out "paragraph (c)(1)(A) (as so adjusted)" and inserting in lieu thereof "paragraph (1)(A)".

(8) Sections 414(q)(1)(D) and 416(i)(1)(A)(i) of the 1986 Code are each amended by striking out "150 percent of the amount in effect under section 415(c)(1)(A)" and inserting in lieu thereof "50 percent of the amount in effect under section 415(b)(1)(A)".

(e) AMENDMENTS RELATED TO SECTION 1107 OF THE REFORM ACT.—

(1) Section 457(c)(2) of the 1986 Code is amended by striking out "and paragraphs (2) and (3) of subsection (b)".

(2) Section 457(d)(1)(A) of the 1986 Code (relating to distribution requirements) is amended to read as follows:

"(A) under the plan amounts will not be made available to participants or beneficiaries earlier than—

"(i) the calendar year in which the participant attains age 70½,

"(ii) when the participant is separated from service with the employer, or

"(iii) when the participant is faced with an unforeseeable emergency (determined in the manner prescribed by the Secretary in regulations)."

(3) Paragraph (7) of section 401(k) of the 1986 Code (defining rural electric cooperative plan) is amended to read as follows:

"(7) RURAL ELECTRIC COOPERATIVE PLAN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'rural electric cooperative plan' means any pension plan—

"(i) which is a defined contribution plan (as defined in section 414(i)), and

"(ii) which is established and maintained by a rural electric cooperative.

"(B) RURAL ELECTRIC COOPERATIVE DEFINED.—For purposes of subparagraph (A), the term 'rural electric cooperative' means—

"(i) any organization which—

"(I) is exempt from tax under this subtitle or which is a State or local government or political subdivision thereof (or agency or instrumentality thereof), and

"(II) is engaged primarily in providing electric service on a mutual or cooperative basis,

"(ii) any organization described in paragraph (4) or (6) of section 501(c) and at least 80 percent of the members of which are organizations described in clause (i), and

"(iii) an organization which is a national association of organizations described in clause (i) or (ii)."

(4) Section 414(o) of the 1986 Code is amended by inserting "or any requirement under section 457" after "(n)(3)".

(5)(A) Paragraph (6) of section 818(a) of the 1986 Code (defining pension plan contracts) is amended—

(i) by striking out "State" in subparagraph (A),

(ii) by inserting "or any organization (other than a governmental unit) exempt from tax under this subtitle," after "foregoing," in subparagraph (B),

(iii) by striking out "or" before "agency" in subparagraph (B), and

(iv) by inserting ", or organization" after "instrumentality" the second place it appears in subparagraph (B).

(B) The amendments made by this paragraph shall apply to contracts issued after December 31, 1986.

(6) Section 1107(c)(3) of the Reform Act is amended—

(A) by striking out "eligible" each place it appears, and

(B) by inserting at the end of subparagraph (B) the following new sentence: "This subparagraph shall only apply to individuals who were covered under the plan and agreement on August 16, 1986."

(7) Paragraph (5) of section 1107(c) of the Reform Act is amended—

(A) by striking out "to employees on August 1, 1986, of",

(B) by striking out "a deferred compensation plan" in subparagraph (A) and inserting in lieu thereof "to employees on August 16, 1986,",

(C) by inserting "maintaining a deferred compensation plan" after "Alabama" in subparagraph (A), and

(D) by striking out "a deferred compensation plan" in subparagraph (B) and inserting in lieu thereof "to individuals eligible to participate on August 16, 1986, in a deferred compensation plan".

(8) Section 3121(v)(3)(A) of the 1986 Code is amended by striking out "457(e)(1)" and inserting in lieu thereof "457(f)(1)".

(9) Effective for years beginning after December 31, 1988, paragraph (9) of section 457(e) of the 1986 Code is amended by inserting "after separation from service and" before "within 60 days".

(10) Subclause (I) of section 457(d)(2)(B)(i) of the 1986 Code is amended to read as follows:

"(I) the amounts payable with respect to the participant will be paid at times specified by the Secretary which are not later than the time determined under section 401(a)(9)(G) (relating to incidental death benefits),".

(f) AMENDMENTS RELATED TO SECTION 1108 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 408(k)(6) of the 1986 Code (relating to salary reduction arrangements under simplified employee pensions) is amended to read as follows:

"(A) ARRANGEMENTS WHICH QUALIFY.—

"(i) IN GENERAL.—A simplified employee pension shall not fail to meet the requirements of this subsection for a year merely because, under the terms of the pension, an employee may elect to have the employer make payments—

"(I) as elective employer contributions to the simplified employee pension on behalf of the employee, or

"(II) to the employee directly in cash.

"(ii) 50 PERCENT OF ELIGIBLE EMPLOYEES MUST ELECT.—Clause (i) shall not apply to a simplified employee pension unless an election described in clause (i)(I) is made or is in effect with respect to not less than 50 percent of the employees of the employer eligible to participate.

"(iii) REQUIREMENTS RELATING TO DEFERRAL PERCENTAGE.—Clause (i) shall not apply to a simplified employee pension for any year unless the deferral percentage for such year of each highly compensated employee eligible to participate is not more than the product of—

"(I) the average of the deferral percentages for such year of all employees (other than highly compensated employees) eligible to participate, multiplied by

"(II) 1.25."

(2) Section 408(k)(6)(B) of the 1986 Code (relating to exception where more than 25 employees) is amended by inserting "who were eligible to participate (or would have been required to be eligible to participate if a pension was maintained)" after "25 employees".

(3)(A) Section 408(k)(6)(D)(ii) of the 1986 Code (defining deferral percentage) is amended by striking out "(within the meaning of section 414(s))" and inserting in lieu thereof "(not in excess of the first $200,000)".

(B) Subparagraph (B) of section 408(k)(7) of the 1986 Code (defining compensation) is amended to read as follows:

"(B) COMPENSATION.—Except as provided in paragraph (2)(C), the term 'compensation' has the meaning given such term by section 414(s)."

(C) Subparagraph (C) of section 408(k)(3) of the 1986 Code is amended by striking out "total" before "compensation".

(D) Section 408(k)(8) of the 1986 Code is amended by striking out "paragraph (3)(C)" and inserting in lieu thereof "paragraphs (3)(C) and (6)(D)(ii)".

(4) Section 408(k)(6) of the 1986 Code (relating to employee may elect salary reduction arrangement) is amended by redesignating subparagraph (F) as subparagraph (G) and by inserting after subparagraph (E) the following new subparagraph:

"(F) EXCEPTION WHERE PENSION DOES NOT MEET REQUIREMENTS NECESSARY TO INSURE DISTRIBUTION OF EXCESS CONTRIBUTIONS.—This paragraph shall not apply with respect to any year for which the simplified employee pension does not meet such requirements as the Secretary may prescribe as are necessary to insure that excess contributions are distributed in accordance with subparagraph (C), including—

"(i) reporting requirements, and

"(ii) requirements which, notwithstanding paragraph (4), provide that contributions (and any income allocable thereto) may not be withdrawn from a simplified employee pension until a determination has been made that the requirements of subparagraph (A)(iii) have been met with respect to such contributions."

(5) Section 408(d) of the 1986 Code (relating to tax treatment of distributions) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULES FOR SIMPLIFIED EMPLOYEE PENSIONS.—

"(A) TRANSFER OR ROLLOVER OF CONTRIBUTIONS PROHIBITED UNTIL DEFERRAL TEST MET.—Notwithstanding any other provision of this subsection or section 72(t), paragraph (1) and section 72(t)(1) shall apply to the transfer or distribution from a simplified employee pension of any contribution under a salary reduction arrangement described in subsection (k)(6) (or any income allocable thereto) before a determination as to whether the requirements of subsection (k)(6)(A)(iii) are met with respect to such contribution.

"(B) CERTAIN EXCLUSIONS TREATED AS DEDUCTIONS.—For purposes of paragraphs (4) and (5) and section 4973, any amount excludable or excluded from gross income under section 402(h) shall be treated as an amount allowable or allowed as a deduction under section 219."

(6) Subparagraph (C) of section 404(h)(1) of the 1986 Code is amended by inserting "(or during the taxable year in the case of a taxable year described in subparagraph (A)(ii))" after "taxable year" the second place it appears.

(7) Section 1108(h) of the Reform Act is amended to read as follows:

"(h) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to years beginning after December 31, 1986.

"(2) INTEGRATION RULES.—Subparagraphs (D) and (E) of section 408(k)(3) of the Internal Revenue Code of 1954 (as in effect before the amendments made by this section) shall continue to apply for years beginning after December 31, 1986, and before January 1, 1989, except that employer contributions under an arrangement under section 408(k)(6) of the Internal Revenue Code of 1986 (as added by this section) may not be integrated under such subparagraphs."

(8) Section 209(e)(8) of the Social Security Act is amended to read as follows:

"(8) under a simplified employee pension (as defined in section 408(k)(1) of such Code), other than any contributions described in section 408(k)(6) of such Code,".

(9) Section 3401(a)(12)(C) of the 1986 Code is amended—

(A) by striking out "section 219" and inserting in lieu thereof "section 402(h) (1) and (2)", and

(B) by striking out "a deduction" and inserting in lieu thereof "an exclusion".

(10) Section 408(k)(8) of the 1986 Code is amended by inserting ", except that in the case of years beginning after 1988, the $200,000 amount (as so adjusted) shall not exceed the amount in effect under section 401(a)(17)" after "section 415(d)".

(g) AMENDMENTS RELATED TO SECTION 1111 OF THE REFORM ACT.—

(1)(A) Section 401(l)(2)(B) of the 1986 Code (defining contribution percentages) is amended by inserting "by the employer" after "contributed" each place it appears.

(B) Clause (ii) of section 401(l)(3)(A) of the 1986 Code is amended by inserting "attributable to employer contributions" after "benefits".

(2) Section 401(l)(5)(C) of the 1986 Code (defining average annual compensation) is amended to read as follows:

"(C) AVERAGE ANNUAL COMPENSATION.—The term 'average annual compensation' means the participant's highest average annual compensation for—

"(i) any period of at least 3 consecutive years, or

"(ii) if shorter, the participant's full period of service."

(3) Section 401(l)(5)(E) of the 1986 Code (defining covered compensation) is amended—

(A) by striking out "age 65" each place it appears" and inserting in lieu thereof "the social security retirement age", and

(B) by adding at the end thereof the following new clause:

"(iii) SOCIAL SECURITY RETIREMENT AGE.—For purposes of this subparagraph, the term

'social security retirement age' has the meaning given such term by section 415(b)(8)."

(4) Section 1111(c)(3) of the Reform Act is amended by striking out "benefits pursuant to, and individuals covered by, any such agreement in".

(h) AMENDMENTS RELATED TO SECTION 1112 OF THE REFORM ACT.—

(1) Section 410(b)(4)(B) of the 1986 Code (relating to exclusion of employees not meeting age and service requirements) is amended—

(A) by striking out "do not meet" and inserting in lieu thereof "not meeting", and

(B) by striking out "and".

(2) Section 410(b)(6) of the 1986 Code (relating to definitions and special rules) is amended by redesignating subparagraph (F) as subparagraph (G) and by adding after subparagraph (E) the following new subparagraph:

"(F) EMPLOYERS WITH ONLY HIGHLY COMPENSATED EMPLOYEES.—A plan maintained by an employer which has no employees other than highly compensated employees for any year shall be treated as meeting the requirements of this subsection for such year."

(3) Section 401(a)(26) of the 1986 Code (relating to additional participation requirements) is amended by redesignating subparagraph (F) as subparagraph (H) and by adding after subparagraph (E) the following new subparagraphs:

"(F) SPECIAL RULE FOR CERTAIN DISPOSITIONS OR ACQUISITIONS.—Rules similar to the rules of section 410(b)(6)(C) shall apply for purposes of this paragraph."

"(G) SEPARATE LINES OF BUSINESS.—At the election of the employer and with the consent of the Secretary, this paragraph may be applied separately with respect to each separate line of business of the employer. For purposes of this paragraph, the term 'separate line of business' has the meaning given such term by section 414(r) (without regard to paragraph (7) thereof)."

(4) Section 402(b)(2) of the 1986 Code (relating to failure to meet requirements of section 410(b)) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) HIGHLY COMPENSATED EMPLOYEES.—If 1 of the reasons a trust is not exempt from tax under section 501(a) is the failure of the plan of which it is a part to meet the requirements of section 401(a)(26) or 410(b), then a highly compensated employee shall, in lieu of the amount determined under paragraph (1), include in gross income for the taxable year with or within which the taxable year of the trust ends an amount equal to the vested accrued benefit of such employee (other than the employee's investment in the contract) as of the close of such taxable year of the trust.

"(B) FAILURE TO MEET COVERAGE TESTS.—If a trust is not exempt from tax under section 501(a) for any taxable year solely because such trust is part of a plan which fails to meet the requirements of section 401(a)(26) or 410(b), paragraph (1) shall not apply by reason of such failure to any employee who was not a highly compensated employee during—

"(i) such taxable year, or

"(ii) any preceding period for which service was creditable to such employee under the plan."

(5) Subsections (m)(4)(A) and (n)(3)(A) of section 414 of the 1986 Code are each amended by striking out "and (16)" and inserting in lieu thereof "(16), (17), and (26)".

(6) Clause (iii) of section 1112(e)(3)(A) of the Reform Act is amended by striking out "a plan or merger" and inserting in lieu thereof "the plan".

(7) Section 1112(e)(2) of the Reform Act is amended by striking out "employees covered by such agreement in".

(8) Subsection (e) of section 1112 of the Reform Act is amended by striking out paragraph (3)(C) and by adding at the end of such subsection the following new paragraph:

"(4) SPECIAL RULE FOR PLANS WHICH MAY NOT TERMINATE.—To the extent provided in regulations prescribed by the Secretary of the Treasury or his delegate, if a plan is prohibited from terminating under title IV of the Employee Retirement Income Security Act of 1974 before the 1st year to which the amendment made by subsection (b) would apply, the amendment made by subsection (b) shall only apply to years after the 1st year in which the plan is able to terminate."

(9) Subparagraph (B) of section 1112(e)(3) of the Reform Act is amended to read as follows:

"(B) INTEREST RATE FOR DETERMINING ACCRUED BENEFIT OF HIGHLY COMPENSATED EMPLOYEES FOR CERTAIN PURPOSES.—In the case of a termination, transfer, or distribution of assets of a plan described in subparagraph (A)(ii) before the 1st year to which the amendment made by subsection (b) applies—

"(i) AMOUNT ELIGIBLE FOR ROLLOVER, INCOME AVERAGING, OR TAX-FREE TRANSFER.—For purposes of determining any eligible amount, the present value of the accrued benefit of any highly compensated employee shall be determined by using an interest rate not less than the highest of—

"(I) the applicable rate under the plan's method in effect under the plan on August 16, 1986,

"(II) the highest rate (as of the date of the termination, transfer, or distribution) determined under any of the methods applicable under the plan at any time after August 15, 1986, and before the termination, transfer, or distribution in calculating the present value of the accrued benefit of an employee who is not a highly compensated employee under the plan (or any other plan used in determining whether the plan meets the requirements of section 401 of the Internal Revenue Code of 1986), or

"(III) 5 percent.

"(ii) ELIGIBLE AMOUNT.—For purposes of clause (i), the term 'eligible amount' means any amount with respect to a highly compensated employee which—

"(I) may be rolled over under section 402(a)(5) of such Code,

"(II) is eligible for income averaging under section 402(e)(1) of such Code, or capital gains treatment under section 402(a)(2) or 403(a)(2) of such Code (as in effect before this Act), or

"(III) may be transferred to another plan without inclusion in gross income.

"(iii) AMOUNTS SUBJECT TO EARLY WITHDRAWAL OR EXCESS DISTRIBUTION TAX.—For purposes of sections 72(t) and 4980A of such Code, there shall not be taken into account the excess (if any) of—

"(I) the amount distributed to a highly compensated employee by reason of such termination or distribution, over

"(II) the amount determined by using the interest rate applicable under clause (i).

"(iv) DISTRIBUTIONS OF ANNUITY CONTRACTS.—If an annuity contract purchased after August 16, 1986, is distributed to a highly compensated employee in connection with such termination or distribution, there shall be included in gross income for the taxable year of such distribution an amount equal to the excess of—

"(I) the purchase price of such contract, over

"(II) the present value of the benefits payable under such contract determined by using the interest rate applicable under clause (i).

Such excess shall not be taken into account for purposes of sections 72(t) and 4980A of such Code.

"(v) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this subparagraph, the term 'highly compensated employee' has the meaning given such term by section 414(q) of such Code."

(10) Section 413(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(9) PLANS COVERING A PROFESSIONAL EMPLOYEE.—Notwithstanding subsection (a), in the case of a plan (and trust forming part thereof) which covers any professional employee, paragraph (1) shall be applied by substituting 'section 410(a)' for 'section 410', and paragraph (2) shall not apply."

(11) Section 410(b)(4) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) REQUIREMENTS NOT TREATED AS BEING MET BEFORE ENTRY DATE.—An employee shall not be treated as meeting the age and service requirements described in this paragraph until the first date on which, under the plan, any employee with the same age and service would be eligible to commence participation in the plan.

(i) AMENDMENTS RELATED TO SECTION 1114 OF THE REFORM ACT.—

(1) Paragraph (1) of section 414(q) of the 1986 Code (defining highly compensated employee) is amended by adding at the end thereof the following new flush sentence:

"The Secretary shall adjust the $75,000 and $50,000 amounts under this paragraph at the same time and in the same manner as under section 415(d)."

(2) Section 414(q)(6) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) RULES TO APPLY TO OTHER PROVISIONS.—

"(i) IN GENERAL.—Except as provided in regulations and in clause (ii), the rules of subparagraph (A) shall be applied in determining the compensation of (or any contributions or benefits on behalf of) any employee for purposes of any section with respect to which a highly compensated employee is defined by reference to this subsection.

"(ii) EXCEPTION FOR DETERMINING INTEGRATION LEVELS.—Clause (i) shall not apply in determining the portion of the compensation of a participant which is under the integration level for purposes of section 401(l)."

(3)(A) Section 414(q)(8) of the 1986 Code (relating to excluded employees) is amended—

(i) by inserting "and" at the end of subparagraph (D), by striking ", and" at the end of subparagraph (E) and inserting in lieu thereof a period, and by striking out subparagraph (F), and

(ii) by striking out "The" in the last sentence thereof and inserting in lieu thereof "Except as provided by the Secretary, the".

(B) Section 414(q) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(11) SPECIAL RULE FOR NONRESIDENT ALIENS.—For purposes of this subsection and subsection (r), employees who are nonresi-

dent aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)) shall not be treated as employees."

(4)(A) Paragraph (8) of section 414(q) of the 1986 Code is amended by inserting "or the number of officers taken into account under paragraph (5)" after "paragraph (4)".

(B) Section 416(i)(1)(A) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of determining the number of officers taken into account under clause (i), employees described in section 414(q)(8) shall be excluded."

(5) Subparagraph (B) of section 408(k)(3) of the 1986 Code is amended to read as follows:

"(B) SPECIAL RULES.—For purposes of subparagraph (A), there shall be excluded from consideration employees described in subparagraph (A) or (C) of section 410(b)(3)."

(j) AMENDMENTS RELATED TO SECTION 1115 OF THE REFORM ACT.—

(1) So much of section 414(s) of the 1986 Code as precedes paragraph (2) is amended to read as follows:

"(s) COMPENSATION.—For purposes of any applicable provision—

"(1) IN GENERAL.—Except as provided in this subsection, the term 'compensation' has the meaning given such term by section 415(c)(3)."

(2) Section 414(s) of the 1986 Code is amended by striking out paragraph (2), by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively, and by adding at the end thereof the following new paragraph:

"(4) APPLICABLE PROVISION.—For purposes of this subsection, the term 'applicable provision' means any provision which specifically refers to this subsection."

(3)(A) Section 416(i)(1) of the 1986 Code (defining key employee) is amended by adding at the end thereof the following new subparagraph:

"(D) COMPENSATION.—For purposes of this paragraph, the term 'compensation' has the meaning given such term by section 414(q)(7)."

(B) The amendment made by this paragraph shall apply to years beginning after December 31, 1988.

(k) AMENDMENTS RELATED TO SECTION 1116 OF THE REFORM ACT.—

(1)(A) Subparagraph (B) of section 401(k)(2) of the 1986 Code (relating to distributions from a cash or deferred arrangement) is amended—

(i) by striking out subclauses (II), (III), and (IV) of clause (i) and inserting in lieu thereof:

"(II) an event described in paragraph (10),", and

(ii) by redesignating subclauses (V) and (VI) as subclauses (III) and (IV), respectively.

(B) Section 401(k) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(10) DISTRIBUTIONS UPON TERMINATION OF PLAN OR DISPOSITION OF ASSETS OR SUBSIDIARY.—

"(A) IN GENERAL.—The following events are described in this paragraph:

"(i) TERMINATION.—The termination of the plan without establishment or maintenance of another defined contribution plan.

"(ii) DISPOSITION OF ASSETS.—The disposition by a corporation of substantially all of the assets (within the meaning of section 409(d)(2)) used by such corporation in a trade or business of such corporation, but only with respect to an employee who continues employment with the corporation acquiring such assets.

"(iii) DISPOSITION OF SUBSIDIARY.—The disposition by a corporation of such corporation's interest in a subsidiary (within the meaning of section 409(d)(3)), but only with respect to an employee who continues employment with such subsidiary.

"(B) DISTRIBUTIONS MUST BE LUMP SUM DISTRIBUTIONS.—

"(i) IN GENERAL.—An event shall not be treated as described in subparagraph (A) with respect to any employee unless the employee receives a lump sum distribution by reason of the event.

"(ii) LUMP SUM DISTRIBUTION.—For purposes of this subparagraph, the term 'lump sum distribution' has the meaning given such term by section 402(e)(4), without regard to clauses (i), (ii), (iii), and (iv) of subparagraph (A), subparagraph (B), or subparagraph (H) thereof.

"(C) TRANSFEROR CORPORATION MUST MAINTAIN PLAN.—An event shall not be treated as described in clause (ii) or (iii) of subparagraph (A) unless the transferor corporation continues to maintain the plan after the disposition."

(C)(i) Subparagraph (A)(i) of section 401(k)(10) of the 1986 Code (as added by subparagraph (B)) shall apply to distributions after October 16, 1987.

(ii) Subparagraph (B) of section 401(k)(10) of the 1986 Code (as added by subparagraph (B)) shall apply to distributions after March 31, 1988.

(2) Subparagraph (B) of section 401(k)(2) of the 1986 Code is amended—

(A) by inserting "amounts held by the trust which are attributable to employer contributions made pursuant to the employee's election" after "under which",

(B) by striking out "amounts held by the trust which are attributable to employer contributions made pursuant to the employee's election" in clause (i), and

(C) by striking out "amounts" in clause (ii).

(3)(A) Clause (ii) of section 401(k)(3)(A) of the 1986 Code is amended by inserting "eligible" before "highly compensated employees" each place it appears.

(B) Section 1116(b)(4) of the Reform Act is amended by striking out "any" the first place it appears and inserting in lieu thereof "an".

(4) Subparagraph (C) of section 401(k)(3) of the 1986 Code, as added by section 1116(e) of the Reform Act, is redesignated as subparagraph (D).

(5) Subclause (I) of section 401(k)(3)(D)(ii) of the 1986 Code, as redesignated by paragraph (4), is amended by striking out "meets" and inserting in lieu thereof "meet".

(6) Section 401(k)(4)(A) of the 1986 Code is amended by striking out "provided by such employer".

(7) Section 401(k)(8) of the 1986 Code (relating to arrangement not disqualified if excess contributions distributed) is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following new subparagraph:

"(E) TREATMENT OF MATCHING CONTRIBUTIONS FORFEITED BY REASON OF EXCESS DEFERRAL OR CONTRIBUTION.—For purposes of paragraph (2)(C), a matching contribution (within the meaning of subsection (m)) shall not be treated as forfeitable merely because such contribution is forfeitable if the contribution to which the matching contribution relates is treated as an excess contribution under subparagraph (B), an excess deferral under section 402(g)(2)(A), or an excess aggregate contribution under section 401(m)(6)(B)."

(8) Subparagraph (B) of section 1116(f)(2) of the Reform Act is amended by adding at the end thereof the following new sentence: "If clause (i) or (ii) applies to any arrangement adopted by a governmental unit, then any cash or deferred arrangement adopted by such unit on or after the date referred to in the applicable clause shall be treated as adopted before such date."

(9) Section 401(k)(4)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"This subparagraph shall not apply to a rural electric cooperative plan."

(10) Clause (i) of section 1116(f)(2)(B) of the Reform Act is amended by striking out "(or political subdivision thereof)" and inserting in lieu thereof "or political subdivision thereof, or any agency or instrumentality thereof,".

(l) AMENDMENTS RELATED TO SECTION 1117 OF THE REFORM ACT.—

(1) Paragraph (1) of section 401(m) of the 1986 Code (relating to nondiscrimination test for matching contributions and employee contributions) is amended by striking out "A plan" and inserting in lieu thereof "A defined contribution plan".

(2) Paragraph (3) of section 401(m) of the 1986 Code (relating to requirements) is amended by adding at the end thereof the following new sentence: "If matching contributions are taken into account for purposes of subsection (k)(3)(A)(ii) for any plan year, such contributions shall not be taken into account under subparagraph (A) for such year."

(3) The last sentence of section 401(m)(2)(B) of the 1986 Code is amended by striking out "such contributions" the first place it appears and inserting in lieu thereof "contributions to which this subsection applies".

(4) Section 401(m)(4)(A) of the 1986 Code (defining matching contribution) is amended by striking out "the plan" each place it appears and inserting in lieu thereof "a defined contribution plan".

(5)(A) Section 401(m)(4)(B) of the 1986 Code (defining elective deferral) is amended by striking out "section 402(g)(3)(A)" and inserting in lieu thereof "section 402(g)(3)".

(B) The amendment made by this paragraph shall take effect as if included in the amendments made by section 1120 of the Reform Act.

(6) Subparagraph (C) of section 401(m)(6) of the 1986 Code is amended by striking out "EXCESS" in the subparagraph heading and inserting in lieu thereof "EXCESS AGGREGATE".

(7) Section 401(m)(7)(A) of the 1986 Code (relating to additional tax of section 72(t) not applicable) is amended by striking out "paragraph (8)" and inserting in lieu thereof "paragraph (6)".

(8) Section 4979(a)(1) of the 1986 Code (relating to tax on certain excess contributions) is amended by striking out "a cash or deferred arrangement which is part of".

(9) Section 4979(c) of the 1986 Code (defining excess contributions) is amended—

(A) by striking out "403(b),", and

(B) by striking out "408(k)(8)(B)" and inserting in lieu thereof "408(k)(6)(C)".

(10) Section 4979(d) of the 1986 Code (defining excess aggregate contribution) is amended by adding at the end thereof the following new sentence: "For purposes of determining excess aggregate contributions under an annuity contract described in section 403(b), such contract shall be treated as a plan described in subsection (e)(1)."

(11) Paragraph (2) of section 4979(f) of the 1986 Code (relating to inclusion in prior year) is amended to read as follows:

"(2) YEAR OF INCLUSION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any amount distributed as provided in paragraph (1) shall be treated as received and earned by the recipient in his taxable year for which such contribution was made.

"(B) DE MINIMIS DISTRIBUTIONS.—If the total excess contributions and excess aggregate contributions distributed to a recipient under a plan for any plan year are less than $100, such distributions (and any income allocable thereto) shall be treated as earned and received by the recipient in his taxable year in which such distributions were made."

(12) Subsection (d) of section 1117 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(4) DISTRIBUTIONS BEFORE PLAN AMENDMENT.—

"(A) IN GENERAL.—If a plan amendment is required to allow a plan to make any distribution described in section 401(m)(6) of the Internal Revenue Code of 1986, any such distribution which is made before the close of the 1st plan year for which such amendment is required to be in effect under section 1140 shall be treated as made in accordance with the provisions of the plan.

"(B) DISTRIBUTIONS PURSUANT TO MODEL AMENDMENT.—

"(i) SECRETARY TO PRESCRIBE AMENDMENT.—The Secretary of the Treasury or his delegate shall prescribe an amendment which allows a plan to make any distribution described in section 401(m)(6) of the Internal Revenue Code of 1986.

"(ii) ADOPTION BY PLAN.—If a plan adopts the amendment prescribed under clause (i) and makes a distribution in accordance with such amendment, such distribution shall be treated as made in accordance with the provisions of the plan."

(m) AMENDMENTS RELATED TO SECTION 1120 OF THE REFORM ACT.—

(1)(A) Section 403(b)(10) of the 1986 Code (relating to nondiscrimination requirements), as added by section 1120(b) of the Reform Act, is redesignated as paragraph (12).

(B) Subparagraph (D) of section 403(b)(1) of the 1986 Code is amended by striking out "paragraph (10)" and inserting in lieu thereof "paragraph (12)".

(2) Clause (i) of section 403(b)(12)(A), as redesignated by paragraph (1), is amended—

(A) by inserting "(17)," after "(5),", and

(B) by inserting ", section 401(m)," after "section 401(a)" the first place it appears.

(3) Section 1120(c) of the Reform Act is amended to read as follows:

"(c) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to years beginning after December 31, 1988.

"(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, the amendments made by this section shall not apply to plan years beginning before the earlier of—

"(A) January 1, 1991, or

"(B) the later of—

"(i) January 1, 1989, or

"(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after February 28, 1986)."

SEC. 111A. AMENDMENTS RELATED TO PARTS III AND IV OF SUBTITLE A OF TITLE XI OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1121 OF THE REFORM ACT.—

(1) Subparagraph (F) of section 402(a)(5) of the 1986 Code (relating to transfer treated as rollover contribution under section 408) is amended by striking out "described in subparagraph (A)" and inserting in lieu thereof "resulting in any portion of a distribution being excluded from gross income under subparagraph (A)".

(2)(A) Section 408(d)(3)(A) is amended by striking out the last sentence thereof.

(B) The amendment made by subparagraph (A) shall apply to rollover contributions made in taxable years beginning after December 31, 1986.

(3) Section 1121(d) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) PLANS MAY INCORPORATE SECTION 401(a)(9) REQUIREMENTS BY REFERENCE.—Notwithstanding any other provision of law, except as provided in regulations prescribed by the Secretary of the Treasury or his delegate, a plan may incorporate by reference the requirements of section 401(a)(9) of the Internal Revenue Code of 1986."

(4) Section 1121(d)(3) of the Reform Act is amended by striking out "plan years" and inserting in lieu thereof "years".

(5) Section 402(a)(5)(F)(ii) of the Internal Revenue Code of 1954 shall not apply to distributions after October 22, 1986, and before the 1st taxable year beginning after 1986 which are attributable to benefits which accrued before January 1, 1985.

(b) AMENDMENTS RELATED TO SECTION 1122 OF THE REFORM ACT.—

(1)(A) Section 72(f) of the 1986 Code (relating to special rules for computing employees' contributions) is amended by striking out "for purposes of subsections (d)(1) and (e)(7), the consideration for the contract contributed by the employee,".

(B) Section 72(n) of the 1986 Code (relating to annuities under retired serviceman's family protection plan or survivor benefit plan) is amended by striking out "Subsections (b) and (d)" and inserting in lieu thereof "Subsection (b)".

(C) Sections 406(e) and 407(e) of the 1986 Code are each amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(2)(A) Section 72 of the 1986 Code (relating to annuities and certain proceeds of endowment and life insurance contracts) is amended by adding after subsection (c) the following new subsection:

"(d) TREATMENT OF EMPLOYEE CONTRIBUTIONS UNDER DEFINED CONTRIBUTION PLANS AS SEPARATE CONTRACTS.—For purposes of this section, employee contributions (and any income allocable thereto) under a defined contribution plan may be treated as a separate contract."

(B) Section 72(e) of the 1986 Code is amended by striking out paragraph (9).

(3) Section 414(k)(2) of the 1986 Code (relating to certain plans treated as defined contribution plans) is amended by inserting "72(d) (relating to treatment of employee contributions as separate contract)," before "411(a)(7)(A)".

(4)(A) The amendment made by section 1122(e)(1) of the Reform Act is repealed and the Internal Revenue Code of 1986 shall be applied and administered as if such amendment had not been enacted.

(B) Subclause (I) of section 402(a)(5)(D)(i) of the 1986 Code is amended by inserting "is payable as provided in clause (i), (iii), or (iv) of subsection (e)(4)(A) (without regard to the second sentence thereof) and" after "such distribution" the first place it appears.

(C) Section 402(a)(5)(D)(i) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Any distribution described in section 401(a)(28)(B)(ii) shall be treated as meeting the requirements of subclauses (I) and (II)."

(D) Section 402(a)(5)(D)(iii) is amended by striking out "10-YEAR" in the heading.

(E) Section 402(a)(5)(D)(i)(II) of the 1986 Code (as in effect after the amendment made by subparagraph (A)) shall not apply to distributions after December 31, 1986, and before March 31, 1988.

(5) Clause (ii) of section 402(a)(6)(H) of the 1986 Code (relating to special rule for frozen deposits) is amended by adding at the end thereof the following new flush sentence:

"A deposit shall not be treated as a frozen deposit unless on at least 1 day during the 60-day period described in paragraph (5)(C) (without regard to this subparagraph) such deposit is described in the preceding sentence."

(6) Clause (i) of section 402(e)(4)(B) of the 1986 Code is amended by striking out "taxpayer" and inserting in lieu thereof "employee".

(7) The last sentence of section 402(e)(4)(J) of the 1986 Code (relating to unrealized appreciation on employer securities) is amended to read as follows: "In accordance with rules prescribed by the Secretary, a taxpayer may elect, on the return of tax on which a distribution is required to be included, not to have this subparagraph apply with respect to such distribution."

(8) Section 402 of the 1986 Code (relating to taxability of beneficiary of employees' trust) is amended as follows:

(A) Subsection (a)(1) is amended by striking out "paragraphs (2) and (4)" and inserting in lieu thereof "paragraph (4)".

(B) Subsection (a)(4) is amended by striking out "or (2)".

(C) Subsection (a)(6)(C) is amended by striking out "paragraph (2) of subsection (a), and".

(D) Subsection (a)(6)(E)(ii) is amended by striking out "paragraph (2) of subsection (a), and" and by striking out the comma after "subsection (e)".

(E) Subsection (e)(1)(A) is amended by striking out "ordinary income portion of a".

(F) Subsection (e)(4)(A) is amended—

(i) by striking out "Except for purposes of subsection (a)(2) and section 403(a)(2), a" and inserting in lieu thereof "A", and

(ii) by striking out "subsection (a)(2) of this section, and subsection (a)(2) of section 403,".

(G) Subparagraph (L) of subsection (e)(4) is hereby repealed.

(H) Subsection (e)(4)(M) is amended by striking out ", subsection (a)(2) of this section, and section 403(a)(2)".

(I) Subsection (e)(5) is amended by striking out "and paragraph (2) of subsection (a)".

(J) Subsection (e)(6)(C) is amended to read as follows:

"(C) SPECIAL LUMP-SUM TREATMENT.—For purposes of this paragraph, special lump sum treatment applies to any distribution if any portion of such distribution is taxed under this subsection by reason of an election under paragraph (4)(B)."

(9)(A) Section 72(e)(7) of the 1986 Code is hereby repealed.

(B) Section 72(e)(5)(D) is amended by striking out "paragraphs (7) and (8)" and inserting in lieu thereof "paragraph (8)".

(C) Section 72(e)(8)(A) is amended by striking out "(other than paragraph (7))".

(D) Section 72(q)(2)(E) of the 1986 Code is amended by striking out "(determined without regard to subsection (e)(7))".

(10) Section 402(e)(1)(B) of the 1986 Code (relating to amount of tax on lump-sum distributions) is amended by adding at the end thereof the following new flush sentence:

"For purposes of the preceding sentence, in determining the amount of tax under section 1(c), section 1(g) shall be applied without regard to paragraph (2)(B) thereof."

(11) Section 1122(h) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(9) SPECIAL RULE FOR STATE PLANS.—In the case of a plan maintained by a State which on May 5, 1986, permitted withdrawal by the employee of employee contributions (other than as an annuity), section 72(e) of the Internal Revenue Code of 1986 shall be applied—

"(A) without regard to the phrase 'before separation from service' in paragraph (8)(D), and

"(B) by treating any amount received (other than as an annuity) before or with the 1st annuity payment as having been received before the annuity starting date."

(12) Subparagraph (B) of section 1122(h)(2) of the Reform Act is amended by inserting ", except that section 72(b)(3) of the Internal Revenue Code of 1986 (as added by such subsection) shall apply to individuals whose annuity starting date is after July 1, 1986" after "1986".

(13) Sections 1122 (h)(3)(C) and (h)(4)(C) of the Reform Act are each amended by striking out "with respect to any other lump sum distribution" and inserting in lieu thereof "for purposes of such Code".

(14) Clause (i) of section 1122(h)(3)(C) of the Reform Act is amended—

(A) by striking out "individual" and inserting in lieu thereof "employee", and

(B) by inserting "or by an individual, estate, or trust with respect to such an employee" after "1986".

(15) Section 1122(h)(5) of the Reform Act is amended—

(A) by striking out "individual" and inserting in lieu thereof "employee",

(B) by inserting "and by including in gross income the zero bracket amount in effect under section 63(d) of such Code for such years" after "1986" in the last sentence, and

(C) by adding at the end thereof the following new sentence: "This paragraph shall also apply to an individual, estate, or trust which receives a distribution with respect to an employee described in this paragraph."

(c) AMENDMENTS RELATED TO SECTION 1123 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 72(t)(2) of the 1986 Code (relating to subsection not to apply to certain distributions) is amended by striking out "on account of early retirement under the plan" in clause (v).

(2) Subparagraph (C) of section 72(t)(2) of the 1986 Code (relating to certain plans) is amended to read as follows:

"(C) EXCEPTIONS FOR DISTRIBUTIONS FROM EMPLOYEE STOCK OWNERSHIP PLANS.—Any distribution made before January 1, 1990, to an employee from an employee stock ownership plan (as defined in section 4975(e)(7)) or a tax credit employee stock ownership plan (as defined in section 409) if—

"(i) such distribution is attributable to assets which have been invested in employer securities (within the meaning of section 409(l)) at all times during the 5-plan-year period preceding the plan year in which the distribution is made, and

"(ii) at all times during such period the requirements of sections 401(a)(28) and 409 (as in effect at such times) are met with respect to such employer securities."

(3) Subparagraph (A) of section 72(t)(3) of the 1986 Code (relating to certain exceptions not to apply to individual retirement plans) is amended by striking out "and (C)" and inserting in lieu thereof "(C), and (D)".

(4) Subparagraphs (D) and (G) of section 72(q)(2) of the 1986 Code are each amended by striking out the period at the end thereof and inserting in lieu thereof a comma.

(5) Subparagraph (B) of section 72(q)(3) of the 1986 Code (relating to change in substantially equal payments) is amended by striking out "employee" each place it appears and inserting in lieu thereof "taxpayer".

(6) Section 72(q)(2) of the 1986 Code (relating to subsection not to apply to certain dispositions) is amended by inserting after subparagraph (G) the following new subparagraph:

"(H) to which subsection (t) applies (without regard to paragraph (2) thereof),".

(7) Subparagraph (D) of section 72(q)(2) and clause (iv) of section 72(t)(2)(A) of the 1986 Code are each amended by inserting "designated" before "beneficiary".

(8) Paragraph (2) of section 72(o) of the 1986 Code (relating to additional tax if amount received before age 59½) is hereby repealed.

(9) Subparagraph (I) of section 402(e)(4) of the 1986 Code is amended by striking out "clause (ii) of".

(10) Section 26(b)(2) of the 1986 Code is amended—

(A) by striking out ", (o)(2)," in subparagraph (C), and

(B) by striking out "408(f) (relating to additional tax on income from certain retirement accounts)" in subparagraph (D) and inserting in lieu thereof "72(t) (relating to 10-percent additional tax on early distributions from qualified retirement plans)".

(11) Section 1123(e)(2) of the Reform Act is amended—

(A) by striking out "taxable", and

(B) by inserting ", but only with respect to distributions from contracts described in section 403(b) of the Internal Revenue Code of 1986 which are attributable to assets other than assets held as of the close of the last year beginning before January 1, 1989" after "1988".

(12) Section 1123(e) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE FOR DISTRIBUTIONS UNDER AN ANNUITY CONTRACT.—The amendments made by paragraphs (1), (2), and (3) of subsection (b) shall not apply to any distribution under an annuity contract if—

"(A) as of March 1, 1986, payments were being made under such contract pursuant to a written election providing a specific schedule for the distribution of the taxpayer's interest in such contract, and

"(B) such distribution is made pursuant to such written election."

(13) Section 72(t) of the 1986 Code shall apply to any distribution without regard to whether such distribution is made without the consent of the participant pursuant to section 411(a)(11) or section 417(e) of the 1986 Code.

(d) AMENDMENTS RELATED TO SECTION 1124 OF THE REFORM ACT.—

(1) Section 1124(a) of the Reform Act is amended to read as follows:

"(a) IN GENERAL.—If an employee dies, separates from service, or becomes disabled before 1987 and an individual, trust, or estate receives a lump-sum distribution with respect to such employee after December 31, 1986, and before March 16, 1987, on account of such death, separation from service, or disability, then, for purposes of the Internal Revenue Code of 1986, such individual, estate, or trust may treat such distribution as if it were received in 1986."

(2) Section 1124(b) of the Reform Act is amended—

(A) by striking out "employee" each place it appears and inserting in lieu thereof "individual, estate, or trust", and

(B) by inserting "with respect to an employee" after "receives".

(3) Section 1124 of the Reform Act is amended by adding at the end thereof the following new subsection:

"(c) LUMP SUM DISTRIBUTION.—For purposes of this section, the term 'lump sum distribution' has the meaning given such term by section 402(e)(4)(A) of the Internal Revenue Code of 1986, without regard to subparagraph (B) or (H) of section 402(e)(4) of such Code."

(e) AMENDMENTS RELATED TO SECTION 1131 OF THE REFORM ACT.—

(1) Subsection (c) of section 4972 of the 1986 Code (defining nondeductible contributions) is amended to read as follows:

"(c) NONDEDUCTIBLE CONTRIBUTIONS.—For purposes of this section—

"(1) IN GENERAL.—The term 'nondeductible contributions' means, with respect to any qualified employer plan, the sum of—

"(A) the excess (if any) of—

"(i) the amount contributed for the taxable year by the employer to or under such plan, over

"(ii) the amount allowable as a deduction under section 404 for such contributions (determined without regard to subsection (e) thereof), and

"(B) the amount determined under this subsection for the preceding taxable year reduced by the sum of—

"(i) the portion of the amount so determined returned to the employer during the taxable year, and

"(ii) the portion of the amount so determined deductible under section 404 for the taxable year (determined without regard to subsection (e) thereof).

"(2) ORDERING RULE FOR SECTION 404.—For purposes of paragraph (1), the amount allowable as a deduction under section 404 for any taxable year shall be treated as—

"(A) first from carryforwards to such taxable year from preceding taxable years (in order of time), and

"(B) then from contributions made during such taxable year.

"(3) CONTRIBUTIONS WHICH MAY BE RETURNED TO EMPLOYER.—In determining the amount of nondeductible contributions for any taxable year, there shall not be taken into account any contribution for such tax-

able year which is distributed to the employer in a distribution described in section 4980(c)(2)(B)(ii) if such distribution is made on or before the last day on which a contribution may be made for such taxable year under section 404(a)(6).

"(4) PRE-1987 CONTRIBUTIONS.—The term 'nondeductible contribution' shall not include any contribution made for a taxable year beginning before January 1, 1987."

(2) Paragraph (1) of section 4972(d) of the 1986 Code (defining qualified employer plan) is amended to read as follows:

"(1) QUALIFIED EMPLOYER PLAN.—

"(A) IN GENERAL.—The term 'qualified employer plan' means—

"(i) any plan meeting the requirements of section 401(a) which includes a trust exempt from tax under section 501(a),

"(ii) an annuity plan described in section 403(a), and

"(iii) any simplified employee pension (within the meaning of section 408(k)).

"(B) EXEMPTION FOR GOVERNMENTAL AND TAX EXEMPT PLANS.—The term 'qualified employer plan' does not include a plan described in subparagraph (A) or (B) of section 4980(c)(1)."

(3) Section 1131(d) of the Reform Act is amended to read as follows:

"(d) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1986.

"(2) SPECIAL RULES FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, the amendments made by this section shall not apply to contributions pursuant to any such agreement for taxable years beginning before the earlier of—

"(A) January 1, 1989, or

"(B) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after February 28, 1986)."

(4)(A) Subparagraph (A) of section 404(a)(7) of the 1986 Code is amended—

(i) by striking out "provisions" and inserting in lieu thereof "paragraphs", and

(ii) by inserting "or in connection with trusts or plans described in 2 or more of such paragraphs" after "1 or more defined benefit plans".

(B) Paragraph (3) of section 404(h) of the 1986 Code is amended to read as follows:

"(3) COORDINATION WITH SUBSECTION (a)(7).—For purposes of subsection (a)(7), a simplified employee pension shall be treated as if it were a separate stock bonus or profit-sharing trust."

(5) In the case of any taxable year beginning in 1987, the amount under section 4972(c)(1)(A)(ii) of the 1986 Code for a plan to which title IV of the Employee Retirement Income Security Act of 1974 applies shall be increased by the amount (if any) by which, as of the close of the plan year with or within which such taxable year begins—

(A) the liabilities of such plan (determined as if the plan had terminated as of such time), exceed

(B) the assets of such plan.

(f) AMENDMENTS RELATED TO SECTION 1132 OF THE REFORM ACT.—

(1) Section 4980(c)(1)(A) of the 1986 Code (defining qualified plan) is amended by striking out "this subtitle" and inserting in lieu thereof "subtitle A".

(2) Section 4980(c)(3)(A) of the 1986 Code (relating to exception for employee stock ownership plans) is amended—

(A) by inserting "or a tax credit employee stock ownership plan (as described in section 409)" after "section 4975(e)(7)", and

(B) by inserting ", except to the extent necessary to meet the requirements of section 401(a)(28)," after "must".

(3) Subparagraph (C) of section 4980(c)(3) of the 1986 Code is amended—

(A) by striking out "(by reason of the limitations of section 415)", and

(B) by adding at the end thereof the following new sentence:

"The amount allocated in the year of transfer shall not be less than the lesser of the maximum amount allowable under section 415 or ¼ of the amount attributable to the securities acquired."

(4) Subparagraph (B) of section 1132(c)(2) of the Reform Act is amended by striking out "November 19, 1978" and inserting in lieu thereof "September 19, 1978".

(5) Section 1132(c) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE FOR EMPLOYEE STOCK OWNERSHIP PLANS.—Section 4980(c)(3) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply to reversions occurring after March 31, 1985."

(6) Section 4980(c)(3) of the 1986 Code is amended by adding at the end thereof the following new subparagraphs:

"(F) NO CREDIT OR DEDUCTION ALLOWED.—No credit or deduction shall be allowed under chapter 1 for any amount transferred to an employee stock ownership plan in a transfer to which this paragraph applies.

"(G) AMOUNT TRANSFERRED TO INCLUDE INCOME THEREON, ETC.—The amount transferred shall not be treated as meeting the requirements of subparagraphs (B) and (C) unless amounts attributable to such amount also meet such requirements."

(7) Section 4980(c)(3)(C) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"In the case of dividends on securities held in the suspense account, the requirements of this subparagraph are met only if the dividends are allocated to accounts of participants or paid to participants in proportion to their accounts, or used to repay loans used to purchase employer securities."

(g) AMENDMENTS RELATED TO SECTION 1133 OF THE REFORM ACT.—

(1)(A) Section 4981A of the 1986 Code (as added by section 1133 of the Reform Act) is redesignated as section 4980A.

(B) The table of sections for chapter 43 of the 1986 Code is amended by redesignating section 4981A as section 4980A.

(2) Paragraph (1) of section 4980A(c) of the 1986 Code (as redesignated by paragraph (1)) is amended by striking out "$112,500 (adjusted at the same time and in the same manner as under section 415(d))" and inserting in lieu thereof "the greater of—

"(A) $150,000, or

"(B) $112,500 (adjusted at the same time and in the same manner as under section 415(d))."

(3) Section 4980A(c)(2) of the 1986 Code (relating to exclusion of certain distributions), as redesignated by paragraph (1), is amended—

(A) by striking out "employee's" in subparagraph (C) and inserting in lieu thereof "individual's", and

(B) by adding after subparagraph (D) the following new subparagraphs:

"(E) Any retirement distribution with respect to an individual of an annuity contract the value of which is not includible in gross income at the time of the distribution (other than distributions under, or proceeds from the sale or exchange of, such contract).

"(F) Any retirement distribution with respect to an individual of—

"(i) excess deferrals (and income allocable thereto) under section 402(g)(2)(A)(ii), or

"(ii) excess contributions (and income allocable thereto) under section 401(k)(8) or 408(d)(4) or excess aggregate contributions (and income allocable thereto) under section 401(m)(6)."

(4)(A) Section 4980A of the 1986 Code, as redesignated by paragraph (1), is amended by adding at the end thereof the following new subsection:

"(f) EXEMPTION OF ACCRUED BENEFITS IN EXCESS OF $562,500 ON AUGUST 1, 1986.—For purposes of this section—

"(1) IN GENERAL.—If an election is made with respect to an eligible individual to have this subsection apply, the individual's excess distributions and excess retirement accumulation shall be computed without regard to any distributions or interests attributable to the accrued benefit of the individual as of August 1, 1986.

"(2) REDUCTION IN AMOUNTS WHICH MAY BE RECEIVED WITHOUT TAX.—If this subsection applies to any individual—

"(A) EXCESS DISTRIBUTIONS.—Subsection (c)(1) shall be applied—

"(i) without regard to subparagraph (A), and

"(ii) by reducing (but not below zero) the amount determined under subparagraph (B) thereof by retirement distributions attributable (as determined under rules prescribed by the Secretary) to the individual's accrued benefit as of August 1, 1986.

"(B) EXCESS RETIREMENT ACCUMULATION.—The amount determined under subsection (d)(3)(B) (without regard to subsection (c)(1)(A)) with respect to such individual shall be reduced (but not below zero) by the present value of the individual's accrued benefit as of August 1, 1986, which has not been distributed as of the date of death.

"(3) ELIGIBLE INDIVIDUAL.—For purposes of this subsection, the term 'eligible individual' means any individual if, on August 1, 1986, the present value of such individual's interests in qualified employer plans and individual retirement plans exceeded $562,500.

"(4) CERTAIN AMOUNTS EXCLUDED.—In determining an individual's accrued benefit for purposes of this subsection, there shall not be taken into account any portion of the accrued benefit—

"(A) payable to an alternate payee pursuant to a qualified domestic relations order (within the meaning of section 414(p)) if includible in income of the alternate payee, or

"(B) attributable to the individual's investment in the contract (as defined in section 72(f)).

"(5) ELECTION.—An election under paragraph (1) shall be made on an individual's return of tax imposed by chapter 1 or 11 for a taxable year beginning before January 1, 1989."

(B) Section 4980A(c) of the 1986 Code, as redesignated by paragraph (1), is amended by striking out paragraph (5).

(5) Section 4980A(d) of the 1986 Code (relating to increase in estate tax if individual dies with excess accumulation), as redesignated by paragraph (1), is amended—

(A) by striking out "section 2010" in paragraph (2) and inserting in lieu thereof "chapter 11", and

(B) by adding at the end thereof the following new paragraphs:

"(4) RULES FOR COMPUTING EXCESS RETIREMENT ACCUMULATION.—The excess retirement

accumulation of an individual shall be computed without regard to—

"(A) any community property law,

"(B) the value of—

"(i) amounts payable to an alternate payee pursuant to a qualified domestic relations order (within the meaning of section 414(p)) if includible in income of the alternate payee, and

"(ii) the individual's investment in the contract (as defined in section 72(f)), and

"(C) the excess (if any) of—

"(i) any interests which are payable immediately after death, over

"(ii) the value of such interests immediately before death.

"(5) ELECTION BY SPOUSE TO HAVE EXCESS DISTRIBUTION RULE APPLY.—

"(A) IN GENERAL.—If the spouse of an individual is the beneficiary of all of the interests described in paragraph (3)(A), the spouse may elect—

"(i) not to have this subsection apply, and

"(ii) to have this section apply to such interests and any retirement distribution attributable to such interests as if such interests were the spouse's.

"(B) DE MINIMIS EXCEPTION.—If 1 or more persons other than the spouse are beneficiaries of a de minimis portion of the interests described in paragraph (3)(A)—

"(i) the spouse shall not be treated as failing to meet the requirements of subparagraph (A), and

"(ii) if the spouse makes the election under subparagraph (A), this section shall not apply to such portion or any retirement distribution attributable to such portion."

(6) Subparagraph (B) of section 4980A(d)(3) of the 1986 Code, as redesignated by paragraph (1), is amended to read as follows:

"(B) the present value (as determined under rules prescribed by the Secretary as of the valuation date prescribed in subparagraph (A)) of a single life annuity with annual payments equal to the limitation of subsection (c) (as in effect for the year in which death occurs and as if the individual had not died)."

(7) Section 2013 of the 1986 Code (relating to credit for tax on prior transfer) is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF ADDITIONAL TAX UNDER SECTION 4980A.—For purposes of this section, the estate tax paid shall not include any portion of such tax attributable to section 4980A(d)."

(8) Paragraph (1) of section 1133(c) of the Reform Act is amended by inserting ", other than a distribution with respect to a decedent dying before January 1, 1987" after "1986".

(9) Section 4980A(d)(3)(A) of the 1986 Code is amended by inserting "(other than as a beneficiary, determined after application of paragraph (5))" after "the individual's interests".

(10) Section 691(c)(1) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) EXCESS RETIREMENT ACCUMULATION TAX.—For purposes of this subsection, no deduction shall be allowed for the portion of the estate tax attributable to the increase in such tax under section 4980A(d)."

(11) Section 2053(c)(1)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence: "This subparagraph shall not apply to any increase in the tax imposed by this chapter by reason of section 4980A(d)."

(12) Section 6018(a) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) RETURN REQUIRED IF EXCESS RETIREMENT ACCUMULATION TAX.—The executor shall make a return with respect to the estate tax imposed by subtitle B in any case where such tax is increased by reason of section 4980A(d)."

(h) AMENDMENTS RELATED TO SECTION 1134 OF THE REFORM ACT.—

(1) Section 72(p)(3)(A) of the 1986 Code (relating to denial of interest deductions in certain cases) is amended by inserting "to which paragraph (1) does not apply by reason of paragraph (2) during the period" after "loan".

(2) Subparagraph (B) of section 72(p)(3) of the 1986 Code is amended to read as follows:

"(B) PERIOD TO WHICH SUBPARAGRAPH (A) APPLIES.—For purposes of subparagraph (A), the period described in this subparagraph is the period—

"(i) on or after the 1st day on which the individual to whom the loan is made is a key employee (as defined in section 416(i)), or

"(ii) such loan is secured by amounts attributable to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3)."

(i) AMENDMENTS RELATED TO SECTION 1135 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 72(u)(1) of the 1986 Code (relating to annuity contracts not held by natural persons) is amended by inserting "(other than subchapter L)" after "subtitle".

(2) Subparagraph (D) of section 72(u)(3) of the 1986 Code (relating to exceptions) is amended by striking out "until such time as the employee separates from service" and inserting in lieu thereof "until all amounts under such contract are distributed to the employee for whom such contract was purchased or the employee's beneficiary".

(3) Subparagraphs (D) and (E) of section 72(u)(3) of the 1986 Code (relating to exceptions) are each amended by striking out "which".

(4) Paragraph (4) of section 72(u) of the 1986 Code is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(C) which provides for a series of substantially equal periodic payments (to be made not less frequently than annually) during the annuity period."

(j) AMENDMENTS RELATED TO SECTION 1136 OF THE REFORM ACT.—

(1) Section 401(a)(27) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(B) PLAN MUST DESIGNATE TYPE.—In the case of a plan which is intended to be a money purchase pension plan or a profit-sharing plan, a trust forming part of such plan shall not constitute a qualified trust under this subsection unless the plan designates such intent at such time and in such manner as the Secretary may prescribe."

(2) Section 401(a)(27) of the 1986 Code is amended by striking out "(27)" and inserting in lieu thereof:

"(27) DETERMINATIONS AS TO PROFIT-SHARING PLANS.—

"(A) CONTRIBUTIONS NEED NOT BE BASED ON PROFITS.—".

(k) AMENDMENT RELATED TO SECTION 1139 OF THE REFORM ACT.—Clause (i) of section 1139(d)(2)(A) of the Reform Act is amended by striking out "before January" and inserting in lieu thereof "after January".

(l) AMENDMENT RELATED TO SECTION 1145 OF THE REFORM ACT.—Subparagraph (E) of section 401(a)(11) of the 1986 Code (relating to cross reference) is redesignated as subparagraph (F).

(m) AMENDMENTS RELATED TO SECTION 1147 OF THE REFORM ACT.—

(1) Subparagraph (C) of section 7701(j)(1) of the 1986 Code (relating to tax treatment of Federal Thrift Savings Fund) is amended by inserting ", section 401(k)(4)(B)," after "paragraph (2)".

(2) Section 8440(a)(3) of title 5, United States Code, is amended by inserting ", 401(k)(4)(B) of such Code," after "subsection (b)".

SEC. 111B. AMENDMENTS RELATED TO SUBTITLES B AND C OF TITLE XI OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1151 OF THE REFORM ACT.—

(1) Paragraph (2) of section 89(a) of the 1986 Code (relating to year of inclusion) is amended to read as follows:

"(2) YEAR OF INCLUSION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any amount included in gross income under paragraph (1) shall be taken into account for the taxable year of the employee with or within which the plan year ends.

"(B) ELECTION TO DELAY INCLUSION FOR 1 YEAR.—If an employer maintaining a plan with a plan year ending after September 30 and on or before December 31 of a calendar year elects the application of this subparagraph—

"(i) amounts included in gross income under paragraph (1) with respect to employees of such employer shall be taken into account for the taxable year of the employee following the taxable year determined under subparagraph (A), but

"(ii) any deduction of the employer which is attributable to such amounts shall be allowable for the taxable year with or within which the plan year following the plan year in which the excess benefits occurred ends."

(2) Paragraph (4) of section 89(b) of the 1986 Code (defining nontaxable benefits) is amended by adding at the end thereof the following new sentence: "Such term includes any group-term life insurance the cost of which is includible in gross income under section 79."

(3) Paragraph (1) of section 89(g)(1) of the 1986 Code (relating to the aggregation of comparable health plans) is amended by adding at the end thereof the following new subparagraph:

"(C) EMPLOYEES COVERED BY MORE THAN 1 PLAN.—The Secretary may provide that 2 or more plans providing benefits to the same participant shall be treated as 1 plan for purposes of applying subsections (d)(1)(B), (d)(2), and (f)."

(4) Subparagraph (B) of section 89(g)(2) of the 1986 Code (relating to sworn statements) is amended by adding at the end thereof the following new sentence: "No statement shall be required under clause (ii) with respect to any individual eligible for coverage at no cost under a health plan which provides core health benefits and with respect to whom the employee does not elect any core health coverage from the employer."

(5) Subparagraph (D) of section 89(g)(2) of the 1986 Code is amended by striking out "under such plan" and inserting in lieu thereof "under such plans".

(6) Paragraph (6) of section 89(g) of the 1986 Code (relating to operating rules) is

amended by striking out "subsection (d)(1)(A)(ii) or of" and by striking out "ELIGIBILITY REQUIREMENTS AND" in the heading thereof.

(7) Subparagraph (A) of section 89(h)(1) of the 1986 Code (relating to excluded employees) is amended by inserting "(or 1st day of a period of less than 31 days specified by the plan)" after "month".

(8) Section 89(j) of the 1986 Code (relating to other definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(12) EMPLOYERS WITH ONLY HIGHLY COMPENSATED EMPLOYEES.—The requirements of subsections (d) and (e) shall not apply to any statutory employee benefit plan for any year for which the only employees of the employer maintaining the plan are highly compensated employees."

(9) Section 89(k) of the 1986 Code (relating to requirement that plan be in writing) is amended by adding at the end thereof the following new paragraph:

"(5) LOSS OF EXEMPTION FOR CERTAIN PLANS.—If a plan described in paragraph (2)(E) fails to meet the requirements of paragraph (1), the organization which is part of such plan shall not be exempt from tax under section 501(a)."

(10) Section 6652(l)(2)(B) of the 1986 Code (relating to amount of additional tax) is amended by striking out "subsection (g)(3)" and inserting in lieu thereof "subsection (g)(3)(C)(i)".

(11)(A) Subsection (a) of section 125 of the 1986 Code is amended to read as follows:

"(a) GENERAL RULE.—Except as provided in subsection (b), no amount shall be included in the gross income of a participant in a cafeteria plan solely because, under the plan, the participant may choose among the benefits of the plan."

(B) Paragraph (1) of section 125(b) of the 1986 Code is amended by striking out "A plan shall be treated as failing to meet the requirements of this subsection" and inserting in lieu thereof "In the case of a highly compensated employee, subsection (a) shall not apply to any benefit attributable to a plan year".

(C) Paragraph (2) of section 125(b) of the 1986 Code is amended by striking out "a plan shall be treated as failing to meet the requirements of this subsection" and inserting in lieu thereof "subsection (a) shall not apply to any plan year".

(12) Subparagraph (B) of section 125(c)(1) of the 1986 Code (defining cafeteria plans) is amended to read as follows:

"(B) the participant may choose among 2 or more benefits consisting of cash and qualified benefits."

(13)(A) Paragraph (1) of section 125(e) of the 1986 Code (defining qualified benefits) is amended by inserting "and without regard to section 89(a)" after "subsection (a)".

(B) The last sentence of section 125(b)(2) of the 1986 Code is amended to read as follows: "For purposes of the preceding sentence, qualified benefits shall not include benefits which (without regard to this paragraph) are includible in gross income."

(14) Subsection (d) of section 129 of the 1986 Code is amended by redesignating paragraph (8) as paragraph (7).

(15) Paragraph (7) of section 129(d) of the 1986 Code (as so redesignated) is amended—

(A) by inserting "under all plans of the employer" after "employees" the 2nd and 3rd time it appears in subparagraph (A),

(B) by striking out "there shall be disregarded" in subparagraph (B) and inserting in lieu thereof "a plan may disregard", and

(C) by striking out "415(q)(7)" in subparagraph (B) and inserting in lieu thereof "414(q)(7)".

(16) Section 414(m)(4) of the 1986 Code is amended by inserting "and" at the end of subparagraph (A), by striking out the comma at the end of subparagraph (B) and inserting in lieu thereof a period, and by striking out subparagraphs (C) and (D).

(17) Paragraph (2) of section 414(t) of the 1986 Code is amended by striking out "132," and inserting in lieu thereof "132, 162(i)(2), 162(k),".

(18) Paragraph (6) of section 129(e) of the 1986 Code is amended by striking out "of subsection (d)" and inserting in lieu thereof "of subsection (d) (other than paragraphs (4) and (7) thereof)".

(19) Subparagraph (C) of section 414(n)(3) of the 1986 Code is amended by striking out "132," and inserting in lieu thereof "132, 162(i)(2), 162(k),".

(20) Section 414(t)(1) of the 1986 Code (relating to application of controlled group rules to certain employees) is amended by striking out "of section 414" each place it appears.

(21) Section 89(j)(6) of the 1986 Code is amended by striking out "described in subparagraph (A), (B), or (C) of subsection (i)(2)".

(22)(A) Section 3121 of the 1986 Code (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(x) BENEFITS PROVIDED UNDER CERTAIN EMPLOYEE BENEFIT PLANS.—Notwithstanding any paragraph of subsection (a) (other than paragraph (1)), the term 'wages' shall include any amount which is includible in gross income by reason of section 89."

(B) Section 3231(e) of the 1986 Code (defining compensation) is amended by adding at the end thereof the following new paragraph:

"(8) BENEFITS PROVIDED UNDER CERTAIN EMPLOYEE BENEFIT PLANS.—Notwithstanding any other paragraph of this subsection (other than paragraph (2)), the term 'compensation' shall include any amount which is includible in gross income by reason of section 89."

(C) Section 3306 of the 1986 Code (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(t) BENEFITS PROVIDED UNDER CERTAIN EMPLOYEE BENEFIT PLANS.—Notwithstanding any paragraph of subsection (b) (other than paragraph (1)), the term 'wages' shall include any amount which is includible in gross income by reason of section 89."

(D) Section 3401 of the 1986 Code (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(g) BENEFITS PROVIDED UNDER CERTAIN EMPLOYEE BENEFIT PLANS.—Notwithstanding any paragraph of subsection (a), the term 'wages' shall include any amount which is includible in gross income by reason of section 89."

(E) The third to last sentence of section 209 of the Social Security Act is amended—

(i) by striking out the period at the end of clause (2) and inserting in lieu thereof ", or", and

(ii) by inserting after clause (2) the following new clause:

"(3) Any amount required to be included in gross income under section 89 of the Internal Revenue Code of 1986."

(F) The amendments made by this paragraph shall not apply to any individual who separated from service with the employer before January 1, 1989.

(23)(A) Sections 3121(a)(5)(G) and 3306(b)(5)(G) of the 1986 Code are each amended by inserting "if such payment would not be treated as wages without regard to such plan and it is reasonable to believe that (if section 125 applied for purposes of this section) section 125 would not treat any wages as constructively received" after "section 125)".

(B) Section 209(e)(9) of the Social Security Act is amended by inserting "if such payment would not be treated as wages without regard to such plan and it is reasonable to believe that (if section 125 applied for purposes of this section) section 125 would not treat any wages as constructively received" after "1986)".

(24) Section 1151(h)(3) of the Reform Act is amended by striking out "Section 6039B(c)" and inserting in lieu thereof "Section 6039D(c)".

(25) Paragraph (1) of section 1151(k) of the Reform Act is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding sentence, the amendments made by subsections (e)(1) and (i)(3)(C) shall, to the extent they relate to sections 106, 162(i)(2), and 162(k) of the Internal Revenue Code of 1986, apply to years beginning after 1986."

(26) Section 1151(k) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(6) CERTAIN PLANS MAINTAINED BY EDUCATIONAL INSTITUTIONS.—If an educational organization described in section 170(b)(1)(A)(ii) of the Internal Revenue Code of 1986 makes an election under this paragraph with respect to a plan described in section 125(c)(2)(C) of such Code, the amendments made by this section shall apply with respect to such plan for plan years beginning after the date of the enactment of this Act."

(27)(A) Section 4976 of the 1986 Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) TAX ON FUNDED WELFARE BENEFIT FUNDS WHICH INCLUDE DISCRIMINATORY EMPLOYEE BENEFIT PLAN.—

"(1) IN GENERAL.—If—

"(A) an employer maintains a welfare benefit fund, and

"(B) a discriminatory employee benefit plan (within the meaning of section 89) is part of such fund for any plan year,

there is hereby imposed on such employer for the taxable year with or within which the plan year ends a tax in the amount determined under paragraph (2).

"(2) AMOUNT OF TAX.—The amount of the tax under paragraph (1) shall be equal to the excess (if any) of—

"(A) the product of the highest rate of tax imposed by section 11, multiplied by the lesser of—

"(i) the aggregate excess benefits (as defined in section 89) for such plan year, or

"(ii) the taxable income of the fund for such plan year, over

"(B) the amount of tax imposed by chapter 1 on such fund for such plan year."

(B) Section 4976(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) LIMITATION IN CASE OF BENEFITS TO WHICH SECTION 89 APPLIES.—If section 89 applies to any post-retirement medical benefit or life insurance benefit provided by a fund, the amount of the disqualified benefit under paragraph (1)(B) with respect to such benefit shall not exceed the aggregate excess ben-

efits provided by the plan (as determined under section 89)."

(C) Section 505(a)(1) of the 1986 Code is amended by adding at the end thereof the following new subsection: "This paragraph shall not apply to any organization by reason of a failure to meet the requirements of subsection (b) with respect to a benefit to which section 89 applies."

(28) Section 89(g)(6)(B) of the 1986 Code is amended by striking out "and (C)" and inserting in lieu thereof ", (C), and (D)".

(29) Section 89(h)(4) of the 1986 Code is amended by striking out "subsection (h)(5)" and inserting in lieu thereof "subsection (g)(5)".

(30) Section 89(k)(1) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following new sentences:

"Such inclusion shall be coordinated (under regulations prescribed by the Secretary) with any inclusion under subsection (a) with respect to such plan. In the case of a statutory employee benefit plan described in subsection (i)(1)(B), any amount required to be included in gross income under this subsection shall be included in the gross income of the beneficiary."

(31) Section 129(d)(1)(B) of the 1986 Code is amended by striking out "(6)" and inserting in lieu thereof "(7)".

(32)(A) Section 129(d) of the 1986 Code is amended—

(i) by striking out the last sentence of paragraph (3), and

(ii) by inserting at the end thereof the following new paragraph:

"(8) EXCLUDED EMPLOYEES.—For purposes of paragraphs (2), (3), and (7), there shall be excluded from consideration employees who are excluded from consideration under section 89(h)."

(B) Sections 117(d)(4), 120(c)(2), 127(b)(2), 132(h)(1), and 505(b)(2) of the 1986 Code are each amended—

(i) by striking out "may" the first place it appears and inserting in lieu thereof "shall", and

(ii) by striking out "may be" the second place it appears and inserting in lieu thereof "are".

(33) Section 505(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(7) $200,000 COMPENSATION LIMIT.—A plan shall not be treated as meeting the requirements of this subsection unless under the plan the annual compensation of each employee taken into account for any year does not exceed $200,000. The Secretary shall adjust the $200,000 amount at the same time and in the same manner as under section 415(d)."

(34) Section 3401(a) of the 1986 Code is amended by inserting "or" at the end of paragraph (18), by striking out paragraph (19), and by redesignating paragraph (20) as paragraph (19).

(35)(A) Section 89(g)(3)(B) of the 1986 Code shall not apply to years beginning before the date which is 6 months after the Secretary of the Treasury or his delegate first issues such valuation rules as are necessary to apply the provisions of section 89 of the 1986 Code to health plans. The Secretary may provide in such rules a date which is later than the date determined under the preceding sentence.

(B) In the case of years beginning after December 31, 1988, and before the 1st year to which the rules described in subparagraph (A) apply—

(i) Except as provided in clause (ii), the value of coverage under a health plan for purposes of section 89 of the 1986 Code shall be determined in substantially the same manner as costs under a health plan are determined under section 162(k)(4) of the 1986 Code.

(ii) For purposes of determining whether an employer meets the requirements of subsections (d), (e), and (f) of section 89 of the 1986 Code, such value under clause (i) may be determined under any other reasonable method selected by the employer maintaining the plan.

(b) AMENDMENTS RELATED TO SECTION 1161 OF THE REFORM ACT.—

(1) Section 162(m) of the 1986 Code (relating to special rules for health insurance costs of self-employed individuals) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) DEDUCTION NOT ALLOWED FOR SELF-EMPLOYMENT TAX PURPOSES.—The deduction allowable by reason of this subsection shall not be taken into account in determining an individual's net earnings from self-employment (within the meaning of section 1402(a)) for purposes of chapter 2."

(2) Section 162(m) of the 1986 Code (relating to cross reference) as redesignated by section 1161(a) of the Reform Act, is redesignated as subsection (n).

(3) Section 162(m)(2)(A) of the 1986 Code is amended by inserting: "derived by the taxpayer from the trade or business with respect to which the plan providing the medical care coverage is established" after "401(c))".

(4) Section 211(a) of the Social Security Act is amended by inserting after paragraph (13) the following new paragraph:

"(14) The deduction under section 162(m) (relating to health insurance costs of self-employed individuals) shall not be allowed."

(c) AMENDMENTS RELATED TO SECTION 1163 OF THE REFORM ACT.—

(1) Paragraph (8) of section 129(e) of the 1986 Code (relating to treatment of onsite facilities) is amended—

(A) by inserting "maintained by an employer" after "onsite facility",

(B) by inserting "of dependent care assistance provided to an employee" after "the amount",

(C) by inserting "of the facility by a dependent of the employee" after "utilization" in subparagraph (A), and

(D) by inserting "with respect to such dependent" after "provided" in subparagraph (B).

(2)(A) Paragraph (2) of section 129(a) of the 1986 Code is amended to read as follows:

"(2) LIMITATION OF EXCLUSION.—

"(A) IN GENERAL.—The amount which may be excluded under paragraph (1) for dependent care assistance with respect to dependent care services provided during a taxable year shall not exceed $5,000 ($2,500 in the case of a separate return by a married individual).

"(B) YEAR OF INCLUSION.—The amount of any excess under subparagraph (A) shall be included in gross income in the taxable year in which the dependent care services were provided (even if payment of dependent care assistance for such services occurs in a subsequent taxable year).

"(C) MARITAL STATUS.—For purposes of this paragraph, marital status shall be determined under the rules of paragraphs (3) and (4) of section 21(e)."

(B) Section 6051(a) of the 1986 Code is amended by striking out the period at the end of paragraph (8) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(9) the total amount incurred for dependent care assistance with respect to such employee under a dependent care assistance program described in section 129(d)."

(C)(i) Except as provided in this subparagraph, the amendments made by this paragraph shall apply to taxable years beginning after December 31, 1987.

(ii) A taxpayer may elect to have the amendment made by subparagraph (A) apply to taxable years beginning in 1987.

(iii) In the case of a taxpayer not making an election under clause (ii), any dependent care assistance provided in a taxable year beginning in 1987 with respect to which reimbursement was not received in such taxable year shall be treated as provided in the taxpayer's first taxable year beginning after December 31, 1987.

(d) AMENDMENT RELATED TO SECTION 1164 OF THE REFORM ACT.—Section 119(d)(2) of the 1986 Code is amended—

(1) by striking out "(as of the close of the calendar year in which the taxable year begins)" in subparagraph (A)(i), and

(2) by adding at the end thereof the following:

"The appraised value under subparagraph (A)(i) shall be determined as of the close of the calendar year in which the taxable year begins, or, in the case of a rental period not greater than 1 year, at any time during the calendar year in which such period begins."

(e) AMENDMENTS RELATED TO SECTION 1166 OF THE REFORM ACT.—Section 7701(a)(20) of the 1986 Code (defining employee) is amended—

(1) by striking out "106, and 125" and inserting in lieu thereof "and 106", and

(2) by inserting "and for purposes of applying section 125 with respect to cafeteria plans," before "the term".

(f) AMENDMENTS RELATED TO SECTION 1168 OF THE REFORM ACT.—

(1) Paragraph (1) of section 134(b) of the 1986 Code is amended by striking out "or regulation thereunder" and inserting in lieu thereof ", regulation, or administrative practice".

(2)(A) Section 134(b)(1) of the 1986 Code is amended by inserting "(other than personal use of a vehicle)" after "in-kind benefit".

(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1986.

(3) Section 134(b)(3)(A) of the 1986 Code is amended by striking out "under any provision of law or regulation described in paragraph (1)".

(4) Section 1168(c) of the Reform Act is amended by striking out "1986" and inserting in lieu thereof "1984".

(g) AMENDMENTS RELATED TO SECTION 1172 OF THE REFORM ACT.—

(1) Section 1172(b)(1)(A) of the Reform Act is amended by inserting "each place it appears" before the comma.

(2) Paragraphs (2) and (3) of section 409(n) of the 1986 Code (relating to securities received in certain transactions) is amended by inserting "or section 2057" after "section 1042" each place it appears.

(3) Paragraph (1) of section 2057(b) of the 1986 Code (relating to qualified sale) is amended by striking out "is".

(h) AMENDMENTS RELATED TO SECTION 1173 OF THE REFORM ACT.—

(1) Section 133 of the 1986 Code (relating to exclusion of interest on securities acquisition loans) is amended by adding at the end thereof the following new subsection:

"(e) PERIOD TO WHICH INTEREST EXCLUSION APPLIES.—

"(1) IN GENERAL.—In the case of—

"(A) an original securities acquisition loan, and

"(B) any securities acquisition loan (or series of such loans) used to refinance the original securities acquisition loan,

subsection (a) shall apply only to interest accruing during the excludable period with respect to the original securities acquisition loan.

"(2) EXCLUDABLE PERIOD.—For purposes of this subsection, the term 'excludable period' means, with respect to any original securities acquisition loan—

"(A) IN GENERAL.—The 7-year period beginning on the date of such loan.

"(B) LOANS DESCRIBED IN SUBSECTION (b)(1)(A).—If the term of an original securities acquisition loan described in subsection (b)(1)(A) is greater than 7 years, the term of such loan. This subparagraph shall not apply to a loan described in subsection (b)(3)(B).

"(3) ORIGINAL SECURITIES ACQUISITION LOAN.—For the purposes of this subsection, the term 'original securities acquisition loan' means a securities acquisition loan described in subparagraph (A) or (B) of subsection (b)(1)."

(2)(A) Section 133(b) of the 1986 Code (defining securities acquisition loan) is amended—

(i) by striking out "or are used to refinance such a loan," in paragraph (1)(A),

(ii) by striking out ", except that this subparagraph shall not apply to any loan the commitment period of which exceeds 7 years" in paragraph (1)(B), and

(iii) by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF REFINANCINGS.—The term 'securities acquisition loan' shall include any loan which—

"(A) is (or is part of a series of loans) used to refinance a loan described in subparagraph (A) or (B) of paragraph (1), and

"(B) meets the requirements of paragraphs (2) and (3)."

(B) Subparagraph (B) of section 133(b)(3) of the 1986 Code is amended to read as follows:

"(B) repayment terms providing for more rapid repayment of principal or interest on such loan, but only if allocations under the plan attributable to such repayment do not discriminate in favor of highly compensated employees (within the meaning of section 414(q))."

(3) Section 404(k) of the 1986 Code is amended—

(A) by inserting "(whether or not allocated to participants)" after "employer securities" in paragraph (2)(C), and

(B) by adding at the end thereof the following new sentence: "Paragraph (2)(C) shall not apply to dividends from employer securities which are allocated to any participant unless the plan provides that employer securities with a fair market value not less than the amount of such dividends are allocated to such participant for the year which (but for paragraph (2)(C)) such dividends would have been allocated to such participant."

(4) Subparagraph (C) of section 852(b)(5) of the 1986 Code (relating to interest on certain loans used to acquire employer securities) is amended by striking out "paragraph" and inserting in lieu thereof "section".

(5)(A) The amendments made by paragraphs (1) and (2) shall apply to—

(i) any loan used to acquire employer securities after July 18, 1984, and

(ii) loans made after July 18, 1984, which were used (or were part of a series of loans used) to refinance any loan which—

(I) was used to acquire employer securities after May 23, 1984 (July 18, 1984, in the case of a loan described in section 133(b)(3)(B) of the Internal Revenue Code of 1986), and

(II) met the requirements of section 133 of such Code as in effect as of the later of the date on which the loan was made, or July 19, 1984.

In no event shall such amendments apply to any loan described in section 133(b)(1)(B) of such Code which is made before October 22, 1986 (or loan used, or part of a series of loans used, to refinance such a loan).

(B) Subparagraph (B) of section 1173(c)(2) of the Reform Act is amended to read as follows:

"(B) Section 133(b)(1)(A) of the Internal Revenue Code of 1986, as amended by subsection (b)(2), shall apply to any loan used (or part of a series of loans used) to refinance a loan which—

"(i) was used to acquire employer securities after May 23, 1984, and

"(ii) met the requirements of section 133 of the Internal Revenue Code of 1986 as in effect as of the later of—

"(I) the date on which the loan was made, or

"(II) July 19, 1984."

(6) Section 404(k) of the 1986 Code is amended by striking out "merely by reason of any distribution" in the third sentence and inserting in lieu thereof "or as engaging in a prohibited transaction for purposes of section 4975(d)(3) merely by reason of any distribution or payment".

(i) AMENDMENTS RELATED TO SECTION 1174 OF THE REFORM ACT.—

(1) Clause (ii) of section 409(o)(1)(A) of the 1986 Code (relating to distribution requirement) is amended by striking out "such year" and inserting in lieu thereof "distribution is required to begin under this clause".

(2) Section 1174(a)(2) of the Reform Act is amended by striking out "plan terminations" and inserting in lieu thereof "distributions".

(3) Section 409(o)(1)(A) of the 1986 Code is amended by striking out "unless the participant otherwise elects" and inserting in lieu thereof "if the participant and, if applicable pursuant to sections 401 (a)(11) and 417, with the consent of the participant's spouse elects".

(j) AMENDMENTS RELATED TO SECTION 1175 OF THE REFORM ACT.—

(1) Subclause (II) of section 401(a)(28)(B) of the 1986 Code (relating to method of meeting requirements) is amended by inserting "and within 90 days after the period during which the election may be made, the plan invests the portion of the participant's account covered by the election in accordance with such election" after "clause (i)".

(2) Clause (iv) of section 401(a)(28)(B) of the 1986 Code is amended to read as follows:

"(iv) QUALIFIED ELECTION PERIOD.—For purposes of this subparagraph, the term 'qualified election period' means the 6-plan-year period beginning with the later of—

"(I) the 1st plan year in which the individual first became a qualified participant, or

"(II) the 1st plan year beginning after December 31, 1986."

(3) The last sentence of section 409(d) of the 1986 Code (relating to employer securities must stay in the plan) is amended by inserting "or to any distribution or reinvestment required under section 401(a)(28)" after "section 401(a)(9)".

(4) Section 4978(d) of the 1986 Code (relating to section not to apply to certain dispositions) is amended by adding at the end thereof the following new paragraph:

"(4) DISPOSITIONS TO MEET DIVERSIFICATION REQUIREMENTS.—This section shall not apply to any disposition of qualified securities which is required under section 401(a)(28)."

(5) Section 409(h) of the 1986 Code (relating to right to demand employer securities; put option) is amended by adding at the end thereof the following new paragraph:

"(7) EXCEPTION WHERE EMPLOYEE ELECTED DIVERSIFICATION.—Paragraph (1)(A) shall not apply with respect to the portion of the participant's account which the employee elected to have reinvested under section 401(a)(28)(B)."

(6) Section 401(a)(28)(B) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(v) COORDINATION WITH DISTRIBUTION RULES.—Any distribution required by this subparagraph shall not be taken into account in determining whether—

"(I) a subsequent distribution is a lump-sum distribution under section 402(e)(4)(A), or

"(II) section 402(a)(5)(D)(iii) applies to a subsequent distribution."

(k) AMENDMENTS RELATED TO SECTION 1176 OF THE REFORM ACT.—

(1) Section 401(a)(22) of the 1986 Code is amended by striking out "is not publicly traded" each place it appears and inserting in lieu thereof "is not readily tradable on an established market".

(2) Section 401(a)(22) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, subsections (b), (c), (m), and (o) of section 414 shall not apply except for determining whether stock of the employer is not readily tradable on an established market."

(3) Section 409(l)(4) of the 1986 Code (relating to nonvoting common stock may be acquired in certain cases), as added by section 1176(b) of the Reform Act, is redesignated as paragraph (5).

(l) AMENDMENTS RELATED TO SECTION 1177 OF THE REFORM ACT.—

(1) Paragraph (2) of section 1177(b) of the Reform Act is amended by striking out "section 143(d)(3)(C)" and inserting in lieu thereof "section 146(d)(3)(C)".

(2) Subsection (b) of section 1177 of the Reform Act is amended by striking out "made by this subtitle" and inserting in lieu thereof "made by section 1175".

(3) If any newspaper corporation described in section 1177(b) of the Reform Act, as amended by this subsection, pays in cash a dividend within 60 days after the date of the enactment of this Act to the corporation's employee stock ownership plans and if a corporate resolution declaring such dividend was adopted before November 30, 1987, and such resolution specifies that such dividend shall be contingent upon passage by the Congress of technical corrections, then such dividend (to the extent the aggregate amount so paid does not exceed $3,500,000) shall be treated as if it had been declared and paid in 1987 for all purposes of the Internal Revenue Code of 1986.

SEC. 112. AMENDMENTS RELATED TO TITLE XII OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1201 OF THE REFORM ACT.—

(1)(A) Subparagraph (C) of section 904(d)(2) of the 1986 Code is amended to read as follows:

"(C) FINANCIAL SERVICES INCOME.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'financial services income' means any income which is received or accrued by any person predominantly engaged in the active conduct of a banking, insurance, financing, or similar business, and which is—

"(I) described in clause (ii),

"(II) passive income (determined without regard to subclause (I) of subparagraph (A)(iii)), or

"(III) export financing interest which (but for subparagraph (B)(ii)) would be high withholding tax interest.

"(ii) GENERAL DESCRIPTION OF FINANCIAL SERVICES INCOME.—Income is described in this clause if such income is—

"(I) derived in the active conduct of a banking, financing, or similar business,

"(II) derived from the investment by an insurance company of its unearned premiums or reserves ordinary and necessary for the proper conduct of its insurance business, or

"(III) of a kind which would be insurance income as defined in section 953(a) determined without regard to those provisions of paragraph (1)(A) of such section which limit insurance income to income from countries other than the country in which the corporation was created or organized.

"(iii) EXCEPTIONS.—The term 'financial services income' does not include—

"(I) any high withholding tax interest,

"(II) any dividend from a noncontrolled section 902 corporation, and

"(III) any export financing interest not described in clause (i)(III)."

(B) Clause (i) of section 864(d)(5)(A) of the 1986 Code is amended by striking out "(C)(iii)" and inserting in lieu thereof "(C)(iii)(III)".

(2) Subparagraph (D) of section 904(d)(2) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Such term does not include any dividend from a noncontrolled section 902 corporation and does not include any financial services income."

(3) Paragraph (3) of section 904(d) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(H) EXCEPTION FOR CERTAIN HIGH WITHHOLDING TAX INTEREST.—This paragraph shall not apply to any amount which—

"(i) without regard to this paragraph, is high withholding tax interest (including any amount treated as high withholding tax interest under paragraph (2)(B)(iii)), and

"(ii) would (but for this subparagraph) be treated as financial services income under this paragraph.

The amount to which this paragraph does not apply by reason of the preceding sentence shall not exceed the interest or equivalent income of the controlled foreign corporation taken into account in determining financial services income without regard to this subparagraph."

(4) Subparagraph (E) of section 904(d)(3) of the 1986 Code is amended—

(A) by striking out the first sentence and inserting in lieu thereof the following: "If a controlled foreign corporation meets the requirements of section 954(b)(3)(A) (relating to de minimis rule) for any taxable year, for purposes of this paragraph, none of its foreign base company income (as defined in section 954(a) without regard to section 954(b)(5)) and none of its gross insurance income (as defined in section 954(b)(3)(C)) for such taxable year shall be treated as income in a separate category, except that this sentence shall not apply to any income which (without regard to this sentence) would be treated as financial services income.", and

(B) by striking out "income (other than high withholding tax interest and dividends from a noncontrolled section 902 corporation)" and inserting in lieu thereof "passive income".

(5) Paragraph (2) of section 1201(e) of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(J) TREATMENT OF AFFILIATED GROUP FILING CONSOLIDATED RETURN.—For purposes of this paragraph, all members of an affiliated group of corporations filing a consolidated return shall be treated as 1 corporation."

(6) Subparagraph (A) of section 904(d)(2) of the 1986 Code is amended—

(A) by striking out "The term" in clause (ii) and inserting in lieu thereof "Except as provided in clause (iii), the term", and

(B) by adding at the end thereof the following new clause:

"(iv) CLARIFICATION OF APPLICATION OF SECTION 864(d)(6).—In determining whether any income is of a kind which would be foreign personal holding company income, the rules of section 864(d)(6) shall apply only in the case of income of a controlled foreign corporation."

(7) Subparagraph (F) of section 904(d)(3) of the 1986 Code is amended to read as follows:

"(F) SEPARATE CATEGORY.—For purposes of this paragraph—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'separate category' means any category of income described in subparagraph (A), (B), (C), (D), or (E) of paragraph (1).

"(ii) COORDINATION WITH HIGH-TAXED INCOME PROVISIONS.—

"(I) In determining whether any income of a controlled foreign corporation is in a separate category, subclause (III) of paragraph (2)(A)(iii) shall not apply.

"(II) Any income of the taxpayer which is treated as income in a separate category under this paragraph shall be so treated notwithstanding any provision of paragraph (2); except that the determination of whether any amount is high-taxed income shall be made after the application of this paragraph."

(8) Clause (iii) of section 904(d)(2)(B) of the 1986 Code is amended to read as follows:

"(iii) REGULATIONS.—The Secretary may by regulations provide that—

"(I) amounts (not otherwise high withholding tax interest) shall be treated as high withholding tax interest where necessary to prevent avoidance of the purposes of this subparagraph, and

"(II) a tax shall not be treated as a withholding tax or other tax imposed on a gross basis if such tax is in the nature of a prepayment of a tax imposed on a net basis."

(9) Clause (ii) of section 904(d)(2)(I) of the 1986 Code is amended by striking out "except to the extent that" and all that follows down through "and" at the end thereof and inserting in lieu thereof the following:

"except that—

"(I) such taxes shall be treated as paid or accrued with respect to shipping income to the extent the taxpayer establishes to the satisfaction of the Secretary that such taxes were paid or accrued with respect to such income,

"(II) in the case of a person described in subparagraph (C)(i), such taxes shall be treated as paid or accrued with respect to financial services income to the extent the taxpayer establishes to the satisfaction of the Secretary that such taxes were paid or accrued with respect to such income, and

"(III) such taxes shall be treated as paid or accrued with respect to high withholding tax interest to the extent the taxpayer establishes to the satisfaction of the Secretary that such taxes were paid or accrued with respect to such income, and".

(10) Clause (i) of section 904(d)(2)(E) of the 1986 Code is amended by striking out "during which it was a controlled foreign corporation" and inserting in lieu thereof "during which it was a controlled foreign corporation and the taxpayer was a United States shareholder in such corporation".

(11) Subparagraph (E) of section 904(d)(1) of the 1986 Code is amended by striking out "dividends" and inserting in lieu thereof "in the case of a corporation, dividends".

(b) AMENDMENT RELATED TO SECTION 1202 OF THE REFORM ACT.—

(1) Paragraph (7) of section 902(c) of the 1986 Code is amended—

(A) by striking out "secton 960" and inserting in lieu thereof "section 960", and

(B) by striking out "this section" the second place it appears and inserting in lieu thereof "this section and section 960".

(2) Paragraph (1) of section 902(c) of the 1986 Code is amended by striking out "sections 964 and 986" and inserting in lieu thereof "sections 964(a) and 986".

(3) For purposes of sections 902 and 960 of the 1986 Code, the increase in earnings and profits of any foreign corporation under section 1023(e)(3)(C) of the Reform Act shall be taken into account ratably over the 10-year period beginning with the corporation's first taxable year beginning after December 31, 1986.

(4) Paragraph (3) of section 404A(d) of the 1986 Code is amended by striking out "the amount determined" and inserting in lieu thereof "except as provided in regulations, the amount determined".

(c) AMENDMENT RELATED TO SECTION 1203 OF THE REFORM ACT.—Paragraph (5) of section 904(f) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(F) DISPOSITIONS.—If any separate limitation loss for any taxable year is allocated against any separate limitation income for such taxable year, except to the extent provided in regulations, rules similar to the rules of paragraph (3) shall apply to any disposition of property if gain from such disposition would be in the income category with respect to which there was such separate limitation loss."

(d) AMENDMENTS RELATED TO SECTION 1211 OF THE REFORM ACT.—

(1) Subsection (d) of section 865 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) COORDINATION WITH SUBSECTION (c).—

"(A) GAIN NOT IN EXCESS OF DEPRECIATION ADJUSTMENTS SOURCED UNDER SUBSECTION (c).—Notwithstanding paragraph (1), any gain from the sale of an intangible shall be sourced under subsection (c) to the extent such gain does not exceed the depreciation adjustments with respect to such intangible.

"(B) SUBSECTION (c)(2) NOT TO APPLY TO INTANGIBLES.—Paragraph (2) of subsection (c) shall not apply to any gain from the sale of an intangible."

(2) Subparagraph (A) of section 865(e)(1) of the 1986 Code is amended by striking out "(d), or (f)" and inserting in lieu thereof "(d)(1)(B) or (3), or (f)".

(3)(A) Clause (ii) of section 865(g)(1)(A) of the 1986 Code is amended by striking out "partnership,".

(B) Subsection (h) of section 865 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF PARTNERSHIPS.—In the case of a partnership, except as provided in regulations, this section shall be applied at the partner level."

(4) Subsection (f) of section 865 of the 1986 Code is amended to read as follows:

"(f) STOCK OF AFFILIATES.—If—

"(1) a United States resident sells stock in an affiliate which is a foreign corporation,

"(2) such sale occurs in a foreign country in which such affiliate is engaged in the active conduct of a trade or business, and

"(3) more than 50 percent of the gross income of such affiliate for the 3-year period ending with the close of such affiliate's taxable year immediately preceding the year in which the sale occurred was derived from the active conduct of a trade or business in such foreign country,

any gain from such sale shall be sourced outside the United States. For purposes of paragraphs (2) and (3), the United States resident may elect to treat an affiliate and all other corporations which are wholly owned (directly or indirectly) by the affiliate as one corporation."

(5) Effective with respect to taxable years beginning after December 31, 1987, subparagraph (B) of section 865(e)(2) of the 1986 Code is amended to read as follows:

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any sale of inventory property which is sold for use, disposition, or consumption outside the United States if an office or other fixed place of business of the taxpayer in a foreign country materially participated in the sale."

(6)(A) Subsection (g) of section 865 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN STOCK SALES BY RESIDENTS OF PUERTO RICO.—Paragraph (2) shall not apply to the sale by an individual who was a bona fide resident of Puerto Rico during the entire taxable year of stock in a corporation if—

"(A) such corporation is engaged in the active conduct of a trade or business in Puerto Rico, and

"(B) more than 50 percent of its gross income for the 3-year period ending with the close of such corporation's taxable year immediately preceding the year in which such sale occurred was derived from the active conduct of a trade or business in Puerto Rico.

For purposes of the preceding sentence, the taxpayer may elect to treat a corporation and all other corporations which are wholly owned (directly or indirectly) by such corporation as one corporation."

(B) Subsection (i) of section 865 of the 1986 Code is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) providing that, subject to such conditions (which may include provisions comparable to section 877) as may be provided in such regulations, subsections (e)(1)(B) and (g)(2) shall not apply for purposes of sections 931, 933, and 936."

(7) Subparagraph (B) of section 864(c)(4) of the 1986 Code is amended by striking out "or" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof "; or", and by adding at the end thereof the following new clause:

"(iii) is derived from the sale or exchange (outside the United States) through such office or other fixed place of business of personal property described in section 1221(1), except that this clause shall not apply if the property is sold or exchanged for use, consumption, or disposition outside the United States and an office or other fixed place of business of the taxpayer in a foreign country participated materially in such sale."

(8) Section 865 of the 1986 Code is amended by redesignating subsections (h), (i), and (j) as subsections (i), (j), and (k), respectively, and by inserting after subsection (g) the following new subsection:

"(h) TREATMENT OF GAIN FROM SALE OF CERTAIN STOCK OR INTANGIBLES.—If—

"(1) gain from the sale of stock in a foreign corporation or an intangible (as defined in subsection (d)(2)) would be sourced in the United States under this section,

"(2) under a treaty obligation of the United States (applied without regard to this section), such gain would be sourced outside the United States, and

"(3) the taxpayer chooses the benefits of this subsection with respect to such gain,

such gain shall be sourced outside the United States (but subsections (a), (b), and (c) of section 904 and sections 902, 907, and 960 shall be applied separately with respect to such gain)."

(9) Subparagraph (A) of section 865(e)(1) of the 1986 Code is amended by striking out "outside the United States" the first place it appears and inserting in lieu thereof "in a foreign country".

(10) Subparagraph (B) of section 864(c)(4) of the 1986 Code is amended—

(A) by striking out "(including any gain or loss realized on the sale or exchange of such property)" in clause (i), and

(B) by striking out ", or gain or loss from the sale or exchange of stock or notes, bonds, or other evidences of indebtedness" in clause (ii).

(11) Clause (i) of section 865(g)(1)(A) of the 1986 Code is amended to read as follows—

"(i) any individual who—

"(I) is a United States citizen or a resident alien and does not have a tax home (as defined in section 911(d)(3)) in a foreign country, or

"(II) is a nonresident alien and has a tax home (as so defined) in the United States, and".

(12) Paragraph (2) of section 865(d) of the 1986 Code is amended by inserting "franchise," after "trade brand,".

(e) AMENDMENTS RELATED TO SECTION 1212 OF THE REFORM ACT.—

(1)(A) Paragraph (3) of section 883(c) of the 1986 Code is amended to read as follows:

"(3) SPECIAL RULES FOR PUBLICLY TRADED CORPORATIONS.—

"(A) EXCEPTION.—Paragraph (1) shall not apply to any corporation which is organized in a foreign country meeting the requirements of paragraph (1) or (2) of subsection (a) (as the case may be) and the stock of which is primarily and regularly traded on an established securities market in such foreign country, another foreign country meeting the requirements of such paragraph, or the United States.

"(B) TREATMENT OF STOCK OWNED BY PUBLICLY TRADED CORPORATION.—Any stock in another corporation which is owned (directly or indirectly) by a corporation meeting the requirements of subparagraph (A) shall be treated as owned by individuals who are residents of the foreign country in which the corporation meeting the requirements of subparagraph (A) is organized."

(B) Paragraph (1) of section 883(c) of the 1986 Code is amended—

(i) by striking out "Paragraphs (1) and (2) of subsection (a)" and inserting in lieu thereof "Paragraph (1) or (2) of subsection (a) (as the case may be)", and

(ii) by striking out "such paragraphs (1) and (2)" and inserting in lieu thereof "such paragraph".

(2)(A) Paragraphs (1) and (2) of section 883(a) of the 1986 Code are each amended by striking out "to citizens of the United States and".

(B) Paragraphs (1) and (2) of section 872(b) of the 1986 Code are each amended by striking out "to citizens of the United States and to corporations organized in the United States" and inserting in lieu thereof "to individual residents of the United States".

(3)(A) The section heading for section 863 of the 1986 Code is amended to read as follows:

"SEC. 863. SPECIAL RULES FOR DETERMINING SOURCE."

(B) The table of sections for part I of subchapter N of chapter 1 of the 1986 Code is amended by striking out the item relating to section 863 and inserting in lieu thereof the following:

"Sec. 863. Special rules for determining source."

(4) Subsection (c) of section 862 is hereby repealed.

(5) Paragraphs (1) and (2) of section 872(b) of the 1986 Code and paragraphs (1) and (2) of section 883(a) of the 1986 Code are each amended by striking out "operation" and inserting in lieu thereof "international operation".

(6) Paragraph (1) of section 887(b) of the 1986 Code is amended—

(A) by striking out "under section 863(c)" and inserting in lieu thereof "under section 863(c)(2)", and

(B) by adding at the end thereof the following new sentence: "To the extent provided in regulations, such term does not include any income of a kind to which an exemption under paragraph (1) or (2) of section 883(a) would not apply."

(f) AMENDMENT RELATED TO SECTION 1213 OF THE REFORM ACT.—Paragraph (2) of section 863(e) of the 1986 Code is amended by striking out "foreign country" each place it appears and inserting in lieu thereof "foreign country (or possession of the United States)".

(g) AMENDMENTS RELATED TO SECTION 1214 OF THE REFORM ACT.—

(1) Paragraph (1) of section 1214(d) of the Reform Act is amended to read as follows:

"(1) IN GENERAL.—The amendments made by this section shall apply to payments made in a taxable year of the payor beginning after December 31, 1986."

(2) Subparagraph (B) of section 1214(d)(2) of the Reform Act is amended by striking out "section 904(d)(2)(G)" and inserting in lieu thereof "section 904(d)(2)(H)".

(3) Subparagraph (B) of section 861(c)(1) of the 1986 Code is amended—

(A) by striking out "subchapter)" in clause (i) and inserting in lieu thereof "subchapter) or, in the case of a corporation, is attributable to income so derived by a subsidiary of such corporation",

(B) by striking out "or chain of subsidiaries of such corporation" in clause (ii), and

(C) by adding at the end thereof the following new sentence:

"For purposes of this subparagraph, the term 'subsidiary' means any corporation in which the corporation referred to in this subparagraph owns (directly or indirectly)

stock meeting the requirements of section 1504(a)(2) (determined by substituting '50 percent' for '80 percent' each place it appears)."

(4) Paragraph (1) of section 2105(b) of the 1986 Code is amended by striking out "section 861(c), if any interest thereon would be treated by reason of section 861(a)(1)(A) as income from sources without the United States" and inserting in lieu thereof "section 871(i)(3), if any interest thereon would not be subject to tax by reason of section 871(i)(1)".

(5) Paragraph (2) of section 864(c) of the 1986 Code is amended by striking out the last sentence.

(6) Paragraph (3) of section 907(c) of the 1986 Code is amended:

(A) by striking out subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively, and

(B) by striking out "and dividends described in subparagraph (B)".

(7) Subsection (a) of section 1442 of the 1986 Code is amended—

(A) by striking out "and the references in" and inserting in lieu thereof "the references in", and

(B) by inserting before the period at the end thereof the following: ", and the reference in section 1441(c)(10) to section 871(i)(2) shall be treated as referring to section 881(d)".

(h) AMENDMENTS RELATED TO SECTION 1215 OF THE REFORM ACT.—

(1) Paragraph (4) of section 864(e) of the 1986 Code is amended to read as follows:

"(4) BASIS OF STOCK IN NONAFFILIATED 10-PERCENT OWNED CORPORATIONS ADJUSTED FOR EARNINGS AND PROFITS CHANGES.—

"(A) IN GENERAL.—For purposes of allocating and apportioning expenses on the basis of assets, the adjusted basis of any stock in a nonaffiliated 10-percent owned corporation shall be—

"(i) increased by the amount of the earnings and profits of such corporation attributable to such stock and accumulated during the period the taxpayer held such stock, or

"(ii) reduced (but not below zero) by any deficit in earnings and profits of such corporation attributable to such stock for such period.

"(B) NONAFFILIATED 10-PERCENT OWNED CORPORATION.—For purposes of this paragraph, the term 'nonaffiliated 10-percent owned corporation' means any corporation if—

"(i) such corporation is not included in the taxpayer's affiliated group, and

"(ii) members of such affiliated group own 10 percent or more of the total combined voting power of all classes of stock of such corporation entitled to vote.

"(C) EARNINGS AND PROFITS OF LOWER TIER CORPORATIONS TAKEN INTO ACCOUNT.—

"(i) IN GENERAL.—If, by reason of holding stock in a nonaffiliated 10-percent owned corporation, the taxpayer is treated under clause (iii) as owning stock in another corporation with respect to which the stock ownership requirements of clause (ii) are met, the adjustment under subparagraph (A) shall include an adjustment for the amount of the earnings and profits (or deficit therein) of such other corporation which are attributable to the stock the taxpayer is so treated as owning and to the period during which the taxpayer is treated as owning such stock.

"(ii) STOCK OWNERSHIP REQUIREMENTS.—The stock ownership requirements of this clause are met with respect to any corporation if members of the taxpayer's affiliated group own (directly or through the application of clause (iii)) 10 percent or more of the total combined voting power of all classes of stock of such corporation entitled to vote.

"(iii) STOCK OWNED THROUGH ENTITIES.—For purposes of this subparagraph, stock owned (directly or indirectly) by a corporation, partnership, or trust shall be treated as being owned proportionately by its shareholders, partners, or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence, shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(D) COORDINATION WITH SUBPART F, ETC.—For purposes of this paragraph, proper adjustment shall be made to the earnings and profits of any corporation to take into account any earnings and profits included in gross income under section 951 or under any other provision of this title and reflected in the adjusted basis of the stock."

(2)(A) Paragraph (1) of section 864(e) of the 1986 Code is amended by striking out "from sources outside the United States".

(B) Subsection (h) of section 936 of the 1986 Code is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) SECTION 864(e)(1) NOT TO APPLY.—This subsection shall be applied as if section 864(e)(1) (relating to treatment of affiliated groups) had not been enacted."

(C) The heading for part I of subchapter N of chapter 1 of the 1986 Code is amended to read as follows:

"PART I—SOURCE RULES AND OTHER GENERAL RULES RELATING TO FOREIGN INCOME".

(D) The table of parts for subchapter N of chapter 1 of the 1986 Code is amended by striking out the item relating to part I and inserting in lieu thereof the following:

"Part I. Source rules and other general rules relating to foreign income."

(3) Paragraph (3) of section 864(e) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following: "A similar rule shall apply in the case of the portion of any dividend (other than a qualifying dividend as defined in section 243(b)) equal to the deduction allowable under section 243 or 245(a) with respect to such dividend and in the case of a like portion of any stock the dividends on which would be so deductible and would not be qualifying dividends (as so defined)."

(4)(A) Paragraph (5) of section 864(e) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) TREATMENT OF BANK HOLDING COMPANIES.—To the extent provided in regulations—

"(i) a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956), and

"(ii) any subsidiary of a financial institution described in section 581 or 591 or of any bank holding company if such subsidiary is predominantly engaged (directly or indirectly) in the active conduct of a banking, financing, or similar business,

shall be treated as a corporation described in subparagraph (C)."

(B) Subparagraph (B) of section 864(e)(5) of the 1986 Code is amended by adding at the end thereof the following new sentence: "This subparagraph shall not apply for purposes of paragraph (6)."

(5) Paragraph (6) of section 864(e) of the 1986 Code is amended by striking out "directly allocable and apportioned" and inserting in lieu thereof "directly allocable or apportioned".

(6)(A) Paragraph (7) of section 864(e) of the 1986 Code is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a comma, and by adding at the end thereof the following new subparagraphs:

"(D) for direct allocation of interest expense in the case of indebtedness resulting in a disallowance under section 246A,

"(E) for appropriate adjustments in the application of paragraph (3) in the case of an insurance company, and

"(F) that this subsection shall not apply for purposes of any provision of this subchapter to the extent the Secretary determines that the application of this subsection for such purposes would not be appropriate."

(B) Subsection (e) of section 864 of the 1986 Code is amended by striking out "(except as provided in regulations)" in the material preceding paragraph (1).

(7) Paragraph (2) of section 1215(c) of the Reform Act is amended to read as follows:

"(2) TRANSITIONAL RULES.—

"(A) GENERAL PHASE-IN.—

"(i) IN GENERAL.—In the case of the 1st 3 taxable years of the taxpayer beginning after December 31, 1986, the amendments made by this section shall not apply to interest expenses paid or accrued by the taxpayer during the taxable year with respect to an aggregate amount of indebtedness which does not exceed the general phase-in amount.

"(ii) GENERAL PHASE-IN AMOUNT.—Except as provided in clause (iii), the general phase-in amount for purposes of clause (i) is the applicable percentage (determined under the following table) of the aggregate amount of indebtedness of the taxpayer outstanding on November 16, 1985:

"In the case of the:	The applicable percentage is:
1st taxable year.....	75
2nd taxable year.....	50
3rd taxable year.....	25.

"(iii) LOWER LIMIT WHERE TAXPAYER REDUCES INDEBTEDNESS.—For purposes of applying this subparagraph to interest expenses attributable to any month, the general phase-in amount shall in no event exceed the lowest amount of indebtedness of the taxpayer outstanding as of the close of any preceding month beginning after November 16, 1985. To the extent provided in regulations, the average amount of indebtedness outstanding during any month shall be used (in lieu of the amount outstanding as of the close of such month) for purposes of the preceding sentence.

"(B) CONSOLIDATION RULE NOT TO APPLY TO CERTAIN INTEREST.—

"(i) IN GENERAL.—In the case of the 1st 5 taxable years of the taxpayer beginning after December 31, 1986—

"(I) subparagraph (A) shall not apply for purposes of paragraph (1) of section 864(e) of the Internal Revenue Code of 1986 (as added by this section), but

"(II) such paragraph (1) shall not apply to interest expenses paid or accrued by the taxpayer during the taxable year with respect to an aggregate amount of indebtedness which does not exceed the special phase-in amount.

"(ii) SPECIAL PHASE-IN AMOUNT.—The special phase-in amount for purposes of clause (i) is the sum of—

"(I) the general phase-in amount as determined for purposes of subparagraph (A),

"(II) the 5-year phase-in amount, and

"(III) the 4-year phase-in amount.

For purposes of applying this subparagraph to interest expense attributable to any month, the special phase-in amount shall in no event exceed the limitation determined under subparagraph (A)(iii).

"(iii) 5-YEAR PHASE-IN AMOUNT.—The 5-year phase-in amount is the lesser of—

"(I) the applicable percentage (determined under the following table for purposes of this subclause) of the 5-year debt amount, or

"(II) the applicable percentage (determined under the following table for purposes of this subclause) of the 5-year debt amount reduced by paydowns:

"In the case of the:	The applicable percentage for purposes of subclause (I) is:	The applicable percentage for purposes of subclause (II) is:
1st taxable year	8⅓	10
2nd taxable year	16⅔	25
3rd taxable year	25	50
4th taxable year	33⅓	100
5th taxable year	16⅔	100.

"(iv) 4-YEAR PHASE-IN AMOUNT.—The 4-year phase-in amount is the lesser of—

"(I) the applicable percentage (determined under the following table for purposes of this subclause) of the 4-year debt amount, or

"(II) the applicable percentage (determined under the following table for purposes of this subclause) of the 4-year debt amount reduced by paydowns to the extent such paydowns exceed the 5-year debt amount:

"In the case of the:	The applicable percentage for purposes of subclause (I) is:	The applicable percentage for purposes of subclause (II) is:
1st taxable year	5	6¼
2nd taxable year	10	16⅔
3rd taxable year	15	37½
4th taxable year	20	100
5th taxable year	0	0.

"(v) 5-YEAR DEBT AMOUNT.—The term '5-year debt amount' means the excess (if any) of—

"(I) the amount of the outstanding indebtedness of the taxpayer on May 29, 1985, over

"(II) the amount of the outstanding indebtedness of the taxpayer as of the close of December 31, 1983.

The 5-year debt amount shall not exceed the aggregate amount of indebtedness of the taxpayer outstanding on November 16, 1985.

"(vi) 4-YEAR DEBT AMOUNT.—The term '4-year debt amount' means the excess (if any) of—

"(I) the amount referred to in clause (v)(II), over

"(II) the amount of the outstanding indebtedness of the taxpayer as of the close of December 31, 1982.

The 4-year debt amount shall not exceed the aggregate amount of indebtedness of the taxpayer outstanding on November 16, 1985, reduced by the 5-year debt amount.

"(vii) PAYDOWNS.—For purposes of applying this subparagraph to interest expenses attributable to any month, the term 'paydowns' means the excess (if any) of—

"(I) the aggregate amount of indebtedness of the taxpayer outstanding on November 16, 1985, over

"(II) the lowest amount of indebtedness of the taxpayer outstanding as of the close of any preceding month beginning after November 16, 1985 (or, to the extent provided in regulations under subparagraph (A)(iii), the average amount of indebtedness outstanding during any such month).

"(C) COORDINATION OF SUBPARAGRAPHS (A) AND (B).—In applying subparagraph (B), there shall first be taken into account indebtedness to which subparagraph (A) applies.

"(D) SPECIAL RULES.—

"(i) In the case of the 1st 9 taxable years of the taxpayer beginning after December 31, 1986, the amendments made by this section shall not apply to interest expenses paid or accrued by the taxpayer during the taxable year with respect to an aggregate amount of indebtedness which does not exceed the applicable percentage (determined under the following table) of the indebtedness described in clause (iii) or (iv):

"In the case of the:	The applicable percentage is:
1st taxable year	.90
2nd taxable year	80
3rd taxable year	70
4th taxable year	60
5th taxable year	50
6th taxable year	40
7th taxable year	30
8th taxable year	20
9th taxable year	10.

"(ii) The provisions of this subparagraph shall apply in lieu of the provisions of subparagraphs (A) and (B).

"(iii) INDEBTEDNESS OUTSTANDING ON MAY 29, 1985.—Indebtedness is described in this clause if it is indebtedness (which was outstanding on May 29, 1985) of a corporation incorporated on June 13, 1917, which has its principal place of business in Bartlesville, Oklahoma.

"(iv) INDEBTEDNESS OUTSTANDING ON MAY 29, 1985.—Indebtedness is described in this clause if it is indebtedness (which was outstanding on May 29, 1985) of a member of an affiliated group (as defined in section 1504(a)), the common parent of which was incorporated on August 26, 1926, and has its principal place of business in Harrison, New York.

"(E) TREATMENT OF AFFILIATED GROUP.—For purposes of this paragraph, all members of the same affiliated group of corporations (as defined in section 864(e)(5)(A) of the Internal Revenue Code of 1986, as added by this section) shall be treated as 1 taxpayer whether or not such members filed a consolidated return."

"(F) ELECTION TO HAVE PARAGRAPH NOT APPLY.—A taxpayer may elect (at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe) to have this paragraph not apply. In the case of members of the same affiliated group (as so defined), such an election may be made only if each member consents to such election."

(i) AMENDMENTS RELATED TO SECTION 1221 OF THE REFORM ACT.—

(1)(A) Subparagraph (C) of section 953(c)(3) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"An election under this subparagraph made for any taxable year shall not be effective if the corporation (or any predecessor thereof) was a disqualified corporation for the taxable year for which the election was made or for any prior taxable year beginning after 1986."

(B) Clause (i) of section 953(c)(3)(D) of the 1986 Code is amended to read as follows:

"(i) PERIOD DURING WHICH ELECTION IN EFFECT.—

"(I) IN GENERAL.—Except as provided in subclause (II), any election under subparagraph (C) shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(II) TERMINATION.—If a foreign corporation which made an election under subparagraph (C) for any taxable year is a disqualified corporation for any subsequent taxable year, such election shall not apply to any taxable year beginning after such subsequent taxable year."

(C) Paragraph (3) of section 953(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E) DISQUALIFIED CORPORATION.—For purposes of this paragraph the term 'disqualified corporation' means, with respect to any taxable year, any foreign corporation which is a controlled foreign corporation for an uninterrupted period of 30 days or more during such taxable year (determined without regard to this subsection) but only if a United States shareholder (determined without regard to this subsection) owns (within the meaning of section 958(a)) stock in such

corporation at some time during such taxable year."

(2)(A) Paragraph (1) of section 953(c) of the 1986 Code is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ",and", and by adding at the end thereof the following new subparagraph:

"(C) the pro rata share referred to in section 951(a)(1)(A)(i) shall be determined under paragraph (5) of this subsection."

(B) Subsection (c) of section 953 of the 1986 Code is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) DETERMINATION OF PRO RATA SHARE.—

"(A) IN GENERAL.—The pro rata share determined under this paragraph for any United States shareholder is the lesser of—

"(i) the amount which would be determined under paragraph (2) of section 951(a) if—

"(I) only related person insurance income were taken into account,

"(II) stock owned (within the meaning of section 958(a)) by United States shareholders on the last day of the taxable year were the only stock in the foreign corporation, and

"(III) only distributions received by United States shareholders were taken into account under subparagraph (B) of such paragraph (2), or

"(ii) the amount which would be determined under paragraph (2) of section 951(a) if the entire earnings and profits of the foreign corporation for the taxable year were subpart F income.

"(B) COORDINATION WITH OTHER PROVISIONS.—The Secretary shall prescribe regulations providing for such modifications to the provisions of this subpart as may be necessary or appropriate by reason of subparagraph (A)."

(3)(A) Paragraph (2) of section 953(c) of 1986 Code is amended by striking out "with respect to which the primary insured is" and inserting in lieu thereof "with respect to which the person (directly or indirectly) insured is".

(B) Subparagraph (A) of section 953(c)(3) of the 1986 Code is amended—

(i) by striking out "persons who are the primary insured" and inserting in lieu thereof "persons who are (directly or indirectly) insured", and

(ii) by striking out "to any such primary insured" and inserting in lieu thereof "to any such person".

(C) The amendments made by this paragraph to the extent such amendments add the phrase "(directly or indirectly)" shall apply only to taxable years beginning after December 31, 1987.

(4)(A) Subsection (c) of section 953 of the 1986 Code (as amended by paragraph (2)) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) RELATED PERSON.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'related person' has the meaning given such term by section 954(d)(3).

"(B) TREATMENT OF CERTAIN LIABILITY INSURANCE POLICIES.—In the case of any policy of insurance covering liability arising from services performed as a director, officer, or employee of a corporation or as a partner or employee of a partnership, the person performing such services and the entity for which such services are performed shall be treated as related persons."

(B) Paragraphs (2) and (3)(A) of section 953(c) of the 1986 Code are each amended by striking out "(within the meaning of section 954(d)(3))".

(5) Paragraph (2) of section 953(c) of the 1986 Code is amended by striking out "insurance income attributable" and inserting in lieu thereof "insurance income (within the meaning of subsection (a)) attributable".

(6) For purposes of applying section 952(c)(1)(A) of the 1986 Code, the earnings and profits of any corporation shall be determined without regard to any increase in earnings and profits under section 1023(e)(3)(C) of the Reform Act.

(7) Subsection (b) of section 953 of the 1986 Code is amended—

(A) by striking out paragraph (1) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively,

(B) by striking out subparagraph (A) of paragraph (1) (as so redesignated) and inserting in lieu thereof the following:

"(A) The small life insurance company deduction.", and

(C) by striking out "(other than those taken into account under paragraph (3))" in paragraph (3) (as so redesignated).

(8) Subparagraph (B) of section 953(c)(3) of the 1986 Code is amended—

(A) by striking out "related person insurance income" and inserting in lieu thereof "related person insurance income (determined on a gross basis)", and

(B) by striking out "its insurance income" and inserting in lieu thereof "its insurance income (as so determined)".

(9) Subclause (II) of section 953(c)(3)(C)(i) of the 1986 Code is amended—

(A) by striking out "all benefits" and inserting in lieu thereof "all benefits (other than with respect to section 884)", and

(B) by striking out "under any income tax treaty" and inserting in lieu thereof "granted by the United States under any treaty".

(10) Paragraph (7) of section 861(a) of the 1986 Code is amended to read as follows:

"(7) Amounts received as underwriting income (as defined in section 832(b)(3)) derived from the issuing (or reinsuring) of any insurance or annuity contract—

"(A) in connection with property in, liability arising out of an activity in, or in connection with the lives or health of residents of, the United States, or

"(B) in connection with risks not described in subparagraph (A) as a result of any arrangement whereby another corporation receives a substantially equal amount of premiums or other consideration in respect to issuing (or reinsuring) any insurance or annuity contract in connection with property in, liability arising out of activity in, or in connection with the lives or health of residents of, the United States."

(11) Subparagraph (A) of section 955(a)(2) of the 1986 Code is amended by striking out "beginning before 1987" and inserting in lieu thereof "beginning before 1987 (to the extent such amount exceeds the sum of the decreases in qualified investments determined under this paragraph for prior taxable years beginning after 1986)".

(12) Paragraphs (6) and (7) of section 954(b) of the 1986 Code are each amended by striking out "(determined without regard to the exclusion under paragraph (2) of this subsection)".

(13)(A) Subparagraph (C) of section 1221(g)(3) of the Reform Act is amended—

(i) by striking out "July 9" and inserting in lieu thereof "June 9", and

(ii) by striking out "March 31, 1982" and inserting in lieu thereof "November 3, 1981".

(B) Subparagraph (D) of section 1221(g)(3) of the Reform Act is amended—

(i) by striking out "as of August 16, 1986, under a reinsurance contract in effect on such date" and inserting in lieu thereof "under a reinsurance contract",

(ii) by striking out "the preceding sentence" and inserting in lieu thereof "this subparagraph", and

(iii) by adding at the end thereof the following: "For purposes of this paragraph, the amount of qualified reinsurance income shall not exceed the amount of insurance income from reinsurance contracts for calendar year 1985. In the case of controlled foreign corporations described in subparagraph (C)(ii), the preceding sentence shall not apply and the qualified reinsurance income of any such corporation shall not exceed such corporation's proportionate share of $27,000,000 (determined on the basis of respective amounts of qualified reinsurance income determined without regard to this subparagraph)."

(14)(A) Paragraph (3) of section 954(d) of the 1986 Code is amended by striking out "50 percent or more" each place it appears and inserting in lieu thereof "more than 50 percent".

(B) Clause (ii) of section 861(c)(2)(B) of the 1986 Code is amended to read as follows:

"(ii) such section shall be applied by substituting '10 percent or more' for 'more than 50 percent' each place it appears."

(15) Subsection (b) of section 951 of the 1986 Code is amended by striking out "section 957(d)" and inserting in lieu thereof "section 957(c)".

(16) Subsection (c) of section 952 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR DETERMINING EARNINGS AND PROFITS.—For purposes of this subsection, earnings and profits of any controlled foreign corporation shall be determined without regard to paragraphs (4), (5), and (6) of section 312(n). Under regulations, the preceding sentence shall not apply to the extent it would increase earnings and profits by an amount which was previously distributed by the controlled foreign corporation."

(17) Subparagraph (A) of section 881(c)(4) of the 1986 Code is amended by striking out clauses (ii), (iii), (iv), and (v) and inserting in lieu thereof the following:

"(ii) Paragraph (4) of section 954(b) (relating to exception for certain income subject to high foreign taxes).

"(iii) Clause (i) of section 954(c)(3)(A) (relating to certain income received from related persons)."

(18) Subparagraph (B) of section 954(c)(1) of the 1986 Code is amended by striking out "or" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) which is an interest in a trust, partnership, or REMIC, or".

(19)(A) Subsection (a) of section 6046 of the 1986 Code is amended by striking out "and" at the end of paragraph (2), by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

"(3) each person (not described in paragraph (2)) who, at any time after January 1, 1987, is treated as a United States shareholder under section 953(c) with respect to a foreign corporation, and".

(B) Subsection (b) of section 6046 of the 1986 Code is amended by striking out "sub-

section (a)(2)" and inserting in lieu thereof "paragraph (2) or (3) of subsection (a)".

(C) Subsection (a) of section 6046 of the 1986 Code is amended by adding at the end thereof the following new sentence:

"In the case of a foreign corporation with respect to which any person is treated as a United States shareholder under section 953(c), paragraph (1) shall be treated as including a reference to each United States person who is an officer or director of such corporation."

(20) Subparagraph (B) of section 954(c)(1) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following:

"In the case of any regular dealer in property, gains and losses from the sale or exchange of any such property or arising out of bona fide hedging transactions reasonably necessary to the conduct of the business of being a dealer in such property shall not be taken into account under this subparagraph. Gains and losses from the sale or exchange of any property which, in the hands of the controlled foreign corporation, is property described in section 1221(1) also shall not be taken into account under this subparagraph."

(21) Subsection (c) of section 953 (as amended by this subsection) is amended by striking out paragraph (7) and inserting in lieu thereof the following:

"(7) COORDINATION WITH SECTION 1248.—If any person is treated under paragraph (1) as a United States shareholder with respect to any foreign corporation, for purposes of section 1248, such person shall be treated as meeting the stock ownership requirements of section 1248(a)(2) with respect to such foreign corporation.

"(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including—

"(A) regulations preventing the avoidance of this subsection through cross insurance arrangements or otherwise, and

"(B) regulations which may provide that a person will not be treated as a United States shareholder under paragraph (1) with respect to any foreign corporation if neither such person (nor any related person to such person) is (directly or indirectly) insured under any policy of insurance or reinsurance issued by such foreign corporation."

(22) Subclause (III) of section 952(c)(1)(B)(iii) of the 1986 Code is amended by striking out "insurance income" and inserting in lieu thereof "insurance income or foreign personal holding company income,".

(23) Clause (iii) of section 952(c)(1)(B) of the 1986 Code is amended by redesignating subclauses (III) and (IV) as subclauses (V) and (VI), respectively, and by inserting after subclause (II) the following new subclauses:

"(III) foreign base company sales income,

"(IV) foreign base company services income,".

(24) Clause (ii) of section 952(c)(1)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In determining the deficit attributable to qualified activities described in clause (iii)(III) or (IV), deficits in earnings and profits (to the extent not previously taken into account under this section) for taxable years beginning after 1962 and before 1987 also shall be taken into account."

(25)(A) Paragraph (1) of section 952(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) CERTAIN DEFICITS OF MEMBER OF THE SAME CHAIN OF CORPORATIONS MAY BE TAKEN INTO ACCOUNT.—

"(i) IN GENERAL.—A controlled foreign corporation may elect to reduce the amount of its subpart F income for any taxable year which is attributable to any qualified activity by the amount of any deficit in earnings and profits of a qualified chain member for a taxable year ending with (or within) the taxable year of such controlled foreign corporation to the extent such deficit is attributable to such activity. To the extent any deficit reduces subpart F income under the preceding sentence, such deficit shall not be taken into account under subparagraph (B).

"(ii) QUALIFIED CHAIN MEMBER.—For purposes of this subparagraph, the term 'qualified chain member' means, with respect to any controlled foreign corporation, any other corporation which is created or organized under the laws of the same foreign country as the controlled foreign corporation but only if—

"(I) all the stock of such other corporation (other than directors' qualifying shares) is owned at all times during the taxable year in which the deficit arose (directly or through 1 or more corporations other than the common parent) by such controlled foreign corporation, or

"(II) all the stock of such controlled foreign corporation (other than directors' qualifying shares) is owned at all times during the taxable year in which the deficit arose (directly or through 1 or more corporations other than the common parent) by such other corporation.

"(iii) COORDINATION.—This subparagraph shall be applied after subparagraphs (A) and (B)."

(B) Subparagraph (B) of section 954(c)(3) of the 1986 Code is amended by inserting before the period at the end thereof the following: "or creates (or increases) a deficit which under section 952(c) may reduce the subpart F income of the payor or another controlled foreign corporation".

(j) AMENDMENT RELATED TO SECTION 1224 OF THE REFORM ACT.—Paragraph (2) of section 901(g) of the 1986 Code and section 936(d)(3)(B) of the 1986 Code are each amended by striking out "section 957(c)" and inserting in lieu thereof "section 957(c) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986)".

(k) AMENDMENT RELATED TO SECTION 1225 OF THE REFORM ACT.—Subsection (c) of section 1225 of the Reform Act is amended by striking out "March 1, 1986" and inserting in lieu thereof "January 1, 1986".

(l) AMENDMENTS RELATED TO SECTION 1226 OF THE REFORM ACT.—

(1) Subsection (a) of section 246A of the 1986 Code is amended by striking out the last sentence.

(2)(A) Paragraph (8) of section 245 of the 1986 Code is amended to read as follows:

"(8) DISALLOWANCE OF FOREIGN TAX CREDIT.—No credit shall be allowed under section 901 for any taxes paid or accrued (or treated as paid or accrued) with respect to the United States-source portion of any dividend received by a corporation from a qualified 10-percent-owned foreign corporation."

(B) Subsection (a) of section 245 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(10) COORDINATION WITH TREATIES.—If—

"(A) any portion of a dividend received by a corporation from a qualified 10-percent-owned foreign corporation would be treated as from sources in the United States under paragraph (9),

"(B) under a treaty obligation of the United States (applied without regard to this subsection), such portion would be treated as arising from sources outside the United States, and

"(C) the taxpayer chooses the benefits of this paragraph,

this subsection shall not apply to such dividend (but subsections (a), (b), and (c) of section 904 and sections 902, 907, and 960 shall be applied separately with respect to such portion of such dividend)."

(3) Subsection (a) of section 245 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(11) COORDINATION WITH SECTION 1248.—For purposes of this subsection, the term 'dividend' does not include any amount treated as a dividend under section 1248."

(m) AMENDMENTS RELATED TO SECTION 1228 OF THE REFORM ACT.—

(1) Subsection (a) of section 1228 of the Reform Act is amended by striking out "and" at the end of paragraph (3), and by striking out paragraph (4) and inserting in lieu thereof the following:

"(4) the transfer, sale, exchange, or other disposition is part of a single integrated plan, whereby the stock of the corporation described in paragraph (1) becomes owned directly by the 2 corporations specifically referred to in subsection (b) or by such 2 corporations and by 1 or both of their jointly owned direct subsidiaries,

"(5) within 20 days after each transfer, sale, exchange, or other disposition, the person making such transfer, sale, exchange, or other disposition notifies the Internal Revenue Service of the transaction, the date of the transaction, the basis of the stock involved, the holding period for such stock, and such other information as the Internal Revenue Service may require, and

"(6) the integrated plan is completed before the date 4 years after the date of the enactment of the Miscellaneous Revenue Act of 1988.

In the case of any underpayment attributable to a failure to meet any requirement of this subsection, the period during which such underpayment may be assessed shall in no event expire before the date 5 years after the date of the enactment of the Miscellaneous Revenue Act of 1988."

(2) Subsection (c) of section 1228 of the Reform Act is hereby repealed.

(n) AMENDMENTS RELATED TO SECTION 1231 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 1231(g)(2) of the Reform Act is amended by adding at the end thereof the following new sentence: "In the case of any transfer (or license) which is not to a foreign person, the preceding sentence shall be applied by substituting 'August 16, 1986' for 'November 16, 1985'."

(2) Subparagraph (B) of section 1231(g)(2) of the Reform Act is amended by striking out "was made" and inserting in lieu thereof ", if any, was made".

(3) Subsection (g) of section 1231 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) TRANSITIONAL RULE FOR INCREASE IN GROSS INCOME TEST.—

"(A) IN GENERAL.—If—

"(i) a corporation fails to meet the requirements of subparagraph (B) of section 936(a)(2) of the Internal Revenue Code of 1986 (as amended by subsection (d)(1)) for any taxable year beginning in 1987 or 1988,

"(ii) such corporation would have met the requirements of such subparagraph (B) if such subparagraph had been applied with-

out regard to the amendment made by subsection (d)(1), and

"(iii) 75 percent or more of the gross income of such corporation for such taxable year (or, in the case of a taxable year beginning in 1988, for the period consisting of such taxable year and the preceding taxable year) was derived from the active conduct of a trade or business within a possession of the United States, such corporation shall nevertheless be treated as meeting the requirements of such subparagraph (B) for such taxable year if it elects to reduce the amount of the qualified possession source investment income for the taxable year by the amount of the shortfall determined under subparagraph (B) of this paragraph.

"(B) DETERMINATION OF SHORTFALL.—The shortfall determined under this subparagraph for any taxable year is an amount equal to the excess of—

"(i) 75 percent of the gross income of the corporation for the 3-year period (or part thereof) referred to in section 936(a)(2)(A) of such Code, over

"(ii) the amount of the gross income of such corporation for such period (or part thereof) which was derived from the active conduct of a trade or business within a possession of the United States.

"(C) SPECIAL RULE.—Any income attributable to the investment of the amount not treated as qualified possession source investment income under subparagraph (A) shall not be treated as qualified possession source investment income for any taxable year."

(4) Subparagraph (B) of section 1231(a)(1) of the Reform Act is amended by striking out "at the end thereof" and inserting in lieu thereof "at the end of the material relating to payment of cost sharing".

(5)(A) Clause (ii) of section 936(d)(4)(A) of the 1986 Code is amended to read as follows:

"(ii) in accordance with a specific authorization granted by the Commissioner of Financial Institutions of Puerto Rico pursuant to regulations issued by such Commissioner."

(B) Clauses (i) and (ii) of section 936(d)(4)(C) of the 1986 Code are each amended by striking out "the Secretary of the Treasury of Puerto Rico" and inserting in lieu thereof "the Commissioner of Financial Institutions of Puerto Rico".

(o) AMENDMENT RELATED TO SECTION 1234 OF THE REFORM ACT.—Subsection (d) of section 6039E of the 1986 Code is amended by adding at the end thereof the following new sentence:

"Nothing in the preceding sentence shall be construed to require the disclosure of information which is subject to section 245A of the Immigration and Nationality Act (as in effect on the date of the enactment of this sentence)."

(p) AMENDMENTS RELATED TO SECTION 1235 OF THE REFORM ACT.—

(1) Paragraph (1) of section 1291(d) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—This section shall not apply with respect to any distribution paid by a passive foreign investment company, or any disposition of stock in a passive foreign investment company, if such company is a qualified electing fund for each of its taxable years—

"(A) which begins after December 31, 1986, and for which such company is a passive foreign investment company, and

"(B) which includes any portion of the taxpayer's holding period."

(2) Subsection (c) of section 1296 of the 1986 Code is amended by striking out "owns at least" and inserting in lieu thereof "owns (directly or indirectly) at least".

(3) Paragraph (3) of section 1291(b) of the 1986 Code is amended by striking out "and" at the end of subparagraph (D), by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(F) proper adjustment shall be made for amounts not includible in gross income by reason of section 551(d), 959(a), or 1293(c)."

(4) Paragraph (2) of section 1294(c) of the 1986 Code is amended—

(A) by striking out "is disposed of" in subparagraph (A) and inserting in lieu thereof "is transferred",

(B) by striking out "such disposition or cessation" each place it appears and inserting in lieu thereof "such transfer or cessation", and

(C) by striking out "DISPOSITIONS" in the paragraph heading and inserting in lieu thereof "TRANSFERS".

(5) Paragraph (1) of section 1296(b) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'passive income' means any income which is of a kind which would be foreign personal holding company income as defined in section 954(c)."

(6)(A) Subsection (f) of section 1291 of the 1986 Code is amended to read as follows:

"(f) RECOGNITION OF GAIN.—To the extent provided in regulations, in the case of any transfer of stock in a passive foreign investment company where (but for this subsection) there is not full recognition of gain, the excess (if any) of—

"(1) the fair market value of such stock, over

"(2) its adjusted basis,

shall be treated as gain from the sale or exchange of such stock and shall be recognized notwithstanding any provision of law. Proper adjustment shall be made to the basis of any such stock for gain recognized under the preceding sentence."

(B) Subsection (e) of section 1291 of the 1986 Code is amended by striking out "Rules similar" and inserting in lieu thereof "Except to the extent inconsistent with the regulations prescribed under subsection (f), rules similar".

(7)(A) Paragraphs (4) and (5) of section 1291(a) of the 1986 Code are hereby repealed.

(B) Section 1291 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) COORDINATION WITH FOREIGN TAX CREDIT RULES.—

"(1) IN GENERAL.—If there are creditable foreign taxes with respect to any distribution in respect of stock in a passive foreign investment company—

"(A) the amount of such distribution shall be determined for purposes of this section with regard to section 78,

"(B) the excess distribution taxes shall be allocated ratably to each day in the taxpayer's holding period for the stock, and

"(C) to the extent—

"(i) that such excess distribution taxes are allocated to a taxable year referred to in subsection (a)(1)(B), such taxes shall be taken into account under section 901 for the current year, and

"(ii) that such excess distribution taxes are allocated to any other taxable year, such taxes shall reduce (subject to the principles of section 904(d) and not below zero) the increase in tax determined under subsection (c)(2) for such taxable year by reason of such distribution (but such taxes shall not be taken into account under section 901).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) CREDITABLE FOREIGN TAXES.—The term 'creditable foreign taxes' means, with respect to any distribution—

"(i) any foreign taxes deemed paid under section 902 with respect to such distribution, and

"(ii) any withholding tax imposed with respect to such distribution,

but only if the taxpayer chooses the benefits of section 901 and such taxes are creditable under section 901 (determined without regard to paragraph (1)(C)(ii)).

"(B) EXCESS DISTRIBUTION TAXES.—The term 'excess distribution taxes' means, with respect to any distribution, the portion of the creditable foreign taxes with respect to such distribution which is attributable (on a pro rata basis) to the portion of such distribution which is an excess distribution.

"(C) SECTION 1248 GAIN.—The rules of this subsection also shall apply in the case of any gain which but for this section would be includible in gross income as a dividend under section 1248."

(8) Section 1294 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) CROSS REFERENCE.—

"For provisions providing for interest for the period of the extension under this section, see section 6601."

(9) Paragraph (2) of section 1291(e) of the 1986 Code is amended by striking out "not" the second place it appears.

(10)(A) Subsection (a) of section 1297 of the 1986 Code is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) OPTIONS.—To the extent provided in regulations, if any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock."

(B) Paragraph (5) of section 1297(a) of the 1986 Code (as redesignated by subparagraph (A)) is amended by striking out "paragraph (2) or (3)" and inserting in lieu thereof "paragraph (2), (3), or (4)".

(11) Paragraph (3) of section 904(d) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(I) LOOK-THRU APPLIES TO PASSIVE FOREIGN INVESTMENT COMPANY INCLUSION.—If—

"(i) a passive foreign investment company is a controlled foreign corporation, and

"(ii) the taxpayer is a United States shareholder in such controlled foreign corporation,

any amount included in gross income under section 1293 shall be treated as income in a separate category to the extent such amount is attributable to income in such category."

(12) Clause (ii) of section 1291(a)(1)(B) of the 1986 Code is amended to read as follows:

"(ii) any period in the taxpayer's holding period before the 1st day of the 1st taxable year of the company which begins after December 31, 1986, and for which it was a passive foreign investment company, and".

(13) Subparagraph (A) of section 1291(b)(2) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"For purposes of clause (ii), any excess distribution received during such 3-year period shall be taken into account only to the

extent it was included in gross income under subsection (a)(1)(B)."

(14) Subparagraph (A) of section 1291(a)(3) of the 1986 Code is amended by striking out "in the case of an excess distribution" and inserting in lieu thereof "for purposes of applying this section to an excess distribution".

(15) Subsection (b) of section 1293 of the 1986 Code is amended by adding at the end thereof the following new sentence: "To the extent provided in regulations, if the fund establishes to the satisfaction of the Secretary that it uses a shorter period than the taxable year to determine shareholders' interests in the earnings of such fund, pro rata shares may be determined by using such shorter period."

(16) Subparagraph (B) of section 1296(b)(2) of the 1986 Code is amended by striking out "by a corporation which" and inserting in lieu thereof "by a corporation which is predominantly engaged in an insurance business and which".

(17) Paragraph (5) of section 1297(b) of the 1986 Code is amended to read as follows:

"(5) APPLICATION OF PART WHERE STOCK HELD BY OTHER ENTITY.—

"(A) IN GENERAL.—Under regulations, in any case in which a United States person is treated as owning stock in a passive foreign investment company by reason of subsection (a)—

"(i) any disposition by the United States person or the person owning such stock which results in the United States person being treated as no longer owning such stock, or

"(ii) any distribution of property in respect of such stock to the person holding such stock,

shall be treated as a disposition by, or distribution to, the United States person with respect to the stock in the passive foreign investment company.

"(B) AMOUNT TREATED IN SAME MANNER AS PREVIOUSLY TAXED INCOME.—Rules similar to the rules of section 959(b) shall apply to any amount described in subparagraph (A) and to any amount included in gross income under section 1293(a) (or which would have been so included but for section 951(f)) in respect of stock which the taxpayer is treated as owning under subsection (a)."

(18) Subsection (e) of section 1293 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) DETERMINATION OF EARNINGS AND PROFITS.—The earnings and profits of any qualified electing fund shall be determined without regard to paragraphs (4), (5), and (6) of section 312(n). Under regulations, the preceding sentence shall not apply to the extent it would increase earnings and profits by an amount which was previously distributed by the qualified electing fund."

(19) Subsection (d) of section 1248 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(7) AMOUNTS INCLUDED IN GROSS INCOME UNDER SECTION 1293.—Earnings and profits of the foreign corporation attributable to any amount previously included in the gross income of such person under section 1293 with respect to the stock sold or exchanged, but only to the extent the inclusion of such amount did not result in an exclusion of an amount under section 1293(c)."

(20) Paragraph (6) of section 1297(b) of the 1986 Code is amended by striking out "If a" and inserting in lieu thereof "Except as provided in regulations, if a".

(21) Section 1246 of the 1986 Code is amended by redesignating the subsection relating to information with respect to certain foreign investment companies as subsection (f), by redesignating the subsection relating to coordination with section 1248 as subsection (g), and by redesignating the subsection relating to cross reference as subsection (h).

(22) Subparagraph (A) of section 1297(b)(3) of the 1986 Code is amended to read as follows:

"(A) neither such corporation (nor any predecessor) was a passive foreign investment company for any prior taxable year,".

(23) Subsection (c) of section 1293 of the 1986 Code is amended by striking out "shall be treated as a distribution which is not a dividend" and inserting in lieu thereof "shall be treated, for purposes of this chapter, as a distribution which is not a dividend; except that such distribution shall immediately reduce earnings and profits".

(24) Subsection (b) of section 1297 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) TREATMENT OF CERTAIN FOREIGN CORPORATIONS OWNING STOCK IN 25-PERCENT OWNED DOMESTIC CORPORATION.—

"(A) IN GENERAL.—If—

"(i) a foreign corporation is subject to the tax imposed by section 531 (or waives any benefit under any treaty which would otherwise prevent the imposition of such tax), and

"(ii) such foreign corporation owns at least 25 percent (by value) of the stock of a domestic corporation,

for purposes of determining whether such foreign corporation is a passive foreign investment company, any qualified stock held by such domestic corporation shall be treated as an asset which does not produce passive income (and is not held for the production of passive income) and any amount included in gross income with respect to such stock shall not be treated as passive income.

"(B) QUALIFIED STOCK.—For purposes of subparagraph (A), the term 'qualified stock' means any stock in a C corporation which is a domestic corporation and which is not a regulated investment company or real estate investment trust."

(25) Section 1294 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF LOANS TO SHAREHOLDER.—For purposes of this section and section 1293, any loan by a qualified electing fund (directly or indirectly) to a shareholder of such fund shall be treated as a distribution to such shareholder.

(26)(A) Paragraph (2) of section 1296(b) of the 1986 Code is amended by striking out "or" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", or", and by adding at the end thereof the following:

"(C) which is interest, a dividend, or a rent or royalty, which is received or accrued from a related person (within the meaning of section 954(d)(3)) to the extent such amount is properly allocable (under regulations prescribed by the Secretary) to income of such related person which is not passive income.

For purposes of subparagraph (C), the term 'related person' has the meaning given such term by section 954(d)(3) determined by substituting 'foreign corporation' for 'controlled foreign corporation' each place it appears in section 954(d)(3)."

(B) The paragraph heading for paragraph (2) of section 1296(b) of the 1986 Code is amended by striking out "EXCEPTION FOR CERTAIN BANKS AND INSURANCE COMPANIES" and inserting in lieu thereof "EXCEPTIONS".

(27) Subsection (a) of section 1296 of the 1986 Code is amended by adding at the end thereof the following new sentences:

"A foreign corporation may elect to have the determination under paragraph (2) based on the adjusted bases of its assets in lieu of their value. Such an election, once made, may be revoked only with the consent of the Secretary."

(28) Paragraph (2) of section 1291(d) of the 1986 Code is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) ADDITIONAL ELECTION FOR SHAREHOLDER OF CONTROLLED FOREIGN CORPORATIONS.—

"(i) IN GENERAL.—If—

"(I) a passive foreign investment company becomes a qualified electing fund for a taxable year which begins after December 31, 1986,

"(II) the taxpayer holds stock in such company on the first day of such taxable year, and

"(III) such company is a controlled foreign corporation (as defined in section 957(a)),

the taxpayer may elect to include in gross income as a dividend received on such first day an amount equal to the portion of the post-1986 earnings and profits of such company attributable (under regulations prescribed by the Secretary) to the stock in such company held by the taxpayer on such first day. The amount treated as a dividend under the preceding sentence shall be treated as an excess distribution and shall be allocated under subsection (a)(1)(A) only to days during periods taken into account in determining the post-1986 earnings and profits so attributable.

"(ii) POST-1986 EARNINGS AND PROFITS.—For purposes of clause (i), the term 'post-1986 earnings and profits' means earnings and profits which were accumulated in taxable years of such company beginning after December 31, 1986, and during the period or periods the stock was held by the taxpayer while the company was a passive foreign investment company.

"(iii) COORDINATION WITH SECTION 959(e).—For purposes of section 959(e), any amount included in gross income under this subparagraph shall be treated as included in gross income under section 1248(a).

"(C) ADJUSTMENTS.—In the case of any stock to which subparagraph (A) or (B) applies—

"(i) the adjusted basis of such stock shall be increased by the gain recognized under subparagraph (A) or the amount treated as a dividend under subparagraph (B), as the case may be, and

"(ii) the taxpayer's holding period in such stock shall be treated as beginning on the first day referred to in such subparagraph."

(29)(A) Clause (ii) of section 904(d)(2)(A) of the 1986 Code is amended by striking out "or section 1293" and inserting in lieu thereof "or, except as provided in subparagraph (E)(iii) or paragraph (3)(I), section 1293".

(B) Subparagraph (E) of section 904(d)(2) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(iii) TREATMENT OF INCLUSIONS UNDER SECTION 1293.—If any foreign corporation is a non-controlled section 902 corporation with respect to the taxpayer, any inclusion under section 1293 with respect to such corporation shall be treated as a dividend from such corporation."

(30) Clause (ii) of section 864(b)(2)(A) of the 1986 Code is amended by striking out

"section 542(c)(7)" and inserting in lieu thereof "section 542(c)(7), 542(c)(10),".

(31) Paragraph (1) of section 1291(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Any increase in the tax imposed by this chapter for the current year under subsection (a) to the extent attributable to the amount referred to in subparagraph (B) shall be treated as interest paid under section 6601 on the due date for the current year."

(32) Section 1293 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) OTHER SPECIAL RULES.—

"(1) EXCEPTION FOR CERTAIN INCOME.—For purposes of determining the amount included in the gross income of any person under this section, the ordinary earnings and net capital gain of a qualified electing fund shall not include any item of income received by such fund if—

"(A) such fund is a controlled foreign corporation (as defined in section 957(a)) and such person is a United States shareholder (as defined in section 951(b)) in such fund, and

"(B) such person establishes to the satisfaction of the Secretary that—

"(i) such income was subject to an effective rate of income tax imposed by a foreign country greater than 90 percent of the maximum rate of tax specified in section 11, or

"(ii) such income is—

"(I) from sources within the United States,

"(II) effectively connected with the conduct by the qualified electing fund of a trade or business in the United States, and

"(III) not exempt from taxation (or subject to a reduced rate of tax) pursuant to a treaty obligation of the United States.

"(2) PREVENTION OF DOUBLE INCLUSION.—The Secretary shall prescribe such adjustment to the provisions of this section as may be necessary to prevent the same item of income of a qualified electing fund from being included in the gross income of a United States person more than once."

(33) Paragraph (3) of section 1291(b) of the 1986 Code (as amended by paragraph (3)) is amended by striking out "and" at the end of subparagraph (E), by striking out the period at the end of subparagraph (F) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(G) if a charitable deduction was allowable under section 642(c) to a trust for any distribution of its income, proper adjustments shall be made for the deduction so allowable to the extent allocable to distributions or gain in respect of stock in a passive foreign investment company."

(34) Paragraph (2) of section 1294(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "To the extent provided in regulations, the preceding sentence shall not apply in the case of a transfer in a transaction with respect to which gain or loss is not recognized (in whole or in part), and the transferee in such transaction shall succeed to the treatment under this section of the transferor."

(35) Section 1297 of the 1986 Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) TREATMENT OF STOCK HELD BY POOLED INCOME FUND.—If stock in a passive foreign investment company is owned (or treated as owned under subsection (a)) by a pooled income fund (as defined in section 642(c)(5)) and no portion of any gain from a disposition of such stock may be allocated to income under the terms of the governing instrument of such fund—

"(1) section 1291 shall not apply to any gain on a disposition of such stock by such fund if (without regard to section 1291) a deduction would be allowable with respect to such gain under section 642(c)(3),

"(2) section 1293 shall not apply with respect to such stock, and

"(3) in determining whether section 1291 applies to any distribution in respect of such stock, subsection (d) of section 1291 shall not apply."

(36) Paragraph (1) of section 1297(b) of the 1986 Code is amended by striking out "passive foreign investment corporation" and inserting in lieu thereof "passive foreign investment company".

(q) AMENDMENTS RELATED TO SECTION 1241 OF THE ACT.—

(1)(A) Subparagraph (B) of section 884(b)(2) of the 1986 Code is amended to read as follows:

"(B) LIMITATION.—

"(i) IN GENERAL.—The increase under subparagraph (A) for any taxable year shall not exceed the accumulated effectively connected earnings and profits as of the close of the preceding taxable year.

"(ii) ACCUMULATED EFFECTIVELY CONNECTED EARNINGS AND PROFITS.—For purposes of clause (i), the term 'accumulated effectively connected earnings and profits' means the excess of—

"(I) the aggregate effectively connected earnings and profits for preceding taxable years beginning after December 31, 1986, over

"(II) the aggregate dividend equivalent amounts determined for such preceding taxable years."

(B) For purposes of applying section 884 of the 1986 Code, the earnings and profits of any corporation shall be determined without regard to any increase in earnings and profits under sections 1023(e)(3)(C) and 1021(e)(2)(C) of the Reform Act or arising from section 823(b)(4)(C) of the 1986 Code.

(2)(A) Paragraph (1) of section 884(e) is amended to read as follows:

"(1) LIMITATION ON TREATY EXEMPTION.—No treaty between the United States and a foreign country shall exempt any foreign corporation from the tax imposed by subsection (a) (or reduce the amount thereof) unless—

"(A) such treaty is an income tax treaty, and

"(B) such foreign corporation is a qualified resident of such foreign country."

(B) Paragraph (3) of section 884(e) of the 1986 Code is amended to read as follows:

"(3) COORDINATION WITH WITHHOLDING TAX.—

"(A) IN GENERAL.—If a foreign corporation is subject to the tax imposed by subsection (a) for any taxable year (determined after the application of any treaty), no tax shall be imposed by section 871(a), 881(a), 1441, or 1442 on any dividends paid by such corporation out of its earnings and profits for such taxable year.

"(B) LIMITATION ON CERTAIN TREATY BENEFITS.—If—

"(i) any dividend described in section 861(a)(2)(B) is received by a foreign corporation, and

"(ii) subparagraph (A) does not apply to such dividend,

rules similar to the rules of subparagraphs (A) and (B) of subsection (f)(3) shall apply to such dividend."

(C) Subsection (f) of section 884 of the 1986 Code is amended—

(i) by striking out the 2nd sentence of paragraph (1), and

(ii) by adding at the end thereof the following new paragraph:

"(3) COORDINATION WITH TREATIES.—

"(A) PAYOR MUST BE QUALIFIED RESIDENT.—In the case of any interest described in paragraph (1) which is paid or accrued by a foreign corporation, no benefit under any treaty between the United States and the foreign country of which such corporation is a resident shall apply unless—

"(i) such treaty is an income tax treaty, and

"(ii) such foreign corporation is a qualified resident of such foreign country.

"(B) RECIPIENT MUST BE QUALIFIED RESIDENT.—In the case of any interest described in paragraph (1) which is received or accrued by any corporation, no benefit under any treaty between the United States and the foreign country of which such corporation is a resident shall apply unless—

"(i) such treaty is an income tax treaty, and

"(ii) such foreign corporation is a qualified resident of such foreign country."

(3) Paragraph (1) of section 884(f) of the 1986 Code is amended—

(A) by striking out "sections 871, 881, 1441, and 1442" and inserting in lieu thereof "this subtitle", and

(B) by adding at the end thereof the following new sentence:

"To the extent provided in regulations, subparagraph (A) shall not apply to interest in excess of the amounts reasonably expected to be deductible under section 882 in computing the effectively connected taxable income of such foreign corporation."

(4) Paragraph (4) of section 884(e) of the 1986 Code is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) CORPORATIONS OWNED BY PUBLICLY TRADED DOMESTIC CORPORATIONS.—A foreign corporation which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

"(i) such corporation is wholly owned (directly or indirectly) by a domestic corporation, and

"(ii) the stock of such domestic corporation is primarily and regularly traded on an established securities market in the United States."

(5) Subparagraph (A) of section 884(e)(4) of the 1986 Code is amended—

(A) by striking out "more than 50 percent" in clause (i) and inserting in lieu thereof "50 percent or more", and

(B) by striking out "or the United States" in clause (ii) and inserting in lieu thereof "or citizens or residents of the United States".

(6) Subsection (e) of section 884 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) EXCEPTION FOR INTERNATIONAL ORGANIZATIONS.—This section shall not apply to an international organization (as defined in section 7701(a)(18))."

(7) Subparagraph (B) of section 861(a)(2) of the 1986 Code is amended by striking out "other than under section 884(d)(2)" each place it appears and inserting in lieu thereof "other than income described in section 884(d)(2)".

(8) Paragraph (2) of section 26(b) of the 1986 Code is amended by striking out "and" at the end of subparagraph (J), by striking out the period at the end of subparagraph (K) and inserting in lieu thereof ", and",

and by adding at the end thereof the following new subparagraph:

"(L) section 884 (relating to branch profits tax)."

(9) Section 861 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) CROSS REFERENCE.—

"For treatment of interest paid by the branch of a foreign corporation, see section 884(f)."

(10) The paragraph (6) of section 906(b) of the 1986 Code which was added by section 1241(c) of the Reform Act is redesignated as paragraph (7).

(11) Subsection (c) of section 2104 of the 1986 Code is amended by striking out "section 861(a)(1)(B), section 861(a)(1)(G), or section 861(a)(1)(H)" and inserting in lieu thereof "subparagraph (A), (C), or (D) of section 861(a)(1)".

(12) Subparagraph (A) of section 904(g)(9) of the 1986 Code is amended by striking out "861(a)(1)(B)" and inserting in lieu thereof "861(a)(1)(A)".

(13)(A) Paragraph (1) of section 4373 of the 1986 Code is amended to read as follows:

"(1) EFFECTIVELY CONNECTED ITEMS.—Any amount which is effectively connected with the conduct of a trade or business within the United States unless such amount is exempt from the application of section 882(a) pursuant to a treaty obligation of the United States."

(B) The amendment made by subparagraph (A) shall apply with respect to premiums paid after the date 30 days after the date of the enactment of this Act.

(14) Paragraph (1) of section 884(f) of the 1986 Code is amended by inserting "(or having gross income treated as effectively connected with the conduct of a trade or business in the United States)" after "United States" in the material preceding subparagraph (A) thereof.

(r) AMENDMENTS RELATED TO SECTION 1242 OF THE REFORM ACT.—

(1) Paragraph (7) of section 864(c) of the 1986 Code is amended to read as follows:

"(7) TREATMENT OF CERTAIN PROPERTY TRANSACTIONS.—For purposes of this title, if—

"(A) any property ceases to be used or held for use in connection with the conduct of a trade or business within the United States, and

"(B) such property is disposed of within 10 years after such cessation,

the determination of whether any income or gain attributable to such disposition is taxable under section 871(b) or 882 (as the case may be) shall be made as if such sale or exchange occurred immediately before such cessation and without regard to the requirement that the taxpayer be engaged in a trade or business within the United States during the taxable year for which such income or gain is taken into account."

(2) Paragraph (6) of section 864(c) of the 1986 Code is amended to read as follows:

"(6) TREATMENT OF CERTAIN DEFERRED PAYMENTS, ETC.—For purposes of this title, in the case of any income or gain of a nonresident alien individual or a foreign corporation which—

"(A) is taken into account for any taxable year, but

"(B) is attributable to a sale or exchange of property or the performance of services (or any other transaction) in any other taxable year,

the determination of whether such income or gain is taxable under section 871(b) or 882 (as the case may be) shall be made as if such income or gain were taken into account in such other taxable year and without regard to the requirement that the taxpayer be engaged in a trade or business within the United States during the taxable year referred to in subparagraph (A)."

(s) AMENDMENTS RELATED TO SECTION 1246 OF THE REFORM ACT.—

(1)(A) Section 1446 of the 1986 Code is amended to read as follows:

"SEC. 1446. WITHHOLDING TAX ON FOREIGN PARTNERS' SHARE OF EFFECTIVELY CONNECTED INCOME.

"(a) GENERAL RULE.—If—

"(1) a partnership has effectively connected taxable income for any taxable year, and

"(2) any portion of such income is allocable under section 704 to a foreign partner,

such partnership shall pay a withholding tax under this section at such time and in such manner as the Secretary shall by regulations prescribe.

"(b) AMOUNT OF WITHHOLDING TAX.—

"(1) IN GENERAL.—The amount of the withholding tax payable by any partnership under subsection (a) shall be equal to the applicable percentage of the effectively connected taxable income of the partnership which is allocable under section 704 to foreign partners.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means—

"(A) the highest rate of tax specified in section 1 in the case of the portion of the effectively connected taxable income which is allocable under section 704 to foreign partners who are not corporations, and

"(B) the highest rate of tax specified in section 11(b) in the case of the portion of the effectively connected taxable income which is allocable under section 704 to foreign partners which are corporations.

"(c) EFFECTIVELY CONNECTED TAXABLE INCOME.—For purposes of this section, the term 'effectively connected taxable income' means the taxable income of the partnership which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States computed with the following adjustments:

"(1) Paragraph (1) of section 703(a) shall not apply.

"(2) The partnership shall be allowed a deduction for depletion with respect to oil and gas wells but the amount of such deduction shall be determined without regard to sections 613 and 613A.

"(3) There shall not be taken into account any item of income, gain, loss, or deduction to the extent allocable under section 704 to any partner who is not a foreign partner.

"(d) TREATMENT OF FOREIGN PARTNERS.—

"(1) ALLOWANCE OF CREDIT.—Each foreign partner of a partnership shall be allowed a credit under section 33 for such partner's share of the withholding tax paid by the partnership under this section. Such credit shall be allowed for the partner's taxable year in which (or with which) the partnership taxable year (for which such tax was paid) ends.

"(2) CREDIT TREATED AS DISTRIBUTED TO PARTNER.—A foreign partner's share of any withholding tax paid by the partnership under this section shall be treated as distributed to such partner by such partnership on the last day of the partnership's taxable year (for which such tax was paid).

"(e) FOREIGN PARTNER.—For purposes of this section, the term 'foreign partner' means any partner who is not a United States person.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations providing for the application of this section in the case of publicly traded partnerships."

(B) Paragraph (2) of section 6401(b) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following: "The preceding sentence shall not apply to any credit so allowed by reason of section 1446."

(C) The table of sections for subchapter A of chapter 3 of the 1986 Code is amended by striking out the item relating to section 1446 and inserting in lieu thereof the following:

"Sec. 1446. Withholding of tax on foreign partners' share of effectively connected income."

(D) The amendments made by this paragraph shall apply to taxable years beginning after December 31, 1987. No amount shall be required to be deducted and withheld under section 1446 of the 1986 Code (as in effect before the amendment made by subparagraph (A)).

(2)(A) Subsection (a) of section 872 of the 1986 Code is amended by striking out "the case of a nonresident alien individual" and inserting in lieu thereof "the case of a nonresident alien individual, except where the context clearly indicates otherwise".

(B) Subsection (b) of section 882 of the 1986 Code is amended by striking out the "the case of a foreign corporation" and inserting in lieu thereof "the case of a foreign corporation, except where the context clearly indicates otherwise".

(t) AMENDMENTS RELATED TO SECTION 1247 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 892(a)(2) of the 1986 Code is amended by striking out "or" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(iii) derived from the disposition of any interest in a controlled commercial entity."

(2) Clause (ii) of section 892(a)(2)(A) of the 1986 Code is amended to read as follows:

"(ii) received by a controlled commercial entity or received (directly or indirectly) from a controlled commercial entity."

(3) Subsection (a) of section 892 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT AS RESIDENT.—For purposes of this title, a foreign government shall be treated as a corporate resident of its country. A foreign government shall be so treated for purposes of any income tax treaty obligation of the United States if such government grants equivalent treatment to the Government of the United States."

(4) Section 893 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(c) LIMITATION ON EXCLUSION.—Subsection (a) shall not apply to—

"(1) any employee of a controlled commercial entity (as defined in section 892(a)(2)(B)), or

"(2) any employee of a foreign government whose services are primarily in connection with a commercial activity (whether within or outside the United States) of the foreign government."

(u) AMENDMENT RELATED TO SECTION 1249 OF THE REFORM ACT.—Subsection (d) of section 1503 of the 1986 Code is amended by adding at the end thereof the following new paragraphs:

"(3) TREATMENT OF LOSSES OF SEPARATE BUSINESS UNITS.—To the extent provided in regulations, any loss of a separate unit of a do-

mestic corporation shall be subject to the limitations of this subsection in the same manner as if such unit were a wholly owned subsidiary of such corporation.

"(4) INCOME ON ASSETS ACQUIRED AFTER THE LOSS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to prevent the avoidance of the purposes of this subsection by contributing assets to the corporation with the dual consolidated loss after such loss was sustained."

(v) AMENDMENTS RELATED TO SECTION 1261 OF THE REFORM ACT.—

(1)(A) So much of section 986 of the 1986 Code as precedes subsection (c) thereof is amended to read as follows:

"SEC. 986. DETERMINATION OF FOREIGN TAXES AND FOREIGN CORPORATION'S EARNINGS AND PROFITS.

"(a) FOREIGN TAXES.—

"(1) IN GENERAL.—For purposes of determining the amount of the foreign tax credit—

"(A) any foreign income taxes shall be translated into dollars using the exchange rates as of the time such taxes were paid to the foreign country or possession of the United States, and

"(B) any adjustment to the amount of foreign income taxes shall be translated into dollars using—

"(i) except as provided in clause (ii), the exchange rate as of the time when such adjustment is paid to the foreign country or possession, or

"(ii) in the case of any refund or credit of foreign income taxes, using the exchange rate as of the time of original payment of such foreign income taxes.

"(2) FOREIGN INCOME TAXES.—For purposes of paragraph (1), 'foreign income taxes' means any income, war profits, or excess profits taxes paid to any foreign country or to any possession of the United States.

"(b) EARNINGS AND PROFITS AND DISTRIBUTIONS.—For purposes of determining the tax under this subtitle—

"(1) of any shareholder of any foreign corporation, the earnings and profits of such corporation shall be determined in the corporation's functional currency, and

"(2) in the case of any United States person, the earnings and profits determined under paragraph (1) (when distributed, deemed distributed, or otherwise taken into account under this subtitle) shall (if necessary) be translated into dollars using the appropriate exchange rate."

(B) Section 987 of the 1986 Code is amended by inserting "and" at the end of paragraph (2), by striking out ", and" at the end of paragraph (3) and inserting in lieu thereof a period, and by striking out paragraph (4).

(C) The table of sections for subpart J of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 986 and inserting in lieu thereof the following:

"Sec. 986. Determination of foreign taxes and foreign corporation's earnings and profits."

(2)(A) Subsection (c) of section 988 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULES WHERE TAXPAYER TAKES OR MAKES DELIVERY.—If the taxpayer takes or makes delivery in connection with any section 988 transaction described in paragraph (1)(B)(iii), any gain or loss (determined as if the taxpayer sold the contract, option, or instrument on the date on which he took or made delivery for its fair market value on such date) shall be recognized in the same manner as if such contract, option, or instrument were so sold."

(B) The amendment made by subparagraph (A) shall not apply in any case in which the taxpayer takes or makes delivery before June 11, 1987.

(3)(A) Subsection (b) of section 988 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN CONTRACTS, ETC.—In the case of any section 988 transaction described in subsection (c)(1)(B)(iii), any gain or loss from such transaction shall be treated as foreign currency gain or loss (as the case may be)."

(B) Subclause (II) of section 988(c)(1)(C)(i) of the 1986 Code is amended to read as follows:

"(II) any gain or loss from such transaction shall be treated as foreign currency gain or loss (as the case may be)."

(C) Paragraph (2) of section 988(c) of the 1986 Code is amended by inserting "or" at the end of subparagraph (A), by striking out ", or" at the end of subparagraph (B) and inserting in lieu thereof a period, and by striking out subparagraph (C).

(D) Paragraph (3) of section 988(c) of the 1986 Code is amended to read as follows:

"(3) PAYMENT DATE.—The term 'payment date' means the date on which the payment is made or received."

(4) The first sentence of paragraph (1) of section 988(d) is amended by striking out "this section" and inserting in lieu thereof "this subtitle".

(5) Subsection (b) of section 989 of the 1986 Code is amended—

(A) by striking out "951(a)" in paragraph (3) and inserting in lieu thereof "951(a)(1)(A)", and

(B) by adding at the end thereof the following new sentence:

"For purposes of the preceding sentence, any amount included in income under section 951(a)(1)(B) shall be treated as an actual distribution made on the last day of the taxable year for which such amount was so included."

(6) Clause (iii) of section 988(c)(1)(B) of the 1986 Code is amended to read as follows:

"(iii) Entering into or acquiring any forward contract, futures contract, option, or similar financial instrument unless such instrument would be marked to market under section 1256 if held on the last day of the taxable year."

(7) Subparagraph (B) of section 988(a)(3) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(iii) SPECIAL RULE FOR PARTNERSHIPS.—To the extent provided in regulations, in the case of a partnership, the determination of residence shall be made at the partner level."

(8) Clause (i) of section 988(a)(3)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence: "If an individual does not have a tax home (as so defined), the residence of such individual shall be the United States if such individual is a United States citizen or a resident alien and shall be a country other than the United States if such individual is not a United States citizen or a resident alien."

(9) Section 903 of the 1986 Code is amended by striking out "this subpart" and inserting in lieu thereof "this part".

(w) AMENDMENTS RELATED TO SECTION 1274 OF THE REFORM ACT.—

(1) Subsection (e) of section 932 of the 1986 Code is amended to read as follows:

"(e) SPECIAL RULE FOR APPLYING SECTION TO TAX IMPOSED IN VIRGIN ISLANDS.—In applying this section for purposes of determining income tax liability incurred to the Virgin Islands, the provisions of this section shall not be affected by the provisions of Federal law referred to in section 934(a)."

(2) Paragraph (4) of section 932(c) of the 1986 Code is amended to read as follows:

"(4) RESIDENTS OF THE VIRGIN ISLANDS.—In the case of an individual—

"(A) who is a bona fide resident of the Virgin Islands at the close of the taxable year,

"(B) who, on his return of income tax to the Virgin Islands, reports income from all sources and identifies the source of each item shown on such return, and

"(C) who fully pays his tax liability referred to in section 934(a) to the Virgin Islands with respect to such income,

for purposes of calculating income tax liability to the United States, gross income shall not include any amount included in gross income on such return, and allocable deductions and credits shall not be taken into account."

(3) Paragraph (2) of section 932(c) of the 1986 Code is amended by striking out "his income tax return" and inserting in lieu thereof "an income tax return".

(4) Subsection (c) of section 1274 of the Reform Act is amended by striking out "this title" and inserting in lieu thereof "the Internal Revenue Code of 1986".

(x) AMENDMENT RELATED TO SECTION 1275 OF THE REFORM ACT.—Section 1444 of the 1986 Code is amended by striking out "(as modified by section 934A)".

(y) AMENDMENT RELATED TO SECTION 1276 OF THE REFORM ACT.—Subsection (a) of section 7654 of the 1986 Code is amended by striking out "an individual to which" and inserting in lieu thereof "an individual to whom".

(z) AMENDMENT RELATED TO SECTION 1277 OF THE REFORM ACT.—

(1) Section 1277 of the Reform Act is amended by adding at the end thereof the following new subsection:

"(f) EXEMPTION FROM WITHHOLDING.—Notwithstanding subsection (b), the modification of section 884 of the Internal Revenue Code of 1986 by reason of the amendment to section 881 of such Code by section 1273(b)(1) of this Act shall apply to taxable years beginning after December 31, 1986."

(2) Subsection (e) of section 1277 of the Act is amended by striking out "The preceding sentence" and inserting in lieu thereof "Notwithstanding subsection (b), the preceding sentence".

(aa) COORDINATION WITH TREATIES.—

(1) IN GENERAL.—Subsection (d) of section 7852 of the 1986 Code is amended—

(A) by striking out "this title shall" and inserting in lieu thereof "this title (as in effect without regard to any amendment thereto enacted after August 16, 1954) shall", and

(B) by striking out "in effect on the date of the enactment of this title" and inserting in lieu thereof "in effect on August 16, 1954".

(2) CERTAIN AMENDMENTS TO APPLY NOTWITHSTANDING TREATIES.—The following amendments made by the Reform Act shall apply notwithstanding any treaty obligation of the United States in effect on the date of the enactment of the Reform Act:

(A) The amendments made by section 1201 of the Reform Act.

(B) The amendments made by title VII of the Reform Act to the extent such amendments relate to the alternative minimum tax foreign tax credit.

(C) Except as provided in the Reform Act or in paragraph (3) of this subsection, any other amendment made by the Reform Act.

(3) CERTAIN AMENDMENTS NOT TO APPLY TO THE EXTENT INCONSISTENT WITH TREATIES.—The following amendments made by the Reform Act shall not apply to the extent the application of such amendments would be contrary to any treaty obligation of the United States in effect on the date of the enactment of the Reform Act:

(A) The amendments made by section 1211 of the Reform Act to the extent—

(i) such amendments apply in the case of an individual treated as a resident of a foreign country under a treaty obligation of the United States as so in effect, or

(ii) such amendments relate to income of a nonresident from the sale or exchange of inventory property which would otherwise be sourced under section 865(e)(2) of the 1986 Code.

(B) The amendments made by section 1212(a) of the Reform Act; except for purposes of determining the amount of the foreign tax credit.

(C) The amendments made by subsections (b) and (c) of section 1212 of the Reform Act.

(D) The amendments made by section 1214 of the Reform Act; except for purposes of determining the amount of the foreign tax credit.

(E) The amendment made by section 1241(a) of the Reform Act to the extent that, under a treaty obligation of the United States, interest described in section 884(f)(1)(A) of the 1986 Code (as added by such amendment) which is in excess of amounts deducted would be treated as other than United States source.

(F) The amendment made by section 1241(b)(2)(A) of the Reform Act.

(G) The amendment made by section 1241(a) of the Reform Act to the extent such amendment relates to section 884(f)(1)(B) of the 1986 Code.

(H) The amendments made by section 1242 of the Reform Act to the extent they relate to paragraph (7) of section 864(c) of the 1986 Code.

(I) The amendment made by section 1247(a) of the Reform Act.

(J) The amendments made by section 123 of the Reform Act.

(4) TREATMENT OF TECHNICAL CORRECTIONS.—For purposes of paragraphs (2) and (3), any amendment made by this title shall be treated as if it had been included in the provision of the Reform Act to which such amendment relates.

(bb) MISCELLANEOUS FOREIGN TECHNICAL CORRECTIONS.—

(1) PROVISIONS RELATING TO FOREIGN PERSONAL HOLDING COMPANIES.—

(A) Subsection (f) of section 551 of the 1986 Code is amended—

(i) by amending paragraph (1) to read as follows:

"(1) a foreign partnership or an estate or trust which is a foreign estate or trust, or", and

(ii) by striking out the last sentence and inserting in lieu thereof the following: "In any case to which the preceding sentence applies, the Secretary may by regulations provide that rules similar to the rules of section 1297(b)(5) shall apply, and provide for such other adjustments in the application of this subchapter as may be necessary to carry out the purposes of this subsection."

(B) Subsection (a) of section 551 of the 1986 Code is amended by striking out "(other than estates or trusts the gross income of which under this subtitle includes only income from sources within the United States)" and inserting in lieu thereof "(other than foreign estates or trusts)".

(C) Subsection (c) of section 552 of the 1986 Code is amended to read as follows:

"(c) LOOK-THRU FOR CERTAIN DIVIDENDS AND INTEREST.—

"(1) IN GENERAL.—For purposes of this part, any related person dividend or interest shall be treated as foreign personal holding company income only to the extent such dividend or interest is attributable (determined under rules similar to the rules of subparagraphs (C) and (D) of section 904(d)(3)) to income of the related person which would be foreign personal holding company income.

"(2) RELATED PERSON DIVIDEND OR INTEREST.—For purposes of paragraph (1), the term 'related person dividend or interest' means any dividend or interest which—

"(A) is described in subparagraph (A) of section 954(c)(3), and

"(B) is received from a related person which is not a foreign personal holding company (determined without regard to this subsection).

For purposes of the preceding sentence, the term 'related person' has the meaning given such term by section 954(d)(3) (determined by substituting 'foreign personal holding company' for 'controlled foreign corporation' each place it appears)."

(D) The amendments made by this paragraph shall apply to taxable years of foreign corporations beginning after December 31, 1986.

(2) TREATMENT OF CERTAIN PAYMENTS OUTSIDE THE UNITED STATES.—

(A) Subparagraph (A) of section 3405(d)(13) of the 1986 Code is amended by striking out "the United States" and inserting in lieu thereof "the United States and any possession of the United States".

(B) Clause (i) of section 3405(d)(13)(B) of the 1986 Code is amended to read as follows:

"(i) a United States citizen or a resident alien of the United States, or".

(C) The heading of paragraph (13) of section 3405(d) of the 1986 Code is amended by striking out "UNITED STATES" and inserting in lieu thereof "UNITED STATES OR ITS POSSESSIONS".

(D) The amendments made by this paragraph shall apply to distributions made after the date of the enactment of this Act.

(3) CLARIFICATION OF DISCLOSURE UNDER CERTAIN AGREEMENTS.—

(A) Paragraph (4) of section 6103(k) of the 1986 Code is amended—

(i) by striking out "or other convention" and inserting in lieu thereof "or other convention or bilateral agreement", and

(ii) by striking out "such convention" and inserting in lieu thereof "such convention or bilateral agreement".

(B) Subparagraph (A) of section 6103(b)(5) of the 1986 Code is amended by striking out "the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau" and inserting in lieu thereof "and the Commonwealth of the Northern Mariana Islands".

(C) The amendments made by this paragraph shall take effect on the date of the enactment of the Tax Reform Act of 1986.

(4) COORDINATION OF TREATIES WITH SECTION 904(g).—

(A) Subsection (g) of section 904 of the 1986 Code is amended by redesignating paragraph (10) as paragraph (11) and by inserting after paragraph (9) the following new paragraph:

"(10) COORDINATION WITH TREATIES.—

"(A) IN GENERAL.—If—

"(i) any amount derived from a United States-owned foreign corporation would be treated as derived from sources within the United States under this subsection by reason of an item of income of such United States-owned foreign corporation,

"(ii) under a treaty obligation of the United States (applied without regard to this subsection and by treating any amount included in gross income under section 951(a)(1) as a dividend), such amount would be treated as arising from sources outside the United States, and

"(iii) the taxpayer chooses the benefits of this paragraph,

this subsection shall not apply to such amount to the extent attributable to such item of income (but subsections (a), (b), and (c) of this section and sections 902, 907, and 960 shall be applied separately with respect to such amount to the extent so attributable).

"(B) SPECIAL RULE.—Amounts included in gross income under section 951(a)(1) shall be treated as a dividend under subparagraph (A)(ii) only if dividends paid by each corporation (the stock in which is taken into account in determining whether the shareholder is a United States shareholder in the United States-owned foreign corporation), if paid to the United States shareholder, would be treated under a treaty obligation of the United States as arising from sources outside the United States (applied without regard to this subsection)."

(B) The amendment made by subparagraph (A) shall take effect as if included in the amendment made by section 121 of the Tax Reform Act of 1984.

(5) TREATMENT OF ELECTION UNDER SECTION 338.—

(A) IN GENERAL.—Subsection (h) of section 338 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(16) COORDINATION WITH FOREIGN TAX CREDIT PROVISIONS.—Except as provided in regulations, this section shall not apply for purposes of determining the source or character of any item for purposes of subpart A of part III of subchapter N of this chapter (relating to foreign tax credit). The preceding sentence shall not apply to any gain to the extent such gain is includible in gross income as a dividend under section 1248 (determined without regard to any deemed sale under this section by a foreign corporation)."

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to qualified stock purchases (as defined in section 338(d)(3) of the 1986 Code) after March 31, 1988, except that, in the case of an election under section 338(h)(10) of the 1986 Code, such amendment shall apply to qualified stock purchases (as so defined) after June 10, 1987.

(6) TREATMENT OF TAX-EXEMPT SHAREHOLDERS OF A DISC.—

(A) Section 995 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF TAX-EXEMPT SHAREHOLDERS.—If any organization described in subsection (a)(2) or (b)(2) of section 511 is a shareholder in a DISC—

"(1) any amount deemed distributed to such shareholder under subsection (b),

"(2) any actual distribution to such shareholder which under section 996 is treated as out of accumulated DISC income, and

"(3) any gain which is treated as a dividend under subsection (c),

shall be treated as derived from the conduct of an unrelated trade or business (and the modifications of section 512(b) shall not apply). The rules of the preceding sentence shall apply also for purposes of determining any such shareholder's DISC-related deferred tax liability under subsection (f)."

(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1987.

(7) TREATMENT OF CERTAIN AMOUNTS PREVIOUSLY TAXED UNDER SECTION 1248.—

(A) IN GENERAL.—Subsection (e) of section 959 of the 1986 Code is amended by striking out "such person under" and inserting in lieu thereof "such person (or, in any case to which section 1248(e) applies, of the domestic corporation referred to in section 1248(e)(2)) under".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply in the case of transactions to which section 1248(e) of the 1986 Code applies and which occur after December 31, 1986.

(8) TREATMENT OF SHARED FSC'S.—

(A) IN GENERAL.—Section 927 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF SHARED FSC'S.—

"(1) IN GENERAL.—Except as provided in paragraph (2) , each separate account referred to in paragraph (3) maintained by a shared FSC shall be treated as a separate corporation for purposes of this subpart.

"(2) CERTAIN REQUIREMENTS APPLIED AT SHARED FSC LEVEL.—Paragraph (1) shall not apply—

"(A) for purposes of—

"(i) subparagraphs (A), (B), (D), and (E) of section 922(a)(1),

"(ii) paragraph (2) of section 922(a),

"(iii) subsections (b), (c), and (e) of section 924, and

"(iv) subsection (f) of this section, and

"(B) for such other purposes as the Secretary may by regulations prescribed.

"(3) SHARED FSC.—For purposes of this subsection, the term 'shared FSC' means any corporation if—

"(A) such corporation maintains a separate account for transactions with each shareholder (and persons related to such shareholder),

"(B) distributions to each shareholder are based on the amounts in the separate account maintained with respect to such shareholder, and

"(C) such corporation meets such other requirements as the Secretary may by regulations prescribe."

(B) The amendment made by subparagraph (A) shall apply as if included in the provision of the Tax Reform Act of 1984 to which it relates.

(9) CLARIFICATION OF DIVIDENDS RECEIVED DEDUCTION FOR DIVIDENDS FROM A FSC.—

(A) Subsection (c) of section 245 of the 1986 Code is amended to read as follows:

"(c) CERTAIN DIVIDENDS RECEIVED FROM FSC.—

"(1) IN GENERAL.—In the case of a domestic corporation, there shall be allowed as a deduction an amount equal to—

"(A) 100 percent of any dividend received from another corporation which is distributed out of earnings and profits attributable to foreign trade income for a period during which such other corporation was a FSC, and

"(B) 70 percent (80 percent in the case of dividends from a 20-percent owned corporation as defined in section 243(c)(2)) of any dividend received from another corporation which is distributed out of earnings and profits attributable to effectively connected income received or accrued by such other corporation while such other corporation was a FSC.

"(2) EXCEPTION FOR CERTAIN DIVIDENDS.—Paragraph (1) shall not apply to any dividend which is distributed out of earnings and profits attributable to foreign trade income which—

"(A) is section 923(a)(2) nonexempt income (within the meaning of section 927(d)(6)), or

"(B) would not, but for section 923(a)(4), be treated as exempt foreign trade income.

"(3) NO DEDUCTION UNDER SUBSECTION (a) OR (b).—No deduction shall be allowable under subsection (a) or (b) with respect to any dividend which is distributed out of earnings and profits of a corporation accumulated while such corporation was a FSC.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) FOREIGN TRADE INCOME; EXEMPT FOREIGN TRADE INCOME.—The terms 'foreign trade income' and 'exempt foreign trade income' have the respective meanings given such terms by section 923.

"(B) EFFECTIVELY CONNECTED INCOME.—The term 'effectively connected income' means any income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States and is subject to tax under this chapter. Such term shall not include any foreign trade income."

(B) The amendment made by subparagraph (A) shall apply as if included in the provision of the Tax Reform Act of 1984 to which it relates.

SEC. 113. AMENDMENTS RELATED TO TITLE XIII OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1301 OF THE REFORM ACT.—

(1) Clause (iii) of section 142(d)(4)(B) of the 1986 Code is amended by striking out "average rent" and inserting in lieu thereof "average gross rent".

(2) Clause (iii) of section 143(a)(2)(A) of the 1986 Code is amended by striking out "no bond which is part of such issue meets" and inserting in lieu thereof "such issue does not meet".

(3) Paragraph (4) of section 143(b) of the 1986 Code is amended by inserting "is part of an issue which" after "which".

(4)(A) Clause (ii) of section 144(a)(12)(A) of the 1986 Code is amended by inserting "(or series of bonds)" before "issued to refund".

(B)(i) Subclause (I) of section 144(a)(12)(A)(ii) of the 1986 Code is amended to read as follows:

"(I) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,".

(ii) Subparagraph (A) of section 144(a)(12) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"For purposes of clause (ii)(I), average maturity shall be determined in accordance with section 147(b)(2)(A)."

(iii) A refunding bond issued before July 1, 1987, shall be treated as meeting the requirement of subclause (I) of section 144(a)(12)(A)(ii) of the 1986 Code if such bond met the requirement of such subclause as in effect before the amendments made by this subparagraph.

(C) Clause (ii) of section 144(a)(12)(A) of the 1986 Code is amended by adding "and" at the end of subclause (II), by striking out subclause (III), and by redesignating subclause (IV) as subclause (III).

(5) Subparagraph (B) of section 144(b)(1) of the 1986 Code is amended—

(A) by striking out "to which part B of title IV of the Higher Education Act of 1965 (relating to guaranteed student loans) does not apply", and

(B) by striking out "of such Act" and inserting in lieu thereof "of the Higher Education Act of 1965", and

(C) by striking out "eligible" and all that follows in such subparagraph and inserting in lieu thereof the following: "eligible. A program shall not be treated as described in this subparagraph if such program is described in subparagraph (A).

A bond shall not be treated as a qualified student loan bond if the issue of which such bond is a part meets the private business tests of paragraphs (1) and (2) of section 141(b) (determined by treating 501(c)(3) organizations as governmental units with respect to their activities which do not constitute unrelated trades or businesses, determined by applying section 513(a))."

(6) Subclause (I) of section 145(b)(2)(B)(ii) of the 1986 Code is amended by striking out "103(b)" and inserting in lieu thereof "103(b)(2)".

(7) Clause (i) of section 145(b)(2)(C) of the 1986 Code is amended by striking out "subparagraph (B)(ii)" and inserting in lieu thereof "subparagraph (B)".

(8) Paragraph (4) of section 145(b) of the 1986 Code is amended by striking out "subparagraphs (C) and (D)" and inserting in lieu thereof "subparagraphs (C), (D), and (E)".

(9) Subparagraph (A) of section 146(f)(5) of the 1986 Code (as in effect before the amendments made by section 10631 of the Revenue Act of 1987) is amended to read as follows:

"(A) the purpose of issuing exempt facility bonds described in 1 of the paragraphs of section 142(a),".

(10)(A) Paragraph (1) of section 146(k) of the 1986 Code is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)".

(B) Subsection (k) of section 146 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF GOVERNMENTAL BONDS TO WHICH VOLUME CAP ALLOCATED.—Paragraph (1) shall not apply to any bond to which volume cap is allocated under section 141(b)(5)—

"(A) for an output facility, or

"(B) for a facility of a type described in paragraph (4), (5), (6), or (10) of section 142(a),

if the issuer establishes that the State's share of the private business use (as defined by section 141(b)(6)) of the facility will equal or exceed the State's share of the volume cap allocated with respect to bonds issued to finance the facility."

(11) Subsection (e) of section 147 of the 1986 Code is amended by striking out "treated as".

(12) Subsection (f) of section 147 of the 1986 Code (relating to public approval requirement for private activity bonds) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULES FOR SCHOLARSHIP FUNDING BOND ISSUES AND VOLUNTEER FIRE DEPARTMENT BOND ISSUES.—

"(A) SCHOLARSHIP FUNDING BONDS.—In the case of a qualified scholarship funding bond, any governmental unit which made a

request described in section 150(d)(2)(B) with respect to the issuer of such bond shall be treated for purposes of paragraph (2) of this subsection as the governmental unit on behalf of which such bond was issued. Where more than one governmental unit within a State has made a request described in section 150(d)(2)(B), the State may also be treated for purposes of paragraph (2) of this subsection as the governmental unit on behalf of which such bond was issued.

"(B) VOLUNTEER FIRE DEPARTMENT BONDS.—In the case of a bond of a volunteer fire department which meets the requirements of section 150(e), the political subdivision described in section 150(e)(2)(B) with respect to such department shall be treated for purposes of paragraph (2) of this subsection as the governmental unit on behalf of which such bond was issued."

(13)(A) Paragraph (1) of section 147(g) of the 1986 Code (relating to restriction on issuance costs financed by issue) is amended by striking out "aggregate face amount of the issue" and inserting in lieu thereof "proceeds of the issue".

(B) Paragraph (2) of section 147(g) of the 1986 Code is amended by striking out "aggregate authorized face amount of the issue does not" and inserting in lieu thereof "proceeds of the issue do not".

(C) The amendments made by this paragraph shall apply to bonds issued after June 30, 1987.

(14) Paragraph (2) of section 148(d) of the 1986 Code (relating to special rules for reasonably required reserve or replacement fund) is amended by striking out "any fund described in paragraph (1)" and inserting in lieu thereof "any reserve or replacement fund".

(15) Paragraph (3) of section 148(f) of the 1986 Code is amended by adding at the end thereof the following new sentence: "A series of issues which are redeemed during a 6-month period (or such longer period as the Secretary may prescribe) shall be treated (at the election of the issuer) as 1 issue for purposes of the preceding sentence if no bond which is part of any issue in such series has a maturity of more than 270 days or is a private activity bond."

(16)(A) Subclause (I) of section 148(f)(4)(B)(iii) of the 1986 Code (relating to safe harbor for determining when proceeds of tax or revenue anticipation bonds are expended) is amended by striking out "aggregate face amount of such issue" and inserting in lieu thereof "proceeds of such issue".

(B) The amendment made by subparagraph (A) shall apply to bonds issued after June 30, 1987.

(17)(A) Subparagraph (C) of section 148(f)(4) of the 1986 Code is amended—

(i) by striking out the heading and inserting in lieu thereof:

"(C) EXCEPTION FOR GOVERNMENTAL UNITS ISSUING $5,000,000 OR LESS OF BONDS.—

"(i) IN GENERAL.—",

(ii) by redesignating clauses (i) through (iv) as subclauses (I) through (IV), respectively, and moving the margins of such subclauses 2 ems to the right, and

(iii) by striking out the last sentence and inserting in lieu thereof the following new clauses:

"(ii) AGGREGATION OF ISSUERS.—For purposes of subclause (IV) of clause (i)—

"(I) an issuer and all entities which issue bonds on behalf of such issuer shall be treated as 1 issuer,

"(II) all bonds issued by a subordinate entity shall, for purposes of applying such subclause to each other entity to which such entity is subordinate, be treated as issued by such other entity, and

"(III) an entity formed (or, to the extent provided by the Secretary, availed of) to avoid the purposes of such subclause (IV) and all other entities benefiting thereby shall be treated as 1 issuer.

"(iii) CERTAIN REFUNDING BONDS NOT TAKEN INTO ACCOUNT IN DETERMINING SMALL ISSUER STATUS.—There shall not be taken into account under subclause (IV) of clause (i) any bond issued to refund (other than to advance refund) any bond to the extent the amount of the refunding bond does not exceed the outstanding amount of the refunded bond.

"(iv) CERTAIN ISSUES ISSUED BY SUBORDINATE GOVERNMENTAL UNITS, ETC., EXEMPT FROM REBATE REQUIREMENT.—An issue issued by a subordinate entity of a governmental unit with general taxing powers shall be treated as described in clause (i)(I) if the aggregate face amount of such issue does not exceed the lesser of—

"(I) $5,000,000, or

"(II) the amount which, when added to the aggregate face amount of other issues issued by such entity, does not exceed the portion of the $5,000,000 limitation under clause (i)(IV) which such governmental unit allocates to such entity.

For purposes of the preceding sentence, an entity which issues bonds on behalf of a governmental unit with general taxing powers shall be treated as a subordinate entity of such unit. An allocation shall be taken into account under subclause (II) only if it is irrevocable and made before the issuance date of such issue and only to the extent that the limitation so allocated bears a reasonable relationship to the benefits received by such governmental unit from issues issued by such entity.

"(v) DETERMINATION OF WHETHER REFUNDING BONDS ELIGIBLE FOR EXCEPTION FROM REBATE REQUIREMENT.—If any portion of an issue is issued to refund other bonds, such portion shall be treated as a separate issue which does not meet the requirements of paragraphs (2) and (3) by reason of this subparagraph unless—

"(I) the aggregate face amount of such issue does not exceed $5,000,000,

"(II) each refunded bond was issued as part of an issue which was treated as meeting the requirements of paragraphs (2) and (3) by reason of this subparagraph,

"(III) the average maturity date of the refunding bonds issued as part of such issue is not later than the average maturity date of the bonds to be refunded by such issue, and

"(IV) no refunding bond has a maturity date which is later than the date which is 30 years after the date the original bond was issued.

Subclause (III) shall not apply if the average maturity of the issue of which the original bond was a part (and of the issue of which the bonds to be refunded are a part) is 3 years or less. For purposes of this clause, average maturity shall be determined in accordance with section 147(b)(2)(A).

"(vi) REFUNDINGS OF BONDS ISSUED UNDER LAW PRIOR TO TAX REFORM ACT OF 1986.—If section 141(a) did not apply to any refunded bond, the issue of which such refunded bond was a part shall be treated as meeting the requirements of subclause (II) of clause (v) if—

"(I) such issue was issued by a governmental unit with general taxing powers,

"(II) no bond issued as part of such issue was an industrial development bond (as defined in section 103(b)(2), but without regard to subparagraph (B) of section 103(b)(3)) or a private loan bond (as defined in section 103(o)(2)(A), but without regard to any exception from such definition other than section 103(o)(2)(C)), and

"(III) the aggregate face amount of all tax-exempt bonds (other than bonds described in subclause (II)) issued by such unit during the calendar year in which such issue was issued did not exceed $5,000,000.

References in subclause (II) to section 103 shall be to such section as in effect on the day before the date of the enactment of the Tax Reform Act of 1986. Rules similar to the rules of clauses (ii) and (iii) shall apply for purposes of subclause (III). For purposes of subclause (II) of clause (i), bonds described in subclause (II) of this clause to which section 141(a) does not apply shall not be treated as private activity bonds."

(B) Subclause (IV) of section 148(f)(4)(C)(i) of the 1986 Code (as redesignated by subparagraph (A)) is amended by striking out "(and all subordinate entities thereof)".

(C)(i) Except as provided in clause (ii), the amendments made by this paragraph shall apply to bonds issued after June 30, 1987.

(ii) At the election of an issuer (made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe), the amendments made by this paragraph shall apply to such issuer as if included in the amendments made by section 1301(a) of the Tax Reform Act of 1986.

(18) Clause (i) of section 148(f)(4)(D) of the 1986 Code is amended—

(A) by inserting "for a program" before "described in section 144(b)(1)(A)",

(B) by striking out "such a program" and inserting in lieu thereof "such program", and

(C) by adding at the end thereof the following: "Amounts designated as interest on student loans shall not be taken into account in determining whether the issuer is reimbursed for such costs. Except as otherwise hereafter provided in regulations prescribed by the Secretary, costs described in subclause (I) paid from amounts earned as described in the first sentence of this clause may also be taken into account in determining the yield on the student loans under a program described in section 144(b)(1)(A)."

(19) Subparagraph (B) of section 148(f)(7) of the 1986 Code is amended by striking out "due to reasonable cause and not" and inserting in lieu thereof "not due".

(20) Clause (iii) of section 149(b)(3)(A) of the 1986 Code is amended by striking out "with respect to any bond issued before July 1, 1989".

(21) Subparagraph (A) of section 149(b)(4) of the 1986 Code is amended by striking out "a qualified student loan bond, and a qualified redevelopment bond" and inserting in lieu thereof "and a qualified student loan bond".

(22) Paragraph (3) of section 149(e) of the 1986 Code (relating to information reporting) is amended by striking out "there is reasonable cause for the failure to file such statement in a timely fashion" and inserting in lieu thereof "the failure to file in a timely fashion is not due to willful neglect".

(23)(A) Subparagraph (B) of section 150(b)(4) of the 1986 Code (relating to change in use of facilities financed with tax-exempt private activity bonds) is amended by inserting before the period "or a qualified small issue bond".

(B) The heading for paragraph (4) of section 150(b) of the 1986 Code is amended by

inserting "AND SMALL ISSUE BONDS" after "EXEMPT FACILITY BONDS".

(C) Subparagraph (A) of section 150(b)(1) of the 1986 Code is amended by inserting "tax-exempt" before "qualified mortgage bond".

(24)(A) Subsection (e) of section 150 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT AS PRIVATE ACTIVITY BONDS ONLY FOR CERTAIN PURPOSES.—Bonds which are part of an issue which meets the requirements of paragraph (1) shall not be treated as private activity bonds except for purposes of sections 147(f) and 149(d)."

(B) The amendment made by subparagraph (A) shall apply to bonds issued after June 30, 1987.

(25) Clause (ii) of section 1301(f)(2)(C) of the Reform Act is amended to read as follows:

"(ii) Clause (ii) of section 25(c)(2)(A) is amended by striking out all that follows 'an amount of' and inserting in lieu thereof 'private activity bonds which it may otherwise issue during such calendar year under section 146,'."

(26) Subsection (h) of section 25 of the 1986 Code (relating to credit for interest on certain home mortgages) is amended by striking out "1987" and inserting in lieu thereof "1988".

(27) The date contained in section 143(a)(1)(B) of the 1986 Code shall be treated as contained in section 103A(c)(1)(B) of the Internal Revenue Code of 1954, as in effect on the day before the date of the enactment of the Reform Act, for purposes of any bond issued to refund a bond to which such 103A(c)(1) applies.

(28)(A) Subparagraph (A) of section 146(i)(2) of the 1986 Code is amended to read as follows:

"(A) the average maturity date of the qualified student loan bonds to be refunded by the issue of which the refunding bond is a part, or".

(B) Subparagraph (A) of section 146(i)(3) of the 1986 Code is amended to read as follows:

"(A) the average maturity date of the qualified mortgage bonds to be refunded by the issue of which the refunding bond is a part, or".

(C) Subsection (i) of section 146 of the 1986 Code is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) AVERAGE MATURITY.—For purposes of paragraphs (2) and (3), average maturity shall be determined in accordance with section 147(b)(2)(A)."

(29) Subparagraph (D) of section 147(f)(2) of the 1986 Code is amended by striking out "the maturity date" and all that follows and inserting in lieu thereof "the average maturity date of the issue of which the refunded bond is a part is later than the average maturity date of the bonds to be refunded by such issue. For purposes of the preceding sentence, average maturity shall be determined in accordance with subsection (b)(2)(A)."

(30) Subparagraph (A) of section 150(b)(1) of the 1986 Code is amended by inserting before the period "and before the date such residence is again the principal residence of at least 1 of the mortgagors who received such financing".

(31) Subparagraph (A) of section 150(b)(2) of the 1986 Code is amended by striking out "described paragraph" and inserting in lieu thereof "described in paragraph".

(32) Paragraph (2) of section 150(b) of the 1986 Code is amended by adding at the end thereof the following: "If the provisions of prior law corresponding to section 142(d) apply to a refunded bond, such provisions shall apply (in lieu of section 142(d)) to the refunding bond."

(33) Subsection (b) of section 150 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(6) SMALL ISSUE BONDS WHICH EXCEED CAPITAL EXPENDITURE LIMITATION.—In the case of any financing provided from the proceeds of any bond which, when issued, purported to be a qualified small issue bond, no deduction shall be allowed under this chapter for interest on such financing which accrues during the period such bond is not a qualified small issue bond."

(34)(A) Paragraph (7) of section 103(c) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking out "necessary" and inserting in lieu thereof "necessary".

(B) Subparagraph (A) shall apply to obligations sold after May 2, 1978, and to which Treasury regulation section 1.103-13 (1979) was provided to apply.

(35) VALIDATION OF SINKING FUND REGULATIONS.—

(A) Treasury Regulation section 1.103-13(g) (1979) is hereby enacted into positive law.

(B)(i) Except as provided in clause (ii), subparagraph (A) shall apply to obligations sold after May 2, 1978, and to which such regulation was provided to apply.

(ii) Treasury Regulation section 1.103-13(g) (1979) as enacted into positive law by subparagraph (A) shall cease to apply to the extent hereafter modified by the Secretary of the Treasury or his delegate by regulations.

(36) Clause (i) of section 147(f)(2)(E) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"If the office of any elected official described in subclause (II) is vacated and an individual is appointed by the chief elected executive officer of the governmental unit and confirmed by the elected legislative body of such unit (if any) to serve the remaining term of the elected official, the individual so appointed shall be treated as the elected official for such remaining term."

(37) The table of sections for part III of subchapter B of chapter 1 of the 1986 Code is amended by striking out the items relating to sections 103 and 103A and inserting in lieu thereof the following new item:

"Sec. 103. Interest on State and local bonds."

(38) Subparagraph (B) of section 141(b)(5) of the 1986 Code is amended by striking out "which would cause bond" and inserting in lieu thereof "which would cause a bond".

(39) Clause (ii) of section 142(b)(1)(B) of the 1986 Code is amended by striking out "(as defined in 168(i)(3))" and inserting in lieu thereof "(as defined in section 168(i)(3))".

(40) Subparagraph (B) of section 146(d)(4) of the 1986 Code is amended by striking out "with respect a possession" and inserting in lieu thereof "with respect to a possession".

(41) Clause (ii) of section 48(l)(11)(A) of the 1986 Code is amended by striking out "an industrial development bond (within the meaning of section 103(b)(2))" and inserting in lieu thereof "a private activity bond (within the meaning of section 141)".

(42) Subsection (a) of section 7478 of the 1986 Code is amended—

(A) by striking out "whether prospective obligations are described in section 103(a)" in paragraph (1) and inserting in lieu thereof "whether interest on prospective obligations will be excludable from gross income under section 103(a)", and

(B) by striking out "whether such prospective obligations are described in section 103(a)" and inserting in lieu thereof "whether interest on such prospective obligations will be excludable from gross income under section 103(a)".

(43)(A) Subsection (b) of section 148 of the 1986 Code (defining higher yielding investments) is amended by adding at the end thereof the following new paragraph:

"(3) ALTERNATIVE MINIMUM TAX BONDS TREATED AS INVESTMENT PROPERTY IN CERTAIN CASES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'investment property' does not include any tax-exempt bond.

"(B) EXCEPTION.—With respect to an issue other than an issue a part of which is a specified private activity bond (as defined in section 57(a)(5)(C)), the term 'investment property' includes a specified private activity bond (as so defined)."

(B) Paragraph (2) of section 148(b) of the 1986 Code (defining investment property) is amended by striking the last sentence.

(C) The amendments made by this paragraph shall apply to obligations issued after March 31, 1988.

(44) Subparagraph (B) of section 46(c)(5) of the 1986 Code is amended—

(A) by striking out "INDUSTRIAL DEVELOPMENT BONDS" in the heading and inserting in lieu thereof "PRIVATE ACTIVITY BONDS", and

(B) by striking "an industrial development bond (within the meaning of section 103(b)(2))" and inserting in lieu thereof "a private activity bond (within the meaning of section 141)".

(b) AMENDMENTS RELATED TO SECTION 1311 OF THE REFORM ACT.—

(1) Section 1311 of the Reform Act is amended by redesignating subsection (d) as subsection (f), and by inserting after subsection (c) the following new subsections:

"(d) PUBLIC APPROVAL AND INFORMATION REPORTING.—Sections 147(f) and 149(e) of the 1986 Code shall apply to bonds issued after December 31, 1986.

"(e) REBATE REQUIREMENT FOR QUALIFIED SCHOLARSHIP FUNDING BONDS.—Section 150(d) of the 1986 Code shall apply to payments made after August 15, 1986."

(2) Paragraph (2) of section 1311(b) of the Reform Act (relating to effective date for section 1301(f)) is amended by inserting "with respect to non-issued bond amounts elected" after "issued".

(c) AMENDMENTS RELATED TO SECTION 1313 OF THE REFORM ACT.—

(1) Clause (i) of section 1313(a)(1)(B) of the Reform Act is amended by striking out "the proceeds" and inserting in lieu thereof "the net proceeds".

(2)(A) Subparagraph (C) of section 1313(a)(3) of the Reform Act is amended by striking out "section 148" and inserting in lieu thereof "sections 143(g) and 148".

(B) The amendment made by subparagraph (A) shall apply to bonds issued after June 30, 1987.

(3) Subparagraph (E) of section 1313(a)(3) of the Reform Act is amended by striking out "of such Code".

(4) Paragraph (3) of section 1313(a) of the Reform Act is amended by adding at the end thereof the following new sentence: "In the case of a refunding bond described in para-

graph (1) with respect to a qualified bond described in paragraph (2)(B), the requirements of section 1312(b)(1) which applied to such qualified bond shall be treated as specified in this paragraph with respect to such refunding bond."

(5) Subparagraph (A) of section 1313(a)(4) of the Reform Act is amended by inserting "and by substituting 'September 1, 1986' for 'August 16, 1986'" before the comma at the end thereof.

(6) Paragraph (2) of section 1313(b) of the Reform Act is amended by adding at the end thereof "For purposes of the preceding sentence, the determination of whether a bond is described in such subsection (o)(2)(A) shall be made without regard to any exception other than section 103(o)(2)(C) of such Code."

(7) Subparagraph (F) of section 1313(b)(3) of the Reform Act is amended by striking out "of such Code".

(8) Paragraph (3) of section 1313(b) of the Reform Act is amended by adding after subparagraph (F) the following new subparagraph:

"(G) Except as provided in the last sentence of subsection (c)(2) of this section, the requirements of section 145(b) (relating to $150,000,000 limitation on bonds other than hospital bonds)."

(9) Paragraph (5) of section 1313(b) of the Reform Act is amended by striking out "are to be" and inserting in lieu thereof "are or will be".

(10)(A) The heading for subsection (c) of section 1313 of the Reform Act is amended by striking out "CURRENT" and inserting in lieu thereof "CERTAIN".

(B) Paragraph (1) of section 1313(c) of the Reform Act is amended—

(i) by striking out "apply to any bond" and inserting in lieu thereof "apply to any bond (or series of bonds)", and

(ii) by striking out "law do not" and inserting in lieu thereof "law did not".

(11)(A) Subparagraph (A) of section 1313(c)(1) of the Reform Act is amended to read as follows:

"(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,".

(B) Paragraph (1) of section 1313(c) of the Reform Act is amended by adding at the end thereof the following new sentence:

"For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b)(2)(A) of the 1986 Code."

(C) Paragraph (1) of section 1313(c) of the Reform Act is amended by adding "and" at the end of subparagraph (B), by striking out subparagraph (C), and by redesignating subparagraph (D) as subparagraph (C).

(D) Subparagraph (B) of section 1313(c)(2) of the Reform Act is amended by striking out "and (D)" and inserting in lieu thereof "and (C)".

(E) A refunding bond issued before July 1, 1987, shall be treated as meeting the requirement of subparagraph (A) of section 1313(c)(1) of the Reform Act if such bond met the requirement of such subparagraph as in effect before the amendments made by this paragraph.

(12)(A) Subparagraph (N) of section 103(b)(6) of the Internal Revenue Code of 1954, as in effect on the day before the date of the enactment of the Reform Act (relating to termination dates), is amended by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and by striking out clause (i) and inserting in lieu thereof the following new clauses:

"(i) IN GENERAL.—Except as provided in clause (ii), this paragraph shall not apply to any obligation issued after December 31, 1986.

"(ii) CERTAIN REFUNDINGS.—This paragraph shall apply to any obligation (or series of obligations) issued to refund an obligation issued on or before December 31, 1986, if—

"(I) the average maturity date of the issue of which the refunding obligation is a part is not later than the average maturity date of the obligations to be refunded by such issue,

"(II) the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligation, and

"(III) the proceeds of the refunding obligation are used to redeem the refunded obligation not later than 90 days after the date of the issuance of the refunding obligation.

For purposes of subclause (I), average maturity shall be determined in accordance with subsection (b)(14)(B)(i)."

(B) The date applicable under section 144(a)(12)(B) of the 1986 Code shall be treated as contained in section 103(b)(6)(N)(iii) of the Internal Revenue Code of 1954, as in effect on the day before the date of the enactment of the Reform Act, for purposes of any bond issued to refund a bond to which such section 103(b)(6)(N)(iii) applies.

(13) Paragraph (2) of section 1313(c) of the Reform Act is amended—

(A) by striking out "apply to any bond" and inserting in lieu thereof "apply to any bond (or series of bonds)",

(B) by striking out "subsection does not" and inserting in lieu thereof "subsection did not", and

(C) by striking out "the proceeds" in subparagraph (A)(i) and inserting in lieu thereof "the net proceeds".

(14)(A) Section 1313 of the Reform Act is amended by adding at the end thereof the following new subsection:

"(d) MORTGAGE AND STUDENT LOAN TARGETING RULES TO APPLY TO LOANS MADE MORE THAN 3 YEARS AFTER THE DATE OF THE ORIGINAL ISSUE.—Subsections (a)(3) and (b)(3) shall be treated as including the requirements of subsections (e) and (f) of section 143 and paragraphs (3) and (4) of section 144(b) of the 1986 Code with respect to bonds the proceeds of which are used to finance loans made more than 3 years after the date of the issuance of the original bond."

(B) The amendment made by subparagraph (A) shall apply with respect to refunding bonds issued after October 16, 1987.

(15) A bond issued to refund an obligation described in section 103(o)(3) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) shall not be treated as described in section 144(b) of the 1986 Code unless it is described in section 144(b)(1)(A) of the 1986 Code.

(d) AMENDMENTS RELATED TO SECTION 1314 OF THE REFORM ACT.—

(1) Subsection (a) of section 1314 of the Reform Act is amended by adding at the end thereof the following: "The treatment under the preceding sentence shall also apply to a bond issued before September 26, 1985, but only for purposes of determining whether any bond issued after September 25, 1985, to advance refund such bond (or a bond which is part of a series of refundings of such bond) is an arbitrage bond (within the meaning of section 148(a) of the 1986 Code)."

(2) Subsection (f) of section 1314 of the Reform Act is amended by striking out "December" and inserting in lieu thereof "August".

(3) Section 1314 of the Reform Act is amended by redesignating subsection (g) as subsection (i) and by inserting after subsection (f) the following new subsections:

"(g) TERMINATION OF MORTGAGE BOND POLICY STATEMENT REQUIREMENT.—Paragraph (5) of section 103A(j) of the 1954 Code (relating to policy statement) shall not apply to any bond issued after August 15, 1986, and shall not apply to nonissued bond amounts elected under section 25 of the 1986 Code after such date.

"(h) ARBITRAGE RESTRICTION ON INVESTMENTS IN INVESTMENT-TYPE PROPERTY.—In the case of a bond issued before August 16, 1986 (September 1, 1986 in the case of a bond described in section 1312(c)(2)), section 103(c) of the 1954 Code shall be applied by treating the reference to securities in paragraph (2) thereof as including a reference to investment-type property but only for purposes of determining whether any bond issued after October 16, 1987, to advance refund such bond (or a bond which is part of a series of refundings of such bond) is an arbitrage bond (within the meaning of section 148(a) of the 1986 Code)."

(e) AMENDMENTS RELATED TO SECTION 1315 OF THE REFORM ACT.—

(1) Subsection (c) of section 1315 of the Reform Act is amended—

(A) by inserting "for calendar year 1986" after "1954 Code" each place it appears,

(B) by striking out "before August 16" each place it appears and inserting in lieu thereof "on August 15", and

(C) by adding at the end thereof the following new sentence:

"The preceding sentence shall not apply to the extent section 1313(b)(5) treats any bond as a private activity bond for purposes of section 146 of the 1986 Code."

(2)(A) Subsection (e) of section 1315 of the Reform Act is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any bond which (if issued on August 15, 1986) would have been an industrial development bond (as defined in section 103(b)(2) of the 1954 Code)."

(B) The amendment made by subparagraph (A) shall apply to bonds issued after June 10, 1987.

(f) AMENDMENTS RELATED TO SECTION 1316 OF THE REFORM ACT.—

(1)(A) Subsections (a)(1), (b)(1), (c)(1), and (f)(1) of section 1316 of the Reform Act are each amended by inserting "and as having a carryforward purpose described in section 146(f)(5) of such Code" after "the 1986 Code".

(B) The amendment made by subparagraph (A) shall apply only with respect to carryforwards of volume cap for years after 1986.

(2) Subsection (c) of section 1316 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(4) APPLICATION OF SECTION 147(b).—A bond to which this subsection applies (other than a refunding bond) shall be treated as meeting the requirements of section 147(b) of the 1986 Code if the average maturity (determined in accordance with section 147(b)(2)(A) of such Code) of the issue of which such bond is a part does not exceed 20 years. A bond issued to refund (or which is part of a series of bonds issued to refund) a bond described in the preceding sentence shall be treated as meeting the requirements of such section if the refunding bond has a

maturity date not later than the date which is 20 years after the date on which the original bond was issued."

(3) Paragraph (1) of section 1316(e) of the Reform Act is amended—

(A) by inserting "(and section 103(h)(2)(B)(ii) of the 1954 Code)" after "1986 Code" the first place it appears, and

(B) by inserting "(and section 103(b)(16) of the 1954 Code)" after "1986 Code" in the last sentence.

(4) Paragraph (2) of section 1316(g) of the Reform Act is amended—

(A) by striking out "described in the paragraph (3)" in subparagraph (A) and inserting in lieu thereof "issued to provide a facility described in paragraph (3)", and

(B) by striking out "which paragraph (3)" in subparagraph (C) and inserting in lieu thereof "which such paragraph (3)".

(5) Paragraph (6) of section 1316(g) of the Reform Act is amended by inserting "(and the provisions of section 1314)" after "section 1301".

(6) Paragraph (7) of section 1316(g) of the Reform Act is amended to read as follows:

"(7) In the case of a bond described in section 632(d) of the Tax Reform Act of 1984—

"(A) section 141 of the 1986 Code shall be applied without regard to subsection (a)(2) and paragraphs (4) and (5) of subsection (b),

"(B) paragraphs (1) and (2) of section 141(b) of the 1986 Code shall be applied by substituting '25 percent' for '10 percent' each place it appears, and

"(C) section 149(b) of the 1986 Code shall not apply.

This paragraph shall not apply to any bond issued after December 31, 1990."

(7)(A) Subparagraph (A) of section 1316(g)(8) of the Reform Act is amended by inserting "and as having a carryforward purpose described in section 146(f)(5) of such Code" after "the 1986 Code".

(B) The amendment made by subparagraph (A) shall apply only with respect to carryforwards of volume cap for years after 1986.

(8) Paragraph (2) of section 1316(j) of the Reform Act is amended to read as follows:

"(2) by adding at the end thereof the following new sentence: 'In the case of refunding obligations not to exceed $100,000,000 issued after October 21, 1986, by Dade County, Florida, for the purpose of advance refunding its Aviation Revenue Bonds (Series J), the first sentence of this paragraph shall be applied by substituting "the date which is 1 year after the date of the enactment of the Miscellaneous Revenue Act of 1988" for "December 31, 1984" and the amendments made by section 1301 of the Tax Reform Act of 1986 shall not apply.'"

(9) Paragraph (2) of section 1316(k) of the Reform Act is amended by striking out "$55,000,000 must be redeemed no later than November 1, 1987" and inserting in lieu thereof "no more than $55,000,000 shall be outstanding later than November 1, 1987".

(10) Section 1104 of the Mortgage Subsidy Bond Tax Act of 1980 is amended by adding at the end of subsection (r) the following new sentence:

"Section 148(f) of the Internal Revenue Code of 1986 and the amendments made by section 1301 of the Tax Reform Act of 1986 shall not apply to any bonds described in paragraph (1) which may be issued as a result of the amendments made by the Tax Reform Act of 1986."

(11) Subsection (l) of section 1316 of the Reform Act is hereby repealed.

(g) AMENDMENTS RELATED TO SECTION 1317 OF THE REFORM ACT.—

(1) Subparagraph (J) of section 1317(2) of the Reform Act is amended by striking out "began construction in 1980" and inserting in lieu thereof ", a subsidiary of Sierra Pacific Resources, began in 1980 work to design, finance, construct, and operate".

(2) Subparagraph (C) of section 1317(3) of the Reform Act is amended to read as follows:

"(C) A facility is described in this subparagraph if—

"(i) it is one or more stadiums to be used either by an American League baseball team or a National Football League team currently using a stadium in a city having a population in excess of 2,500,000 and described in section 146(d)(3) of the 1986 Code,

"(ii) the bonds to be used to provide financing for one or more such stadiums are issued by a political subdivision or a State agency pursuant to a resolution approving an inducement resolution adopted by a State agency on November 20, 1985, as it may be amended (whether or not the beneficiaries of such issue or issues are the beneficiaries (if any) specified in such inducement resolution and whether or not the number of such stadiums and the locations thereof are as specified in such inducement resolution) or pursuant to P.A. 84-1470 of the State in which such city is located (and by an agency created thereby), and

"(iii) such stadium or stadiums are located in the city described in (i).

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $250,000,000. In the case of any carryforward of volume cap for one or more stadiums described in the first sentence of this subparagraph, such carryforward shall be valid with respect to bonds issued for such stadiums notwithstanding any other provision of the 1986 Code or the 1954 Code, and whether or not (i) there is a change in the number of stadiums or the beneficiaries or sites of the stadium or stadiums and (ii) the bonds are issued by either of the state agencies described in the first sentence of this subparagraph."

(3)(A) Subparagraph (P) of section 1317(3) of the Reform Act is amended—

(i) by striking out "approved" and inserting in lieu thereof "authorized", and

(ii) by striking out "December 9, 1985" and inserting in lieu thereof "December 2, 1985".

(B) Section 1317(3)(A) of the Reform Act is amended by striking out "domed".

(C) Section 1317(3)(U) of the Reform Act is amended by deleting "coliseum complex." and inserting in lieu thereof 'coliseum complex, or is a renovation of an existing stadium located in Oakland, California, and used by an American League baseball team."

(D) Section 1317(3)(W) of the Reform Act is amended by striking out "$225,000,000" and inserting "$25,000,000".

(4) Paragraph (3) of section 1317 of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(Z) A facility is described in this subparagraph if—

"(i) such facility was a redevelopment project that was approved in concept by the city council sitting as the redevelopment agency in October 1984, and

"(ii) $20,000,000 in funds for such facility was identified in a 5-year budget approved by the city redevelopment agency on October 25, 1984.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $80,000,000."

(5) Paragraph (4) of section 1317 of the Reform Act is amended—

(A) by striking out "1986. The bonds" and inserting in lieu thereof "1986, and the bonds",

(B) by striking out "and" at the end the subparagraph (A), and

(C) by adding "and" at the end of subparagraph (B).

(6) Subparagraph (W) of section 1317(6) of the Reform Act is amended to read as follows:

"(W) A project is described in this subparagraph if such project is—

"(i) a part of the Kenosha Downtown Redevelopment project, and

"(ii) located in an area bounded—

"(I) on the east by the east wall of the Army Corps of Engineers Confined Disposal Facility (extended),

"(II) on the north by 48th Street (extended),

"(III) on the west by the present Chicago & Northwestern Railroad tracks, and

"(IV) on the south by the north line of Eichelman Park (60th Street) (extended).

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $105,000,000."

(7) Paragraph (6) of section 1317 of the Reform Act is amended by redesignating subparagraph (X) as subparagraph (Z) and by inserting after subparagraph (W) the following new subparagraphs:

"(X) A project is described in this subparagraph if a redevelopment plan for such project was approved by the city council of Bell Gardens, California, on June 12, 1979. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $10,000,000.

"(Y) Nothing in this paragraph shall be construed as having the effect of exempting from tax interest on any bond issued after June 10, 1987, if such interest would not have been exempt from tax were such bond issued on August 15, 1986."

(8) The last sentence of subparagraph (A) of section 1317(7) of the Reform Act is amended by inserting before the period "and section 149(d)(2) of the 1986 Code shall not apply to bonds so treated".

(9) Subparagraph (D) of section 1317(7) of the Reform Act is amended to read as follows:

"(D) A facility is described in this subparagraph if—

"(i) it is a convention, trade, or spectator facility,

"(ii) a regional convention, trade, and spectator facilities study committee was created before March 19, 1985, with respect to such facility, and

"(iii) feasibility and preliminary design consultants were hired on May 1, 1985, and October 31, 1985, with respect to such facility.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed the excess of $175,000,000 over the amount of bonds to which paragraph (48)(B) applies."

(10) Clause (ii) of section 1317(7)(G) of the Reform Act is amended to read as follows:

"(ii) such facility's location was approved in December 1985 by a task force created jointly by the Governor of the State within which such facility will be located and the mayor of the capital city of such State, and".

(11) Subparagraph (J) of section 1317(7) of the Reform Act is amended—

(A) by striking out "civic festival" in clause (i) and inserting in lieu thereof "aquafestival",

(B) by striking out clause (ii) and inserting in lieu thereof the following:

"(ii) a referendum was held on April 6, 1985, in which voters permitted the city council to lease 130 acres of dedicated parkland for the purpose of constructing such facility, and", and

(C) by striking out "$5,000,000" and inserting in lieu thereof "$10,000,000".

(12) Subparagraph (E) of section 1317(9) of the Reform Act is amended by striking out "March 5, 1985" and inserting in lieu thereof "March 6, 1985".

(13) Clause (iii) of section 1317(9)(J) of the Reform Act is amended by striking out all that precedes "by the governor" and inserting in lieu thereof the following:

"(iii) such facility's location was approved in December 1985 by a task force created jointly".

(14) Subparagraph (A) of section 1317(11) of the Reform Act is amended by striking out "and section 142(a)" and inserting in lieu thereof "in section 142(a)".

(15) Subparagraph (C) of section 1317(11) of the Reform Act is amended to read as follows:

"(C) A facility is described in this subparagraph if it is described in section 1865(c)(2)(C) of this Act."

(16) Subparagraph (X) of section 1317(13) of the Reform Act is amended by striking out the last sentence.

(17) Paragraph (13) of section 1317 of the Reform Act is amended by adding at the end thereof the following new subparagraphs:

"(AA) A residential rental property project is described in this subparagraph if it is the Carriage Trace residential rental project in Clinton, Tennessee. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $10,000,000.

"(BB) A residential rental property project is described in this subparagraph if—

"(i) a contract to purchase such property was dated as of August 9, 1985,

"(ii) there was an inducement resolution adopted on September 27, 1985, for the issuance of obligations to finance such property,

"(iii) there was a State court final validation of such financing on November 15, 1985, and

"(iv) the certificate of nonappeal from such validation was available on December 15, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $27,750,000."

(18) Paragraph (14) of section 1317 of the Reform Act is amended by striking out "$90,000,000" and inserting in lieu thereof "$130,000,000" and by inserting "incorporated on February 20, 1985" before the period at the end of the 1st sentence.

(19) Subparagraph (B) of section 1317(15) of the Reform Act is amended—

(A) by striking out all that follows "agreement with" in clause (i) and inserting in lieu thereof "an underwriter to provide planning and financial guidance for a possible bond issue, and", and

(B) by striking out "certificates" in clause (ii) and inserting in lieu thereof "bond issue"

(20) Paragraph (16) of section 1317 of the Reform Act is amended by striking out the last sentence.

(21) Clause (i) of section 1317(19)(D) of the Reform Act is amended by striking out "light rail transitway" and inserting in lieu thereof "fixed guideway".

(22) Paragraph (20) of section 1317 of the Reform Act is amended by striking out "Section 148(f)" and inserting in lieu thereof "Subsections (c)(2) and (f) of section 148".

(23) Subparagraph (B) of section 1317(21) of the Reform Act is amended—

(A) by striking out "Subsection (c)" and inserting in lieu thereof "Subsections (c)(2)", and

(B) by striking out "103A(g)(5)(C)l" and inserting in lieu thereof "103A(g)(5)(C)".

(24) Paragraph (22) of section 1317 of the Reform Act is amended to read as follows:

"(22) DOWNTOWN REDEVELOPMENT PROJECT.—Subsection (b) of section 626 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new paragraph:

"'(7) EXCEPTION FOR CERTAIN DOWNTOWN REDEVELOPMENT PROJECT.—The amendments made by this section shall not apply to any obligation which is issued as part of an issue 95 percent or more of the proceeds of which are to be used to provide a project to acquire and redevelop a downtown area if—

"'(A) on August 15, 1985, a downtown redevelopment authority adopted a resolution to issue obligations for such project,

"'(B) before September 26, 1985, the city expended, or entered into binding contracts to expend, more than $10,000,000 in connection with such project, and

"'(C) the State supreme court issued a ruling regarding the proposed financing structure for such project on December 11, 1985.

The aggregate face amount of obligations to which this paragraph applies shall not exceed $85,000,000 and such obligations must be issued before January 1, 1992.' "

(25) Subparagraph (A) of section 1317(24) of the Reform Act is amended by adding at the end thereof the following: "The last paragraph of this section shall not apply to the treatment under the preceding sentence."

(26)(A) Clause (i) of section 1317(25)(A) of the Reform Act is amended by striking out "3 counties" and inserting in lieu thereof "1 or more of 3 counties".

(B) Clause (i) of section 1317(25)(B) of the Reform Act is amended by adding at the end thereof the following new sentence: "For purposes of applying section 146(k) of the 1986 Code, the public utility facility described in subparagraph (A) shall be treated as described in paragraph (2) of such section and such paragraph shall be applied without regard to the requirement that the issuer establish that a State's share of the use of a facility (or its output) will equal or exceed the State's share of the private activity bonds issued to finance the facility."

(27) Subparagraph (I) of section 1317(27) of the Reform Act is amended by adding at the end thereof the following: "For purposes of determining whether any bond to which this subparagraph applies is a qualified small issue bond, there shall not be taken into account under section 144(a) of the 1986 Code capital expenditures with respect to any facility of the United States Government and there shall not be taken into account any bond allocable to the United States Government."

(28) Clause (i) of section 1317(29)(B) of the Reform Act is amended by striking out all that follows "1993" and inserting in lieu thereof ", by the State of Connecticut, and".

(29) Subparagraph (D) of section 1317(29) of the Reform Act is amended by striking out "the net proceeds" and inserting in lieu thereof "the proceeds".

(30) Section 1317(33)(A)(ii) of the Reform Act is amended—

(A) by striking out "on" and inserting in lieu thereof "dated" each place it appears, and

(B) by inserting "dated on December 1, 1985" after "(Series 1985A and 1985B)" in subclause (III).

(31) Subparagraph (B) of section 1317(33) of the Reform Act is amended—

(A) by striking out "and before August 7, 1988,", and

(B) by adding at the end thereof the following new sentence: "The aggregate face amount of bonds to which this subparagraph applies shall not exceed $90,000,000."

(32) Subparagraph (G) of section 1317(33) of the Reform Act is amended by striking out "subparagraph (H)" and inserting in lieu thereof "subparagraph (F)".

(33) Subparagraph (H) of section 1317(33) of the Reform Act is amended—

(A) by striking out clause (ii) and inserting in lieu thereof the following:

"(ii) the proceeds of the issue are to be used to finance projects (to be determined by such university and the issuer) which are similar to those projects intended to be financed by bonds that were the subject of a request transmitted to Congress on November 7, 1985", and

(B) by adding at the end thereof the following: "Bonds to which this subparagraph applies shall be treated as qualified 501(c)(3) bonds if such bonds would not (if issued on August 15, 1986) be industrial development bonds (as defined in section 103(b)(2) of the 1954 Code), and section 147(f) of the 1986 Code shall not apply to the issue of which such bonds are a part. Bonds issued to finance facilities described in this subparagraph shall be treated as issued to finance such facilities notwithstanding the fact that a period in excess of 1 year has expired since the facilities were placed in service."

(34) Subparagraph (K) of section 1317(33) of the Reform Act is amended—

(A) by striking out "the issue is" in clause (i) and inserting in lieu thereof "the issue or issues are",

(B) by striking out "900 units" and inserting "at least 790 units",

(C) by striking out "2,000 square feet" and inserting in lieu thereof "245,000 square feet", and

(D) by striking out "$150,000,000" and inserting in lieu thereof "$112,000,000".

(35) Paragraph (33) of section 1317 of the Reform Act is amended by striking out subparagraphs (M), (N), and (O) and inserting in lieu thereof the following new subparagraphs:

"(M) Proceeds of an issue are described in this subparagraph if such issue is issued on behalf of the Society of the New York Hospital to finance completion of a project commenced by such hospital in 1981 for construction of a diagnostic and treatment center or to refund bonds issued on behalf of such hospital in connection with the construction of such diagnostic and treatment center or to finance construction and renovation projects associated with an inpatient psychiatric care facility. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $150,000,000.

"(N) Any bond to which section 145(b) of the 1986 Code does not apply by reason of this paragraph (other than subparagraph (A) thereof) shall be taken into account in determining whether such section applies to any later issue.

"(O) In the case of any refunding bond—

"(i) to which any subparagraph of this paragraph applies, and

"(ii) to which the last sentence of section 1313(c)(2) applies,

such bond shall be treated as having such subparagraph apply (and the refunding bond shall be treated for purposes of such section as issued before January 1, 1986, and as not being an advance refunding) unless the issuer elects the opposite result."

(36) Paragraph (36) of section 1317 of the Reform Act is amended by striking out "$80,000,000" and inserting in lieu thereof "$400,000,000".

(37) Paragraph (38) of section 1317 of the Reform Act is amended by striking out "and sections 148 and 149".

(38) Paragraphs (39) and (40) of section 1317 of the Reform Act are amended to read as follows:

"(39) CERTAIN BONDS TREATED AS QUALIFIED 501(C)(3) BONDS.—A bond issued as part of an issue shall be treated for purposes of part IV of subchapter B of chapter 1 of the 1986 Code as a qualified 501(c)(3) bond if—

"(A) such bond would not (if issued on August 15, 1986) be an industrial development bond (as defined in section 103(b)(2) of the 1954 Code), and

"(B) such issue was approved by city voters on January 19, 1985, for construction or renovation of facilities for the cultural and performing arts.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $5,000,000.

"(40) CERTAIN LIBRARY BONDS.—In the case of a bond issued before January 1, 1986, by the City of Los Angeles Community Redevelopment Agency to provide the library and related structures associated with the City of Los Angeles Central Library Project, the ownership and use of the land and facilities associated with such project by persons which are not governmental units (or payments from such persons) shall not adversely affect the exclusion from gross income under section 103 of the 1954 Code of interest on such bonds."

(39) Paragraph (41) of section 1317 of the Reform Act is amended to read as follows:

"(41) CERTAIN REFUNDING OBLIGATIONS FOR CERTAIN POWER FACILITIES.—With respect to 2 net billed nuclear power facilities located in the State of Washington on which construction has been suspended, the requirements of section 147(b) of the 1986 Code shall be treated as satisfied with respect to refunding bonds issued before 1992 if—

"(A) each refunding bond has a maturity date not later than the maturity date of the refunded bond, and

"(B) the facilities have not been placed in service as of the date of issuance of the refunding bond.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $2,000,000,000. Section 146 of the 1986 Code and the last paragraph of this section shall not apply to bonds to which this paragraph applies."

(40) Paragraph (43) of section 1317 of the Reform Act is amended by inserting before the period "and the Internal Revenue Code of 1986 shall be applied without regard to section 149(d)(2)."

(41) Paragraph (44) of section 1317 of the Reform Act is amended—

(A) by inserting after "1986 Code" the following: "and the temporary period limitation of section 148(c)(2) of the 1986 Code",

(B) by striking out "$100,000,000" and inserting in lieu thereof "$200,000,000", and

(C) by striking out "Hospitals Bond Pool" in the second item in the table and inserting in lieu thereof "Hospital Equipment Loan Council".

(42) Paragraph (48) of section 1317 of the Reform Act is amended by striking out "either" in the material preceding subparagraph (A) and inserting in lieu thereof "any".

(43) Subparagraph (B) of section 1317(48) of the Reform Act is amended by striking out "subparagraph (O)" and inserting in lieu thereof "paragraph (6)(U)".

(44) Paragraph (48) of section 1317 of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(C) A facility which is part of a project described in paragraph (6)(O). The aggregate face amount of bonds to which this subparagraph applies shall not exceed $20,000,000."

(45) Paragraph (49) of section 1317 of the Reform Act is amended—

(A) by striking out "149(d)" and inserting in lieu thereof "149(d)(2)", and

(B) by inserting "United States" before "Housing Act of 1937".

(46) Paragraph (50) of section 1317 of the Reform Act is amended to read as follows:

"(50) TRANSITIONED BONDS SUBJECT TO CERTAIN RULES.—In the case of any bond to which any provision of this section applies, except as otherwise expressly provided, sections 103 and 103A of the 1954 Code shall be applied as if the requirements of sections 147(g), 148, and 149(d) of the 1986 Code were included in each such section."

(47) Paragraph (51) of section 1317 of the Reform Act is amended—

(A) by striking out "Section 141(a)" and inserting in lieu thereof "Section 141(b)", and

(B) by striking out "141(a)(3)" and inserting in lieu thereof "141(b)(3)".

(48) Paragraph (52) of section 1317 of the Reform Act is amended by striking out "This section" and inserting in lieu thereof "Except as otherwise provided in this section, this section".

(49) The material preceding subparagraph (A) of section 1317(2) of the Reform Act is amended by striking out "section 103(b)(4)(C)" and inserting in lieu thereof "section 103(b)(4)(F)".

(50) Clause (ii) of section 1317(27)(H) of the Reform Act is amended by striking out "November 14, 1985" and inserting in lieu thereof "November 13, 1985".

(51) Subparagraph (I) of section 1317(33) of the Reform Act is amended by striking out "November 11, 1985" and inserting in lieu thereof "November 1, 1985".

(52) Subparagraph (J) of section 1317(3) of the Reform Act is amended by striking out "October 29" in clause (iv) and inserting in lieu thereof "November 5".

(h) AMENDMENTS RELATED TO SECTION 1318 OF THE REFORM ACT.—Section 1318 of the Reform Act (relating to definitions, etc., relating to effective dates and transitional rules) is amended—

(1) by inserting "(a) DEFINITIONS.—" before "For purposes of this subtitle—", and

(2) by adding at the end thereof the following new subsections:

"(b) MINIMUM TAX TREATMENT.—

"(1) IN GENERAL.—Any bond described in paragraph (2) shall not be treated as a private activity bond for purposes of section 57 of the 1986 Code unless such bond would (if issued on August 7, 1986) be—

"(A) an industrial development bond (as defined in section 103(b)(2) of the 1954 Code), or

"(B) a private loan bond (as defined in section 103(o)(2)(A) of the 1954 Code, without regard to any exception from such definition other than section 103(o)(2)(C) of such Code).

"(2) BONDS DESCRIBED.—For purposes of paragraph (1), a bond is described in this paragraph if—

"(A) the amendments made by section 1301 do not apply to such bond by reason of section 1312 or 1316(g),

"(B) any provision of section 1317 applies to such bond, or

"(C) the proceeds of such bond are used to refund any bond referred to in subparagraph (A) or (B) (or any bond which is part of a series of refundings of such a bond) if the requirements of paragraphs (1), (2), and (3) of subsection (c) are met with respect to the refunding bond.

"(c) CURRENT REFUNDINGS NOT TAKEN INTO ACCOUNT IN APPLYING AGGREGATE LIMIT ON BONDS TO WHICH TRANSITIONAL RULES APPLY.—The limitation on the aggregate face amount of bonds to which any provision of section 1316(g) or 1317 applies shall not be reduced by the face amount of any bond the proceeds of which are to be used exclusively to refund any ond to which such provision applies (or any bond which is part of a series of refundings of such bond) if—

"(1) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

"(2) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

"(3) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of paragraph (1), average maturity shall be determined in accordance with section 147(b)(2)(A) of the 1986 Code. Sections 1316(g)(5) and 1317(52) shall not apply to any refunding bond which meets the requirements of this subsection.

"(d) SPECIAL RULE PERMITTING CARRYFORWARD OF VOLUME CAP FOR CERTAIN TRANSITIONED PROJECTS.—A bond to which section 1312 or 1317 applies shall be treated as having a carryforward purpose described in section 146(f)(5) of the 1986 Code, and the requirement of section 146(f)(2)(A) of the 1986 Code shall be treated as met if such project is identified with reasonable specificity. The preceding sentence shall not apply so as to permit a carryforward with respect to any qualified small issue bond."

(i) APPLICATION TO 501(c)(3) BONDS.—In accordance with section 1302 of the Reform Act, each amendment and other provision of this Act which applies to private activity bonds shall, unless otherwise expressly provided, apply to qualified 501(c)(3) bonds.

SEC. 114. AMENDMENTS RELATED TO TITLE XIV OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1401 OF THE REFORM ACT.—

(1) Subsection (e) of section 672 of the 1986 Code is amended to read as follows:

"(e) GRANTOR TREATED AS HOLDING ANY POWER OR INTEREST OF GRANTOR'S SPOUSE.—

"(1) IN GENERAL.—For purposes of this subpart, a grantor shall be treated as holding any power or interest held by—

"(A) any individual who was the spouse of the grantor at the time of the creation of such power or interest, or

"(B) any individual who became the spouse of the grantor after the creation of such power or interest, but only with respect to periods after such individual became the spouse of the grantor.

"(2) MARITAL STATUS.—For purposes of paragraph (1)(A), an individual legally separated from his spouse under a decree of di-

vorce or of separate maintenance shall not be considered as married."

(2) Paragraph (3) of section 675 of the 1986 Code is amended by adding at the end thereof the following new sentence:

"For periods during which an individual is the spouse of the grantor (within the meaning of section 672(e)(2)), any reference in this paragraph to the grantor shall be treated as including a reference to such individual."

(3) Subsection (c) of section 674 of the 1986 Code is amended by adding at the end thereof the following new sentence: "For periods during which an individual is the spouse of the grantor (within the meaning of section 672(e)(2)), any reference in this subsection to the grantor shall be treated as including a reference to such individual."

(b) AMENDMENT RELATED TO SECTION 1402 OF THE REFORM ACT.—Section 673 of the 1986 Code is amended by adding at the end thereof the following new subsections:

"(c) SPECIAL RULE FOR DETERMINING VALUE OF REVERSIONARY INTEREST.—For purposes of subsection (a), the value of the grantor's reversionary interest shall be determined by assuming the maximum exercise of discretion in favor of the grantor.

"(d) POSTPONEMENT OF DATE SPECIFIED FOR REACQUISITION.—Any postponement of the date specified for the reacquisition of possession or enjoyment of the reversionary interest shall be treated as a new transfer in trust commencing with the date on which the postponement is effective and terminating with the date prescribed by the postponement. However, income for any period shall not be included in the income of the grantor by reason of the preceding sentence if such income would not be so includible in the absence of such postponement."

(c) AMENDMENTS RELATED TO SECTION 1403 OF THE REFORM ACT.—

(1) If a beneficiary of a trust to which section 664 of the 1986 Code applies elects (at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe) to have this paragraph apply, such beneficiary shall be entitled to the benefits of section 1403(c)(2) of the Reform Act with respect to amounts included in gross income under section 664(b) of the 1986 Code in the same manner as if such amounts were included in gross income under section 652(a) of the 1986 Code.

(2) Any trust beneficiary may elect (at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe) to waive the benefits of section 1403(c)(2) of the Reform Act.

(3)(A) For purposes of determining the gross income of any pass-thru entity, such pass-thru entity shall not be allowed the benefits of section 806(e)(2)(C) or 1403(c)(2) of the Reform Act if such pass-thru entity is required to change its taxable year by reason of the amendments made by section 806 or 1403 of the Reform Act.

(B) For purposes of subparagraph (A), the term "pass-thru entity" means any trust, partnership, S corporation, or common trust fund.

(4) If any trust was required to change its taxable year by the amendments made by section 1403 of the Reform Act, such change shall be treated as initiated by such trust and approved by the Secretary of the Treasury or his delegate.

(d) AMENDMENTS RELATED TO SECTION 1404 OF THE REFORM ACT.—

(1) Subsection (a) of section 1404 of the Reform Act is amended—

(A) by striking out "Subsection (k) of section 6654" and inserting in lieu thereof "Subsection (l) of section 6654, as amended by section 1841 of this Act", and

(B) by striking out " '(k) TRUSTS" and inserting in lieu thereof " '(l) TRUSTS".

(2) Subsection (l) of section 6654 of the 1986 Code is amended to read as follows:

"(l) ESTATES AND TRUSTS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, this subsection shall apply to any estate or trust.

"(2) EXCEPTION FOR ESTATES AND CERTAIN TRUSTS.—With respect to any taxable year ending before the date 2 years after the date of the decedent's death, this section shall not apply to—

"(A) the estate of such decedent, or

"(B) any trust—

"(i) all of which was treated (under subpart E of part I of subchapter J of chapter 1) as owned by the decedent, and

"(ii) to which the residue of the decedent's estate will pass under his will.

"(3) EXCEPTION FOR CHARITABLE TRUSTS AND PRIVATE FOUNDATIONS.—This section shall not apply to any trust which is subject to the tax imposed by section 511 or which is a private foundation.

"(4) SPECIAL RULE FOR ANNUALIZATIONS.—In the case of any estate or trust to which this section applies, subsection (d)(2)(B)(i) shall be applied by substituting 'ending before the date 1 month before the due date for the installment' for 'ending before the due date for the installment'."

(3) Subsection (g) of section 643 of the 1986 Code is amended—

(A) by striking out the last sentence of paragraph (1), and

(B) by amending paragraph (2) to read as follows:

"(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) shall be made on or before the 65th day after the close of the taxable year of the trust and in such manner as the Secretary may prescribe."

(4) Subsection (g) of section 643 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) EXTENSION TO LAST YEAR OF ESTATE.—In the case of a taxable year reasonably expected to be the last taxable year of an estate—

"(A) any reference in this subsection to a trust shall be treated as including a reference to an estate, and

"(B) the fiduciary of the estate shall be treated as the trustee."

(e) AMENDMENTS RELATED TO SECTION 1411 OF THE REFORM ACT.—

(1) Paragraph (3) of section 1(i) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) COORDINATION WITH SECTION 644.—If tax is imposed under section 644(a)(1) with respect to the sale or exchange of any property of which the parent was the transferor, for purposes of applying subparagraph (A) to the taxable year of the parent in which such sale or exchange occurs—

"(i) taxable income of the parent shall be increased by the amount treated as included in gross income under section 644(a)(2)(A)(i), and

"(ii) the amount described in subparagraph (A)(ii) shall be increased by the amount of the excess referred to in section 644(a)(2)(A)."

(2) The last sentence of subparagraph (A) of section 1(i)(3) of the 1986 Code is amended by striking out "any deduction or credit" and inserting in lieu thereof "any exclusion, deduction, or credit".

(3) Subparagraph (A) of section 1(i)(4) of the 1986 Code is amended—

(A) by striking out "gross income for the taxable year which is not earned income" in clause (i) and inserting in lieu thereof "adjusted gross income for the taxable year which is not attributable to earned income",

(B) by striking out "his deduction" in clause (ii)(II) and inserting in lieu thereof "his deductions",

(C) by striking out "the deductions allowed" in clause (ii)(III) and inserting in lieu thereof "the itemized deductions allowed", and

(D) by striking out "gross income" in clause (ii)(III) and inserting in lieu thereof "adjusted gross income".

(4) Clause (iv) of section 6103(e)(1)(A) of the 1986 Code is amended by striking out "section 1(j)" and inserting in lieu thereof "section 1(i) or 59(j)".

(5) Section 59 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(j) CERTAIN UNEARNED INCOME OF MINOR CHILDREN TAXED AS IF PARENT'S INCOME.—

"(1) IN GENERAL.—In the case of any child to whom section 1(i) applies, the tax imposed by section 55 shall be equal to the greater of—

"(A) the tax imposed by section 55 without regard to this subsection, or

"(B) the sum of—

"(i) the tax which would be imposed by section 55 if—

"(I) the alternative minimum taxable income of such child for the taxable year were reduced by the net unearned minimum taxable income of such child, and

"(II) the regular tax of such child for the taxable year were reduced by the portion of such tax attributable to net unearned income (as defined in section 1(i)(4)), plus

"(ii) such child's share of the allocable parental minimum tax.

"(2) ALLOCABLE PARENTAL MINIMUM TAX.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'allocable parental minimum tax' means the excess of—

"(i) the tax which would be imposed by section 55 on the parent's alternative minimum taxable income if—

"(I) such income included the net unearned minimum taxable income of all children of the parent to whom section 1(i) applies, and

"(II) the amount of the parent's regular tax were increased by the amount of the aggregate of the regular taxes of all children of the parent to whom section 1(i) applies to the extent such taxes are attributable to net unearned income (as defined in section 1(i)(4)) of such children, over

"(ii) the tax imposed by section 55 on the parent without regard to this subsection.

For purposes of clause (i), the net unearned minimum taxable income of all children of the parent shall not be taken into account in computing any exclusion, deduction, or credit of the parent.

"(B) CHILD'S SHARE.—A child's share of any allocable parental minimum tax shall be determined under rules similar to the rules of section 1(i)(3)(B).

"(C) COORDINATION WITH SECTION 644.—Rules similar to the rules of subparagraph (C) of section 1(i)(3) shall apply.

"(3) NET UNEARNED MINIMUM TAXABLE INCOME.—For purposes of this subsection, the term 'net unearned minimum taxable income' means net unearned income (as defined in section 1(i)(4) computed with the adjustments provided in sections 56, 57, and 58; except that, notwithstanding section 56(b)(1)(E), the deduction under section 63(c) shall be allowed.

"(4) OTHER RULES MADE APPLICABLE.—For purposes of this subsection, rules similar to the rules of paragraphs (5) and (6) of section 1(i) shall apply."

(6) Subparagraph (A) of section 1(i)(5) of the 1986 Code is amended by striking out "custodial parent" and inserting in lieu thereof "custodial parent (within the meaning of section 152(e))".

(7) Paragraph (3) of section 1(i) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE WHERE PARENT HAS DIFFERENT TAXABLE YEAR.—Except as provided in regulations, if the parent does not have the same taxable year as the child, the allocable parental tax shall be determined on the basis of the taxable year of the parent ending in the child's taxable year."

(f) AMENDMENT RELATED TO SECTION 1421 OF THE REFORM ACT.—Subsection (a) of section 1421 of the Reform Act is amended by striking out "within the time prescribed for filing such return (including extensions thereof)".

(g) AMENDMENTS RELATED TO SECTION 1431 OF THE REFORM ACT.—

(1) Subsection (a) of section 2611 of the 1986 Code is amended by striking out "generation-skipping transfers" and inserting in lieu thereof "generation-skipping transfer".

(2) Subsection (b) of section 2611 of the 1986 Code is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(3)(A) Section 2642 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULES FOR CHARITABLE LEAD ANNUITY TRUSTS.—

"(1) IN GENERAL.—For purposes of determining the inclusion ratio for any charitable lead annuity trust, the applicable fraction shall be a fraction—

"(A) the numerator of which is the adjusted GST exemption, and

"(B) the denominator of which is the value of all of the property in such trust immediately after the termination of the charitable lead annuity.

"(2) ADJUSTED GST EXEMPTION.—For purposes of paragraph (1), the adjusted GST exemption is an amount equal to the GST exemption allocated to the trust increased by interest determined—

"(A) at the interest rate used in determining the amount of the deduction under section 2055 or 2522 (as the case may be) for the charitable lead annuity, and

"(B) for the actual period of the charitable lead annuity.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) CHARITABLE LEAD ANNUITY TRUST.—The term 'charitable lead annuity trust' means any trust in which there is a charitable lead annuity.

"(B) CHARITABLE LEAD ANNUITY.—The term 'charitable lead annuity' means any interest in the form of a guaranteed annuity with respect to which a deduction was allowed under section 2055 or 2522 (as the case may be).

"(4) COORDINATION WITH SUBSECTION (d).—Under regulations, appropriate adjustments shall be made in the application of subsection (d) to take into account the provisions of this subsection."

(B) The amendment made by subparagraph (A) shall apply for purposes of determining the inclusion ratio with respect to property transferred after October 13, 1987.

(4)(A) Section 2642 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULES FOR CERTAIN INTER VIVOS TRANSFERS.—Except as provided in regulations—

"(1) IN GENERAL.—For purposes of determining the inclusion ratio, if—

"(A) an individual makes an inter vivos transfer of property, and

"(B) the value of such property would be includible in the gross estate of such individual under chapter 11 if such individual died immediately after making such transfer (other than by reason of section 2035),

any allocation of GST exemption to such property shall not be made before the close of the estate tax inclusion period (and the value of such property shall be determined under paragraph (2)). If such transfer is a direct skip, such skip shall be treated as occurring as of the close of the estate tax inclusion period.

"(2) VALUATION.—In the case of any property to which paragraph (1) applies, the value of such property shall be—

"(A) if such property is includible in the gross estate of the transferor (other than by reason of section 2035), its value for purposes of chapter 11, or

"(B) if subparagraph (A) does not apply, its value as of the close of the estate tax inclusion period (or, if any allocation of GST exemption to such property is not made on a timely filed gift tax return for the calendar year in which such period ends, its value as of the time such allocation is filed with the Secretary).

"(3) ESTATE TAX INCLUSION PERIOD.—For purposes of this subsection, the term 'estate tax inclusion period' means any period after the transfer described in paragraph (1) during which the value of the property involved in such transfer would be includible in the gross estate of the transferor under chapter 11 if he died. Such period shall in no event extend beyond the earlier of—

"(A) the date on which there is a generation-skipping transfer with respect to such property, or

"(B) the date of the death of the transferor.

"(4) TREATMENT OF SPOUSE.—Except as provided in regulations, any reference in this subsection to an individual or transferor shall be treated as including a reference to the spouse of such individual or transferor.

"(5) COORDINATION WITH SUBSECTION (d).—Under regulations, appropriate adjustments shall be made in the application of subsection (d) to take into account the provisions of this subsection."

(B) Paragraph (2) of section 2642(a) of the 1986 Code is amended by striking out the last sentence.

(C) Subparagraph (A) of section 2642(b)(2) of the 1986 Code is amended by inserting before the period at the end thereof the following: "; except that, if the requirements prescribed by the Secretary respecting allocation of post-death changes in value are not met, the value of such property shall be determined as of the time of the distribution concerned."

(D) Subsection (b) of section 2642 of the 1986 Code is amended by inserting "Except as provided in subsection (f)—" immediately after the subsection heading.

(E) Subparagraph (B) of section 2642(b)(2) of the 1986 Code is amended—

(i) by striking out "at or after the death of the transferor" and inserting in lieu thereof "to property transferred as a result of the death of the transferor"; and

(ii) by striking out "AT OR AFTER DEATH" in the subparagraph heading and inserting in lieu thereof "TO PROPERTY TRANSFERRED AT DEATH".

(F) Paragraph (3) of section 2642(b) of the 1986 Code is amended—

(i) by striking out "to any property is made during the life of the transferor but is" and inserting in lieu thereof "to any property not transferred as a result of the death of the transferor is"; and

(ii) by striking out "INTER VIVOS ALLOCATIONS" in the subparagraph heading and inserting in lieu thereof "ALLOCATIONS TO INTER VIVOS TRANSFERS".

(5)(A) Paragraph (1) of section 2613(a) of the 1986 Code is amended by striking out "a person assigned" and inserting in lieu thereof "a natural person assigned".

(B) Subsection (c) of section 2612 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) LOOK-THRU RULES NOT TO APPLY.—Solely for purposes of determining whether any transfer to a trust is a direct skip, the rules of section 2651(e)(2) shall not apply."

(6) Subsection (c) of section 2652 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) CERTAIN SUPPORT OBLIGATIONS DISREGARDED.—The fact that income or corpus of the trust may be used to satisfy an obligation of support arising under State law shall be disregarded in determining whether a person has an interest in the trust, if—

"(A) such use is discretionary, or

"(B) such use is pursuant to the provisions of any State law substantially equivalent to the Uniform Gifts to Minors Act."

(7) Paragraph (2) of section 2612(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "If any transfer of property to a trust would be a direct skip but for this paragraph, any generation assignment under this paragraph shall apply also for purposes of applying this chapter to transfers from the portion of the trust attributable to such property."

(8) Paragraph (2) of section 2652(c) of the 1986 Code is amended—

(A) by striking out "NOMINAL INTERESTS" in the paragraph heading and inserting in lieu thereof "INTERESTS", and

(B) by striking out "the tax" and inserting in lieu thereof "any tax".

(9) Paragraph (1) of section 2652(a) of the 1986 Code is amended—

(A) by striking out "a transfer of a kind" each place it appears and inserting in lieu thereof "any property", and

(B) by adding at the end thereof the following new sentence:

"An individual shall be treated as transferring any property with respect to which such individual is the transferor."

(10) Section 2663 of the 1986 Code is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) regulations providing for such adjustments as may be necessary to the application of this chapter in the case of any arrangement which, although not a trust, is treated as a trust under section 2652(b)."

(11) Paragraph (3) of section 2651(e) of the 1986 Code is amended to read as follows:

"(3) TREATMENT OF CERTAIN CHARITABLE ORGANIZATIONS AND GOVERNMENTAL ENTITIES.—Any—

"(A) organization described in section 511(a)(2),

"(B) charitable trust described in section 511(b)(2), and

"(C) governmental entity,

shall be assigned to the transferor's generation."

(12) Paragraph (2) of section 2654(a) of the 1986 Code is amended—

(A) by striking out "any increase" and inserting in lieu thereof "any increase or decrease", and

(B) by striking out "such increase" and inserting in lieu thereof "such increase or decrease (as the case may be)".

(13) Subsection (b) of section 2654 of the 1986 Code is amended to read as follows:

"(b) CERTAIN TRUSTS TREATED AS SEPARATE TRUSTS.—For purposes of this chapter—

"(1) the portions of a trust attributable to transfers from different transferors shall be treated as separate trusts, and

"(2) substantially separate and independent shares of different beneficiaries in a trust shall be treated as separate trusts.

Except as provided in the preceding sentence, nothing in this chapter shall be construed as authorizing a single trust to be treated as 2 or more trusts."

(14) Paragraph (2) of section 2612(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The terms 'taxable termination' and 'taxable distribution' shall not include any transfer which would be a direct skip but for the preceding sentence."

(15) Paragraph (3) of section 2652(a) of the 1986 Code is amended—

(A) by striking out "any property" in subparagraphs (A) and (B) and inserting in lieu thereof "any trust", and

(B) by striking out "may elect to treat such property" and inserting in lieu thereof "may elect to treat all of the property in such trust".

(16) Paragraph (2) of section 2612(a) of the 1986 Code is amended to read as follows:

"(2) CERTAIN PARTIAL TERMINATIONS TREATED AS TAXABLE.—If, upon the termination of an interest in property held in trust by reason of the death of a lineal descendant of the transferor, a specified portion of the trust's assets are distributed to 1 or more skip persons (or 1 or more trusts for the exclusive benefit of such persons), such termination shall constitute a taxable termination with respect to such portion of the trust property."

(17) Paragraph (2) of section 2632(b) of the 1986 Code is amended by striking out "paragraph (1) with respect to a prior direct skip" and inserting in lieu thereof "paragraph (1) with respect to a prior direct skip)".

(18)(A) Subsection (c) of section 2642 of the 1986 Code is amended to read as follows:

"(c) TREATMENT OF CERTAIN DIRECT SKIPS WHICH ARE NONTAXABLE GIFTS.—

"(1) IN GENERAL.—In the case of a direct skip which is a nontaxable gift, the inclusion ratio shall be zero.

"(2) EXCEPTION FOR CERTAIN TRANSFERS IN TRUST.—Paragraph (1) shall not apply to any transfer to a trust for the benefit of an individual unless—

"(A) during the life of such individual, no portion of the corpus or income of the trust may be distributed to (or for the benefit of) any person other than such individual, and

"(B) if such individual dies before the trust is terminated, the assets of such trust will be includible in the gross estate of such individual.

"(3) NONTAXABLE GIFT.—For purposes of this subsection, the term 'nontaxable gift' means any transfer of property to the extent such transfer is not treated as a taxable gift by reason of—

"(A) section 2503(b) (taking into account the application of section 2513), or

"(B) section 2503(e)."

(B) Paragraph (1) of section 2642(d) of the 1986 Code is amended by striking out "(other than a nontaxable gift)".

(C) The amendments made by this paragraph shall apply to transfers after March 31, 1988.

(19) Clause (i) of section 2642(d)(2)(B) of the 1986 Code is amended to read as follows:

"(i) the value of the property involved in such transfer reduced by the sum of—

"(I) any Federal estate tax or state death tax actually recovered from the trust attributable to such property, and

"(II) any charitable deduction allowed under section 2055 or 2522 with respect to such property, and".

(20) Paragraph (2) of section 2651(b) of the 1986 Code is amended by striking out "a spouse of the transferor" and inserting in lieu thereof "a spouse (or former spouse) of the transferor".

(h) AMENDMENTS RELATED TO SECTION 1433 OF THE REFORM ACT.—

(1) Subsection (a) of section 1433 of the Reform Act is amended by striking out "this part" and inserting in lieu thereof "this subtitle".

(2) Paragraph (2) of section 1433(b) of the Reform Act is amended—

(A) by striking out "this part" in the material preceding subparagraph (A) and inserting in lieu thereof "this subtitle",

(B) by inserting before the comma at the end of subparagraph (A) the following: "(or out of income attributable to corpus so added)", and

(C) by inserting "or revocable trust" after "a will" in subparagraph (B).

(3)(A) Subsection (b) of section 1433 of the Reform Act is amended by striking out paragraph (3) and inserting in lieu thereof the following new paragraphs:

"(3) TREATMENT OF CERTAIN TRANSFERS TO GRANDCHILDREN.—

"(A) IN GENERAL.—For purposes of chapter 13 of the Internal Revenue Code of 1986, the term 'direct skip' shall not include any transfer before January 1, 1990, from a transferor to a grandchild of the transferor to the extent the aggregate transfers from such transferor to such grandchild do not exceed $2,000,000.

"(B) TREATMENT OF TRANSFERS IN TRUST.—For purposes of subparagraph (A), a transfer in trust for the benefit of a grandchild shall be treated as a transfer to such grandchild if (and only if)—

"(i) during the life of the grandchild, no portion of the corpus or income of the trust may be distributed to (or for the benefit of) any person other than such grandchild,

"(ii) the assets of the trust will be includible in the gross estate of the grandchild if the grandchild dies before the trust is terminated, and

"(iii) all of the income of the trust for periods after the grandchild has attained age 21 will be distributed to (or for the benefit of) such grandchild not less frequently than annually.

"(C) COORDINATION WITH SECTION 2653(a) OF THE 1986 CODE.—In the case of any transfer which would be a generation-skipping transfer but for subparagraph (A), the rules of section 2653(a) of the Internal Revenue Code of 1986 shall apply as if such transfer were a generation-skipping transfer.

"(D) COORDINATION WITH TAXABLE TERMINATIONS AND TAXABLE DISTRIBUTIONS.—For purposes of chapter 13 of the Internal Revenue Code of 1986, the terms 'taxable termination' and 'taxable distribution' shall not include any transfer which would be a direct skip but for subparagraph (A).

"(4) DEFINITIONS.—Terms used in this section shall have the same respective meanings as when used in chapter 13 of the Internal Revenue Code of 1986; except that section 2612(c)(2) of such Code shall not apply in determining whether an individual is a grandchild of the transferor."

(B) Clause (iii) of section 1443(b)(3)(B) of the Reform Act (as amended by subparagraph (A)) shall apply only to transfers after June 10, 1987.

(4) Subsection (d) of section 1433 of the Reform Act is amended—

(A) by striking out "shall be treated as a direct skip" and inserting in lieu thereof "shall be treated as a direct skip to such grandchild",

(B) by striking out "would be a direct skip" in subparagraph (B) and inserting in lieu thereof "would be a direct skip to a grandchild", and

(C) by adding at the end thereof the following new sentence: "Unless the grandchild otherwise directs by will, the estate of such grandchild shall be entitled to recover from the person receiving the property on the death of the grandchild any increase in Federal estate tax on the estate of the grandchild by reason of the preceding sentence."

SEC. 115. AMENDMENTS RELATED TO TITLE XV OF THE REFORM ACT.

(a) AMENDMENT RELATED TO SECTION 1501 OF THE REFORM ACT.—Subparagraph (B) of section 6724(d)(2) of the 1986 Code is amended by striking out "6031(b)" and inserting in lieu thereof "6031(b) or (c)".

(b) AMENDMENTS RELATED TO SECTION 1503 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 6013(b)(5) of the 1986 Code is amended to read as follows:

"(A) COORDINATION WITH SECTION 6653.—For purposes of section 6653, where the sum of the amounts shown as tax on the separate returns of each spouse is less than the amount shown as tax on the joint return made under this subsection—

"(i) such sum shall be treated as the amount shown on the joint return,

"(ii) any negligence (or disregard of rules or regulations) on either separate return shall be treated as negligence (or such disregard) on the joint return, and

"(iii) any fraud on either separate return shall be treated as fraud on the joint return."

(2)(A) Paragraph (1) of section 6653(a) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—If any part of any underpayment (as defined in subsection (c)) of tax required to be shown on a return is due to negligence (or disregard of rules or regulations), there shall be added to the tax an amount equal to 5 percent of the underpayment."

(B) Paragraph (1) of section 6653(b) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—If any part of any underpayment (as defined in subsection (c)) of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 75 percent of the portion of the underpayment which is attributable to fraud."

(C) Paragraph (2) of section 6601(e) of the 1986 Code is amended by striking out "6659" each place it appears and inserting in lieu thereof "6653, 6659".

(3) Subsection (g) of section 6653 of the 1986 Code is amended by adding at the end thereof the following new sentence: "If any penalty is imposed under subsection (a) by reason of the preceding sentence, only the

portion of the underpayment which is attributable to the failure described in the preceding sentence shall be taken into account in determining the amount of the penalty under subsection (a)."

(4) The amendments made by this subsection (other than paragraph (3)) shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1988.

(c) AMENDMENT RELATED TO SECTION 1504 OF THE REFORM ACT.—The repeal made by section 8002(c) of the Omnibus Budget Reconciliation Act of 1986 shall take effect as if the Tax Reform Act of 1986 had been enacted on the day before the date of the enactment of the Omnibus Budget Reconciliation Act of 1986.

(d) AMENDMENTS RELATED TO SECTION 1511 OF THE REFORM ACT.—Section 6621 of the 1986 Code is amended—

(1) by striking out "short-term Federal rate" each place it appears in subsections (a) and (b)(1) and inserting in lieu thereof "Federal short-term rate", and

(2) by striking out "SHORT-TERM FEDERAL RATE" in the heading of subsection (b) and inserting in lieu thereof "FEDERAL SHORT-TERM RATE".

(e) AMENDMENTS RELATED TO SECTION 1521 OF THE REFORM ACT.—

(1)(A) Paragraph (1) of section 6045(c) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"A person shall not be treated as a broker with respect to activities consisting of managing a farm on behalf of another person."

(B) The amendment made by subparagraph (A) shall take effect as if included in the amendments made by section 311(a)(1) of the Tax Equity and Fiscal Responsibility Act of 1982.

(2)(A) Subsection (e) of section 6045 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) PROHIBITION OF SEPARATE CHARGE FOR FILING RETURN.—It shall be unlawful for any real estate reporting person to separately charge any customer for complying with any requirement of paragraph (1)."

(B) The amendment made by subparagraph (A) shall take effect on the date of the enactment of this Act.

(3) Subsection (e) of section 6045 of the 1986 Code is amended—

(A) by striking out "real estate broker" each place it appears in the text and inserting in lieu thereof "real estate reporting person", and

(B) by striking out "REAL ESTATE BROKER" in the heading of paragraph (2) and inserting in lieu thereof "REAL ESTATE REPORTING PERSON".

(f) AMENDMENT RELATED TO SECTION 1522 OF THE REFORM ACT.—Section 6050M of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) EXCEPTION FOR CERTAIN CLASSIFIED OR CONFIDENTIAL CONTRACTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this section shall not apply in the case of a contract described in paragraph (3).

"(2) REPORTING REQUIREMENT.—Each Federal executive agency which has entered into a contract described in paragraph (3) shall, upon a request of the Secretary which identifies a particular person, acknowledge whether such person has entered into such a contract with such agency and, if so, provide to the Secretary—

"(A) the information required under this section with respect to such person, and

"(B) such other information with respect to such person which the Secretary and the head of such Federal executive agency agree is appropriate.

"(3) DESCRIPTION OF CONTRACT.—For purposes of this subsection, a contract between a Federal executive agency and another person is described in this paragraph if—

"(A) the fact of the existence of such contract or the subject matter of such contract has been designated and clearly marked or clearly represented, pursuant to the provisions of Federal law or an Executive order, as requiring a specific degree of protection against unauthorized disclosure for reasons of national security, or

"(B) the head of such Federal executive agency (or his designee) pursuant to regulations issued by such agency determines, in writing, that filing the required return under this section would interfere with the effective conduct of a confidential law enforcement or foreign counterintelligence activity."

(g) AMENDMENTS RELATED TO SECTION 1523 OF THE REFORM ACT.—Section 6676 of the 1986 Code is amended—

(1) by striking out "6049, or 6050N" in subsection (a)(3) and inserting in lieu thereof "or 6049",

(2) by striking out "6049, or 6050N" in subsection (b)(1)(A) and inserting in lieu thereof "or 6049", and

(3) by striking out ", DIVIDENDS, AND ROYALTIES" in the heading for subsection (b) and inserting in lieu thereof "AND DIVIDEND".

(h) AMENDMENTS RELATED TO SECTION 1542 OF THE REFORM ACT.—Subsection (h) of section 6154 of the 1986 Code (as in effect before its repeal by the Revenue Act of 1987) is amended—

(1) by striking out "subject to the tax imposed by section 4940" in paragraph (1),

(2) by amending paragraph (2) to read as follows:

"(2) any tax imposed by section 511, and any tax imposed by section 1 or 4940 on a private foundation, shall be treated as a tax imposed by section 11, and", and

(3) by adding at the end thereof the following new sentence:

"In the case of an organization described in paragraph (1), subsection (c) of section 6655 shall be applied by substituting '5th month' for 'third month' and subsection (d)(3)(A) of section 6655 shall be applied by substituting '2 months' for '3 months' in clause (i), by substituting '4 months' for '5 months, in clause (ii), by substituting '7 months' for '8 months' in clause (iii), and by substituting '10 months' for '11 months' in clause (iv)."

(i) AMENDMENT RELATED TO SECTION 1551 OF THE REFORM ACT.—Clause (iii) of section 7430(c)(2)(A) of the 1986 Code is amended to read as follows:

"(iii) meets the requirements of the 1st sentence of section 2412(d)(1)(B) of title 28, United States Code (as in effect on October 22, 1986) and meets the requirements of section 2412(d)(2)(B) of such title 28 (as so in effect)."

(j) PROVISION RELATED TO SECTION 1556 OF THE REFORM ACT.—To the extent the salary recommendations submitted by the President on January 5, 1987, are inconsistent with the provisions of section 7443A(d)(1) of the 1986 Code, such recommendations shall not be effective for any period.

(k) AMENDMENT RELATED TO SECTION 1557 OF THE REFORM ACT.—

(1) Subsection (d) of section 7447 of the 1986 Code is amended by adding at the end thereof the following new sentence: "In computing the rate of the retired pay under paragraph (1) of this subsection for any individual who is entitled thereto, any period during which such individual performs services under subsection (c) on a substantially full-time basis shall be treated as a period during which he has served as a judge."

(2) The amendment made by paragraph (1) shall apply for purposes of determining the amount of retired pay for months beginning after the date of the enactment of this Act regardless of when the services under section 7447(c) of the 1986 Code were performed.

(l) AMENDMENTS RELATED TO SECTION 1561 OF THE REFORM ACT.—

(1) Subsection (e)(2) of section 7609 of the 1986 Code is amended—

(A) by inserting "or the summoned party's response to a summons described in subsection (f)," after "the summons described in subsection (c),", and

(B) by striking out "the summons is issued other" and inserting in lieu thereof "the summons is issued".

(2) Subsection (i) of section 7609 of the 1986 Code is amended—

(A) by striking out "the third-party recordkeeper" in paragraph (4) and inserting in lieu thereof "the summoned party", and

(B) by inserting "AND SUMMONED PARTY" after "RECORDKEEPER" in the subsection heading.

(3) The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(m) AMENDMENT RELATED TO SECTION 1562 OF THE REFORM ACT.—Subsection (d) of section 6212 of the 1986 Code is amended by adding at the end thereof the following new sentence: "Nothing in this subsection shall affect any suspension of the running of any period of limitations during any period during which the rescinded notice was outstanding."

(n) AMENDMENT RELATED TO SECTION 1563 OF THE REFORM ACT.—Subparagraph (B) of section 6404(e)(1) of the 1986 Code is amended—

(1) by inserting "error or" before "delay", and

(2) by inserting "erroneous or" before "dilatory".

(o) AMENDMENT RELATED TO SECTION 1565 OF THE REFORM ACT.—Effective with respect to levies made after December 31, 1988, paragraph (10) of section 6334(a) of the 1986 Code is amended—

(1) in subparagraph (A)—

(A) by striking out "IV" and inserting in lieu thereof "III, IV, V,", and

(B) by adding "or" at the end thereof,

(2) in subparagraph (C) by striking out "21," and inserting in lieu thereof "13, 21, 23," and

(3) by striking out subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(p) AMENDMENT RELATED TO SECTION 1581 OF THE REFORM ACT.—Subsection (c) of section 1581 of the Reform Act is amended by adding at the end thereof the following new sentence:

"The preceding sentence shall not apply if its application would result in an increase in the number of withholding allowances for the employee."

(q) GENERAL REQUIREMENT OF RETURN, STATEMENT, OR LIST.—

(1) Subsection (a) of section 6011 of the 1986 Code is amended by striking out "for the collection thereof" and inserting in lieu thereof "with respect to the collection thereof".

(2) The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(r) CERTAIN REFUNDABLE CREDITS TO BE ASSESSED UNDER DEFICIENCY PROCEDURES.—

(1) Subsection (a) of section 6203 of the 1986 Code is amended by striking out paragraph (4).

(2) Paragraph (4) of section 6211(b) is amended to read as follows:

"(4) For purposes of subsection (a)—

"(A) any excess of the sum of the credits allowable under sections 32 and 34 over the tax imposed by subtitle A (determined without regard to such credits), and

"(B) any excess of the sum of such credits as shown by the taxpayer on his return over the amount shown as the tax by the taxpayer on such return (determined without regard to such credits),

shall be taken into account as negative amounts of tax."

(3) Subsection (h) of section 6213 of the 1986 Code is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(4) The amendments made by this subsection shall apply to notices of deficiencies mailed after the date of the enactment of this Act.

SEC. 116. AMENDMENTS RELATED TO TITLE XVI OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1603 OF THE REFORM ACT.—

(1)(A) Subparagraph (A) of section 501(c)(25) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"For purposes of clause (iii), the term 'real property' shall not include any interest as a tenant in common (or similar interest) and shall not include any indirect interest."

(B) The amendment made by subparagraph (A) shall apply with respect to property acquired by the organization after June 10, 1987, except that such amendment shall not apply to any property acquired after June 10, 1987, pursuant to a binding written contract in effect on June 10, 1987, and at all times thereafter before such acquisition.

(2) Subparagraph (D) of section 501(c)(25) of the 1986 Code is amended by striking out so much of such subparagraph as precedes clause (i) and inserting in lieu thereof the following:

"(D) A corporation or trust shall in no event be treated as described in subparagraph (A) unless such corporation or trust permits its shareholders or beneficiaries—"

(3)(A) Paragraph (25) of section 501(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E)(i) For purposes of this title—

"(I) a corporation which is a qualified subsidiary shall not be treated as a separate corporation, and

"(II) all assets, liabilities, and items of income, deduction, and credit of a qualified subsidiary shall be treated as assets, liabilities, and such items (as the case may be) of the corporation or trust described in subparagraph (A).

"(ii) For purposes of this subparagraph, the term 'qualified subsidiary' means any corporation if, at all times during the period such corporation was in existence, 100 percent of the stock of such corporation is held by the corporation or trust described in subparagraph (A).

"(iii) For purposes of this subtitle, if any corporation which was a qualified subsidiary ceases to meet the requirements of clause (ii), such corporation shall be treated as a new corporation acquiring all of its assets (and assuming all of its liabilities) immediately before such cessation from the corporation or trust described in subparagraph (A) in exchange for its stock."

(B) Subparagraph (C) of section 501(c)(25) of the 1986 Code is amended by inserting "or" at the end of clause (iii), by striking out ", or" at the end of clause (iv) and inserting in lieu thereof a period, and by striking out clause (v).

(4) Paragraph (25) of section 501(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(F) For purposes of subparagraph (A), the term 'real property' includes any personal property which is leased under, or in connection with, a lease of real property, but only if the rent attributable to such personal property (determined under the rules of section 856(d)(1)) for the taxable year does not exceed 15 percent of the total rent for the taxable year attributable to both the real and personal property leased under, or in connection with, such lease."

(5)(A) Paragraph (9) of section 514(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULES FOR ORGANIZATIONS DESCRIBED IN SECTION 501(C)(25).—

"(i) IN GENERAL.—In computing under section 512 the unrelated business taxable income of a disqualified holder of an interest in an organization described in section 501(c)(25), there shall be taken into account—

"(I) as gross income derived from an unrelated trade or business, such holder's pro rata share of the items of income described in clause (ii)(I) of such organization, and

"(II) as deductions allowable in computing unrelated business taxable income, such holder's pro rata share of the items of deduction described in clause (ii)(II) of such organization.

Such amounts shall be taken into account for the taxable year of the holder in which (or with which) the taxable year of such organization ends.

"(ii) DESCRIPTION OF AMOUNTS.—For purposes of clause (i)—

"(I) gross income is described in this clause to the extent such income would (but for this paragraph) be treated under subsection (a) as derived from an unrelated trade or business, and

"(II) any deduction is described in this clause to the extent it would (but for this paragraph) be allowable under subsection (a)(2) in computing unrelated business taxable income.

"(iii) DISQUALIFIED HOLDER.—For purposes of this subparagraph, the term 'disqualified holder' means any shareholder (or beneficiary) which is not described in clause (i) or (ii) of subparagraph (C)."

(B) The amendment made by subparagraph (A) shall apply with respect to interests in the organization acquired after June 10, 1987, except that such amendment shall not apply to any such interest acquired after June 10, 1987, pursuant to a binding written contract in effect on June 10, 1987, and at all times thereafter before such acquisition.

(6) The last sentence of section 514(c)(9)(B) of the 1986 Code is amended by striking out "clause (vi)" and inserting in lieu thereof "this paragraph".

(b) REPEAL OF SECTION 1608 OF THE REFORM ACT.—Section 1608 of the Reform Act is hereby repealed.

SEC. 117. AMENDMENTS RELATED TO TITLE XVII OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1701 OF THE REFORM ACT.—Clause (i) of section 51(d)(12)(B) of the 1986 Code is amended by striking out "subsection (a)(1)" and inserting in lieu thereof "subsection (a)".

(b) AMENDMENT RELATED TO SECTION 1702 OF THE REFORM ACT.—Subsection (j) of section 6652 of the 1986 Code, as added by section 1702(b) of the Reform Act and as in effect before its repeal by the Revenue Act of 1987, is amended by inserting "(and the corresponding provision of section 4041(d)(1))" after "section 4041(a)(1)".

(c) AMENDMENTS RELATED TO SECTION 1703 OF THE REFORM ACT.—

(1)(A) Subsection (a) of section 4081 of the 1986 Code, as amended by section 1703 of the Reform Act, is amended by redesignating paragraph (2) as paragraph (3) and by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) IN GENERAL.—There is hereby imposed a tax at the rate specified in paragraph (2) on the earlier of—

"(A) the removal, or

"(B) the sale,

of gasoline by the refiner or importer thereof or the terminal operator.

"(2) RATES OF TAX.—

"(A) IN GENERAL.—The rate of the tax imposed by this section is the sum of—

"(i) the Highway Trust Fund financing rate, and

"(ii) the Leaking Underground Storage Tank Trust Fund financing rate.

"(B) RATES.—For purposes of subparagraph (A)—

"(i) the Highway Trust Fund financing rate is 9 cents a gallon, and

"(ii) the Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent a gallon."

(B) Subsections (b) and (c) of section 4081 of the 1986 Code, as amended by section 1703 of the Reform Act, are each amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (a)".

(C) Subsection (e) of section 4081 of the 1986 Code, as amended by section 1703 of the Reform Act, is amended—

(i) by striking out "subsection (d)(2)(A)" in paragraph (1) and inserting in lieu thereof "subsection (a)(2)", and

(ii) by striking out "subsection (d)(2)(B)" each place it appears in paragraph (2) and inserting in lieu thereof "subsection (a)(2)".

(D) Section 4081 of the 1986 Code, as amended by section 1703 of the Reform Act, is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (d).

(2) Subsection (b) of section 34 of the 1986 Code is amended by striking out "section 6421(i) or 6427(j)" and inserting in lieu thereof "section 6421(j) or 6427(k)".

(3) Sections 4041(b)(1)(C) and 6427(m)(3) of the 1986 Code are each amended by striking out "section 6421(d)(2)" and inserting in lieu thereof "section 6421(e)(2)".

(4) Paragraph (3) of section 4041(f) of the 1986 Code is amended to read as follows:

"(3) TERMINATION.—Except with respect to the taxes imposed by subsection (d), paragraph (1) shall not apply on and after October 1, 1993."

(5) The amendment made by section 10502(d)(4) of the Revenue Act of 1987 shall be treated as if included in the amendments made by section 1703 of the Reform Act except that the reference to section 4091 of the Internal Revenue Code of 1986 shall not apply to sales before April 1, 1988.

(6) Section 6421 of the 1986 Code is amended by redesignating subsection (i) (relating to income tax credit in lieu of pay-

ment) and subsection (j) (relating to cross references) as subsections (j) and (k), respectively.

(7) Subsections (a) and (b)(1) of section 6421 of the 1986 Code are each amended by striking out "subsection (i)" and inserting in lieu thereof "subsection (j)".

(8) Paragraph (2) of section 6421(j) of the 1986 Code (as redesignated by paragraph (6)) is amended by striking out "subsection (c)(2)" and inserting in lieu thereof "subsection (d)(2)".

(9) Sections 7210, 7603, 7604(b), 7604(c)(2), 7605(a), 7609(c)(1), and 7610(c) of the 1986 Code are each amended by striking out "6421(f)(2)" and inserting in lieu thereof "6421(g)(2)".

(10) Paragraph (2) of section 6427(k) of the 1986 Code is amended by striking out "subsection" and all that follows and inserting in lieu thereof "paragraph (2) or (3) of subsection (i).".

(11) Paragraph (6) of section 6511(i) of the 1986 Code is amended by striking out "section 6421(c)" and inserting in lieu thereof "section 6421(d)".

(12) Subparagraph (G) of section 1703(e)(2) of the Reform Act is amended by striking out all that follows "are amended" and inserting in lieu thereof "by striking out '6427(i)(2)' and inserting in lieu thereof '6427(j)(2)'."

(13) Paragraph (2) of section 1703(f) of the Reform Act is amended by adding at the end thereof the following new sentence: "All other provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of the Internal Revenue Code of 1986 shall apply to the floor stocks taxes imposed by this section."

(14) Paragraph (1) of section 4081(c) of the 1986 Code, as amended by section 1703 of the Reform Act, is amended by striking out "3 cents" and inserting in lieu thereof "3⅛ cents".

(15) Subsection (d) of section 6421 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) APPLICATION TO SALES UNDER SUBSECTION (c).—For purposes of this subsection, gasoline shall be treated as used for a purpose referred to in subsection (c) when it is sold for such a purpose."

SEC. 118. AMENDMENTS RELATED TO TITLE XVIII OF THE REFORM ACT.

(a) AMENDMENT RELATED TO SECTION 1801 OF THE REFORM ACT.—Clause (iii) of section 1801(a)(2)(A) of the Reform Act is amended to read as follows:

"(iii) a person became a partner in such partnership (or a beneficiary in such trust) after its formation but before September 26, 1985,".

(b) AMENDMENTS RELATED TO SECTION 1802 OF THE REFORM ACT.—

(1) The last sentence of section 31(g)(17)(L) of the Tax Reform Act of 1984, as added by section 1802(a)(10)(G) of the Reform Act, is amended—

(A) by striking out "Registry of Deeds" each place it appears and inserting in lieu thereof "Register of Deed", and

(B) by striking out "May 7, 1985" and inserting in lieu thereof "May 7, 1984".

(2) Subparagraph (E) of section 168(j)(9) of the 1986 Code (as amended by section 1802(a)(2) of the Reform Act and as in effect before the amendments made by section 201 of the Reform Act) is amended—

(A) by striking out "this paragraph" in clauses (i) and (ii)(I) and inserting in lieu thereof "this paragraph and paragraph (8)", and

(B) by striking out clause (iii) and inserting in lieu thereof the following:

"(iii) TAX-EXEMPT CONTROLLED ENTITY.—

"(I) IN GENERAL.—The term 'tax-exempt controlled entity' means any corporation (which is not a tax-exempt entity determined without regard to this subparagraph and paragraph (4)(E)) if 50 percent or more (in value) of the stock in such corporation is held by 1 or more tax-exempt entities (other than a foreign person or entity).

"(II) ONLY 5-PERCENT SHAREHOLDERS TAKEN INTO ACCOUNT IN CASE OF PUBLICLY TRADED STOCK.—For purposes of subclause (I), in the case of a corporation the stock of which is publicly traded on an established securities market, stock held by a tax-exempt entity shall not be taken into account unless such entity holds at least 5 percent (in value) of the stock in such corporation. For purposes of this subclause, related entities (within the meaning of paragraph (7)) shall be treated as 1 entity.

"(III) SECTION 318 TO APPLY.—For purposes of this clause, a tax-exempt entity shall be treated as holding stock which it holds through application of section 318 (determined without regard to the 50-percent limitation contained in subsection (a)(2)(C) thereof)."

(c) AMENDMENT RELATED TO SECTION 1803 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 1803(a)(8) of the Reform Act is amended by striking out "September 27, 1985" and inserting in lieu thereof "December 31, 1985".

(2) Subsection (c) of section 1278 of the 1986 Code is amended by inserting before the period ", including regulations providing proper adjustments in the case of a bond the principal of which may be paid in 2 or more payments".

(d) AMENDMENTS RELATED TO SECTION 1804 OF THE REFORM ACT.—

(1) Paragraph (3) of section 1804(b) of the Reform Act is amended by striking out "Paragraph (3) of section 54" and inserting "Paragraph (3) of section 54(d)".

(2) Clause (i) of section 54(d)(3)(D) of the Tax Reform Act of 1984 is amended by striking out "subtitle D of title VI" and inserting "subtitle D of title VI of the Tax Reform Act of 1986".

(3) Clause (ii) of section 54(d)(3)(D) of the Tax Reform Act of 1984 (as added by section 1804(b)(3) of the Tax Reform Act of 1986) is amended—

(A) by striking out "December 9, 1968," each place it appears and inserting in lieu thereof "December 10, 1968,", and

(B) by striking out "October 5, 1981" and inserting in lieu thereof "March 2, 1978,".

(4) Subsection (b) of section 312 of the 1986 Code is amended by striking out "of any property" and inserting in lieu thereof "of any property (other than an obligation of such corporation)".

(5)(A) Section 361 of the 1986 Code is amended to read as follows:

"SEC. 361. NONRECOGNITION OF GAIN OR LOSS TO CORPORATIONS; TREATMENT OF DISTRIBUTIONS.

"(a) GENERAL RULE.—No gain or loss shall be recognized to a corporation if such corporation is a party to a reorganization and exchanges property, in pursuance of the plan of reorganization, solely for stock or securities in another corporation a party to the reorganization.

"(b) EXCHANGES NOT SOLELY IN KIND.—

"(1) GAIN.—If subsection (a) would apply to an exchange but for the fact that the property received in exchange consists not only of stock or securities permitted by subsection (a) to be received without the recognition of gain, but also of other property or money, then—

"(A) PROPERTY DISTRIBUTED.—If the corporation receiving such other property or money distributes it in pursuance of the plan of reorganization, no gain to the corporation shall be recognized from the exchange, but

"(B) PROPERTY NOT DISTRIBUTED.—If the corporation receiving such other property or money does not distribute it in pursuance of the plan of reorganization, the gain, if any, to the corporation shall be recognized.

The amount of gain recognized under subparagraph (B) shall not exceed the sum of the money and the fair market value of the other property so received which is not so distributed.

"(2) LOSS.—If subsection (a) would apply to an exchange but for the fact that the property received in exchange consists not only of property permitted by subsection (a) to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange shall be recognized.

"(3) TREATMENT OF TRANSFERS TO CREDITORS.—For purposes of paragraph (1), any transfer of the other property or money received in the exchange by the corporation to its creditors in connection with the reorganization shall be treated as a distribution in pursuance of the plan of reorganization. The Secretary may prescribe such regulations as may be necessary to prevent avoidance of tax through abuse of the preceding sentence or subsection (c)(3).

"(c) TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no gain or loss shall be recognized to a corporation a party to a reorganization on the distribution to its shareholders of property in pursuance of the plan of reorganization.

"(2) DISTRIBUTIONS OF APPRECIATED PROPERTY.—

"(A) IN GENERAL.—If—

"(i) in a distribution referred to in paragraph (1), the corporation distributes property other than qualified property, and

"(ii) the fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation),

then gain shall be recognized to the distributing corporation as if such property were sold to the distributee at its fair market value.

"(B) QUALIFIED PROPERTY.—For purposes of this subsection, the term 'qualified property' means—

"(i) any stock in (or right to acquire stock in) the distributing corporation or obligation of the distributing corporation, or

"(ii) any stock in (or right to acquire stock in) another corporation which is a party to the reorganization or obligation of another corporation which is such a party if such stock (or right) or obligation is received by the distributing corporation in the exchange.

"(C) TREATMENT OF LIABILITIES.—If any property distributed in the distribution referred to in paragraph (1) is subject to a liability or the shareholder assumes a liability of the distributing corporation in connection with the distribution, then, for purposes of subparagraph (A), the fair market value of such property shall be treated as not less than the amount of such liability.

"(3) TREATMENT OF CERTAIN TRANSFERS TO CREDITORS.—For purposes of this subsection, any transfer of qualified property by the corporation to its creditors in connection with the reorganization shall be treated as a dis-

tribution to its shareholders pursuant to the plan of reorganization.

"(4) COORDINATION WITH OTHER PROVISIONS.—Section 311 and subpart B of part II of this subchapter shall not apply to any distribution referred to in paragraph (1)."

(B) Section 358 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) DEFINITION OF NONRECOGNITION PROPERTY IN CASE OF SECTION 361 EXCHANGE.—For purposes of this section, the property permitted to be received under section 361 without the recognition of gain or loss shall be treated as consisting only of stock or securities in another corporation a party to the reorganization."

(C) Section 355 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(c) TAXABILITY OF CORPORATION ON DISTRIBUTION.—Section 311 shall apply to any distribution—

"(1) to which this section (or so much of section 356 as relates to this section) applies, and

"(2) which is not in pursuance of a plan of reorganization,

in the same manner as if such distribution were a distribution to which subpart A of part I applies; except that subsection (b) of section 311 shall not apply to any distribution of stock or securities in the controlled corporation."

(D) Subsection (c) of section 336 of the 1986 Code (as amended by section 631 of the Reform Act) is amended to read as follows:

"(c) EXCEPTION FOR LIQUIDATIONS WHICH ARE PART OF A REORGANIZATION.—

"For provision providing that this subpart does not apply to distributions in pursuance of a plan of reorganization, see section 361(c)(4)."

(E) Subsection (a) of section 311 of the 1986 Code is amended by striking out "distribution, with respect to its stock," and inserting in lieu thereof "distribution (not in complete liquidation) with respect to its stock".

(F) The table of sections for subpart C of part III of subchapter C of chapter 1 of the 1986 Code is amended by striking out the item relating to section 361 and inserting in lieu thereof the following new item:

"Sec. 361. Nonrecognition of gain or loss to corporations; treatment of distributions."

(G) Effective with respect to transfers on or after June 21, 1988, section 351 of the 1986 Code is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) TREATMENT OF CONTROLLED CORPORATION.—If—

"(1) property is transferred to a corporation (hereinafter in this subsection referred to as the 'controlled corporation') in an exchange with respect to which gain or loss is not recognized (in whole or in part) to the transferor under this section, and

"(2) such exchange is not in pursuance of a plan of reorganization,

section 311 shall apply to any transfer in such exchange by the controlled corporation in the same manner as if such transfer were a distribution to which subpart A of part I applies."

(6) Subparagraph (A) of section 280G(b)(5) of the 1986 Code is amended—

(A) in clause (i) by striking out "section 1361(b))" and inserting in lieu thereof "section 1361(b) but without regard to paragraph (1)(C) thereof)", and

(B) by adding at the end thereof the following: "Stock described in section 1504(a)(4) shall not be taken into account under clause (ii)(I) if the payment does not adversely affect the shareholder's redemption and liquidation rights."

(7) Subparagraph (B) of section 280G(b)(5) of the 1986 Code (relating to shareholder approval requirements) is amended by adding at the end thereof the following new sentence:

"The regulations prescribed under subsection (e) shall include regulations providing for the application of this subparagraph in the case of shareholders which are not individuals (including the treatment of nonvoting interests in an entity which is a shareholder) and where an entity holds a de minimis amount of stock in the corporation."

(8) Paragraph (5) of section 280G(d) of the 1986 Code is amended by striking out "officer or any member" and inserting in lieu thereof "officer of any member".

(9) Paragraph (3) of section 338(e) of the 1986 Code is amended by striking out "which meet the 80 percent requirements of subparagraphs (A) and (B) of subsection (d)(3)" and inserting in lieu thereof "which meet the requirements of section 1504(a)(2)".

(10)(A) Paragraph (7) of section 1504(b) of the 1986 Code is amended to read as follows:

"(7) A DISC (as defined in section 992(a)(1))."

(B) Section 1504 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULE FOR CERTAIN AMOUNTS DERIVED FROM A CORPORATION PREVIOUSLY TREATED AS A DISC.—In determining the consolidated taxable income of an affiliated group for any taxable year beginning after December 31, 1984, a corporation which had been a DISC and which would otherwise be a member of such group shall not be treated as such a member with respect to—

"(1) any distribution (or deemed distribution) of accumulated DISC income which was not treated as previously taxed income under section 805(b)(2)(A) of the Tax Reform Act of 1984, and

"(2) any amount treated as received under section 805(b)(3) of such Act."

(e) PROVISION RELATED TO SECTION 1806 OF THE REFORM ACT.—If—

(1) on a return for the 1st taxable year of the trusts involved beginning after March 1, 1984, 2 or more trusts were treated as a single trust for purposes of the tax imposed by chapter 1 of the Internal Revenue Code of 1954,

(2) such trusts would have been required to be so treated but for the amendment made by section 1806(b) of the Reform Act, and

(3) such trusts did not accumulate any income during such taxable year and did not make any accumulation distributions during such taxable year,

then, notwithstanding the amendment made by section 1806(b) of the Reform Act, such trusts shall be treated as one trust for purposes of such taxable year.

(f) AMENDMENTS RELATED TO SECTION 1807 OF THE REFORM ACT.—

(1) Paragraphs (1)(A) and (2)(E) of section 468B(d) of the 1986 Code are each amended by striking out "the taxpayer" and inserting in lieu thereof "the taxpayer (or any related person)".

(2) Subparagraph (A) of section 468B(d)(2) of the 1986 Code is amended to read as follows:

"(A) which is established pursuant to a court order and which extinguishes completely the taxpayer's tort liability with respect to claims described in subparagraph (D),".

(3) Clause (i) of section 1807(a)(7)(C) of the Reform Act is amended to read as follows:

"(i) any portion of such fund which is established pursuant to a court order and with qualified payments, which meets the requirements of subparagraphs (C) and (D) of section 468B(d)(2) of the Internal Revenue Code of 1954 (as added by this paragraph), and with respect to which an election is made under subparagraph (F) thereof, shall be treated as a designated settlement fund for purposes of section 468B of such Code,"

(4) Paragraph (2) of section 468B(b) of the 1986 Code is amended—

(A) by striking out "the corporation," and inserting in lieu thereof "a corporation.", and

(B) by striking out "no other" and inserting in lieu thereof "No other".

(5)(A) Section 468B of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) CLARIFICATION OF TAXATION OF CERTAIN FUNDS.—Nothing in any provision of law shall be construed as providing that an escrow account, settlement fund, or similar fund is not subject to current income tax. The Secretary shall prescribe regulations providing for the taxation of any such account or fund whether as a grantor trust or otherwise."

(B) Subparagraph (D) of section 1807(a)(7) of the Reform Act is hereby repealed.

(g) AMENDMENTS RELATED TO SECTION 1810 OF THE REFORM ACT.—

(1) Paragraph (5) of section 1810(a) of the Reform Act is amended by striking out "section 125(b)(5)" each place it appears and inserting in lieu thereof "section 121(b)(5)".

(2) Section 133(d)(3)(B)(iii) of the Tax Reform Act of 1984, as amended by section 1810(i)(2) of the Reform Act, is amended by striking out "Tax Reform Act of 1985" and inserting in lieu thereof "Tax Reform Act of 1986".

(3) Clause (iv) of section 7701(b)(5)(A) of the 1986 Code is amended by striking out "section 274(k)(2)" and inserting in lieu thereof "section 274(l)(1)(B)".

(h) AMENDMENT RELATED TO SECTION 1821 OF THE REFORM ACT.—

(1) Subsection (e) of section 812 of the 1986 Code (relating to dividends from certain subsidiaries not included in gross investment income) is amended to read as follows:

"(e) DIVIDENDS FROM CERTAIN SUBSIDIARIES NOT INCLUDED IN GROSS INVESTMENT INCOME.—

"(1) IN GENERAL.—For purposes of this section, the term 'gross investment income' shall not include any dividend received by the life insurance company which is a 100 percent dividend.

"(2) 100 PERCENT DIVIDEND DEFINED.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the term '100 percent dividend' means any dividend if the percentage used for purposes of determining the deduction allowable under section 243, 244, or 245(b) is 100 percent.

"(B) CERTAIN DIVIDENDS OUT OF TAX-EXEMPT INTEREST, ETC.—The term '100 percent dividend' does not include any distribution by a corporation to the extent such distribution is out of tax-exempt interest or out of dividends which are not 100 percent dividends (determined with the application of this subparagraph).

"(C) CERTAIN DIVIDENDS RECEIVED BY FOREIGN CORPORATIONS.—The term '100 percent dividends' does not include any dividend described in section 805(a)(4)(E) (relating to certain dividends in the case of foreign corporations)."

(2) The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 211 of the Tax Reform Act of 1984.

(i) AMENDMENT RELATED TO SECTION 1822 OF THE REFORM ACT.—Clause (i) of section 216(b)(4)(C) of the Tax Reform Act of 1984 (relating to section 818(c) elections made by certain acquired companies) is amended by striking out "clause (i)" and inserting in lieu thereof "subclause (I)".

(j) AMENDMENT RELATED TO SECTION 1825 OF THE REFORM ACT.—Paragraph (4) of section 1825(a) of the Reform Act (relating to amendments related to section 221 of the Tax Reform Act of 1984) is amended by striking out "Section 7702(e)(2)" and inserting in lieu thereof "Effective with respect to contracts entered into after October 22, 1986, section 7702(e)(2)".

(k) AMENDMENTS RELATED TO SECTION 1826 OF THE REFORM ACT.—

(1) Paragraph (5) of section 72(s) of the 1986 Code is amended by striking out "or" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(D) which is a qualified funding asset (as defined in section 130(d), but without regard to whether there is a qualified assignment)."

(2) The paragraph heading of paragraph (5) of section 72(s) of the 1986 Code is amended by striking out "ANNUITY CONTRACTS WHICH ARE PART OF QUALIFIED PLANS" and inserting in lieu thereof "CERTAIN ANNUITY CONTRACTS".

(l) AMENDMENTS RELATED TO SECTION 1842 OF THE REFORM ACT.—

(1) Subsection (c) of section 425 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) TRANSFERS BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of any transfer described in subsection (a) of section 1041—

"(A) such transfer shall not be treated as a disposition for purposes of this part, and

"(B) the same tax treatment under this part with respect to the transferred property shall apply to the transferee as would have applied to the transferor."

(2) Paragraph (1) of section 425(c) of the 1986 Code is amended by striking out "paragraph (2) and (3)" and inserting in lieu thereof "paragraphs (2), (3), and (4)".

(3) Effective with respect to transfers after June 21, 1988, subsection (d) of section 1041 of the 1986 Code is amended—

(A) by striking out "Paragraph (1) of subsection (a)" and inserting in lieu thereof "Subsection (a)", and

(B) by striking out "the spouse" and inserting in lieu thereof "the spouse (or former spouse)".

(m) AMENDMENTS RELATED TO SECTION 1866 OF THE REFORM ACT.—

(1) Section 1866 of the Reform Act is amended by striking out "obligation issued to refund" and inserting in lieu thereof "obligation (or series of obligations) issued to refund".

(2)(A) Paragraph (1) of section 1866 of the Reform Act is amended to read as follows:

"(1) the average maturity of the issue of which the refunding obligation is a part does not exceed the average maturity of the obligations to be refunded by such issue,".

(B) Section 1866 of the Reform Act is amended by adding at the end thereof the following new sentence: "For purposes of paragraph (1), average maturity shall be determined in accordance with subsection (b)(14)(B)(i) of such Code."

(3) Paragraph (4) of section 1866 of the Reform Act is amended by striking out "30 days" and inserting in lieu thereof "90 days".

(4) Section 1866 of the Reform Act is amended by adding "and" at the end of paragraph (2), by striking out paragraph (3), and by redesignating paragraph (4) as paragraph (3).

(5) A refunding obligation issued before July 1, 1987, shall be treated as meeting the requirement of paragraph (1) of section 1866 of the Reform Act if such obligation met the requirement of such paragraph as enacted by the Reform Act.

(n) AMENDMENTS RELATED TO SECTION 1869 OF THE REFORM ACT.—

(1) Clause (ii) of section 1869(c)(3)(A) of the Reform Act is amended by striking out "pursuant to the exercise of eminent domain" and inserting in lieu thereof "(by a governmental unit having the power to exercise eminent domain)".

(2) Subparagraph (C) of section 1869(c)(3) of the Reform Act is amended by inserting "(or similar issues)" after "resulting from the issue".

(o) AMENDMENTS RELATED TO SECTION 1875 OF THE REFORM ACT.—

(1) Clause (ii) of section 6230(a)(2)(A) of the 1986 Code is amended by striking out "nonpartnership items" and inserting in lieu thereof "nonpartnership items (other than by reason of section 6231(b)(1)(C))".

(2) Subsection (g) of section 1246 of the 1986 Code (as redesignated by this Act) is amended by striking out "1248(g)(3)" and inserting in lieu thereof "1248(g)(2)".

(3) Subsection (f) of section 6229 of the 1986 Code is amended by adding at the end thereof the following new sentence: "The period described in the preceding sentence (including any extension period under this sentence) may be extended with respect to any partner by agreement entered into by the Secretary and such partner."

(p) AMENDMENT RELATED TO SECTION 1878 OF THE REFORM ACT.—Paragraph (1) of section 852(e) of the 1986 Code is amended by striking out "subsection (a)(3)" and inserting in lieu thereof "subsection (a)(2)".

(q) AMENDMENTS RELATED TO SECTION 1879 OF THE REFORM ACT.—

(1) Subclause (II) of section 28(b)(2)(A)(ii) of the 1986 Code is amended to read as follows:

"(II) before the date on which an application with respect to such drug is approved under section 505(b) or 507 of such Act or, if the drug is a biological product, before the date on which a license for such drug is issued under section 351 of the Public Health Service Act; and".

(2) The last sentence of section 1361(d)(3) of the 1986 Code is amended by striking out "treated as a separate trust under section 663(c)" and inserting in lieu thereof "within the meaning of section 663(c)".

(3) Subsection (p) of section 1879 of the Reform Act is amended—

(A) by striking out "Subsection (a)" in paragraph (2) and inserting "Paragraph (1)", and

(B) by striking out "subsection (a)" each place it appears in paragraphs (2) and (3) and inserting in lieu thereof "paragraph (1)".

(4)(A) Subsection (d) of section 1286 of the 1986 Code is amended to read as follows:

"(d) SPECIAL RULES FOR TAX-EXEMPT OBLIGATIONS.—

"(1) IN GENERAL.—In the case of any tax-exempt obligation (as defined in section 1275(a)(3)) from which 1 or more coupons have been stripped—

"(A) the amount of the original issue discount determined under subsection (a) with respect to any stripped bond or stripped coupon—

"(i) shall be treated as original issue discount on a tax-exempt obligation to the extent such discount does not exceed the tax-exempt portion of such discount, and

"(ii) shall be treated as original issue discount on an obligation which is not a tax-exempt obligation to the extent such discount exceeds the tax-exempt portion of such discount,

"(B) subsection (b)(1)(A) shall not apply, and

"(C) subsection (b)(2) shall be applied by increasing the basis of the bond or coupon by the sum of—

"(i) the interest accrued but not paid before such bond or coupon was disposed of (and not previously reflected in basis), plus

"(ii) the amount included in gross income under subsection (b)(1)(B).

"(2) TAX-EXEMPT PORTION.—For purposes of paragraph (1), the tax-exempt portion of the original issue discount determined under subsection (a) is the excess of—

"(A) the amount referred to in subsection (a)(1), over

"(B) an issue price which would produce a yield to maturity as of the purchase date equal to the lower of—

"(i) the coupon rate of interest on the obligation from which the coupons were separated, or

"(ii) the yield to maturity (on the basis of the purchase price) of the stripped obligation or coupon.

The purchaser of any stripped obligation or coupon may elect to apply clause (i) by substituting 'original yield to maturity of' for 'coupon rate of interest on'."

(B)(i) Except as provided in clause (ii), the amendment made by subparagraph (A) shall apply to any purchase or sale after June 10, 1987, of any stripped tax-exempt obligation or stripped coupon from such an obligation.

(ii) If—

(I) any person held any obligation or coupon in stripped form on June 10, 1987, and

(II) such obligation or coupon was held by such person on such date for sale in the ordinary course of such person's trade or business,

the amendment made by subparagraph (A) shall not apply to any sale of such obligation or coupon by such person and shall not apply to any such obligation or coupon while held by another person who purchased such obligation or coupon from the person referred to in subclause (I).

(5) Clause (ii) of section 368(a)(2)(F) of the 1986 Code is amended—

(A) by striking out the two parenthetical phrases in the first sentence, and

(B) by adding at the end thereof the following new sentence: "For purposes of this clause, a person holding stock in a regulated investment company, a real estate investment trust, or an investment company which meets the requirements of this clause shall, except as provided in regulations, be treated as holding its proportionate share of the assets held by such company or trust."

(6)(A) Subparagraph (A) of section 126(b)(1) of the 1986 Code is amended by inserting "or the Secretary of the Interior (whoever is appropriate)" after "Agriculture".

(B) For purposes of applying section 126(a)(10) of the 1986 Code to grants made after September 30, 1979, a State surface mining reclamation program which is primarily for 1 or more purposes specified in such section shall be treated as such a program primarily for such purposes whether or not such program is denoted as a program for public health and safety.

(r) AMENDMENTS RELATED TO SECTION 1895 OF THE REFORM ACT.—

(1) Subsection (b) of section 1895 of the Reform Act is amended by striking out paragraphs (1) and (2).

(2)(A) Clause (ii) of section 3121(u)(2)(B) of the 1986 Code is amended by striking out "or" at the end of subclause (IV), by striking out the period at the end of subclause (V) and inserting in lieu thereof ", or", and by inserting after subclause (V) the following new subclause:

"(VI) by an individual in a position described in section 1402(c)(2)(E)."

(B) The amendment made by subparagraph (A) shall apply to services performed after March 31, 1986.

(s) MISCELLANEOUS PROVISIONS.—

(1) Subsection (a) of section 8021 of the 1986 Code is amended by striking out "6103(d)" and inserting in lieu thereof "6103(f)".

(2)(A) Section 2503 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF CERTAIN LOANS OF ARTWORKS.—

"(1) IN GENERAL.—For purposes of this subtitle, any loan of a qualified work of art shall not be treated as a transfer (and the value of such qualified work of art shall be determined as if such loan had not been made) if—

"(A) such loan is to an organization described in section 501(c)(3) and exempt from tax under section 501(c) (other than a private foundation), and

"(B) the use of such work by such organization is related to the purpose or function constituting the basis for its exemption under section 501.

"(2) DEFINITIONS.—For purposes of this section—

"(A) QUALIFIED WORK OF ART.—The term 'qualified work of art' means any archaeological, historic, or creative tangible personal property.

"(B) PRIVATE FOUNDATION.—The term 'private foundation' has the meaning given such term by section 509, except that such term shall not include any private operating foundation (as defined in section 4942(j)(3))."

(B) The amendment made by subparagraph (A) shall apply to loans after July 31, 1969.

(3)(A) Subparagraph (B) of section 1563(d)(1) of the 1986 Code is amended by striking out "subsection (e)(1)" and inserting in lieu thereof "paragraphs (1), (2), and (3) of subsection (e)".

(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after the date of the enactment of this Act.

(4) Paragraph (8) of section 1888 of the Reform Act (and the amendment made thereby) are hereby repealed.

(t) ADDITIONAL AMENDMENTS RELATED TO PENSION PLANS.—

(1) AMENDMENTS RELATED TO SECTION 1826 OF THE REFORM ACT.—

(A) Section 72(s)(7) of the 1986 Code is amended by striking out "primary annuity" and inserting in lieu thereof "primary annuitant".

(B) Section 72(q)(2)(B) of the 1986 Code is amended by striking out the last parenthesis.

(C) Section 419A(f)(5) of the 1986 Code is amended by striking out "accounts" and inserting in lieu thereof "account".

(D) Section 1826(c) of the Reform Act is amended by striking out "made" and inserting in lieu thereof "commencing".

(2) AMENDMENTS RELATED TO SECTION 1851 OF THE REFORM ACT.—

(A) Section 1851(a) of the Reform Act is amended by striking out paragraph (4) thereof.

(B) Subclause (II) of section 512(a)(3)(E)(ii) of the 1986 Code is amended, (i) by striking out "subclause (II)" and inserting in lieu thereof "subclause (I)", and (ii) by striking out the comma at the end thereof and inserting in lieu thereof a period.

(C) Section 419(a)(1) of the 1986 Code is amended by striking out "subchapter" and inserting in lieu thereof "chapter".

(D) Subparagraph (B) of section 1851(a)(3) of the Reform Act is amended by inserting ", section 505, and section 4976(b)(1)(B)" after "section 419A".

(3) AMENDMENTS RELATED TO SECTION 1852 OF THE REFORM ACT.—

(A) Paragraph (4) of section 1852(a) of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(C) An individual whose required beginning date would, but for the amendment made by subparagraph (A), occur after December 31, 1986, but whose required beginning date after such amendment occurs before January 1, 1987, shall be treated as if such individual had become a 5-percent owner during the plan year ending in 1986."

(B) Section 1852(h)(2) of the Reform Act is amended by striking out "section 416(l)" and inserting in lieu thereof "section 415(l)".

(C) Section 1852(h)(1) of the Reform Act is amended by striking out "Subsection" and inserting in lieu thereof "Effective for years beginning after December 31, 1985, subsection".

(D) Subparagraph (E) of section 408(d)(3) of the 1986 Code is amended by striking out "subparagraph" and inserting in lieu thereof "paragraph".

(4) AMENDMENTS RELATED TO SECTION 1854 OF THE REFORM ACT.—

(A) Section 404(k) of the 1986 Code is amended by striking out "avoidance" in the 4th sentence and inserting in lieu thereof "evasion".

(B) Section 409(h)(2) of the 1986 Code (relating to plan may distribute cash) is amended by striking out "section 409(o)" and inserting in lieu thereof "paragraph (1)(B)".

(C) Subparagraph (C) of section 409(n)(3) of the 1986 Code (defining nonallocation period) is amended to read as follows:

"(C) NONALLOCATION PERIOD.—The term 'nonallocation period' means the period beginning on the date of the sale of the qualified securities and ending on the later of—

"(i) the date which is 10 years after the date of sale, or

"(ii) the date of the plan allocation attributable to the final payment of acquisition indebtedness incurred in connection with such sale."

(D) Subparagraph (A) of section 1042(c)(4) of the 1986 Code (defining qualified replacement property) is amended by inserting "(as in effect immediately before the Tax Reform Act of 1986)" after "section 954(c)(3)".

(E) Clause (i) of section 1042(c)(4)(B) of the 1986 Code (relating to operating corporation) is amended by striking out "placement period" and inserting in lieu thereof "replacement period".

(F) Section 1854(a)(3)(B) of the Reform Act is amended by striking out "1042(b)(3)" and inserting in lieu thereof "1042(b)".

(G) Subparagraph (C) of section 1854(a)(3) of the Reform Act is amended to read as follows:

"(C)(i) Except as provided in clause (ii), the amendments made by this paragraph shall apply to sales of securities after the date of the enactment of this Act.

"(ii) A taxpayer or executor may elect to have section 1042(b)(3) of the Internal Revenue Code of 1954 (as in effect before the amendment made by subparagraph (B)) apply to sales before the date of the enactment of this Act as if such section included the last sentence of section 409(n)(1) of the Internal Revenue Code of 1986 (as added by subparagraph (A))."

(H) Section 409(e)(5) of the 1986 Code is amended by striking out "(2) or".

(5) AMENDMENT RELATED TO SECTION 1875 OF THE REFORM ACT.—Section 1875(c)(7)(B) of the Reform Act is amended by striking out "and section 405(c)".

(6) AMENDMENT RELATED TO SECTION 1879 OF THE REFORM ACT.—Subparagraph (B) of section 125(c)(2) of the 1986 Code (relating to exception for cash and deferred arrangements) is amended by inserting "or rural electric cooperative plan (within the meaning of section 401(k)(7))" after "stock bonus plan".

(7) AMENDMENTS RELATED TO SECTION 1895 OF THE REFORM ACT.—

(A) Section 106(b)(1) of the 1986 Code (relating to exception for highly compensated individuals where plan fails to provide certain continuation coverage) is amended—

(i) by striking out "any amount contributed by an employer" and inserting in lieu thereof "any employer-provided coverage", and

(ii) by striking out "to a group" and inserting in lieu thereof "under a group".

(B) Section 1895(d)(5)(A) of the Reform Act is amended by striking out "section 162(k)(2)" and inserting in lieu thereof "section 162(k)(5)".

(8) AMENDMENTS RELATED TO SECTION 1898 OF THE REFORM ACT.—

(A) Subparagraph (G) of section 402(a)(6) of the 1986 Code (relating to treatment of potential future vesting), as added by section 1898(a)(3) of the Reform Act, is redesignated as subparagraph (I).

(B) Subparagraph (A) of section 411(a)(11) of the 1986 Code is amended by striking out "vested" and inserting in lieu thereof "nonforfeitable".

(C) Section 402(f)(1) of the 1986 Code is amended by striking out "a eligible" and inserting in lieu thereof "an eligible".

(D) Section 1899A of the Reform Act is amended by striking out paragraph (13).

(E) Subparagraph (B) of section 414(p)(4) of the 1986 Code is amended—

(i) by striking out "means earlier of" and inserting in lieu thereof "means the earlier of", and

(ii) by striking out "in" each place it appears.

(F) Section 414(p)(10) of the 1986 Code (relating to waiver of certain distribution re-

quirements) is amended by inserting ", 403(b)," after "section 401".

(G) Section 414(p)(9) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of this title, except as provided in regulations, any distribution from an annuity contract under section 403(b) pursuant to a qualified domestic relations order shall be treated in the same manner as a distribution from a plan to which section 401(a)(13) applies."

(u) ADDITIONAL CLERICAL AMENDMENTS.—

(1) Paragraph (5) of section 104(b) of the Reform Act is amended by striking out "1222(b)" and inserting in lieu thereof "1122(b)".

(2) The amendment made by section 122(c)(2) of the Reform Act shall be applied as if it also struck out the comma at the end of section 274(b)(1)(B) of the 1986 Code.

(3) Clause (i) of section 280F(b)(3)(B) of the 1986 Code is amended by striking out "recovery deductions" and inserting in lieu thereof "depreciation deductions".

(4) Subparagraph (A) of section 803(b)(3) of the Reform Act is amended by inserting closing quotation marks after "section 189)" and by striking out the closing quotation marks following "subparagraph (B)".

(5) Paragraph (1) of section 823(b) of the Reform Act is amended to read as follows:

"(1) Paragraph (5) of section 461(h), as amended by section 805(c)(5), is amended by striking out subparagraph (B) and by redesignating subpargraph (C) as subparagraph (B)."

(6) The amendment made by section 1122(b)(2)(B)(iii) of the Reform Act shall be applied as if it struck out "Initial separate tax".

(7) The amendment made by section 1122(b)(2)(C) of the Reform Act shall be applied as if it did not strike out "the".

(8) Paragraph (2) of section 72(q)(2) of the 1986 Code is amended by striking out the period at the end of subparagraph (D) and inserting in lieu thereof a comma.

(9) Subparagraph (A) of section 417(e)(3) of the 1986 Code is amended by striking out "subclause (II)" and inserting in lieu thereof "clause (ii)".

(10) Subparagraph (A) of section 246(c)(1) of the 1986 Code is amended by striking out "Which" and inserting in lieu thereof "which".

(11) Subsection (a) of section 164 of the 1986 Code is amended by striking out "the GST tax" and inserting in lieu thereof "The GST tax".

(12) Subparagraph (B) of section 1851(a)(6) of the Reform Act is amended by striking out "Subsection (b)" and inserting in lieu thereof "Subsection (a)".

(13)(A) Paragraph (1) of section 1878(e) of the Reform Act is amended by striking out "last sentence of section 514(c)(9)(B) (relating to exceptions)" and inserting in lieu thereof "second to the last sentence of section 514(c)(9)(B) (as amended by paragraph (3))".

(B) Paragraph (3) of section 1878(e) of the Reform Act is amended by striking out "is amended" and inserting in lieu thereof ", and the last sentence of such section, are amended".

(14) Paragraph (23) of section 501(c) of the 1986 Code is amended by striking out "any association" and inserting in lieu thereof "Any association".

(15) Paragraph (1) of section 501(c) of the 1986 Code is amended by striking out "any corporation organized" and inserting in lieu thereof "Any corporation organized".

(16) The table of chapters for subtitle E of the 1986 Code is amended by inserting "smokeless tobacco," after "cigarettes," in the item relating to chapter 52.

(17) Paragraph (4) of section 3321(c) of the 1986 Code is amended by adding a period at the end thereof.

(18) Paragraph (3) of section 521(b) of the Superfund Revenue Act of 1986 is amended by striking out "Paragraph (1) of section 9506(b)" and inserting in lieu thereof "Subsection (b) of section 9506".

(19) Paragraph (2) of section 5054(a) of the 1986 Code is amended by adding a period at the end thereof.

(20) Paragraph (3) of section 9507(b) of the 1986 Code is amended by striking out "Deep Water" each place it appears and inserting in lieu thereof "Deepwater".

(21) Subparagraph (I) of section 231(d)(3) of the Reform Act is amended by striking out "section 6511(d)(6)" and inserting in lieu thereof "section 6511(d)(4)".

(22) Subsection (a) of section 1016 of the 1986 Code is amended by striking out all that follows paragraph (20) and inserting in lieu thereof the following:

"(21) to the extent provided in section 48(q), in the case of expenditures with respect to which a credit has been allowed under section 38;

"(22) for amounts allowed as deductions under section 59(e) (relating to optional 10-year writeoff of certain tax preferences);

"(23) to the extent provided in section 1059 (relating to reduction in basis for extraordinary dividends); and

"(24) in the case of qualified replacement property the acquisition of which resulted under section 1042 in the nonrecognition of any part of the gain realized on the sale or exchange of any property, to the extent provided in section 1042(d)."

(23) Paragraph (1) of section 7518(g) of the 1986 Code is amended by striking out "not qualified withdrawal" and inserting in lieu thereof "not a qualified withdrawal".

(24) The table of sections for part IV of subchapter P of chapter 1 of the 1986 Code is amended by striking out the item relating to section 1254 and inserting in lieu thereof the following:

"Sec. 1254. Gain from disposition of interest in oil, gas, geothermal, or other mineral properties."

(25) Paragraph (1) of section 453(f) of the 1986 Code is amended by striking out "subsection (g)" and inserting in lieu thereof "subsections (g)".

(26) Paragraph (8) of section 453(f) of the 1986 Code is amended by striking out "payment to be" and inserting in lieu thereof "payments to be".

(27) Subparagraph (B) of section 668(b)(1) of the Reform Act is amended by striking out "section 856" and inserting in lieu thereof "section 858".

(28) The second to the last sentence of section 857(b)(3)(C) of the 1986 Code is amended by striking out "such capital loss such" and inserting in lieu thereof "such capital loss shall".

(29) Subsection (a) of section 669 of the Reform Act is amended by striking out "this part" and inserting in lieu thereof "this subtitle".

(30) The table of parts for subchapter M of chapter 1 of the 1986 Code is amended by adding at the end thereof the following new item:

"Part IV. Real estate mortgage investment conduits."

(31) Subsection (c) of section 1277 of the 1986 Code is amended by inserting a closing parenthesis after "section 585(a)(2)".

(32) The table of parts for subchapter L of chapter 1 of the 1986 Code is amended by striking out the items relating to parts II, III, and IV and inserting in lieu thereof the following:

"Part II. Other insurance companies.

"Part III. Provisions of general application."

(33) Paragraph (7) of section 6051(a) of the 1986 Code is amended by adding a comma at the end thereof.

(34) Paragraph (14) of section 1114(b) of the Reform Act is amended—

(A) by striking out "section 501(c)(17)" and inserting in lieu thereof "section 501(c)(17)(A)", and

(B) by striking out "duties consists" and inserting in lieu thereof "duties consist".

(35) Subparagraph (C) of section 3121(v)(3) of the 1986 Code is amended by striking out "Saving" and inserting in lieu thereof "Savings".

(36) Paragraph (4) of section 6652(k) of the 1986 Code is amended by striking out "or section 6678" and inserting in lieu thereof "or part II of subchapter B of this chapter".

(37) The table of sections for part I of subchapter N of chapter 1 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 865. Source rules for personal property sales."

(38) The amendment made by section 1221(b)(3)(B) of the Reform Act shall be construed as striking out paragraph (3) of section 954(e) of the 1986 Code.

(39) The heading of section 861(a)(6) of the 1986 Code is amended by striking out "personal property" and inserting in lieu thereof "inventory property".

(40) Subsection (a) of section 1296 of the 1986 Code is amended by inserting a comma after "this subpart".

(41) Subsection (b) of section 7703 of the 1986 Code is amended by striking out "section 151(e)(3)" and inserting in lieu thereof "section 151(c)(3)".

(42) Paragraph (3) of section 1404(c) of the Reform Act is amended by striking out "section 6601" and inserting in lieu thereof "section 6601(b)".

(43) Subsection (a) of section 2611 of the 1986 Code is amended by striking out "mean" and inserting in lieu thereof "means".

(44) Subparagraph (D) of section 3406(h)(5) of the 1986 Code is amended by adding a period at the end thereof.

(45) The table of sections for part III of subchapter C of chapter 76 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 7475. Practice fee."

(46) The paragraph added to section 1276(b) of the 1986 Code by section 1803(a)(13)(A)(iii) of the Reform Act is amended—

(A) by inserting "(3)" before "SPECIAL" in the paragraph heading,

(B) by inserting a 1 em dash after "PAYMENTS." in the heading, and

(C) by adding a period at the end thereof.

(47) Subparagraph (C) of section 809(d)(4) of the 1986 Code is amended by striking out "the Secretary—" and inserting in lieu thereof "The Secretary—".

(48) Subsection (f) of section 7872 of the 1986 Code is amended by redesignating the paragraph (11) added by section 1854 of the Reform Act as paragraph (12).

(49) Paragraph (5) of section 7611(i) of the 1986 Code is amended by striking out "the title" and inserting in lieu thereof "this title".

(50) Section 13303(a) of Public Law 99-272 is amended (in the matter proposed to be inserted in section 3306(c) of the Internal Revenue Code of 1954), effective as of the date of its enactment, by inserting a comma immediately after "1988".

(51) Subsection (f) of section 6511 of the 1986 Code is amended—

(A) by striking out "chapter 42" in the text and inserting in lieu thereof "section 4912, chapter 42,", and

(B) by striking out "CERTAIN CHAPTER 43 TAXES" in the subsection heading and inserting in lieu thereof "SIMILAR TAXES".

(52) Subsection (b) of section 7703 of the 1986 Code is amended by striking out "section 151(e)(3)" and inserting in lieu thereof "section 151(c)(3)".

SEC. 121. EFFECTIVE DATE.

Except as otherwise provided in this title, any amendment made by this title shall take effect as if included in the provision of the Reform Act to which such amendment relates.

TITLE II—AMENDMENTS RELATED TO TAX PROVISIONS IN OTHER LEGISLATION

SEC. 201. AMENDMENTS RELATED TO SUPERFUND REVENUE ACT OF 1986.

(a) AMENDMENTS RELATED TO SECTION 513 OF THE ACT.—

(1) Subsection (e) of section 4662 of the 1986 Code is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) REFUNDS DIRECTLY TO EXPORTER.—The Secretary shall provide, in regulations, the circumstances under which a credit or refund (without interest) of the tax under section 4661 shall be allowed or made to the person who exported the taxable chemical or taxable substance, where—

"(A) the person who paid the tax waives his claim to the amount of such credit or refund, and

"(B) the person exporting the taxable chemical or taxable substance provides such information as the Secretary may require in such regulations."

(2) Subparagraph (A) of section 4662(b)(10) of the 1986 Code is amended by striking out "a mixture of" and inserting in lieu thereof "one or more".

(b) AMENDMENTS RELATED TO SECTION 515 OF THE ACT.—

(1) Subparagraph (B) of section 4672(a)(2) of the 1986 Code is amended by inserting "(or more than 50 percent of the value)" after "more than 50 percent of the weight".

(2) Paragraph (2) of section 4672(a) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"If an importer or exporter of any substance requests that the Secretary determine whether such substance be listed as a taxable substance under paragraph (1) or be removed from such listing, the Secretary shall make such determination within 180 days after the date the request was filed."

(3) Paragraph (4) of section 4672(a) of such Code is amended to read as follows:

"(4) MODIFICATIONS TO LIST.—The Secretary shall add to the list under paragraph (3) substances which meet either the weight or value tests of paragraph (2)(B) and may remove from such list only substances which meet neither of such tests."

(c) AMENDMENTS RELATED TO SECTION 516 OF THE ACT.—

(1) Section 59A of the 1986 Code (relating to environmental tax) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) EXCEPTION FOR RIC'S AND REIT'S.—The tax imposed by subsection (a) shall not apply to—

"(1) a regulated investment company to which part I of subchapter M applies, and

"(2) a real estate investment trust to which part II of subchapter M applies."

(2) Paragraph (1) of section 882(a) of the 1986 Code is amended by inserting "59A," after "55,".

(3)(A) Paragraph (2) of section 59A(b) of the 1986 Code (defining modified alternative minimum taxable income) is amended by striking out "section 164(a)(5)" and inserting in lieu thereof "section 164(a)(6)".

(B) The paragraph (5) of section 164(a) of the 1986 Code added by section 516(b) of the Superfund Revenue Act of 1986 is redesignated as paragraph (6).

(d) AMENDMENTS RELATED TO SECTION 521 OF THE ACT.—

(1)(A) The amendments made by subsections (b)(3) and (d)(17) of section 10502 of the Revenue Act of 1987 shall be treated as if included in the amendments made by section 521 of the Superfund Revenue Act of 1986 except that the last sentence of paragraphs (2) and (3) of section 4041(d) of the Internal Revenue Code of 1986 (as amended by such subsection (b)(3)) and the reference to section 4091 of such Code in section 9508(c)(2)(A) of such Code (as amended by such subsection (d)(1)) shall not apply to sales before April 1, 1988.

(B) Paragraph (2) of section 6416(b) of the 1986 Code is amended by striking out "(or under paragraph (1)(A) or (2)(A) of section 4041(a) or under paragraph (1)(A) or (2)(A) of section 4041(d) or under section 4051)" and inserting in lieu thereof "(or under subsection (a) or (d) of section 4041 in respect of sales or under section 4051)".

(2) Paragraph (3) of section 4041(c) of the 1986 Code is amended by striking out "the rate at which" and inserting in lieu thereof "the Highway Trust Fund financing rate at which".

(3)(A) Subparagraph (A) of section 4041(b)(1) of the 1986 Code is amended by striking out "subsection (a)" and inserting in lieu thereof "subsection (a) or (d)(1)".

(B) Subparagraph (B) of section 4041(b)(1) of the 1986 Code is amended by inserting before the period "and by the corresponding provision of subsection (d)(1)".

(C) Subsection (b) of section 4041 of the 1986 Code is amended by striking out paragraph (3).

(D) Subparagraph (A) of section 4041(b)(2) of the 1986 Code is amended to read as follows:

"(A) IN GENERAL.—In the case of any qualified methanol or ethanol fuel—

"(i) subsection (a)(2) shall be applied by substituting '3 cents' for '9 cents', and

"(ii) subsection (d)(1) shall be applied by substituting '0.05 cent' for '0.1 cent' with respect to the sales and uses to which clause (i) applies."

(E) Subsection (f) of section 6421 of the 1986 Code is amended by striking out all that follows paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(2) GASOLINE USED IN AVIATION.—This section shall not apply in respect of gasoline which is used as a fuel in an aircraft—

"(A) in noncommercial aviation (as defined in section 4041(c)(4)), or

"(B) in aviation which is not noncommercial aviation (as so defined) with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate.

"(3) LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAX ON GASOLINE USED IN TRAINS.—This section shall not apply with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate on gasoline used as a fuel in a train."

(F) The second sentence of section 6421(a) of the 1986 Code is amended by striking out "paragraph (3) of subsection (e)" and inserting in lieu thereof "paragraph (2) of subsection (f)".

(4)(A) Paragraph (1) of section 1703(f) of the Reform Act (relating to floor stock taxes) is amended by striking out "9 cents" and inserting in lieu thereof "9.1 cents".

(B) Paragraph (4) of section 1703(f) of the Reform Act is amended to read as follows:

"(4) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this section shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

"(A) at the Highway Trust Fund financing rate under such section to the extent of 9 cents per gallon, and

"(B) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cent per gallon."

(5)(A) Paragraph (1) of section 4081(c) of the 1986 Code, as amended by section 1703 of the Reform Act, is amended by inserting "and by substituting '⅝ cent' for '0.1 cent'" before "in the case of the removal".

(B) The last sentence of section 4081(c)(2) of the 1986 Code, as amended by such section 1703, is amended by striking out "5⅝ cents a gallon" and inserting in lieu thereof "reduced by the amount of tax imposed (and not credited or refunded) on any prior removal or sale of such fuel".

(6)(A) Paragraph (1) of section 4091(c) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"In the case of a sale described in subparagraph (B), the Leaking Underground Storage Tank Trust Fund financing rate shall be ⅛ cent per gallon."

(B) Paragraph (4) of section 4091(b) of the 1986 Code is amended by inserting "except as provided in subsection (c)," after "paragraph (1),".

(C) The last sentence of section 4091(c)(2) of the 1986 Code is amended by striking out "5 cents a gallon" and inserting in lieu thereof "reduced by the amount of tax imposed (and not credited or refunded) on any prior sale of such fuel".

(D) The amendments made by this paragraph shall take effect as if included in the amendments made by section 10502 of the Revenue Act of 1987.

(7)(A) The amendment made by section 10502(c)(4) of the Revenue Act of 1987 shall be treated as if included in the amendments made by section 1703 of the Reform Act except that references to section 4091 of the Internal Revenue Code of 1986 shall not apply to sales before April 1, 1988.

(B) Subparagraph (A) of section 6427(f)(1) of the 1986 Code is amended—

(i) by striking out "regular Highway Trust Fund financing rate" each place it appears and inserting in lieu thereof "regular tax rate", and

(ii) by striking out "incentive Highway Trust Fund financing rate" and inserting in lieu thereof "incentive tax rate".

(C) Subparagraph (B) of section 6427(g)(1) of the 1986 Code is amended to read as follows:

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) REGULAR TAX RATE.—The term 'regular tax rate' means—

"(I) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof, and

"(II) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof.

"(ii) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

"(I) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof, and

"(II) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof."

(D) Paragraph (2) of section 6427(l) of the 1986 Code is amended by inserting "under section 4041" after "exempt".

(E) The amendments made by this paragraph shall take effect as if included in the amendments made by section 10502 of the Revenue Act of 1987.

(e) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect as if included in the provision of the Superfund Revenue Act of 1986 to which it relates.

SEC. 202. AMENDMENTS RELATED TO HARBOR MAINTENANCE REVENUE ACT OF 1986.

(a) ORDER OF ENACTMENTS.—

(1) For purposes of section 4042 of the 1986 Code, the amendment made by section 521(a)(3) of the Superfund Revenue Act of 1986 shall be treated as enacted after the amendment made by section 1404(a) of the Harbor Maintenance Revenue Act of 1986.

(2) Paragraph (2) of section 4042(b) of the 1986 Code is amended to read as follows:

"(2) RATES.—For purposes of paragraph (1)—

"(A) The Inland Waterways Trust Fund financing rate is the rate determined in accordance with the following table:

If the use occurs:	The tax per gallon is:
Before 1990	10 cents
During 1990	11 cents
During 1991	13 cents
During 1992	15 cents
During 1993	17 cents
During 1994	19 cents
After 1994	20 cents.

"(B) The Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent per gallon."

(b) CARGO TRANSPORTED BETWEEN POSSESSIONS, ETC.—Subparagraph (B) of section 4462(b)(1) of the 1986 Code is amended to read as follows:

"(B) cargo loaded on a vessel in Alaska, Hawaii, or any possession of the United States for transportation to the United States mainland, Alaska, Hawaii, or such a possession for ultimate use or consumption in the United States mainland, Alaska, Hawaii, or such a possession,".

(c) DELAY IN DUE DATE FOR STUDY OF CARGO DIVERSION.—Section 1407 of the Harbor Maintenance Revenue Act of 1986 is amended by striking out "1 year from the date of the enactment of this Act" and inserting in lieu thereof "October 1, 1988".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provision of the Harbor Maintenance Revenue Act of 1986 to which it relates.

SEC. 203. AMENDMENTS RELATED TO OMNIBUS BUDGET RECONCILIATION ACT OF 1986.

(a) AMENDMENT RELATED TO SECTION 1011 OF THE ACT.—

(1) Subparagraph (B) of section 501(c)(12) of the 1986 Code is amended by striking out "or" at the end of clause (ii), by striking out the period at the end of clause (iii), and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(iv) from the prepayment of a loan under section 306A, 306B, or 311 of the Rural Electrification Act of 1936 (as in effect on January 1, 1987)."

(2) Subparagraph (C) of section 501(c)(12) of the 1986 Code is amended to read as follows:

"(C) In the case of a mutual or cooperative electric company, subparagraph (A) shall be applied without taking into account any income received or accrued—

"(i) from qualified pole rentals, or

"(ii) from the prepayment of a loan under section 306A, 306B, or 311 of the Rural Electrification Act of 1936 (as in effect on January 1, 1987)."

(3) The amendments made by this subsection shall apply to taxable years ending after the date of the enactment of the Omnibus Budget Reconciliation Act of 1986.

(b) AMENDMENTS RELATED TO SECTION 8011 OF THE ACT.—

(1) The following provisions of the 1986 Code are each amended by striking out "the 14th day after the date on which" and inserting in lieu thereof "the 14th day after the last day of the semimonthly period during which":

(A) Subparagraphs (A) and (B) of section 5061(d)(2).

(B) Paragraph (3) of section 5061(d).

(C) Clauses (i) and (ii) of section 5703(b)(2)(B).

(D) Subparagraph (C) of section 5703(b)(2).

(2) The amendments made by paragraph (1) shall take effect as if included in the amendments made by section 8011 of the Omnibus Budget Reconciliation Act of 1986.

(c) AMENDMENT RELATED TO SECTION 8041 OF THE ACT.—

(1) IN GENERAL.—Paragraph (3) of section 901(j) of the 1986 Code is amended—

(A) by striking out "Section 275" and inserting in lieu thereof "Sections 275 and 78", and

(B) by inserting ", ETC." after "DEDUCTION" in the paragraph heading.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 1987.

(d) AMENDMENT RELATED TO SECTION 9002 OF THE ACT.—Paragraph (3) of section 3509(d) of the 1986 Code is amended by striking out "subsection (d)(3)" and inserting in lieu thereof "subsection (d)(4)".

SEC. 204. AMENDMENTS RELATED TO THE REVENUE ACT OF 1987.

(a) AMENDMENT RELATED TO SECTION 10101 OF THE ACT.—Section 10101(b) of the Revenue Act of 1987 is amended to read as follows:

"(b) EFFECTIVE DATE.—

"(1) IN GENERAL.—The amendment made by subsection (a) shall apply to expenses paid in taxable years beginning after December 31, 1987.

"(2) SPECIAL RULE FOR CAFETERIA PLANS.—For purposes of section 125 of the Internal Revenue Code of 1986, a plan shall not be treated as failing to be a cafeteria plan solely because under the plan a participant elected before January 1, 1988, to receive reimbursement under the plan for dependent care assistance for periods after December 31, 1987, and such assistance included reimbursement for expenses at a camp where the dependent stays overnight."

(b) AMENDMENTS RELATED TO SECTION 10102 OF THE ACT.—

(1) Subsection (h) of section 163 of the 1986 Code is amended by redesignating paragraph (6) as paragraph (5).

(2) Clause (ii) of section 56(b)(1)(C) of the 1986 Code is amended by striking out "163(h)(6)" and inserting in lieu thereof "163(h)(5)".

(3) Paragraph (1) of section 56(e) of the 1986 Code is amended—

(A) by striking out "substantially rehabilitating" and inserting in lieu thereof "substantially improving", and

(B) by striking out "or is paid" in subparagraph (A).

(c) AMENDMENT RELATED TO SECTION 10103.—Paragraph (1) of section 10103(a) of the Revenue Act of 1987 is amended by inserting "in a plan established for its employees by the United States" after "participant".

(d) AMENDMENTS RELATED TO SECTION 10202 OF THE ACT.—

(1) Subparagraph (A) of section 453(l)(1) of the 1986 Code, is amended by striking out "disposes of personal property" and inserting in lieu thereof "disposes of personal property of the same type".

(2) Section 453A of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations—

"(1) disallowing the use of the installment method in whole or in part for transactions in which the rules of this section otherwise would be avoided through the use of related persons, pass-thru entities, or intermediaries, and

"(2) providing that the sale of an interest in a partnership or other pass-thru entity will be treated as a sale of the proportionate share of the assets of the partnership or other entity."

(3) Paragraph (3) of section 10202(e) of the Revenue Act of 1987 is amended by adding at the end thereof the following new subparagraph:

"(C) CERTAIN DISPOSITIONS DEEMED MADE ON 1ST DAY OF TAXABLE YEAR.—If the taxpayer makes an election under subparagraph (A), in the case of the taxpayer's 1st taxable year ending after December 31, 1986—

"(i) dispositions after August 16, 1986, and before the 1st day of such taxable year shall be treated as made on such 1st day, and

"(ii) subsections (b)(2)(B) and (c)(4) of section 453A of such Code shall be applied separately with respect to such dispositions by substituting for '$5,000,000' the amount which bears the same ratio to $5,000,000 as the number of days after August 16, 1986, and before such 1st day bears to 365."

(4) Paragraph (2) of section 10202(e) of the Revenue Act of 1987 is amended by adding at the end thereof the following new subparagraph:

"(C) CERTAIN RULES MADE APPLICABLE.—For purposes of this paragraph, rules similar to the rules of paragraphs (4) and (5) of section 812(c) of the Tax Reform Act of 1986 (as added by the Miscellaneous Revenue Act of 1988) shall apply."

(5) Subsection (k) of section 453 of the 1986 Code is amended by striking out "and section 453A".

(6) Subparagraph (A) of section 10202(e)(2) of the Revenue Act of 1987 is amended by striking out "section 453A of the Internal Revenue Code of 1986" and inserting in lieu thereof "section 453(l)(1) of the Internal Revenue Code of 1986 as added by this section".

(7) Paragraph (2) of section 453A(b) of the 1986 Code is amended by striking out "for purposes of this paragraph" and inserting in lieu thereof "for purposes of this paragraph and subsection (c)(4)".

(8) Paragraph (3) of section 453A(b) of the 1986 Code is amended to read as follows:

"(3) EXCEPTION FOR FARM PROPERTY.—An installment obligation shall not be treated as described in paragraph (1) if it arises from the disposition of any property used or produced in the trade or business of farming (within the meaning of section 2032A(e) (4) or (5)."

(e) AMENDMENTS RELATED TO SECTION 10206 OF THE ACT.—

(1)(A) Subsection (a) of section 444 of the 1986 Code is amended by striking out "as provided in subsections (b) and (c)" and inserting in lieu thereof "as otherwise provided in this section".

(B) Paragraph (3) of section 444(d) of the 1986 Code is amended to read as follows:

"(3) TIERED STRUCTURES, ETC.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph—

"(i) no election may be under subsection (a) with respect to any entity which is part of a tiered structure, and

"(ii) an election under subsection (a) with respect to any entity shall be terminated if such entity becomes part of a tiered structure.

"(B) EXCEPTIONS FOR STRUCTURES CONSISTING OF CERTAIN ENTITIES WITH SAME TAXABLE YEAR.—Subparagraph (A) shall not apply to any tiered structure which consists only of partnerships or S corporations (or both) all of which have the same taxable year."

(C) Subparagraph (B) of section 444(d)(2) of the 1986 Code is amended by striking out "under subparagraph (A)" and inserting in lieu thereof "under subparagraph (A) or paragraph (3)(A)".

(2)(A) Section 444 of the 1986 Code is amended by redesignating subsection (f) as subsection (g) and inserting after subsection (e) the following new subsection:

"(f) PERSONAL SERVICE CORPORATION.—For purposes of this section, the term 'personal service corporation' has the meaning given to such term by section 441(i)(2)."

(B) Subsection (f) of section 280H of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) PERSONAL SERVICE CORPORATION.—The term 'personal service corporation' has the meaning given to such term by section 441(i)(2)."

(3) Paragraph (2) of section 280H(f) of the 1986 Code is amended by striking out "section 296A(b)(2)" and inserting in lieu thereof "section 269A(b)(2) (as modified by section 441(i)(2))".

(4)(A) Paragraph (2) of section 7519(b) of the 1986 Code is amended to read as follows:

"(2) the net required payment balance."

(B) Subsection (e) of section 7519 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) NET REQUIRED PAYMENT BALANCE.—The term 'net required payment balance' means the excess (if any) of—

"(A) the aggregate of the required payments under this section for all preceding applicable election years, over

"(B) the aggregate amount allowable as a refund to the entity under subsection (c) for all preceding applicable election years."

(5) Subsection (c) of section 7519 of the 1986 Code is amended to read as follows:

"(c) REFUND OF PAYMENTS.—

"(1) IN GENERAL.—If, for any applicable election year, the amount determined under subsection (b)(2) exceeds the amount determined under subsection (b)(1), the entity shall be entitled to a refund of such excess for such year.

"(2) TERMINATION OF ELECTIONS, ETC.—If—

"(A) an election under section 444 is terminated effective with respect to any year, or

"(B) the entity is liquidated during any year, the entity shall be entitled to a refund of the net required payment balance.

"(3) DATE ON WHICH REFUND PAYABLE.—Any refund under this subsection shall be payable on later of—

"(A) April 15 of the calendar year following the calendar year in which the year referred to in paragraph (1) or (2) ends; or

"(B) the day 90 days after the day on which claim therefor is filed with the Secretary."

(6) Subsection (g) of section 7519 of the 1986 Code is amended by striking out "including regulations" and all that follows down through the period at the end thereof and inserting in lieu thereof

"including regulations providing for appropriate adjustments in the application of this section and sections 280H and 444 in cases where—

"(1) 2 or more applicable election years begin in the same calendar year, or

"(2) the base year is a taxable year of less than 12 months."

(7) Subparagraph (B) of section 7519(d)(2) of the 1986 Code is amended by inserting before the period at the end thereof the following: "(and such corporation shall be treated as an S corporation for such taxable year for purposes of paragraph (3))".

(8) Subsection (d) of section 7519 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF GUARANTEED PAYMENTS.—

"(A) IN GENERAL.—Any guaranteed payment by a partnership shall not be treated as an applicable payment, and the amount of the net income of the partnership shall be determined by not taking such guaranteed payment into account.

"(B) GUARANTEED PAYMENT.—For purposes of subparagraph (A), the term 'guaranteed payment' means any payment referred to in section 707(c)."

(9) Paragraph (4) of section 7519(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding provisions of this paragraph, for taxable years beginning after 1987, the applicable percentage for any partnership or S corporation shall be 100 percent if more than 50 percent of such entity's net income for the short taxable year which would have resulted if the entity had not made an election under section 444 would have been allocated to partners or shareholders who would not have been entitled to the benefits of section 806(e)(2)(C) of the Tax Reform Act of 1986 with respect to such income."

(10) Subparagraphs (A) and (B) of section 7519(d)(2) of the 1986 Code are each amended by striking out "(other than credits)" and inserting in lieu thereof "(other than credits and tax-exempt income)".

(11) Paragraph (4) of section 10206(d) of the Revenue Act of 1987 is amended by adding at the end thereof the following new sentence: "The preceding sentence shall apply only in the case of an election under section 444 of such Code made for a taxable year beginning before 1989."

(12) Subparagraph (A) of section 444(d)(2) of the 1986 Code is amended by inserting "or otherwise terminates such election" before the period at the end of the first sentence thereof.

(13) Paragraph (4) of section 444(b) of the 1986 Code is amended by striking out "the term" and inserting in lieu thereof "except as provided in regulations, the term".

(14)(A) Paragraph (4) of section 280H(f) of the 1986 Code is amended to read as follows:

"(4) ADJUSTED TAXABLE INCOME.—The term 'adjusted taxable income' means taxable income determined without regard to—

"(A) any amount paid to an employee-owner which is includible in the gross income of such employee-owner, and

"(B) any net operating loss carryover to the extent such carryover is attributable to amounts described in subparagraph (A)."

(B) Subparagraph (A) of section 7519(d)(3) of the 1986 Code is amended by striking out "or incurred".

(C) Subsections (c)(1)(A)(i) and (d)(1) of section 280H of the 1986 Code are each amended by striking out "or incurred".

(f) AMENDMENTS RELATED TO SECTION 10211 OF THE ACT.—

(1) Paragraph (4) of section 7704(e) of the 1986 Code is amended by striking out "as may be required" and inserting in lieu thereof "or to pay such amounts as may be required".

(2) Paragraph (2) of section 10211(c) of the Revenue Act of 1987 is amended by adding at the end thereof the following new subparagraph:

"(C) COORDINATION WITH PASSIVE-TYPE INCOME REQUIREMENTS.—In the case of an existing partnership, paragraph (1) of section 7704(c) of the Internal Revenue Code of 1986 (as added by this section) shall be applied by substituting for 'December 31, 1987' the earlier of—

"(i) December 31, 1997, or

"(ii) the day (if any) as of which such partnership ceases to be treated as an existing partnership by reason of subparagraph (B)."

(3) Paragraph (1) of section 7704(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, a partnership shall not be treated as being in existence during any period before the 1st taxable year in which such partnership (or a predecessor) was a publicly traded partnership."

(4) Paragraph (1) of section 7704(d) of the 1986 Code is amended—

(A) by striking out "mineral or natural resource" in subparagraph (E) and inserting in lieu thereof "depletable product", and

(B) by adding at the end thereof the following new sentence:

"For purposes of subparagraph (E), the term 'depletable product' means any product of a character with respect to which a deduction for depletion is allowable under section 613, and oil, gas, and timber."

(5) Paragraph (3) of section 7704(d) of the 1986 Code is amended to read as follows:

"(3) REAL PROPERTY RENT.—The term 'real property rent' means amounts which would qualify as rent from real property under section 856(d) if—

"(A) such section were applied without regard to paragraph (2)(C) thereof (relating to independent contractor requirements), and

"(B) stock owned, directly or indirectly, by or for a partner would not be considered as owned under section 318(a)(3)(A) by the partnership unless 5 percent or more (by value) of the interests in such partnership are owned, directly or indirectly, by or for such partner."

(g) AMENDMENT RELATED TO SECTION 10212 OF THE ACT.—Subsection (k) of section 469 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) COORDINATION WITH SUBSECTION (g).—For purposes of subsection (g), a taxpayer shall not be treated as having disposed of his entire interest in an activity of a publicly traded partnership until he disposes of his entire interest in such partnership."

(h) AMENDMENTS RELATED TO SECTION 10214 OF THE ACT.—

(1) Subparagraph (E) of section 514(c)(9) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(iii) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subparagraph, including regulations which may provide for exclusion or segregation of items."

(2) Clause (i) of section 514(c)(9)(E) of the 1986 Code is amended by striking out subclause (I) and by redesignating subclauses (II) and (III) as subclauses (I) and (II), respectively.

(i) AMENDMENTS RELATED TO SECTION 10221 OF THE ACT.—

(1) Paragraph (2) of section 10221(e) of the Revenue Act of 1987 is amended by striking out "amendments made by subsection (b)" and inserting in lieu thereof "amendments made by subsection (c)".

(2) Subsection (b) of section 244 of the 1986 Code is amended by striking out "section 243(c)(4)" and inserting in lieu thereof "section 243(d)(4)".

(j) AMENDMENTS RELATED TO SECTION 10222 OF THE ACT.—

(1)(A) Paragraph (1) of section 1503(e) of the 1986 Code is amended by striking out so much of such paragraph as precedes subparagraph (A) thereof and inserting in lieu thereof the following:

"(1) IN GENERAL.—Solely for purposes of determining gain or loss on the disposition of intragroup stock and the amount of any inclusion by reason of an excess loss account, in determining the adjustments to the basis of such intragroup stock on account of the earnings and profits of any member of an affiliated group for any consolidated year (and in determining the amount in such account)—"

(B) Paragraph (2) of section 10222(a) of the Revenue Act of 1987 is amended by adding at the end thereof the following new subparagraph:

"(C) TREATMENT OF CERTAIN EXCESS LOSS ACCOUNTS.—

"(i) IN GENERAL.—If—

"(I) any disposition on or before December 15, 1987, of stock resulted in an inclusion of an excess loss account (or would have so resulted if the amendments made by paragraph (1) had applied to such disposition), and

"(II) there is an unrecaptured amount with respect to such disposition,

the portion of such unrecaptured amount allocable to stock disposed of in a disposition to which the amendment made by paragraph (1) applies shall be taken into account as negative basis. To the extent permitted by the Secretary of the Treasury or his delegate, the preceding sentence shall not apply to the extent the taxpayer elects to reduce its basis in indebtedness of the corporation with respect to which there would have been an excess loss account.

"(ii) SPECIAL RULES.—For purposes of this subparagraph—

"(I) UNRECAPTURED AMOUNT.—The term 'unrecaptured amount' means the amount by which the inclusion referred to in clause (i)(I) would have been increased if the amendment made by paragraph (1) and applied to the disposition.

"(II) COORDINATION WITH BINDING CONTRACT EXCEPTION.—A disposition shall be treated as occurring on or before December 15, 1987, if the amendment made by paragraph (1) does not apply to such disposition by reason of subparagraph (B)."

(2) Subsection (e) of section 1503 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) ADJUSTMENTS.—Under regulations prescribed by the Secretary, proper adjustments shall be made in the application of paragraph (1)—

"(A) in the case of any property acquired by the corporation before consolidation, for the difference between the adjusted basis of such property for purposes of computing taxable income and its adjusted basis for purposes of computing earnings and profits, and

"(B) in the case of any property, for any basis adjustment under section 48(q)."

(3)(A) Paragraph (2) of section 1503(e) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) APPLICATION OF SECTION 312(n)(7) NOT AFFECTED.—The reference in paragraph (1) to subsection (n) of section 312 shall be treated as not including a reference to paragraph (7) of such subsection."

(B) Subsection (e) of section 301 of the 1986 Code (as redesignated by section 106(e)(12) of this Act) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) APPLICATION OF SECTION 312(n)(7) NOT AFFECTED.—The reference in paragraph (1) to subsection (n) of section 312 shall be treated as not including a reference to paragraph (7) of such subsection."

(4) Subparagraph (B) of section 10222(b)(2) of the Revenue Act of 1987 is amended to read as follows:

"(B) EXCEPTION.—The amendment made by paragraph (1) shall not apply for purposes of determining gain or loss on any disposition of stock after December 15, 1987, and before January 1, 1989, if such disposition is pursuant to a written binding contact, governmental order, letter of intent or preliminary agreement, or stock acquisition agreement, in effect on or before December 15, 1987."

(k) AMENDMENTS RELATED TO SECTION 10223 OF THE ACT.—

(1) Subparagraph (D) of section 355(b)(2) of the 1986 Code is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) was not acquired by any distributee corporation directly (or through 1 or more corporations, whether through the distributing corporation or otherwise) within the period described in subparagraph (B) and was not acquired by the distributing corporation directly (or through 1 or more corporations) within such period, or

"(ii) was so acquired by any such corporation within such period, but, in each case in which such control was so acquired, it was so acquired, only by reason of transactions in which gain or loss was not recognized in whole or in part, or only by reason of such transactions combined with acquisitions before the beginning of such period."

(2) Subparagraph (A) of section 304(b)(4) of the 1986 Code is amended by striking out "stock of 1 member" and inserting in lieu thereof "stock from 1 member".

(3) Paragraph (2) of section 10223(d) of the Revenue Act of 1987 is amended by adding at the end thereof the following new subparagraph:

"(D) TREATMENT OF CERTAIN MEMBERS OF AFFILIATED GROUP.—

"(i) IN GENERAL.—For purposes of subparagraph (A), all distributees which were in existence on the designated date and were members of the same affiliated group on such date shall be treated as 1 distributee.

"(ii) LIMITATION TO STOCK HELD ON DESIGNATED DATE.—Clause (i) shall not exempt any distribution from the amendments made by this section if such distribution is with respect to stock not held by the distributee (determined without regard to clause (i)) on the designated date, directly or indirectly, through a corporation which goes out of existence in the transaction.

"(iii) DESIGNATED DATE.—For purposes of this subparagraph, the term 'designated date' means the later of—

"(I) December 15, 1987, or

"(II) the date on which the acquisition meeting the requirements of subparagraph (A) occurred."

(4) Subparagraph (B) of section 10223(d)(2) of the Revenue Act of 1987 is amended—

(A) by striking out "before January 1, 1993" and inserting in lieu thereof "on or before March 31, 1988", and

(B) by striking out "before January 1, 1989,".

(l) AMENDMENT RELATED TO SECTION 10224 OF THE ACT.—Sections 1201(a) and 1561(a) of the 1986 Code, and section 904(b)(3)(D)(ii) of the 1986 Code (as amended by section 106(b)(2) of this Act), are each amended by striking out "section 11(b)" and inserting in lieu thereof "section 11(b)(1)".

(m) AMENDMENTS RELATED TO SECTION 10226 OF THE ACT.—

(1)(A) Subsection (a) of section 384 of the 1986 Code is amended to read as follows:

"(a) GENERAL RULE.—If—

"(1)(A) a corporation acquires directly (or through 1 or more other corporations) control of another corporation, or

"(B) the assets of a corporation are acquired by another corporation in a reorganization described in subparagraph (A), (C), or (D) of section 368(a)(1), and

"(2) either of such corporations is a gain corporation,

income for any recognition period taxable year (to the extent attributable to recognized built-in gains) shall not be offset by any preacquisition loss (other than a preacquisition loss of the gain corporation)."

(B) Subsection (c) of section 384 of the 1986 Code is amended by redesignating paragraph (4) as paragraph (8) and by inserting after paragraph (3) the following new paragraphs:

"(4) GAIN CORPORATION.—The term 'gain corporation' means any corporation with a net unrealized built-in gain.

"(5) CONTROL.—The term 'control' means ownership of stock in a corporation which meets the requirements of section 1504(a)(2).

"(6) TREATMENT OF MEMBERS OF SAME GROUP.—Except as provided in regulations and except for purposes of subsection (b), all corporations which are members of the same affiliated group immediately before the acquisition date shall be treated as 1 corporation. To the extent provided in regulations, section 1504 shall be applied without regard to subsection (b) thereof for purposes of the preceding sentence.

"(7) TREATMENT OF PREDECESSORS AND SUCCESSORS.—Any reference in this section to a corporation shall include a reference to any predecessor or successor thereof."

(C) Paragraph (2) of section 384(c) of the 1986 Code is amended to read as follows:

"(2) ACQUISITION DATE.—The term 'acquisition date' means—

"(A) in any case described in subsection (a)(1)(A), the date on which the acquisition of control occurs, or

"(B) in any case described in subsection (a)(1)(B), the date of the transfer in the reorganization."

(D) Paragraph (1) of section 384(c) of the 1986 Code is amended by striking out "subsection (a)(2)" and inserting in lieu thereof "subsection (a)(1)(B)".

(2) Paragraph (2) of section 384(e) of the 1986 Code is amended by striking out "the gain corporation" and inserting in lieu thereof "a corporation".

(3) Subsection (b) of section 384 of the 1986 Code is amended to read as follows:

"(b) EXCEPTION WHERE CORPORATIONS UNDER COMMON CONTROL.—

"(1) IN GENERAL.—Subsection (a) shall not apply to the preacquisition loss of any corporation if such corporation and the gain corporation were members of the same controlled group at all times during the 5-year period ending on the acquisition date.

"(2) CONTROLLED GROUP.—For purposes of this subsection, the term 'controlled group' means a controlled group of corporations (as defined in section 1563(a)); except that—

"(A) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears,

"(B) the ownership requirements of section 1563(a) must be met both with respect to voting power and value, and

"(C) the determination shall be made without regard to subsection (a)(4) of section 1563.

"(3) SHORTER PERIOD WHERE GAIN CORPORATION NOT IN EXISTENCE FOR 5 YEARS.—If the gain corporation was not in existence throughout the 5-year period referred to in paragraph (1), the period during which the gain corporation was in existence shall be substituted for such 5-year period."

(4) Section 384 of the 1986 Code is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ORDERING RULES FOR NET OPERATING LOSSES, ETC.—

"(1) CARRYOVER RULES.—If any preacquisition loss may not offset a recognized built-in gain by reason of this section, such gain shall not be taken into account in determining under section 172(b)(2) the amount of such loss which may be carried to other taxable years. A similar rule shall apply in the case of any excess credit or net capital loss limited by reason of subsection (d).

"(2) ORDERING RULE FOR LOSSES CARRIED FROM SAME TAXABLE YEAR.—In any case in which—

"(A) a preacquisition loss for any taxable year is subject to limitation under subsection (a), and

"(B) a net operating loss from such taxable year is not subject to such limitation,

taxable income shall be treated as having been offset 1st by the loss subject to such limitation."

(5) In any case where the acquisition date (as defined in section 384(c)(2) of the 1986 Code as amended by this subsection) is before March 31, 1988, the acquiring corporation may elect to have the amendments made by this subsection not apply. Such an election shall be made in such manner as the Secretary of the Treasury or his delegate shall prescribe and shall be made not later than the later of the due date (including extensions) for filing the return for the taxable year of the acquiring corporation in which the acquisition date occurs or the date 120 days after the date of the enactment of this Act. Such an election, once made, shall be irrevocable.

(n) AMENDMENTS RELATED TO SECTION 10227 OF THE ACT.—Paragraph (4) of section 1363(d) of the 1986 Code (relating to recapture of LIFO benefits) is amended by adding at the end thereof the following new subparagraph:

"(D) NOT TREATED AS MEMBER OF AFFILIATED GROUP.—Except as provided in regulations, the corporation referred to in paragraph (1) shall not be treated as a member of an affiliated group with respect to the amount included in gross income under paragraph (1)."

(o) AMENDMENTS RELATED TO SECTION 10228 OF THE ACT.—

(1)(A) Subsection (a) of section 5881 of the 1986 Code is amended by striking out "gain realized by such person on such receipt" and inserting in lieu thereof "gain or other income of such person by reason of such receipt".

(B)(i) Subsection (b) of section 5881 of the 1986 Code is amended by striking out "a corporation to directly or indirectly acquire its stock" and inserting in lieu thereof "a corporation (or any person acting in concert with such corporation) to directly or indirectly acquire stock of such corporation".

(ii) The amendment made by clause (i) shall apply to transactions occurring on or after March 31, 1988.

(C) Subsection (d) of section 5881 of the 1986 Code is amended—

(i) by striking out "the gain" and inserting in lieu thereof "the gain or other income", and

(ii) by striking out "GAIN RECOGNIZED" in the subsection heading and inserting in lieu thereof "AMOUNT RECOGNIZED".

(2) Section 5881 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) ADMINISTRATIVE PROVISIONS.—For purposes of the deficiency procedures of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A."

(p) AMENDMENTS RELATED TO SECTION 10241 OF THE ACT.—

(1) Paragraph (1) of section 811(d) of the 1986 Code is amended by striking out "the prevailing State assumed interest rate for the contract" and inserting in lieu thereof "the greater of the prevailing State assumed interest rate or applicable Federal interest rate in effect under section 807 for the contract".

(2) Paragraph (2) of section 812(b) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following:

"In any case where neither the prevailing State assumed interest rate nor the applicable Federal interest rate is used, another appropriate rate shall be used for purposes of subparagraph (A)."

(q) AMENDMENTS RELATED TO SECTION 10242 OF THE ACT.—

(1) Subsection (h) of section 816 of the 1986 Code is amended by striking out "section 842(c)(1)(A)" and inserting in lieu thereof "section 842(b)(2)(B)(i)".

(2)(A) Subparagraph (B) of section 842(b)(3) of the 1986 Code is amended by striking out "held for the production of such income".

(B) Subparagraph (B) of section 842(b)(4) of the 1986 Code is amended by striking out "held for the production of investment income".

(3) Subparagraph (d) of section 842 of the 1986 Code is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(4) which may provide that, in the case of companies taxable under part II of this subchapter, determinations under subsection (b) will be made separately for categories of such companies established in such regulations."

(r) AMENDMENT RELATED TO SECTION 10301 OF THE ACT.—Paragraph (3) of section 6655(g) of the 1986 Code is amended by striking the sentence following subparagraph (C) and inserting in lieu thereof the following:

"In the case of any organization described in subparagraph (A), subsection (b)(2)(A) shall be applied by substituting '5th month' for '3rd month', and subsection (e)(2)(A) shall be applied by substituting '2 months' for '3 months' and in clause (i)(I), by substituting '4 months' for '5 months' in clause (i)(II), by substituting '7 months' for '8 months' in clause (i)(III), and by substituting '10 months' for '11 months' in clause (i)(IV).".

(s) AMENDMENTS RELATED TO SECTION 10402 OF THE ACT.—

(1)(A) Paragraph (4) of section 2036(c) of the 1986 Code is amended to read as follows:

"(4) TREATMENT OF CERTAIN TRANSFERS.—

"(A) IN GENERAL.—For purposes of this subtitle, if, before the death of the original transferor—

"(i) the original transferor transfers all (or any portion of) the retained interest referred to in paragraph (1), or

"(ii) the original transferee transfers all (or any portion of) the transferred property referred to in paragraph (1) to a person who is not the original transferor or a member of the original transferor's family,

the original transferor shall be treated as having made a transfer by gift of property to the original transferee equal to the paragraph (1) inclusion (or proportionate amount thereof). Proper adjustments shall be made in the amount treated as a gift by reason of the preceding sentence to take into account prior transfers to which this subparagraph applied.

"(B) COORDINATION WITH PARAGRAPH (1).—In any case to which subparagraph (A) applies, nothing in paragraph (1) or section 2035(d)(2) shall require the inclusion of the transferred property (or proportionate amount thereof).

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) ORIGINAL TRANSFEROR.—The term 'original transferor' means the person making the transfer referred to in paragraph (1).

"(ii) ORIGINAL TRANSFEREE.—The term 'original transferee' means the person to

whom the transfer referred to in paragraph (1) is made. Such term includes any member of the original transferor's family to whom the property is subsequently transferred.

"(iii) PARAGRAPH (1) INCLUSION.—The term 'paragraph (1) inclusion' means the amount which would have been included in the gross estate of the original transferor under subsection (a) by reason of paragraph (1) (determined without regard to sections 2032 and 2032A) if the original transferor died immediately before the transfer referred to in subparagraph (A). The amount determined under the preceding sentence shall be reduced by the amount (if any) of the taxable gift resulting from the transfer referred to in paragraph (1)(B).

"(iv) TRANSFERS TO INCLUDE TERMINATIONS, ETC.—Terminations, lapses, and other changes in any interest in property of the original transferor or original transferee shall be treated as transfers.

"(D) CONTINUING INTEREST IN TRANSFERRED PROPERTY MAY NOT BE RETAINED.—A transfer (to which subparagraph (A) would otherwise apply) shall not be taken into account under subparagraph (A) if the original transferor or the original transferee (as the case may be) retains a direct or indirect continuing interest in the property transferred in such transfer.".

(B) Subsection (d) of section 2501 of the 1986 Code is amended by adding at the end thereof the following:

"(3) For treatment of certain transfers related to estate tax valuation freezes as gifts to which this chapter applies, see section 2036(c)(4)."

(C) The amendments made by this paragraph shall apply in case where the transfer referred to in section 2036(c)(1)(B) of the 1986 Code is on or after June 21, 1988.

(2) Subsection (c) of section 2036 of the 1986 Code is amended by adding at the end thereof the following new paragraphs:

"(6) EXCEPTIONS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to a transaction solely by reason of 1 or more of the following:

"(i) The receipt (or retention) of qualified debt.

"(ii) Except as provided in regulations, the existence of an agreement for the sale or lease of goods or other property to be used in the enterprise or the providing of services and—

"(I) the agreement is an arm's length agreement for fair market value, and

"(II) the agreement does not otherwise involve any change in interests in the enterprise.

"(iii) An option or other agreement to buy or sell property at the fair market value of such property as of the time the option is (or the rights under the agreement are) exercised.

"(B) LIMITATIONS.—

"(i) SERVICES PERFORMED AFTER TRANSFER.—In the case of compensation for services performed after the transfer referred to in paragraph (1)(B), clause (ii) of subparagraph (A) shall not apply if such services were performed under an agreement providing for the performance of services over a period greater than 3 years after the date of the transfer. For purposes of the preceding sentence, the term of any agreement includes any period for which the agreement may be extended at the option of the service provider.

"(ii) AMOUNTS MUST NOT BE CONTINGENT ON PROFITS, ETC.—Clause (ii) of subparagraph (A) shall not apply to any amount determined (in whole or in part) by reference to gross receipts, income, profits, or similar items of the enterprise.

"(C) QUALIFIED DEBT.—For purposes of this paragraph, except as provided in subparagraph (D), the term "qualified debt' means any indebtedness if—

"(i) such indebtedness—

"(I) unconditionally requires the payment of a sum certain in money in 1 or more fixed payments on specified dates, and

"(II) has a fixed maturity date not more than 15 years from the date of issue,

"(ii) the only other amount payable under such indebtedness is interest determined at—

"(I) a fixed rate, or

"(II) a rate which bears a fixed relationship to a specified market interest rate,

"(iii) the interest payment dates are fixed,

"(iv) such indebtedness is not by its terms subordinated to the claims of general creditors,

"(v) such indebtedness does not grant voting rights to the person to whom the debt is owed or place any limitation (other than in a case where the indebtedness is in default as to interest or principal) on the exercise of voting rights by others, and

"(vi) such indebtedness—

"(I) is not (directly or indirectly) convertible into an interest in the enterprise which would not be qualified debt, and

"(II) does not otherwise grant any right to acquire such an interest.

The requirement of clause (i)(I) that the principal be payable on 1 or more specified dates and the requirement of clause (i)(II) shall not apply to indebtedness payable on demand if such indebtedness is issued in return for cash to be used to meet normal business needs of the enterprise.

"(D) SPECIAL RULE FOR STARTUP DEBT.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'qualified debt' includes any qualified startup debt.

"(ii) QUALIFIED STARTUP DEBT.—For purposes of clause (i), the term 'qualified startup debt' means any indebtedness if—

"(I) such indebtedness unconditionally requires the payment of a sum certain in money,

"(II) such indebtedness was received in exchange for cash to be used in any enterprise involving the active conduct of a trade or business,

"(III) the person to whom the indebtedness is owed has not at any time (whether before, on, or after the exchange referred to in subclause (II)) transferred any property (including goodwill) which was not cash to the enterprise or transferred customers or other business opportunities to the enterprise,

"(IV) the person to whom the indebtedness is owed has not at any time (whether before, on, or after the exchange referred to in subclause (II)) held any interest in the enterprise (including an interest as an officer, director, or employee) which was not qualified startup debt,

"(V) any person who (but for subparagraph (A)(i)) would have been an original transferee (as defined in paragraph (4)(C)) participates in the active management (as defined in section 2032A(e)(12)) of the enterprise, and

"(VI) such indebtedness meets the requirements of clauses (v) and (vi) of subparagraph (C).

"(7) REGULATIONS.—the Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including such regulations as may be necessary or approriate to prevent avoidance of the purposes of this subsection through distributions or otherwise."

(3) Subparagraph (B) of section 2036(c)(1) of the 1986 Code is amended by striking out "while" and all that follows down through the comma at the end of such subparagraph and inserting in lieu thereof "while retaining an interest in the income of, or rights in, the enterprise,".

(4)(A) Subparagraph (A) of section 2036(c)(3) of the 1986 Code is amended by inserting "(before or after the transfer referred to in paragraph (1)(B))" after "in an enterprise if".

(B) The amendment made by subparagraph (A) shall apply in the case of transfers on or after June 21, 1988.

(5) Subparagraph (C) of section 2036(c)(3) of the 1986 Code is amended by striking out "An individual" and inserting in lieu thereof "Except as provided in regulations, an individual".

(6)(A) Subchapter C of chapter 11 of the 1986 Code is amended by inserting after section 2207A the following new section:

"SEC. 2207B. RIGHT OF RECOVERY WHERE DECEDENT RETAINED INTEREST.

"(a) ESTATE TAX.—

"(1) IN GENERAL.—If any part of the gross estate on which tax has been paid consists of the value of property included in the gross estate by reason of section 2036 (relating to transfers with retained life estate), the decedent's estate shall be entitled to recover from the person receiving the property the amount which bears the same ratio to the total tax under this chapter which has been paid as—

"(A) the value of such property, bears to

"(B) the taxable estate.

"(2) DECEDENT MAY OTHERWISE DIRECT BY WILL.—Paragraph (1) shall not apply if the decedent otherwise directs in a provision of his will specifically referring to this section.

"(b) GIFT TAX.—If for any calendar year tax is paid under chapter 12 with respect to any person by reason of property treated as transferred by such person under section 2036(c)(4), such person shall be entitled to recover from the original transferee (as defined in section 2036(c)(4)(C)(ii)) the amount which bears the same ratio to the total tax for such year under chapter 12 as—

"(1) the value of such property for purposes of chapter 12, bears to

"(2) the total amount of the taxable gifts for such year.

"(c) MORE THAN ONE RECIPIENT.—For purposes of this section, if there is more than 1 person receiving the property, the right of recovery shall be against each such person.

"(d) PENALTIES AND INTEREST.—In the case of penalties and interest attributable to the additional taxes described in subsections (a) and (b), rules similar to the rules of subsections (a), (b), and (c) shall apply."

(B) The table of sections for subchapter C of chapter 11 of the 1986 Code is amended by inserting after the item relating to section 2207A the following new item:

"Sec. 2207B. Right of recovery where decedent retained interest."

(t) AMENDMENTS RELATED TO SECTION 10512 OF THE ACT.—

(1) Section 5276 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(c) EXCEPTION FOR UNITED STATES.—Subsection (a) shall not apply to any permit issued to an agency or instrumentality of the United States."

(2) Subsection (a) of section 5113 of the 1986 Code is amended—

(A) by inserting "taxpaid wine bottling house," after "bonded wine cellar," each place it appears, and

(B) by striking out "DISTILLED SPIRITS PLANTS, BONDED WINE CELLARS, OR BREWERIES" in the heading and inserting in lieu thereof "CONTROLLED PREMISES".

(3) Section 5123 of the 1986 Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) COORDINATION OF TAXES UNDER SECTION 5121.—No tax shall be imposed by section 5121(a) with respect to a person's activities at any place during a year if such person has paid the tax imposed by section 5121(b) with respect to such place for such year."

(u) EFFECTIVE DATE.—Except as otherwise provided in this section, any amendment made by this section shall take effect as if included in the provisions of the Revenue Act of 1987 to which such amendment relates.

SEC. 205. AMENDMENTS RELATED TO PENSION PROTECTION ACT AND FULL FUNDING LIMITATIONS.

(a) AMENDMENT RELATED TO SECTION 9303.—

(1) Section 4972(c) of the 1986 Code is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) SPECIAL RULE FOR SELF-EMPLOYED INDIVIDUALS.—For purposes of paragraph (1), if—

"(A) the amount which is required to be contributed to a plan under section 412 on behalf of an individual who is an employee (within the meaning of section 401(c)(1)), exceeds

"(B) the earned income (within the meaning of section 404(a)(8)) of such individual derived from the trade or business with respect to which such plan is established,

such excess shall be treated as an amount allowable as a deduction under section 404."

(2)(A) Subparagraph (C) of section 412(1)(3) of the 1986 Code is amended—

(i) by striking out "October 17, 1987" in clause (i) and inserting in lieu thereof "October 29, 1987", and

(ii) by striking out "October 16, 1987" in clause (iii) and inserting in lieu thereof "October 28, 1987".

(B) Subparagraph (C) of section 302(d)(3) of the Employee Retirement Income Security Act of 1974 is amended—

(i) by striking out "October 17, 1987" in clause (i) and inserting in lieu thereof "October 29, 1987", and

(ii) by striking out "October 16, 1987" in clause (iii) and inserting in lieu thereof "October 28, 1987".

(b) AMENDMENT RELATED TO SECTION 9305.—Effective for contributions made with respect to terminations and withdrawals occurring after the date of the enactment of this Act, section 404(g) of the 1986 Code is amended by striking out paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3).

(c) AMENDMENTS RELATED TO SECTION 9307.—

(1) The last sentence of section 404(a)(1)(D) of the 1986 Code is amended by striking out "For purposes of this subparagraph" and inserting in lieu thereof "For purposes of determining whether a plan has more than 100 participants".

(2) Section 404(a)(7)(A) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of clause (ii), if paragraph (1)(D) applies to a defined benefit plan for any plan year, the amount necessary to satisfy the minimum funding standard provided by section 412 with respect to such plan for such plan year shall not be less than the unfunded current liability of such plan under section 412(l).".

(3) Section 404(a)(1)(D) of the 1986 Code is amended by striking out "(without regard to any reduction by the credit balance in the funding standard account)".

SEC. 206. AMENDMENTS RELATED TO SECTION 9201 OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1987.

(a) Subsection (c) of section 4132 of the 1986 Code (relating to imposition of tax on certain vaccines) is amended by redesignating paragraphs (1) and (2) as paragraphs (3) and (4), respectively, and by inserting before paragraph (3) (as so redesignated) the following new paragraphs:

"(1) CERTAIN USES TREATED AS SALES.—Any manufacturer, producer, or importer of a vaccine which uses such vaccine before it is sold shall be liable for the tax imposed by section 4131 in the same manner as if such vaccine were sold by such manufacturer, producer, or importer.

"(2) TREATMENT OF VACCINES SHIPPED TO UNITED STATES POSSESSIONS.—Section 4221(a)(2) shall not apply to any vaccine shipped to a possession of the United States."

(b) Subsection (a) of section 9510 of the 1986 Code is amended—

(1) by inserting "appropriated or" before "credited", and

(2) by inserting "this section or" before "section 9602(b)".

(c) The amendments made by this section shall take effect as if included in the amendments made by section 9201 of the Omnibus Budget Reconciliation Act of 1987.

TITLE III—SUBSTANTIVE REVENUE PROVISIONS

Subtitle A—Extension and Modification of Expiring Provisions

SEC. 301. EXTENSION AND MODIFICATION OF EXCLUSION FOR EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) EXTENSION.—Subsection (d) of section 127 of the 1986 Code (relating to educational assistance programs) is amended by striking out "December 31, 1987" and inserting in lieu thereof "December 31, 1990".

(b) RESTRICTIONS RELATING TO EDUCATION AT THE GRADUATE LEVEL.—

(1) IN GENERAL.—Paragraph (1) of section 127(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The term 'educational assistance' also does not include any payment for, or the provision of any benefits with respect to, any graduate level course of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree."

(2) EXCEPTION FOR TEACHING AND RESEARCH ASSISTANTS.—

(A) Paragraph (8) of section 127(c) of the 1986 Code is amended to read as follows:

"(8) SPECIAL RULES FOR TEACHING AND RESEARCH ASSISTANTS.—In the case of the education of an individual who is a graduate student at an educational organization described in section 170(b)(1)(A)(ii) and who is engaged in teaching or research activities for such organization, the last sentence of paragraph (1) of this subsection shall not apply."

(B) Subsection (d) of section 117 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULES FOR TEACHING AND RESEARCH ASSISTANTS.—In the case of the education of an individual who is a graduate student at an educational organization described in section 170(b)(1)(A)(ii) and who is engaged in teaching or research activities for such organization, paragraph (2) shall be applied as if it did not contain the phrase '(below the graduate level)'. The preceding sentence shall not apply to taxable years beginning after December 31, 1990."

(c) REDUCTION IN MAXIMUM AMOUNT OF EXCLUSION.—Paragraph (2) of section 127(a) of the 1986 Code is amended by striking out "$5,250" each place it appears and inserting in lieu thereof "$1,500".

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1987.

(2) SUBSECTIONS (b) AND (c).—The amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 1988.

SEC. 302. 1-YEAR EXTENSION OF LOW-INCOME HOUSING CREDIT.

(a) IN GENERAL.—Subsection (n) of section 42 of the 1986 Code (relating to termination), as amended by section 102(l) of this Act, is amended—

(1) by striking out "1991" in paragraph (2)(B)(iii) and inserting in lieu thereof "1992",

(2) by striking out "1990" in paragraph (2)(A) and inserting in lieu thereof "1991", and

(3) by striking out "1989" each place it appears and inserting in lieu thereof "1990".

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (3) of section 501(c) of the Reform Act is hereby repealed.

(2) Paragraph (2) of section 42(n) of the 1986 Code, as in effect before the amendments made by subsection (a), shall apply to the additional housing credit dollar amount (if any) allocated to an entity for 1989 by reason of section 252(f)(2) of the Reform Act which is not allocated to a project for 1989.

SEC. 303. PROVISIONS RELATING TO MORTGAGE REVENUE BONDS AND MORTGAGE CREDIT CERTIFICATES.

(a) EXTENSION OF AUTHORITY TO ISSUE BONDS AND CERTIFICATES.—

(1) Subparagraph (B) of section 143(a)(1) of the 1986 Code (relating to termination) is amended by striking out "December 31, 1988" each place it appears and inserting in lieu thereof "December 31, 1990".

(2) Subsection (h) of section 25 of the 1986 Code (relating to credit for interest on certain home mortgages), as amended by section 113(a)(26) of this Act, is amended by striking out "1988" and inserting in lieu thereof "1990".

(b) ADJUSTMENTS TO INCOME LIMITS FOR AREAS HAVING HIGHER OR LOWER HOUSING COSTS THAN THE NATIONAL AVERAGE.—

(1) ALTERNATIVE OF STATEWIDE MEDIAN INCOME REPLACED.—Paragraph (4) of section 143(f) of the 1986 Code (relating to income requirements) is amended to read as follows:

"(4) ADJUSTMENT OF INCOME REQUIREMENT BASED ON RELATION OF HOUSING COSTS TO INCOME.—

"(A) IN GENERAL.—If the residence (for which financing is provided under the issue) is located in a high housing cost area or a low housing cost area, the percentage determined under subparagraph (B) shall be substituted for '115 percent' in paragraph (1).

"(B) INCOME REQUIREMENTS.—

"(i) RESIDENCES IN HIGH HOUSING COST AREA.—The percentage determined under this subparagraph for a residence located in a high housing cost area is the percentage (not

greater than 140 percent) equal to the product of—

"(I) 115 percent, and

"(II) the amount by which the housing cost/income ratio for such area exceeds 0.2.

"(ii) RESIDENCES IN LOW HOUSING COST AREA.—The percentage determined under this subparagraph for a residence located in a low housing cost area is the percentage (not less than 90 percent) equal to the product of—

"(I) 115 percent, and

"(II) the sum of the housing cost/income ratio for such area plus 0.2.

"(C) HIGH AND LOW HOUSING COST AREAS.—For purposes of this paragraph—

"(i) HIGH HOUSING COST AREA.—The term 'high housing cost area' means any statistical area for which the housing cost/income ratio is greater than 1.2.

"(ii) LOW HOUSING COST AREA.—The term 'low housing cost area' means any statistical area for which the housing cost/income ratio is less than 0.8.

"(D) HOUSING COST/INCOME RATIO.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'housing cost/income ratio' means, with respect to any statistical area, the number determined by dividing—

"(I) the applicable housing price ratio for such area, by

"(II) the ratio which the area median gross income for such area bears to the median gross income for the United States.

"(ii) APPLICABLE HOUSING PRICE RATIO.—For purposes of clause (i), the applicable housing price ratio for any area is the new housing price ratio or the existing housing price ratio, whichever results in the housing cost/income ratio being closer to 1.

"(iii) NEW HOUSING PRICE RATIO.—The new housing price ratio for any area is the ratio which—

"(I) the average area purchase price (as defined in subsection (e)(2)) for residences described in subsection (e)(3)(A) which are located in such area bears to

"(II) the average purchase price (determined in accordance with the principles of subsection (e)(2)) for residences so described which are located in the United States.

"(iv) EXISTING HOUSING PRICE RATIO.—The existing housing price ratio for any area is the ratio determined in accordance with clause (iii) but with respect to residences described in subsection (e)(3)(B)."

(2) TECHNICAL AMENDMENTS.—

(A) Paragraphs (1) and (3)(B) of section 143(f) of the 1986 Code are each amended by striking out "applicable median family income" and inserting in lieu thereof "area median gross income".

(B) Paragraph (2) of section 143(f) of the 1986 Code is amended by striking out "and area median gross income" and inserting in lieu thereof "area median gross income, and median gross income in the United States".

(c) DETERMINATIONS OF FAMILY INCOME TO BE BASED ON FAMILY SIZE.—Subsection (f) of section 143 of the 1986 Code (relating to income requirements) is amended by adding at the end thereof the following new paragraph:

"(5) ADJUSTMENT TO INCOME REQUIREMENTS BASED ON FAMILY SIZE.—In the case of a mortgagor having a family of fewer than 3 individuals, the preceding provisions of this subsection shall be applied by substituting—

"(A) '100 percent' for '115 percent' each place it appears,

"(B) '120 percent' for '140 percent' each place it appears, and

"(C) '80 percent' for '90 percent' in paragraph (4)(B)(ii)."

(d) MORTGAGE REVENUE BONDS SUBJECT TO ARBITRAGE REBATE RULES APPLICABLE TO OTHER TAX-EXEMPT BONDS.—

(1) Paragraph (1) of section 143(g) of the 1986 Code (relating to requirements related to arbitrage) is amended—

(A) by striking out "paragraphs (2) and (3)" and inserting in lieu thereof "paragraph (2)", and

(B) by striking out "(other than subsection (f) thereof)".

(2) Subsection (g) of section 143 of the 1986 Code is amended by striking out paragraph (3).

(3) Paragraph (1) of section 148(f) of the 1986 Code is amended by striking out the second sentence.

(e) LOANS PROVIDED THROUGH QUALIFIED MORTGAGE ISSUE MUST ORIGINATE WITHIN 3 YEARS OF DATE OF ISSUE.—Paragraph (2) of section 143(a) of the 1986 Code (defining qualified mortgage issue) is amended by adding at the end thereof the following new subparagraph:

"(D) PROCEEDS MUST BE USED WITHIN 3 YEARS OF DATE OF ISSUANCE.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, an issue shall not meet the requirement of subparagraph (A)(i) unless—

"(I) all proceeds of the issue required to be used to finance owner-occupied residences are so used within the 3-year period beginning on the date of issuance of the issue (or, in the case of a refunding bond, within the 3-year period beginning on the date of issuance of the original bond), and

"(II) no portion of the proceeds of the issue are used to make or finance any loan (other than a loan which is a nonpurpose investment within the meaning of section 148(f)(6)(A)) after the close of such period.

"(ii) EXCEPTION WHERE REDEMPTION OF UNSPENT PROCEEDS WITHIN 6 MONTHS.—Clause (i)(I) shall not apply if all proceeds of the issue—

"(I) which are required to be used to finance residences, and

"(II) which are not so used,

are used (not later than 6 months after the close of the period referred to in clause (i)) to redeem bonds which are part of such issue.

"(iii) EXCEPTION FOR DE MINIMIS AMOUNTS.—Clause (i) (and clause (iv) of subparagraph (A)) shall not be construed to require proceeds of an issue in amounts of less than $25,000 to be used to redeem bonds. The Secretary may by regulation treat related issues as 1 issue for purposes of the preceding sentence."

(f) PREPAYMENTS OF FINANCING PROVIDED BY A QUALIFIED MORTGAGE ISSUE MUST BE USED TO REDEEM BONDS.—Subparagraph (A) of section 143(a)(2) of the 1986 Code is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and by adding at the end thereof the following new clause:

"(iv) except as provided in subparagraph (D)(iii), prepayments of principal on financing provided by the issue (and the principal amount of financing which is completely repaid) are used not later than the close of the 1st semiannual period beginning after the date the prepayment (or complete repayment) is received to redeem bonds which are part of such issue."

(g) RECAPTURE OF PORTION OF FEDERAL SUBSIDY FROM USE OF MORTGAGE BONDS AND MORTGAGE CREDIT CERTIFICATES.—

(1) IN GENERAL.—Section 143 of the 1986 Code (relating to mortgage revenue bonds) is amended by adding at the end thereof the following new subsection:

"(m) RECAPTURE OF PORTION OF FEDERAL SUBSIDY FROM USE OF QUALIFIED MORTGAGE BONDS AND MORTGAGE CREDIT CERTIFICATES.—

"(1) IN GENERAL.—If, during the taxable year, any taxpayer disposes of an interest in a residence with respect to which there is or was any federally-subsidized indebtedness for the payment of which the taxpayer was liable in whole or part, then the taxpayer's tax imposed by this chapter for such taxable year shall be increased by the recapture amount with respect to such indebtedness.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) any disposition by reason of death, and

"(B) any disposition which is more than 10 years after the testing date.

"(3) FEDERALLY-SUBSIDIZED INDEBTEDNESS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'federally-subsidized indebtedness' means any indebtedness if—

"(i) financing for the indebtedness was provided in whole or part from the proceeds of any tax-exempt qualified mortgage bond, or

"(ii) any credit was allowed under section 25 (relating to interest on certain home mortgages) to the taxpayer for interest paid or incurred on such indebtedness.

"(B) EXCEPTION FOR HOME IMPROVEMENT LOANS.—Such term shall not include any indebtedness to the extent such indebtedness is federally-subsidized indebtedness solely by reason of being a qualified home improvement loan (as defined in subsection (k)(4)).

"(4) RECAPTURE AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The recapture amount with respect to any indebtedness is the amount equal to the product of—

"(i) the federally-subsidized amount with respect to the indebtedness, and

"(ii) the holding period percentage.

"(B) FEDERALLY-SUBSIDIZED AMOUNT.—The federally-subsidized amount with respect to any indebtedness is the amount equal to 6.25 percent of the highest principal amount of the indebtedness for which the taxpayer was liable.

"(C) HOLDING PERIOD PERCENTAGE.—

"(i) DISPOSITIONS DURING 1ST 5 YEARS.—If the disposition of the taxpayer's interest in the residence occurs during the 5-year period beginning on the testing date, the holding period percentage is the percentage determined by dividing the number of full months during which the requirements of subparagraph (D) were met by 60.

"(ii) DISPOSITIONS DURING 2D 5 YEARS.—If the disposition of the taxpayer's interest in the residence occurs during the 5-year period following the 5-year period described in clause (i), the holding period percentage is the percentage determined by dividing—

"(I) the excess of 120 over the number of full months during which such requirements were met by

"(II) 60.

"(iii) RETIREMENTS OF INDEBTEDNESS.—If the federally-subsidized indebtedness is completely repaid during any month of the 10-year period beginning on the testing date, the holding period percentage for succeeding months shall be determined by reducing ratably over the remainder of such period (or, if lesser, 5 years) the holding period percentage which would have been determined under this subparagraph had the taxpayer disposed of his interest in the residence on the date of the repayment.

"(D) TESTING DATE.—The term 'testing date' means the earliest date on which all of the following requirements are met:

"(i) The indebtedness is federally-subsidized indebtedness.

"(ii) The taxpayer is liable in whole or part for payment of the indebtedness.

"(5) REDUCTION OF RECAPTURE AMOUNT IF TAXPAYER MEETS CERTAIN INCOME LIMITATIONS.—

"(A) IN GENERAL.—The recapture amount which would (but for this paragraph) apply with respect to any disposition during a taxable year shall be reduced (but not below zero) by 2 percent of such amount for each $100 by which adjusted qualifying income exceeds the modified adjusted gross income of the taxpayer for such year.

"(B) ADJUSTED QUALIFYING INCOME.—For purposes of this paragraph, the term 'adjusted qualifying income' means the amount equal to the sum of—

"(i) $5,000, plus

"(ii) the product of—

"(I) the highest family income which (as of the date the financing was provided) would have met the requirement of subsection (f) with respect to the residence, and

"(II) the percentage equal to the sum of 100 percent plus 5 percent for each full year during the period beginning on such date and ending on the date of the disposition.

For purposes of clause (ii)(I), highest family income shall be determined without regard to subsection (f)(3)(A) and on the basis of the number of members of the taxpayer's family as of the date of the disposition.

"(C) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'modified adjusted gross income' means adjusted gross income—

"(i) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is excluded from gross income under section 103, and

"(ii) decreased by the amount of gain (if any) included in gross income of the taxpayer by reason of the disposition to which this subsection applies.

"(6) LIMITATION ON RECAPTURE AMOUNT BASED ON GAIN REALIZED.—

"(A) IN GENERAL.—In no event shall the recapture amount of the taxpayer with respect to any indebtedness exceed 50 percent of the gain (if any) on the disposition of the taxpayer's interest in the residence. For purposes of the preceding sentence, gain shall be taken into account whether or not recognized, and the adjusted basis of the taxpayer's interest in the residence shall be determined without regard to sections 1033(b) and 1034(e) for purposes of determining gain.

"(B) DISPOSITIONS OTHER THAN SALES, EXCHANGES, AND INVOLUNTARY CONVERSIONS.—In the case of a disposition other than a sale, exchange, or involuntary conversion, gain shall be determined as if the interest had been sold for its fair market value.

"(C) INVOLUNTARY CONVERSIONS RESULTING FROM CASUALTIES.—In the case of property which (as a result of its destruction in whole or in part by fire, storm, or other casualty) is compulsorily or involuntarily converted, paragraph (1) shall not apply to such conversion if the taxpayer purchases (during the period specified in section 1033(a)(2)(B)) property for use as his principal residence on the site of the converted property. For purposes of subparagraph (A), the adjusted basis of the taxpayer in the residence shall not be adjusted for any gain or loss on a conversion to which this subparagraph applies.

"(7) ISSUER TO INFORM MORTGAGOR OF FEDERALLY-SUBSIDIZED AMOUNT AND FAMILY INCOME LIMITS.—The issuer of the issue which provided the federally-subsidized indebtedness to the mortgagor shall—

"(A) at the time of settlement, provide a written statement informing the mortgagor of the potential recapture under this subsection, and

"(B) not later than 90 days after the date such indebtedness is provided, provide a written statement to the mortgagor specifying—

"(i) the federally-subsidized amount with respect to such indebtedness, and

"(ii) the amounts described in paragraph (5)(B)(ii) for each category of family size for each year of the 10-year period beginning on the date the financing was provided.

"(8) SPECIAL RULES.—

"(A) NO BASIS ADJUSTMENT.—No adjustment shall be made to the basis of any property for the increase in tax under this subsection.

"(B) SPECIAL RULE WHERE 2 OR MORE PERSONS HOLD INTERESTS IN RESIDENCE.—Except as provided in subparagraph (C) and in regulations prescribed by the Secretary, if 2 or more persons hold interests in any residence and are jointly liable for the federally-subsidized indebtedness, the recapture amount shall be determined separately with respect to their respective interests in the residence.

"(C) TRANSFERS TO SPOUSES AND FORMER SPOUSES.—Paragraph (1) shall not apply to any transfer on which no gain or loss is recognized under section 1041. In any such case, the transferee shall be treated under this subsection in the same manner as the transferor would have been treated had such transfer not occurred.

"(D) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this subsection, including regulations dealing with dispositions of partial interests in a residence."

(2) ISSUER INFORMATION REQUIREMENT.—

(A) Subparagraph (A) of section 143(a)(2) of the 1986 Code is amended by striking out "and (i)" and inserting in lieu thereof "(i), and (m)(7)".

(B) Subparagraph (C) of section 143(a)(2) of the 1986 Code is amended by striking out "and (h)" and inserting in lieu thereof ", (h), and (m)(7)".

(3) BROKER REPORTING.—Subsection (e) of section 6045 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) WHETHER SELLER'S FINANCING WAS FEDERALLY-SUBSIDIZED.—In the case of a real estate transaction involving a residence, the real estate broker shall specify on the return under subsection (a) and the statement under subsection (b) whether or not the financing (if any) of the seller was federally-subsidized indebtedness (as defined in section 143(m)(3))."

(4) NO CREDITS AGAINST TAX.—Paragraph (2) of section 26(b) of the 1986 Code (relating to limitation based on tax liability; definition of tax liability), as amended by section 112(q) of this Act, is amended by striking out "and" at the end of subparagraph (K), by striking out the period at the end of subparagraph (L) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(M) section 143(m) (relating to recapture of portion of federal subsidy from use of mortgage bonds and mortgage credit certificates)."

(5) RECAPTURE TAX NOT INCLUDED IN ESTIMATED TAXES.—Paragraph (1) of section 6654(f) of the 1986 Code (relating to failure by individual to pay estimated income tax) is amended by inserting "(other than any increase in such tax by reason of section 143(m))" after "chapter 1".

(6) AUTHORITY TO CHANGE PREPAYMENT ASSUMPTIONS FOR ARBITRAGE RESTRICTIONS.—Clause (iv) of section 143(g)(2)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"The Secretary may by regulation adjust the mortgage prepayment rate otherwise used in determining the effective rate of interest to the extent the Secretary determines that such an adjustment is appropriate by reason of the impact of subsection (m)."

(7) CROSS REFERENCE.—Section 25 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(j) RECAPTURE OF PORTION OF FEDERAL SUBSIDY FROM USE OF MORTGAGE CREDIT CERTIFICATES.—

"For provisions increasing the tax imposed by this chapter to recapture a portion of the federal subsidy from the use of mortgage credit certificates, see section 143(m)."

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to bonds issued, and nonissued bond amounts elected, after December 31, 1988.

(2) SPECIAL RULES RELATING TO CERTAIN REQUIREMENTS AND REFUNDING BONDS.—In the case of a bond issued to refund (or which is part of a series of bonds issued to refund) a bond issued before January 1, 1989—

(A) the amendments made by subsections (b) and (c) shall apply to financing provided after the date of issuance of the refunding issue, and

(B) the amendment made by subsection (f) shall apply to payments (including on loans made before such date of issuance) received on or after such date of issuance.

(3) SUBSECTION (g).—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by subsection (g) shall apply to financing provided, and mortgage credit certificates issued, after December 31, 1988.

(B) EXCEPTION.—The amendments made by subsection (g) shall not apply to financing provided pursuant to a binding contract (entered into before June 23, 1988) with a homebuilder, lender, or mortgagor if the bonds (the proceeds of which are used to provide such financing) are issued—

(i) before June 23, 1988, or

(ii) before August 1, 1988, pursuant to a written application (made before July 1, 1988) for State bond volume authority.

SEC. 304. TREATMENT OF CERTAIN POOLED FINANCING BONDS.

(a) IN GENERAL.—Section 149 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF CERTAIN POOLED FINANCING BONDS.—

"(1) IN GENERAL.—Section 103(a) shall not apply to any pooled financing bond unless—

"(A) the issue of which such bond is a part meets the borrower identification requirements of paragraph (2),

"(B) such issue meets the loan origination requirements of paragraph (3), and

"(C) such issue meets the redemption requirements of paragraph (4).

"(2) BORROWER IDENTIFICATION REQUIREMENTS.—An issue meets the requirements of this paragraph if at the time of issuance—

"(A) there are written commitments with the ultimate borrowers of the proceeds of the issue for loans in an amount equal to at

least 25 percent of the net proceeds (as of the date of issuance) of the issue, and

"(B) it is reasonably expected that loans will be made (pursuant to such commitments) in an amount equal to at least 25 percent of the net proceeds (as of the date of issuance) of the issue.

"(3) LOAN ORIGINATION PERIOD REQUIREMENTS.—

"(A) REQUIREMENTS FOR EACH OF 1ST 3 YEARS.—

"(i) IN GENERAL.—An issue meets the requirements of this paragraph if—

"(I) all of the net proceeds of the issue are used to make loans to ultimate borrowers within the 3-year period beginning on the date of issuance of the issue,

"(II) loans to ultimate borrowers equal to at least 50 percent of the net proceeds of the issue are made within the 2-year period beginning on such date, and

"(III) loans to ultimate borrowers equal to at least 25 percent of the net proceeds of the issue are made within the 1-year period beginning on such date.

"(ii) SPECIAL RULES.—For purposes of clause (i)—

"(I) in the case of a refunding bond, the date of issuance taken into account is the date of issuance of the original bond, and

"(II) the term 'net proceeds' shall not include proceeds used to finance issuance costs and shall not include proceeds necessary to pay interest (during the year involved and prior years) on the bonds which are part of the issue.

"(B) EXCEPTION WHERE REDEMPTION OF UNSPENT PROCEEDS WITHIN 6 MONTHS.—Subparagraph (A) shall not apply if proceeds of the issue—

"(i) which are required to meet the requirements of subparagraph (A), and

"(ii) which do not meet such requirements, are used (not later than 6 months after the close of the period applicable under subparagraph (A)) to redeem bonds which are part of such issue.

"(4) REDEMPTION REQUIREMENTS FOR REPAYMENTS.—An issue meets the requirements of this paragraph if repayments of principal on loans provided by the issue are used not later than the close of the 1st semiannual period beginning after the date the repayment is received to redeem bonds which are part of such issue.

"(5) POOLED FINANCING BOND.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'pooled financing bond' means any bond issued as part of an issue more than 5 percent (or, if lesser, $5,000,000) of the proceeds of which are reasonably expected (at the time of issuance of the bond) to be used (or are intentionally used) directly or indirectly to make or finance loans to 2 or more ultimate borrowers.

"(B) EXCEPTIONS.—Such term shall not include any bond if—

"(i) section 146 applies to the issue of which such bond is a part (other than by reason of section 141(b)(5)) or would apply but for section 146(i), or

"(ii) section 143(l)(3) applies to such issue.

"(6) DEFINITION OF LOAN; EXCEPTION FROM REDEMPTION REQUIREMENTS FOR DE MINIMIS AMOUNTS.—

"(A) LOAN.—For purposes of this subsection, the term 'loan' does not include—

"(i) any loan which is a nonpurpose investment (within the meaning of section 148(f)(6)(A)), and

"(ii) any use of proceeds by an agency of the issuer unless such agency is a political subdivision or instrumentality of the issuer.

"(B) EXCEPTION FOR DE MINIMIS AMOUNTS.—Paragraphs (3)(B) and (4) shall not be construed to require proceeds in amounts of less than $25,000 to be used to redeem bonds. The Secretary may by regulation treat related issues as 1 issue for purposes of the preceding sentence.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendment made by subsection (a) shall apply to bonds issued after July 15, 1988.

(2) SPECIAL RULES FOR REFUNDING BONDS.—In the case of a bond issued to refund a bond issued before July 16, 1988—

(A) if the 3-year period described in subclause (I) of section 149(f)(3)(A)(i) of the 1986 Code would (but for this paragraph) expire on or before July 15, 1989—

(i) such period shall expire on July 15, 1989, and

(ii) subclauses (II) and (III) of such section, and section 149(f)(2) of the 1986 Code, shall not apply, and

(B) if such period expires after July 15, 1989, the portion of the proceeds of the issue of which the refunded bond is a part which is available (on the date of issuance of the refunding issue) to provide loans shall be treated as proceeds of a separate issue (issued after July 15, 1988) for purposes of applying section 149(f) of the 1986 Code.

(3) REPAYMENTS.—If a bond is issued to refund a bond issued before July 16, 1988, paragraph (4) of section 149(f) of the 1986 Code, as added by this section, shall apply to repayments (including on loans made before the date of issuance of the refunding issue) received on or after such date of issuance.

SEC. 305. EXTENSION OF CREDIT FOR INCREASING RESEARCH ACTIVITIES.

(a) EXTENSION.—Subsection (h) of section 41 of the 1986 Code (relating to credit for increasing research activities) is amended—

(1) by striking out "December 31, 1988" each place it appears and inserting in lieu thereof "December 31, 1990", and

(2) by striking out "January 1, 1989" each place it appears and inserting in lieu thereof "January 1, 1991".

(b) GAO STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the credit provided by section 41 of the 1986 Code.

(2) REPORT.—The report of the study under paragraph (1) shall be submitted not later than December 31, 1989, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 306. DENIAL OF DEDUCTION FOR AMOUNTS ALLOWED AS A RESEARCH CREDIT.

(a) IN GENERAL.—Section 280C of the 1986 Code (relating to certain expenses for which credits are allowable) is amended by adding at the end thereof the following new subsection:

"(c) CREDIT FOR INCREASING RESEARCH ACTIVITIES.—

"(1) IN GENERAL.—No deduction shall be allowed for that portion of the qualified research expenses (as defined in section 41(b)) or basic research expenses (as defined in section 41(e)(2)) otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 41(a).

"(2) SIMILAR RULE WHERE TAXPAYER CAPITALIZES RATHER THAN DEDUCTS EXPENSES.—If—

"(A) the amount of the credit determined for the taxable year under section 41(a)(1), exceeds

"(B) the amount allowable as a deduction for such taxable year for qualified research expenses or basic research expenses (determined without regard to paragraph (1)),

the amount chargeable to capital account for the taxable year for such expenses shall be reduced by the amount of such excess.

"(3) CONTROLLED GROUPS.—Paragraph (3) of subsection (b) shall apply for purposes of this subsection.".

(b) RESEARCH CREDIT TO BE ELECTIVE.—

(1) IN GENERAL.—Section 41 of the 1986 Code is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) ELECTION TO HAVE RESEARCH CREDIT NOT APPLY.—

"(1) IN GENERAL.—A taxpayer may elect to have this section not apply for any taxable year.

"(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last day prescribed by law for filing the return for such taxable year (determined without regard to extensions).

"(3) MANNER OF MAKING ELECTION.—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.".

(2) DEDUCTION FOR UNUSED RESEARCH CREDIT.—Subsection (c) of section 196 of the 1986 Code is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(4) the research credit determined under section 41(a) for taxable years beginning after December 31, 1988."

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 28(b) of the 1986 Code is amended by striking out subparagraph (D).

(2) Subsection (n) of section 6501 of the 1986 Code is amended by striking out "or 51(j)" and inserting in lieu thereof ", 41(h), or 51(j)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988.

SEC. 307. ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) GENERAL RULE.—For purposes of sections 861(b), 862(b), and 863(b) of the 1986 Code, qualified research and experimental expenditures shall be allocated and apportioned as follows:

(1) Any qualified research and experimental expenditures expended solely to meet legal requirements imposed by a political entity with respect to the improvement or marketing of specific products or processes for purposes not reasonably expected to generate gross income (beyond de minimis amounts) outside the jurisdiction of the political entity shall be allocated only to gross income from sources within such jurisdiction.

(2) In the case of any qualified research and experimental expenditures (not allocated under paragraph (1)) to the extent—

(A) that such expenditures are attributable to activities conducted in the United States, 64 percent of such expenditures shall be allocated and apportioned to income from sources within the United States and deducted from such income in determining the amount of taxable income from sources within the United States, and

(B) that such expenditures are attributable to activities conducted outside the

United States, 64 percent of such expenditures shall be allocated and apportioned to income from sources outside the United States and deducted from such income in determining the amount of taxable income from sources outside the United States.

(3) The remaining portion of qualified research and experimental expenditures (not allocated under paragraphs (1) and (2)) shall be apportioned, at the annual election of the taxpayer, on the basis of gross sales or gross income, except that, if the taxpayer elects to apportion on the basis of gross income, the amount apportioned to income from sources outside the United States shall be at least 30 percent of the amount which would be so apportioned on the basis of gross sales.

(b) QUALIFIED RESEARCH AND EXPERIMENTAL EXPENDITURES.—For purposes of this section, the term "qualified research and experimental expenditures" means amounts which are research and experimental expenditures within the meaning of section 174 of the 1986 Code. For purposes of this subsection, rules similar to the rules of subsection (c) of section 174 of the 1986 Code shall apply.

(c) SPECIAL RULES FOR EXPENDITURES ATTRIBUTABLE TO ACTIVITIES CONDUCTED IN SPACE, ETC.—

(1) IN GENERAL.—Any qualified research and experimental expenditures described in paragraph (2)—

(A) if incurred by a United States person, shall be allocated and apportioned under this section in the same manner as if they were attributable to activities conducted in the United States, and

(B) if incurred by a person other than a United States person, shall be allocated and apportioned under this section in the same manner as if they were attributable to activities conducted outside the United States.

(2) DESCRIPTION OF EXPENDITURES.—For purposes of paragraph (1), qualified research and experimental expenditures are described in this paragraph if such expenditures are attributable to activities conducted—

(A) in space,

(B) on or under water not within the jurisdiction (as recognized by the United States) of a foreign country, possession of the United States, or the United States, or

(C) in Antarctica.

(d) AFFILIATED GROUP.—

(1) Except as provided in paragraph (2), the allocation and apportionment required by subsection (a) shall be determined as if all members of the affiliated group (as defined in subsection (e)(5) of section 864 of the 1986 Code) were a single corporation.

(2) For purposes of the allocation and apportionment required by subsection (a)—

(A) sales and gross income from products produced in whole or in part in a possession by an electing corporation (within the meaning of section 936(h)(5)(E) of the 1986 Code); and

(B) dividends from an electing corporation,

shall not be taken into account, except that this paragraph shall not apply to sales of (and gross income and dividends attributable to sales of) products with respect to which an election under section 936(h)(5)(F) of the 1986 Code is not in effect.

(3) The qualified research and experimental expenditures taken into account for purposes of subsection (a) shall be adjusted to reflect the amount of such expenditures included in computing the cost-sharing amount (determined under section 936(h)(5)(C)(i)(I) of the 1986 Code).

(4) The Secretary of the Treasury or his delegate may prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations providing for the source of gross income and the allocation and apportionment of deductions to take into account the adjustments required by paragraph (3).

(5) Paragraph (6) of section 864(e) of the 1986 Code shall not apply to qualified research and experimental expenditures.

(e) YEARS TO WHICH SECTION APPLIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply to taxable years beginning after August 1, 1987, and before January 1, 1991.

(2) SPECIAL RULE FOR ACTIVITIES CONDUCTED OUTSIDE THE UNITED STATES.—In the case of qualified research and experimental expenditures not attributable to activities conducted in the United States (determined without regard to subsection (c)), this section shall not apply to any taxable year beginning before June 21, 1988.

SEC. 308. EXTENSION AND MODIFICATION OF TARGETED JOBS CREDIT.

(a) 2-YEAR EXTENSION.—Paragraph (4) of section 51(c) of the 1986 Code (relating to termination) is amended by striking out "December 31, 1988" and inserting in lieu thereof "December 31, 1990".

(b) EXTENSION OF AUTHORIZATION.—Paragraph (2) of section 261(f) of the Economic Recovery Tax Act of 1981 is amended by striking out "and 1988" and inserting in lieu thereof "1988, 1989, and 1990".

(c) ECONOMICALLY DISADVANTAGED YOUTH STATUS RESTRICTED TO INDIVIDUALS UNDER AGE 22.—

(1) IN GENERAL.—Subparagraph (B) of section 51(d)(3) of the 1986 Code is amended by striking out "age 25" and inserting in lieu thereof "age 22".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to individuals who begin work for the employer after December 31, 1988.

SEC. 309. TREATMENT OF PUBLICLY OFFERED REGULATED INVESTMENT COMPANIES UNDER 2-PERCENT FLOOR.

(a) IN GENERAL.—Subsection (c) of section 67 of the 1986 Code, as amended by section 101(f) of this Act, is amended to read as follows:

"(c) DISALLOWANCE OF INDIRECT DEDUCTION THROUGH PASS-THRU ENTITY.—

"(1) IN GENERAL.—The Secretary shall prescribe regulations which prohibit the indirect deduction through pass-thru entities of amounts which are not allowable as a deduction if paid or incurred directly by an individual and which contain such reporting requirements as may be necessary to carry out the purposes of this subsection.

"(2) TREATMENT OF PUBLICLY OFFERED REGULATED INVESTMENT COMPANIES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply with respect to any publicly offered regulated investment company.

"(B) PUBLICLY OFFERED REGULATED INVESTMENT COMPANIES.—For purposes of this subsection—

"(i) IN GENERAL.—The term 'publicly offered regulated investment company' means a regulated investment company the shares of which are—

"(I) continuously offered pursuant to a public offering (within the meaning of section 4 of the Securities Act of 1933, as amended (15 U.S.C. 77a to 77aa)),

"(II) regularly traded on an established securities market, or

"(III) held by or for no fewer than 500 persons at all times during the taxable year.

"(ii) SECRETARY MAY REDUCE 500 PERSON REQUIREMENT.—The Secretary may by regulation decrease the minimum shareholder requirement of clause (i)(III) in the case of regulated investment companies which experience a loss of shareholders through net redemptions of their shares.

"(3) TREATMENT OF CERTAIN OTHER ENTITIES.—Paragraph (1) shall not apply—

"(A) with respect to cooperatives and real estate investment trusts, and

"(B) except as provided in regulations, with respect to estates and trusts."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1987.

SEC. 310. TAX-FREE PURCHASES OF CERTAIN FUELS.

(a) IN GENERAL.—Subsection (c) of section 4093 of the Internal Revenue Code of 1986 (relating to exceptions; special rule) is amended to read as follows:

"(c) EXEMPTION FOR NONTAXABLE USES.—

"(1) IN GENERAL.—No tax shall be imposed by section 4091 on fuel sold by a producer or importer for use by the purchaser in a nontaxable use (as defined in section 6427(l)(2)).

"(2) EXCEPTION FOR CERTAIN LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES.—In the case of fuel sold for use in—

"(A) a diesel-powered train, or

"(B) an aircraft,

paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section.

"(3) REGISTRATION REQUIRED.—Except to the extent provided by the Secretary by regulations, paragraph (1) shall not apply to any sale unless—

"(A) both the seller and the purchaser are registered under section 4101, and

"(B) the purchaser's name, address, and registration number under such section are provided to the seller.

"(4) INFORMATION REPORTING.—

"(A) RETURNS BY PRODUCERS AND IMPORTERS.—Each producer or importer who makes a reduced-tax sale during the calendar year shall make a return (according to the forms or regulations prescribed by the Secretary) showing with respect to each such sale—

"(i) the name, address, and registration number under section 4101 of the purchaser,

"(ii) the amount of fuel sold, and

"(iii) such other information as the Secretary may require.

"(B) STATEMENTS TO PURCHASERS.—Each person required to make a return under subparagraph (A) shall furnish to each purchaser whose name is required to be set forth on such return a written statement showing the name and address of the person required to make such return, the registration number under section 4101 of such person, and the information required to be shown on the return with respect to such purchaser. The written statement required under the preceding sentence shall be furnished to the purchaser on or before January 31 of the year following the calendar year for which the return under subparagraph (A) is required to be made.

"(C) RETURNS BY PURCHASERS.—Each person who uses during the calendar year fuel purchased in a reduced-tax sale shall make a return (according to the forms or regulations prescribed by the Secretary) showing—

"(i) whether such use was a nontaxable use (as defined in section 6427(l)(2)) and the amount of fuel so used,

"(ii) the date of the sale of the fuel so used,

"(iii) the name, address, and registration number under section 4101 of the seller, and

"(iv) such other information as the Secretary may require.

"(D) REDUCED-TAX SALE.—For purposes of this paragraph, the term 'reduced tax sale' means any sale of taxable fuel on which the amount of tax otherwise required to be paid under section 4091 is reduced by reason of paragraph (1)."

(b) MARINE RETAILERS TREATED AS PRODUCERS.—Subparagraph (B) of section 4092(b)(1) of the 1986 Code (relating to certain persons treated as producers) is amended by striking out "or" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(iii) a retailer selling diesel fuel exclusively to purchasers as supplies for commercial and noncommercial vessels."

(c) PENALTY FOR FAILING TO PROVIDE INFORMATION.—

(1) Subparagraph (B) of section 6724(d)(1) of the 1986 Code (defining information return) is amended by striking out "or" at the end of clause (ix), by striking out the period at the end of clause (x) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(xi) subparagraph (A) or (C) of subsection (c)(4), or subsection (d), of section 4093 (relating to information reporting with respect to tax on diesel and aviation fuels)."

(2) Paragraph (2) of section 6724(d) of the 1986 Code (defining payee statement) is amended by striking out "or" at the end of subparagraph (S), by striking out the period at the end of subparagraph (T) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(U) section 4093(c)(4)(B) (relating to certain purchasers of diesel and aviation fuels)."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on July 1, 1988.

(2) REFUNDS WITH INTEREST FOR PRE-JULY 1 PURCHASES.—

(A) IN GENERAL.—In the case of fuel—

(i) which is purchased from a producer or importer during the period beginning on April 1, 1988, and ending on June 30, 1988, and

(ii) which is used (before the claim under this subparagraph is filed) by any person in a nontaxable use (as defined in section 6427(l)(2) of the Internal Revenue Code of 1986),

the Secretary of the Treasury or his delegate shall pay (with interest) to such person the amount of tax imposed on such fuel under section 4091 of the 1986 Code (to the extent not attributable to amounts described in section 6427(l)(3) of the 1986 Code) if claim therefor is filed not later than September 30, 1988. Not more than 1 claim may be filed under the preceding sentence and such claim shall not be taken into account under section 6427(i) of the 1986 Code. Section 6427(l) of the 1986 Code shall not apply to any fuel with respect to which a payment is made under this paragraph.

(B) INTEREST.—The amount of interest payable under subparagraph (A) shall be determined under section 6611 of the 1986 Code except that the date of the overpayment with respect to fuel purchased during any month shall be treated as being the 1st day of the succeeding month. No interest shall be paid under this paragraph with respect to fuel used by any agency of the United States.

(C) REGISTRATION PROCEDURES REQUIRED TO BE SPECIFIED BEFORE EFFECTIVE DATE.—Not later than the 30th day after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall prescribe the procedures for complying with the requirements of section 4093(c)(3) of the 1986 Code (as added by this section).

Subtitle B—Revenue Increases

SEC. 311. REDUCTION IN DIVIDEND RECEIVED DEDUCTION FOR DIVIDENDS NOT FROM 20-PERCENT OWNED CORPORATIONS.

(a) GENERAL RULE.—The following provisions of the 1986 Code are each amended by striking out "70 percent" and inserting in lieu thereof "the DRD percentage":

(1) Section 243(a)(1) (relating to dividends received by corporations).

(2) Subsections (a)(3) and (b)(2) of section 244 (relating to dividends received on certain preferred stock).

(b) DRD PERCENTAGE.—Subsection (c) of section 243 of the 1986 Code is amended to read as follows:

"(c) DRD PERCENTAGE.—For purposes of this part—

"(1) IN GENERAL.—Except as provided in paragraph (2)—

"In the case of dividends received in:	The DRD percentage is:
1989	55 percent
1990	52.50 percent
1991 and subsequent calendar years	50 percent.

"(2) 80-PERCENT DIVIDEND RECEIVED DEDUCTION FOR DIVIDENDS FROM 20-PERCENT OWNED CORPORATIONS.—In the case of any dividend received from a 20-percent owned corporation, the DRD percentage shall be 80 percent.

"(3) 20-PERCENT OWNED CORPORATION.—For purposes of this paragraph, the term '20-percent owned corporation' means any corporation if more than 20 percent of the stock of a such corporation (by vote and value) is owned by the taxpayer. For purposes of the preceding sentence, stock described in section 1504(a)(4) shall not be taken into account, and a corporation shall be treated as owning any stock which is owned by another member of such corporation's affiliated group (as defined in subsection (b)(5))."

(c) MODIFICATION TO TAXABLE YEAR LIMITATIONS.—Paragraph (3) of section 246(b) of the 1986 Code is amended—

(1) by striking out "section 243(c)(2)" and inserting in lieu thereof "section 243(c)(3)", and

(2) by striking out "70 percent" and inserting in lieu thereof "the DRD percentage determined under section 243(c)(1) with respect to the calendar year in which the taxable year begins".

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 245(c)(1) of the 1986 Code (as amended by title I) is amended by striking out "70 percent (80 percent in the case of dividends from a 20-percent owned corporation as defined in section 243(c)(2))" and inserting in lieu thereof "the DRD percentage".

(2) Paragraph (1) of section 246A(a) of the 1986 Code is amended by striking out "70 percent (80 percent in the case of any dividend from a 20-percent owned corporation as defined in section 243(c)(2))" and inserting in lieu thereof "the DRD percentage".

(3) Paragraph (2) of section 861(a) of the 1986 Code is amended—

(A) by striking out "100/70th" in subparagraph (B) and inserting in lieu thereof "the applicable fraction", and

(B) by striking out the last sentence and inserting in lieu thereof the following:

"For purposes of subparagraph (B), the term 'applicable fraction' means a fraction the numerator of which is 100 and the denominator of which is the number of percentage points in the DRD percentage applicable to the dividend under section 243(c)."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to dividends received after December 31, 1988, in taxable years ending after such date.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1988.

(3) AFFILIATED GROUP RULE.—The last sentence of section 243(c)(3) of the 1986 Code (as amended by subsection (b)) shall also apply for purposes of determining whether a dividend received in 1988 is from a 20-percent owned corporation.

(f) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study of the dividends received deduction. Not later than the date 6 months after the date of the enactment of this Act, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under this subsection together with such recommendations as he may deem advisable.

SEC. 312. REPEAL OF COMPLETED CONTRACT METHOD.

(a) GENERAL RULE.—Subsection (a) of section 460 of the 1986 Code (relating to special rules for long-term contracts) is amended to read as follows:

"(a) REQUIREMENT THAT PERCENTAGE OF COMPLETION METHOD BE USED.—In the case of any long-term contract, the taxable income from such contract shall be determined under the percentage of completion method."

(b) REGULATORY AUTHORITY.—Section 460 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations to prevent the use of related parties, passthrough entities, intermediaries, options, or other similar arrangements to avoid the application of this section."

(c) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 460 of the 1986 Code (as amended by title I) is amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), and (4), as paragraphs (1), (2), and (3), respectively.

(2) Paragraph (1) of section 460(b) of the 1986 Code, as amended by title I and redesignated by paragraph (1), is amended—

(A) by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (3)", and

(B) by striking out "paragraph (3)" and inserting in lieu thereof "paragraph (2)".

(3) Paragraph (3) of section 460(b) of the 1986 Code, as amended by title I and redesignated by paragraph (1), is amended by striking out "Paragraph (2)(B) and subsection (a)(2)" and inserting in lieu thereof "Paragraph (1)(B)".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to contracts entered into on or after June 21, 1988.

(2) BINDING BIDS.—The amendments made by this section shall not apply to any contract resulting from the acceptance of a bid made before June 21, 1988. The preceding sentence shall apply only if the bid could not have been revoked or altered at any time on or after June 21, 1988.

(3) SPECIAL RULE FOR CERTAIN SHIP CONTRACTS.—The amendments made by this section shall not apply in the case of a qualified ship contract (as defined in section 10203(b)(2)(B) of the Revenue Act of 1987).

SEC. 313. TREATMENT OF MODIFIED ENDOWMENT CONTRACTS.

(a) DISTRIBUTION RULES.—

(1) IN GENERAL.—Subsection (e) of section 72 of the 1986 Code (relating to amounts not received as annuities) is amended by adding at the end thereof the following new paragraph:

"(10) TREATMENT OF MODIFIED ENDOWMENT CONTRACTS.—

"(A) IN GENERAL.—Notwithstanding paragraph (5)(C), in the case of any modified endowment contract (as defined in section 7702A)—

"(i) paragraphs (2)(B) and (4)(A) shall apply, and

"(ii) in applying paragraph (4)(A), 'any person' shall be substituted for 'an individual'.

"(B) TREATMENT OF CERTAIN BURIAL CONTRACTS.—Notwithstanding subparagraph (A), paragraph (4)(A) shall not apply to any assignment (or pledge) of a modified endowment contract which is described in section 7702(e)(2)(C) (determined with regard to the last sentence of section 7702(e)(2)) if such assignment (or pledge) is solely to cover the payment of expenses referred to in section 7702(e)(2)(C)(iii)."

(2) TECHNICAL AMENDMENT.—Subparagraph (C) of section 72(e)(5) is amended by striking out "Except to the extent" and inserting in lieu thereof "Except as provided in paragraph (10) and except to the extent".

(b) ADDITIONAL TAX.—

(1) IN GENERAL.—Section 72 of the 1986 Code (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (v) as subsection (w) and by inserting after subsection (u) the following new subsection:

"(v) 10-PERCENT ADDITIONAL TAX FOR TAXABLE DISTRIBUTIONS FROM MODIFIED ENDOWMENT CONTRACTS.—

"(1) IMPOSITION OF ADDITIONAL TAX.—If any taxpayer receives any amount under a modified endowment contract (as defined in section 7702A), the taxpayer's tax under this chapter for the taxable year in which such amount is received shall be increased by an amount equal to 10 percent of the portion of such amount which is includible in gross income.

"(2) SUBSECTION NOT TO APPLY TO CERTAIN DISTRIBUTIONS.—Paragraph (1) shall not apply to any distribution—

"(A) made on or after the date on which the taxpayer attains age 59½,

"(B) which is attributable to the taxpayer's becoming disabled (within the meaning of subsection (m)(7)), or

"(C) which is part of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the taxpayer or the joint lives (or joint life expectancies) of such taxpayer and his beneficiary."

(2) TECHNICAL AMENDMENT.—Subparagraph (C) of section 26(b)(2) of the 1986 Code is amended by striking out "or (q)" and inserting in lieu thereof "(q), or (v)".

(c) MODIFIED ENDOWMENT CONTRACT DEFINED.—

(1) IN GENERAL.—Chapter 79 of the 1986 Code is amended by inserting after section 7702 the following new section:

"SEC. 7702A. MODIFIED ENDOWMENT CONTRACT DEFINED.

"(a) GENERAL RULE.—For purposes of section 72, the term 'modified endowment contract' means any contract—

"(1) which is entered into on or after June 21, 1988, and

"(2) which meets the requirements of section 7702 but fails to meet the 7-pay test of subsection (b).

"(b) 7-PAY TEST.—For purposes of subsection (a), a contract fails to meet the 7-pay test of this subsection if the accumulated amount paid under the contract at any time during the 1st 7 contract years exceeds the sum of the net level premiums which would have been paid on or before such time if the contract provided for paid-up future benefits after the payment of 7 level annual premiums.

"(c) COMPUTATIONAL RULES.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the determination under subsection (b) of the 7 level annual premiums shall be made—

"(A) as of the time the contract is issued, and

"(B) by applying the rules of section 7702(b)(2) and of section 7702(e) (other than paragraph (2)(C) thereof), except that the death benefit provided for the 1st contract year shall be deemed to be provided until the maturity date without regard to any scheduled reduction after the 1st 7 contract years.

"(2) REDUCTION IN BENEFITS DURING 1ST 7 YEARS.—

"(A) IN GENERAL.—If there is a reduction in the death benefit under the contract within the 1st 7 contract years, this section shall be applied as if the contract had originally been issued at the reduced death benefit level.

"(B) DISTRIBUTIONS AFFECTED.—If a contract fails to meet the 7-pay test of subsection (b) by reason of subparagraph (A), such contract shall be treated as failing to meet such requirements only in the case of—

"(i) distributions during the contract year in which the reduction takes effect and during any subsequent contract year, and

"(ii) under regulations prescribed by the Secretary, distributions (not described in clause (i)) in anticipation of such reduction.

For purposes of the preceding sentence, any distribution which reduces the cash surrender value of a contract and which is made within 2 years before a reduction in death benefits under the contract shall be treated as made in anticipation of such reduction.

"(3) TREATMENT OF MATERIAL CHANGES.—

"(A) IN GENERAL.—If there is a material change in the benefits under (or in other terms of) the contract which was not reflected in any previous determination under this section, for purposes of this section—

"(i) such contract shall be treated as a new contract entered into on the day on which such material change takes effect, and

"(ii) appropriate adjustments shall be made in determining whether such contract meets the 7-pay test of subsection (b) to take into account premiums previously paid under such contract (or, if greater, the cash surrender value).

The preceding sentence shall not apply in the case of a reduction to which paragraph (2) applies.

"(B) TREATMENT OF CERTAIN INCREASES IN FUTURE BENEFITS.—For purposes of subparagraph (A), the term 'material change' includes any increase in future benefits under the contract. The preceding sentence shall not apply in the case of any increase which is required to satisfy the requirements of section 7702 and which is attributable to the payment of premiums necessary to fund the lowest death benefit payable in the 1st 7 contract years or to crediting of interest (or other earnings) in respect of such premiums.

"(d) DEFINITIONS.—For purposes of this section—

"(1) AMOUNT PAID.—

"(A) IN GENERAL.—The term 'amount paid' means—

"(i) the premiums paid under the contract, reduced by

"(ii) amounts to which section 72(e) applies (other than amounts includible in gross income) to the extent that such returned amounts are not attributable to a reduction in the originally scheduled death benefits.

"(B) TREATMENT OF CERTAIN PREMIUMS RETURNED.—If, in order to comply with the requirements of subsection (b), any portion of any premium paid during any contract year is returned by the insurance company (with interest) within 60 days after the end of such contract year, the amount so returned (excluding interest) shall be deemed to reduce the sum of the premiums paid under the contract during such contract year.

"(C) INTEREST RETURNED INCLUDIBLE IN GROSS INCOME.—Notwithstanding the provisions of section 72(e), the amount of any interest returned as provided in subparagraph (B) shall be includible in the gross income of the recipient.

"(2) CONTRACT YEAR.—The term 'contract year' means the 12-month period beginning with the 1st month for which the contract is in effect, and each 12-month period beginning with the corresponding month in subsequent calendar years.

"(3) OTHER TERMS.—Except as otherwise provided in this section, terms used in this section shall have the same meaning as when used in section 7702."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 79 of the 1986 Code is amended by inserting after the item relating to section 7702 the following new item:

"Sec. 7702A. Modified endowment contract defined."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to contracts entered into on or after June 21, 1988.

(2) TREATMENT OF MATERIAL CHANGES.—The rules of section 7702A(c)(3) of the 1986 Code (as added by subsection (c)) shall apply in determining whether a contract is entered into on or after June 21, 1988.

SEC. 314. CORPORATE ESTIMATED TAX PAYMENTS.

(a) GENERAL RULE.—Paragraph (1) of section 6655(e) of the 1986 Code (relating to annualization) is amended by striking out the last sentence.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to installments required to be made after December 31, 1988.

SEC. 315. REPEAL OF RULES PERMITTING LOSS TRANSFERS BY ALASKA NATIVE CORPORATIONS.

(a) GENERAL RULE.—Nothing in section 60(b)(5) of the Tax Reform Act of 1984 (as amended by section 1804(e)(4) of the Tax Reform Act of 1986)—

(1) shall allow any loss (or credit) of any corporation which arises after April 26, 1988, to be used to offset the income (or tax)

of another corporation if such use would not be allowable without regard to such section 60(b)(5) as so amended, or

(2) shall allow any loss (or credit) of any corporation which arises on or before such date to be used to offset disqualified income (or tax attributable to such income) of another corporation if such use would not be allowable without regard to such section 60(b)(5) as so amended.

(b) DISQUALIFIED INCOME DEFINED.—For purposes of subsection (a), the term "disqualified income" means any income assigned (or attributable to property contributed) after April 26, 1988, by a person who is not a Native Corporation or a corporation all the stock of which is owned directly by a Native Corporation.

Subtitle C—Simplification and Clarification Provisions

SEC. 321. FAILURE TO SATISFY CONTINUATION COVERAGE REQUIREMENTS OF GROUP HEALTH PLANS.

(a) IN GENERAL.—Chapter 43 of the 1986 Code (relating to qualified pension, etc., plans) is amended by adding at the end thereof the following new section:

"SEC. 4980B. FAILURE TO SATISFY CONTINUATION COVERAGE REQUIREMENTS OF GROUP HEALTH PLANS.

"(a) GENERAL RULE.—There is hereby imposed a tax on the failure of a group health plan to meet the requirements of subsection (f) with respect to any qualified beneficiary.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on any failure with respect to a qualified beneficiary shall be $100 for each day in the noncompliance period with respect to such failure.

"(2) NONCOMPLIANCE PERIOD.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure, the period—

"(A) beginning on the date such failure first occurs, and

"(B) ending on the earlier of—

"(i) the date such failure is corrected, or

"(ii) the date which is 1 year after the last day in the period applicable to the qualified beneficiary under subsection (f)(2)(B) (determined without regard to clause (iii) thereof).

"(3) MINIMUM TAX FOR NONCOMPLIANCE PERIOD WHERE FAILURE DISCOVERED AFTER NOTICE OF EXAMINATION.—Notwithstanding paragraphs (1) and (2) of subsection (c)—

"(A) IN GENERAL.—In the case of 1 or more failures with respect to a qualified beneficiary—

"(i) which are not corrected before the date a notice of examination of income tax liability is sent to the employer, and

"(ii) which occurred or continued during the period under examination,

the amount of tax imposed by subsection (a) by reason of such failures with respect to such beneficiary shall not be less than the lesser of $2,500 or the amount of tax which would be imposed by subsection (a) without regard to such paragraphs.

"(B) HIGHER MINIMUM TAX WHERE VIOLATIONS ARE MORE THAN DE MINIMIS.—To the extent violations by the employer (or the plan in the case of a multiemployer plan) for any year are more than de minimis, subparagraph (A) shall be applied by substituting '$15,000' for '$2,500' with respect to the employer (or such plan).

"(c) LIMITATIONS ON AMOUNT OF TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary that none of the persons referred to in subsection (e) knew, or exercising reasonable diligence would have known, that such failure existed.

"(2) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date any of the persons referred to in subsection (e) knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) $100 LIMIT ON AMOUNT OF TAX FOR FAILURES ON ANY DAY WITH RESPECT TO A QUALIFIED BENEFICIARY.—The maximum amount of tax imposed by subsection (a) on failures on any day during the noncompliance period with respect to a qualified beneficiary shall be $100.

"(4) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures which are due to reasonable cause and not to willful neglect—

"(A) SINGLE EMPLOYER PLANS.—

"(i) IN GENERAL.—In the case of failures with respect to plans other than multiemployer plans, the tax imposed by subsection (a) for failures during the taxable year of the employer shall not exceed the amount equal to the lesser of—

"(I) 10 percent of the aggregate amount paid or incurred by the employer (or predecessor employer) during the preceding taxable year for group health plans, or

"(II) $500,000.

"(ii) TAXABLE YEARS IN THE CASE OF CERTAIN CONTROLLED GROUPS.—For purposes of this subparagraph, if not all persons who are treated as a single employer for purposes of this section have the same taxable year, the taxable years taken into account shall be determined under principles similar to the principles of section 1561.

"(B) MULTIEMPLOYER PLANS.—

"(i) IN GENERAL.—In the case of failures with respect to a multiemployer plan, the tax imposed by subsection (a) for failures during the taxable year of the trust forming part of such plan shall not exceed the amount equal to the lesser of—

"(I) 10 percent of the amount paid or incurred by such trust during such taxable year to provide medical care (as defined in section 213(d)) directly or through insurance, reimbursement, or otherwise, or

"(II) $500,000.

For purposes of the preceding sentence, all plans of which the same trust forms a part shall be treated as 1 plan.

"(ii) SPECIAL RULE FOR EMPLOYERS REQUIRED TO PAY TAX.—If an employer is assessed a tax imposed by subsection (a) by reason of a failure with respect to a multiemployer plan, the limit shall be determined under subparagraph (A) (and not under this subparagraph) and as if such plan were not a multiemployer plan.

"(5) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be unduly burdensome relative to the failure involved.

"(d) TAX NOT TO APPLY TO CERTAIN PLANS.—This section shall not apply to—

"(1) any failure of a group health plan to meet the requirements of subsection (f) if all employers maintaining such plan normally employed fewer than 20 employees on a typical business day during the preceding calendar year,

"(2) any governmental plan (within the meaning of section 414(d)), or

"(3) any church plan (within the meaning of section 414(e)).

"(e) LIABILITY FOR TAX.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the following shall be liable for the tax imposed by subsection (a) on a failure:

"(A)(i) In the case of a plan other than a multiemployer plan, the employer.

"(ii) In the case of a multiemployer plan, the plan.

"(B) Each person who is responsible (other than in a capacity as an employee) for administering or providing benefits under the plan and whose act or failure to act caused (in whole or in part) the failure.

"(2) SPECIAL RULES FOR PERSONS DESCRIBED IN PARAGRAPH (1)(B).—

"(A) NO LIABILITY UNLESS WRITTEN AGREEMENT.—Except in the case of liability resulting from the application of subparagraph (B) of this paragraph, a person described in subparagraph (B) (and not in subparagraph (A)) of paragraph (1) shall be liable for the tax imposed by subsection (a) on any failure only if such person assumed (under a legally enforceable written agreement) responsibility for the performance of the act to which the failure relates.

"(B) FAILURE TO COVER QUALIFIED BENEFICIARIES WHERE CURRENT EMPLOYEES ARE COVERED.—A person shall be treated as described in paragraph (1)(B) with respect to a qualified beneficiary if—

"(i) such person provides coverage under a group health plan for any similarly situated beneficiary under the plan with respect to whom a qualifying event has not occurred, and

"(ii) the employer, plan administrator, or such qualified beneficiary submits to such person a written request that such person provide to such qualified beneficiary the same coverage which such person provides to the beneficiary referred to in clause (i).

"(f) CONTINUATION COVERAGE REQUIREMENTS OF GROUP HEALTH PLANS.—

"(1) IN GENERAL.—A group health plan meets the requirements of this subsection only if each qualified beneficiary who would lose coverage under the plan as a result of a qualifying event is entitled to elect, within the election period, continuation coverage under the plan.

"(2) CONTINUATION COVERAGE.—For purposes of paragraph (1), the term 'continuation coverage' means coverage under the plan which meets the following requirements:

"(A) TYPE OF BENEFIT COVERAGE.—The coverage must consist of coverage which, as of the time the coverage is being provided, is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred. If coverage under the plan is modified for any group of similarly situated beneficiaries, the coverage shall also be modified in the same manner for all individuals who are qualified beneficiaries under the plan pursuant to this subsection in connection with such group.

"(B) PERIOD OF COVERAGE.—The coverage must extend for at least the period beginning on the date of the qualifying event and ending not earlier than the earliest of the following:

"(i) MAXIMUM REQUIRED PERIOD.—

"(I) GENERAL RULE FOR TERMINATIONS AND REDUCED HOURS.—In the case of a qualifying event described in paragraph (3)(B), except

as provided in subclause (II), the date which is 18 months after the date of the qualifying event.

"(II) SPECIAL RULE FOR MULTIPLE QUALIFYING EVENTS.—If a qualifying event (other than a qualifying event described in paragraph (3)(F)) occurs during the 18 months after the date of a qualifying event described in paragraph (3)(B), the date which is 36 months after the date of the qualifying event described in paragraph (3)(B).

"(III) SPECIAL RULE FOR CERTAIN BANKRUPTCY PROCEEDINGS.—In the case of a qualifying event described in paragraph (3)(F) (relating to bankruptcy proceedings), the date of the death of the covered employee or qualified beneficiary (described in subsection (g)(1)(D)(iii)), or in the case of the surviving spouse or dependent children of the covered employee, 36 months after the date of the death of the covered employee.

"(IV) GENERAL RULE FOR OTHER QUALIFYING EVENTS.—In the case of a qualifying event not described in paragraph (3)(B) or (3)(F), the date which is 36 months after the date of the qualifying event.

"(ii) END OF PLAN.—The date on which the employer ceases to provide any group health plan to any employee.

"(iii) FAILURE TO PAY PREMIUM.—The date on which coverage ceases under the plan by reason of a failure to make timely payment of any premium required under the plan with respect to the qualified beneficiary. The payment of any premium (other than any payment referred to in the last sentence of subparagraph (C)) shall be considered to be timely if made within 30 days after the date due or within such longer period as applies to or under the plan.

"(iv) GROUP HEALTH PLAN COVERAGE OR MEDICARE ELIGIBILITY.—The date on which the qualified beneficiary 1st becomes, after the date of the election—

"(I) covered under any other group health plan (as an employee or otherwise), or

"(II) in the case of a qualified beneficiary other than a qualified beneficiary described in subsection (g)(1)(D), entitled to benefits under title XVIII of the Social Security Act.

"(C) PREMIUM REQUIREMENTS.—The plan may require payment of a premium for any period of continuation coverage, except that such premium—

"(i) shall not exceed 102 percent of the applicable premium for such period, and

"(ii) may, at the election of the payor, be made in monthly installments.

If an election is made after the qualifying event, the plan shall permit payment for continuation coverage during the period preceding the election to be made within 45 days of the date of the election.

"(D) NO REQUIREMENT OF INSURABILITY.—The coverage may not be conditioned upon, or discriminate on the basis of lack of, evidence of insurability.

"(E) CONVERSION OPTION.—In the case of a qualified beneficiary whose period of continuation coverage expires under subparagraph (B)(i), the plan must, during the 180-day period ending on such expiration date, provide to the qualified beneficiary the option of enrollment under a conversion health plan otherwise generally available under the plan.

"(3) QUALIFYING EVENT.—For purposes of this subsection, the term 'qualifying event' means, with respect to any covered employee, any of the following events which, but for the continuation coverage required under this subsection, would result in the loss of coverage of a qualified beneficiary:

"(A) The death of the covered employee.

"(B) The termination (other than by reason of such employee's gross misconduct), or reduction of hours, of the covered employee's employment.

"(C) The divorce or legal separation of the covered employee from the employee's spouse.

"(D) The covered employee becoming entitled to benefits under title XVIII of the Social Security Act.

"(E) A dependent child ceasing to be a dependent child under the generally applicable requirements of the plan.

"(F) A proceeding in a case under title 11, United States Code, commencing on or after July 1, 1986, with respect to the employer from whose employment the covered employee retired at any time.

In the case of an event described in subparagraph (F), a loss of coverage includes a substantial elimination of coverage with respect to a qualified beneficiary described in subsection (g)(1)(D) within one year before or after the date of commencement of the proceeding.

"(4) APPLICABLE PREMIUM.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable premium' means, with respect to any period of continuation coverage of qualified beneficiaries, the cost to the plan for such period of the coverage for similarly situated beneficiaries with respect to whom a qualifying event has not occurred (without regard to whether such cost is paid by the employer or employee).

"(B) SPECIAL RULE FOR SELF-INSURED PLANS.—To the extent that a plan is a self-insured plan—

"(i) IN GENERAL.—Except as provided in clause (ii), the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to a reasonable estimate of the cost of providing coverage for such period for similarly situated beneficiaries which—

"(I) is determined on an actuarial basis, and

"(II) takes into account such factors as the Secretary may prescribe in regulations.

"(ii) DETERMINATION ON BASIS OF PAST COST.—If a plan administrator elects to have this clause apply, the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to—

"(I) the cost to the plan for similarly situated beneficiaries for the same period occurring during the preceding determination period under subparagraph (C), adjusted by

"(II) the percentage increase or decrease in the implicit price deflator of the gross national product (calculated by the Department of Commerce and published in the Survey of Current Business) for the 12-month period ending on the last day of the sixth month of such preceding determination period.

"(iii) CLAUSE (ii) NOT TO APPLY WHERE SIGNIFICANT CHANGE.—A plan administrator may not elect to have clause (ii) apply in any case in which there is any significant difference between the determination period and the preceding determination period, in coverage under, or in employees covered by, the plan. The determination under the preceding sentence for any determination period shall be made at the same time as the determination under subparagraph (C).

"(C) DETERMINATION PERIOD.—The determination of any applicable premium shall be made for a period of 12 months and shall be made before the beginning of such period.

"(5) ELECTION.—For purposes of this subsection—

"(A) ELECTION PERIOD.—The term 'election period' means the period which—

"(i) begins not later than the date on which coverage terminates under the plan by reason of a qualifying event,

"(ii) is of at least 60 days' duration, and

"(iii) ends not earlier than 60 days after the later of—

"(I) the date described in clause (i), or

"(II) in the case of any qualified beneficiary who receives notice under paragraph (6)(D), the date of such notice.

"(B) EFFECT OF ELECTION ON OTHER BENEFICIARIES.—Except as otherwise specified in an election, any election of continuation coverage by a qualified beneficiary described in subparagraph (A)(i) or (B) of subsection (g)(1) shall be deemed to include an election of continuation coverage on behalf of any other qualified beneficiary who would lose coverage under the plan by reason of the qualifying event. If there is a choice among types of coverage under the plan, each qualified beneficiary is entitled to make a separate selection among such types of coverage.

"(6) NOTICE REQUIREMENT.—In accordance with regulations prescribed by the Secretary—

"(A) The group health plan shall provide, at the time of commencement of coverage under the plan, written notice to each covered employee and spouse of the employee (if any) of the rights provided under this subsection.

"(B) The employer of an employee under a plan must notify the plan administrator of a qualifying event described in subparagraph (A), (B), (D), or (F) of paragraph (3) with respect to such employee within 30 days of the date of the qualifying event.

"(C) Each covered employee or qualified beneficiary is responsible for notifying the plan administrator of the occurrence of any qualifying event described in subparagraph (C) or (E) of paragraph (3) within 60 days after the date of the qualifying event.

"(D) The plan administrator shall notify—

"(i) in the case of a qualifying event described in subparagraph (A), (B), (D), or (F) of paragraph (3), any qualified beneficiary with respect to such event, and

"(ii) in the case of a qualifying event described in subparagraph (C) or (E) of paragraph (3) where the covered employee notifies the plan administrator under subparagraph (C), any qualified beneficiary with respect to such event,

of such beneficiary's rights under this subsection.

For purposes of subparagraph (D), any notification shall be made within 14 days of the date on which the plan administrator is notified under subparagraph (B) or (C), whichever is applicable, and any such notification to an individual who is a qualified beneficiary as the spouse of the covered employee shall be treated as notification to all other qualified beneficiaries residing with such spouse at the time such notification is made.

"(7) COVERED EMPLOYEE.—For purposes of this subsection, the term 'covered employee' means an individual who is (or was) provided coverage under a group health plan by virtue of the individual's employment or previous employment with an employer.

"(g) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED BENEFICIARY.—

"(A) IN GENERAL.—The term 'qualified beneficiary' means, with respect to a covered employee under a group health plan, any other individual who, on the day before the quali-

fying event for that employee, is a beneficiary under the plan—

"(i) as the spouse of the covered employee, or

"(ii) as the dependent child of the employee.

"(B) SPECIAL RULE FOR TERMINATIONS AND REDUCED EMPLOYMENT.—In the case of a qualifying event described in subsection (f)(3)(B), the term 'qualified beneficiary' includes the covered employee.

"(C) EXCEPTION FOR NONRESIDENT ALIENS.—Notwithstanding subparagraphs (A) and (B), the term 'qualified beneficiary' does not include an individual whose status as a covered employee is attributable to a period in which such individual was a nonresident alien who received no earned income (within the meaning of section 911(d)(2)) from the employer which constituted income from sources within the United States (within the meaning of section 861(a)(3)). If an individual is not a qualified beneficiary pursuant to the previous sentence, a spouse or dependent child of such individual shall not be considered a qualified beneficiary by virtue of the relationship of the individual.

"(D) SPECIAL RULE FOR RETIREES AND WIDOWS.—In the case of a qualifying event described in subsection (f)(3)(F), the term 'qualified beneficiary' includes a covered employee who had retired on or before the date of substantial elimination of coverage and any other individual who, on the day before such qualifying event, is a beneficiary under the plan—

"(i) as the spouse of the covered employee,

"(ii) as the dependent child of the employee, or

"(iii) as the surviving spouse of the covered employee.

"(2) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term by section 162(i)."

"(3) PLAN ADMINISTRATOR.—The term 'plan administrator' has the meaning given the term 'administrator' by section 3(16)(A) of the Employee Retirement Income Security Act of 1974.

"(4) CORRECTION.—A failure of a group health plan to meet the requirements of subsection (f) with respect to any qualified beneficiary shall be treated as corrected if—

"(A) such failure is retroactively undone to the extent possible, and

"(B) the qualified beneficiary is placed in a financial position which is as good as such beneficiary would have been in had such failure not occurred.

For purposes of applying subparagraph (B), the qualified beneficiary shall be treated as if he had elected the most favorable coverage in light of the expenses he incurred since the failure 1st occurred."

(b) TECHNICAL AMENDMENTS.—

(1) Section 106 of the 1986 Code (relating to contributions by employer to accident and health plans) is amended to read as follows:

"SEC. 106. CONTRIBUTIONS BY EMPLOYER TO ACCIDENT AND HEALTH PLANS.

"Gross income of an employee does not include employer-provided coverage under an accident or health plan."

(2) Subsection (i) of section 162 of the 1986 Code (relating to group health plans) is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(3) Section 162 of the 1986 Code is amended by striking out subsection (k) and by redesignating—

(A) the subsection relating to stock redemption expenses as subsection (k),

(B) the subsection relating to special rules for health insurance costs of self-employed individuals as subsection (l), and

(C) the subsection relating to cross references as subsection (m).

(4) Subparagraph (C) of section 414(n)(3) of the 1986 Code, as amended by section 111B(a) of this Act, is amended by striking out "162(i)(2), 162(k)(2)," and by striking out "and 505" and inserting in lieu thereof "505, and 4980B".

(5) Paragraph (2) of section 414(t) of the 1986 Code, as amended by section 111B(a) of this Act, is amended by striking out "162(i)(2), 162(k)(2)," and by striking out "or 505" and inserting in lieu thereof "505, or 4980B".

(6) Paragraph (1) of section 607 of the Employee Retirement Income Security Act of 1974 is amended by striking out "section 162(i)(3) of the Internal Revenue Code of 1954" and inserting in lieu thereof "section 162(i)(2) of the Internal Revenue Code of 1986".

(7) Paragraph (1) of section 2208 of the Public Health Service Act is amended by striking out "section 162(i)(3) of the Internal Revenue Code of 1954" and inserting in lieu thereof "section 162(i)(2) of the Internal Revenue Code of 1986".

(c) CLERICAL AMENDMENT.—The table of sections for chapter 43 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 4980B. Failure to satisfy continuation coverage requirements of group health plans."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988, but shall not apply to any plan for any plan year to which section 162(k) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act) did not apply by reason of section 10001(e)(2) of the Consolidated Omnibus Budget Reconciliation Act of 1985.

SEC. 322. MODIFICATIONS TO DISCRIMINATION RULES APPLICABLE TO CERTAIN EMPLOYEE BENEFIT PLANS.

(a) MODIFICATIONS TO SECTION 89.—

(1) DETERMINATIONS BASED ON TESTING YEAR.—

(A) Section 89 of the 1986 Code (as amended by title I) is amended by striking out "plan year" each place it appears and inserting in lieu thereof "testing year".

(B) Subsection (j) of section 89 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(13) TESTING YEAR.—The term 'testing year' means—

"(A) any 12-month period beginning with the calendar month designated in the plan for purposes of this section, or

"(B) if there is no such designation, the plan year.

Any designation under subparagraph (A) may be changed only with the consent of the Secretary."

(C) Subsection (c) of section 4976 of the 1986 Code (as added by title (I)) is amended—

(i) by striking out "any plan year" in paragraph (1) and inserting in lieu thereof "any testing year (as defined in section 89(f)(13))"; and

(ii) by striking out "such plan year" each place it appears in paragraph (2)(A) and inserting in lieu thereof "such testing year".

(2) TIME FOR TESTING.—

(A) IN GENERAL.—Subsection (g) of section 89 is amended by adding at the end thereof the following new paragraph:

"(7) TIME FOR TESTING.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the determination of whether any plan is a discriminatory employee benefit plan for any testing year shall be made on the basis of the facts as of the testing day.

"(B) ADJUSTMENT WHERE BENEFIT OF HIGHLY COMPENSATED EMPLOYEE CHANGES.—If the employer-provided benefit (actually provided or available) of a highly compensated employee changes during the testing year by reason of any change in the terms of the plan or the making of an election by such employee, the amount taken into account as such employee's employer-provided benefit shall be adjusted to take into account such change and the portion of the testing year during which the changed benefit is provided (or made available).

"(C) TREATMENT OF NON-HIGHLY COMPENSATED EMPLOYEES WHERE CHANGE IN PLAN.—Rules similar to the rules of subparagraph (B) shall apply in the case of employees who are not highly compensated employees and who are affected by any change in the terms of the plan, except that the determination of such employees' employer-provided benefits (actually provided or made available) shall be determined as of the date after such change selected by the employer and permitted under regulations prescribed by the Secretary.

"(D) TESTING DAY.—For purposes of this paragraph, the term 'testing day' means—

"(i) the day designated in the plan as the testing day for purposes of this paragraph, or

"(ii) if there is no day so designated, the last day of the testing year.

"(E) LIMITATIONS.—

"(i) DESIGNATION MUST BE CONSISTENT FOR ALL PLANS OF SAME TYPE.—No day may be designated under subparagraph (D)(i) with respect to any plan unless the same day is so designated with respect to all other plans of the employer of the same type.

"(ii) DESIGNATION BINDING.—Any designation under subparagraph (D)(i) shall apply to the testing year for which made and all subsequent years unless revoked with the consent of the Secretary."

(B) DESIGNATIONS FOR 1989 NOT BINDING.—Any designation of a testing day for a year beginning in 1989 shall be disregarded in determining the day which may be designated as the testing day for years beginning after 1989.

(3) SAMPLING.—Subsection (g) of section 89 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) SAMPLING.—For purposes of determining whether a plan is a discriminatory employee benefit plan (but not for purposes of identifying the highly compensated employees who have a discriminatory excess or the amount of any such excess), determinations under this section may be made on the basis of a statistically valid random sample. The preceding sentence shall apply only if—

"(A) the sampling is conducted by an independent person in a manner not inconsistent with regulations prescribed by the Secretary, and

"(B) the statistical method and sample size result in a 99-percent probability that the results will have a margin of error not greater than 2 percent."

(4) SPECIAL VALUATION RULE FOR MULTIEMPLOYER PLANS.—Paragraph (3) of section 89(g) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE FOR MULTIEMPLOYER PLANS.—

"(i) IN GENERAL.—Except as provided in regulations and clause (ii), an employer may treat the contribution such employer makes to a multiemployer plan on behalf of an employee as the employer-provided benefit of such employee under such plan.

"(ii) ADJUSTMENT.—If the allocation of plan benefits between highly compensated employees and other employees under a multiemployer plan varies materially from the allocation of employer contributions to such plan, the employer-provided benefit determined under clause (i) shall be appropriately adjusted to take into account such material variation."

(5) SPECIAL RULE FOR MULTIEMPLOYER PLANS UNDER INITIAL SERVICE REQUIREMENT.—Subsection (h) of section 89 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR MULTIEMPLOYER PLAN.—Except as provided in regulations, any multiemployer plan shall not be taken into account in applying paragraph (1)(A) with respect to other plans of the employer."

(6) COMPARABILITY RULES.—Paragraph (1) of section 89(g) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) ELECTION TO USE LOWER PERCENTAGE IN DETERMINING COMPARABILITY.—If an election by the employer under this subparagraph applies for the testing year—

"(i) for purposes of applying subsection (f), subparagraph (B) of this paragraph shall be applied by substituting '80 percent' for '95 percent', and

"(ii) subsection (f) shall be applied with respect to all health plans maintained by the employer by substituting '90 percent' for '80 percent'."

(7) OTHER COVERAGE.—Subparagraph (A) of section 89(g)(2) of the 1986 Code is amended—

(A) by striking out "the requirements of subsection (e)" and inserting in lieu thereof "the requirements of subsection (e) or (f)", and

(B) by adding at the end thereof the following new sentence: "The provisions of the preceding sentence shall not apply for purposes of applying subsection (f) unless the requirements of subsection (f) would be met if such subsection were applied without regard to the preceding sentence and on the basis of eligibility to participate rather than coverage."

(8) SWORN STATEMENTS.—Paragraph (2) of section 89(g) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE.—No employee who is not a highly compensated employee may be disregarded under subparagraph (A)(i) with respect to any health plan of the employer unless under such plan such employee is entitled, when the coverage under the other health plan referred to in subparagraph (A)(i) ceases, to elect coverage under the plan of the employer (whether or not an election is otherwise available). Such election is to be on the same terms as if such employee had initially elected health coverage from the employer and at a subsequent open season was changing such coverage. Rules similar to the rules of the preceding sentences of this subparagraph shall apply in the case of an employee treated as not having a spouse or dependents or having a spouse or dependents covered by a health plan of another employer providing core benefits."

(9) DEFINITION OF PLAN.—Paragraph (11) of section 89(j) of the 1986 Code is amended by striking out "Each option" and inserting in lieu thereof "Except as provided in subsection (g)(1), each option".

(10) MODIFICATION OF PENALTY.—Subparagraph (B) of section 6652(k)(2) of the 1986 Code is amended by inserting before the period at the end thereof the following: "reduced by the amount of such benefit shown on timely statements under sections 6051(a) and 6051(d)".

(b) MODIFICATION TO DEFINITION OF HIGHLY COMPENSATED AND TO SEPARATE LINE OF BUSINESS RULES.—

(1) DEFINITION OF HIGHLY COMPENSATED.—Subsection (q) of section 414 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(11) SIMPLIFIED METHOD FOR DETERMINING HIGHLY COMPENSATED EMPLOYEES.—

"(A) IN GENERAL.—If an election by the employer under this paragraph applies to any year, in determining whether an employee is a highly compensated employee for such year—

"(i) subparagraph (B) of paragraph (1) shall be applied by substituting '$50,000' for '$75,000', and

"(ii) subparagraph (C) of paragraph (1) shall not apply.

"(B) REQUIREMENTS FOR ELECTION.—An election under this paragraph shall not apply to any year unless—

"(i) the employer did not maintain a top-heavy plan (as defined in section 416) at any time during such year, and

"(ii) at all times during such year, the employer maintained business activities and employees in at least 2 geographically separate areas."

(2) LINE OF BUSINESS REQUIREMENTS.—Paragraph (3) of section 414(r) of the 1986 Code is amended to read as follows:

"(3) SAFE HARBOR RULE.—

"(A) IN GENERAL.—The requirements of subparagraph (C) of paragraph (2) shall not apply to any line of business if the highly compensated employee percentage with respect to such line of business is—

"(i) not less than one-half, and

"(ii) not more than twice,

the percentage which highly compensated employees are of all employees of the employer. An employer shall be treated as meeting the requirements of clause (i) if at least 10 percent of all highly compensated employees of the employer perform services solely for such line of business.

"(B) DETERMINATION MAY BE BASED ON PRECEDING YEAR.—The requirements of subparagraph (A) shall be treated as met with respect to any line of business if such requirements were met with respect to such line of business for the preceding year and if—

"(i) no more than a de minimis number of employees were shifted to or from the line of business after the close of the preceding year, and

"(ii) the employees shifted to or from the line of business after the close of the preceding year contained a substantially proportional number of highly compensated employees."

(c) TRANSITIONAL PROVISIONS FOR PURPOSES OF SECTION 89.—

(1) TEMPORARY VALUATION RULES.—In the case of testing years beginning before the later of January 1, 1991, or the date 6 months after the Secretary of the Treasury or his delegate first issues such valuation rules as are necessary to apply the provisions of section 89 of the 1986 Code to health plans—

(A) Section 89(g)(3)(B) of the 1986 Code shall not apply.

(B)(i) Except as provided in clause (ii), the value of coverage under a health plan for purposes of section 89 of the 1986 Code shall be determined in substantially the same manner as costs under a health plan are determined under section 4980B(f)(4) of the 1986 Code.

(ii) For purposes of determining whether an employer meets the requirements of subsections (d), (e), and (f) of section 89 of the 1986 Code, value under clause (i) may be determined under any other reasonable method selected by the employer.

(2) FORMER EMPLOYEES.—The amendments made by section 1151 of the Reform Act shall not apply to former employees who separated from service with the employer before January 1, 1987 (and were not reemployed after such date), and such former employees shall not be taken into account in determining whether the requirements of section 89 of the 1986 Code are met with respect to other former employees. The preceding sentence shall not apply to the extent that the value of employer-provided benefits provided to any such former employee exceeds the value of such benefits which were available under the terms of the plan as in effect on the last day of the last plan year beginning before January 1, 1989.

(3) WRITTEN PLAN REQUIREMENT.—The requirements of section 89(k)(1)(A) of the 1986 Code shall be treated as met with respect to any testing year beginning in 1989, if—

(A) the plan is in writing before the close of such year,

(B) the employees had reasonable notice of the plan's essential features on or before the beginning of such year, and

(C) the provisions of the written plan apply for the entire year.

(4) RULES TO BE PRESCRIBED BEFORE OCTOBER 1, 1988.—Not later than October 1, 1988, the Secretary of the Treasury or his delegate shall issue such rules as may be necessary to carry out the provisions of section 89 of the 1986 Code.

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall take effect as if included in the amendments made by section 1151 of the Tax Reform Act of 1986; except that the amendment made by subsection (a)(8) shall apply to testing years beginning after December 31, 1989.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to years beginning after December 31, 1986.

SEC. 323. CLARIFICATION OF TREATMENT OF JOINT AND SURVIVOR ANNUITIES UNDER QTIP RULES.

(a) ESTATE TAX.—Paragraph (7) of section 2056(b) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) TREATMENT OF SURVIVOR ANNUITIES.—In the case of an annuity where only the surviving spouse has the right to receive payments before the death of such surviving spouse—

"(i) the interest of such surviving spouse shall be treated as a qualifying income interest for life, and

"(ii) the executor shall be treated as having made an election under this subsection with respect to such annuity unless the executor otherwise elects on the return of tax imposed by section 2001.

An election under clause (ii), once made, shall be irrevocable."

(b) GIFT TAX.—Subsection (f) of section 2523 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(6) TREATMENT OF JOINT AND SURVIVOR ANNUITIES.—In the case of a joint and survivor annuity where only the donor spouse and donee spouse have the right to receive payments before the death of the last spouse to die—

"(A) the donee spouse's interest shall be treated as a qualifying income interest for life,

"(B) the donor spouse shall be treated as having made an election under this subsection with respect to such annuity unless the donor spouse otherwise elects on or before the date specified in paragraph (4)(A),

"(C) paragraph (5) and section 2519 shall not apply to the donor spouse's interest in the annuity, and

"(D) if the donee spouse dies before the donor spouse, no amount shall be includible in the gross estate of the donee spouse under section 2044 with respect to such annuity.

An election under subparagraph (B), once made, shall be irrevocable."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection—

(A) the amendment made by subsection (a) shall apply with respect to decedents dying after December 31, 1981, and

(B) the amendment made by subsection (b) shall apply to transfers after December 31, 1981.

(2) NOT TO APPLY TO EXTENT INCONSISTENT WITH PRIOR RETURN.—In the case of any estate or gift tax return filed before the date of the enactment of this Act, the amendments made by this section shall not apply to the extent such amendments would be inconsistent with the treatment of the annuity on such return unless the executor or donor (as the case may be) otherwise elects under this paragraph before the day 2 years after the date of the enactment of this Act.

(3) EXTENSION OF TIME FOR ELECTION OUT.—The time for making an election under section 2056(b)(7)(C)(ii) or 2523(f)(6)(B) of the 1986 Code (as added by this subsection) shall not expire before the day 2 years after the date of the enactment of this Act (and, if such election is made within the time permitted under this paragraph, the requirement of such section 2056(b)(7)(C)(ii) that it be made on the return shall not apply).

Subtitle D—Miscellaneous Provisions

PART I—PROVISIONS RELATING TO INDIVIDUALS

SEC. 331. TREATMENT OF CERTAIN AMOUNTS PAID TO OR FOR THE BENEFIT OF AN INSTITUTION OF HIGHER EDUCATION.

(a) IN GENERAL.—Section 170 of the 1986 Code is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) TREATMENT OF CERTAIN AMOUNTS PAID TO OR FOR THE BENEFIT OF INSTITUTIONS OF HIGHER EDUCATION.—

"(1) IN GENERAL.—For purposes of this section, 80 percent of any amount described in paragraph (2) shall be treated as a charitable contribution.

"(2) AMOUNT DESCRIBED.—For purposes of paragraph (1), an amount is described in this paragraph if—

"(A) the amount is paid by the taxpayer to or for the benefit of an educational organization—

"(i) which is described in subsection (b)(1)(A)(ii), and

"(ii) which is an institution of higher education (as defined in section 3304(f)), and

"(B) such amount would be allowable as a deduction under this section but for the fact that the taxpayer receives (directly or indirectly) as a result of paying such amount the right to purchase tickets for seating at an athletic event in an athletic stadium of such institution.

If any portion of a payment is for the purchase of such tickets, such portion and the remaining portion (if any) of such payment shall be treated as separate amounts for purposes of this subsection."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1983.

SEC. 332. BUSINESS USE OF AUTOMOBILES BY RURAL MAIL CARRIERS.

(a) GENERAL RULE.—In the case of any employee of the United States Postal Service who performs services involving the collection and delivery of mail on a rural route, such employee shall be permitted to compute the amount allowable as a deduction under chapter 1 of the Internal Revenue Code of 1986 for the use of an automobile in performing such services by using a standard mileage rate for all miles of such use equal to 150 percent of the basic standard rate.

(b) SUBSECTION (a) NOT TO APPLY IF EMPLOYEE CLAIMS DEPRECIATION DEDUCTIONS FOR AUTOMOBILE.—Subsection (a) shall not apply with respect to any automobile if, for any taxable year beginning after December 31, 1987, the taxpayer claimed depreciation deductions for such automobile.

(c) BASIC STANDARD RATE.—For purposes of this section, the term "basic standard rate" means the standard mileage rate which is prescribed by the Secretary of the Treasury or his delegate for computing the amount of the deduction for the business use of an automobile and which—

(1) is in effect at the time of the use referred to in subsection (a),

(2) applies to an automobile which is not fully depreciated, and

(3) applies to the first 15,000 miles (or such other number as the Secretary of the Treasury or his delegate may hereafter prescribe) of business use during the taxable year.

(d) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning after December 31, 1987.

SEC. 333. NONRECOGNITION OF GAIN WHERE 1 SPOUSE DIES BEFORE OCCUPYING NEW RESIDENCE.

(a) IN GENERAL.—Subsection (g) of section 1034 of the 1986 Code (relating to rollover of gain on sale of principal residence) is amended by adding at the end thereof the following: "For purposes of this subsection, except to the extent provided in regulations, in the case of an individual who dies after the date of the sale of the old residence and is married on the date of death, consent to the application of paragraph (2) by such individual's spouse and use of the new residence as the principal residence of such spouse shall be treated as consent and use by such individual."

(b) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales and exchanges of old residences (within the meaning of section 1034 of the 1986 Code) after December 31, 1984, in taxable years ending after such date.

SEC. 334. MEALS ON CERTAIN VESSELS AND OFFSHORE OIL PLATFORMS EXEMPT FROM 80 PERCENT LIMITATION ON DEDUCTION FOR MEALS.

(a) IN GENERAL.—Paragraph (2) of section 274(n) of the 1986 Code (relating to only 80 percent of meal and entertainment expenses allowed as deduction), as amended by title I of this Act, is amended by striking out "or" at the end of subparagraph (D), by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(F) such expense is for food or beverages—

"(i) required by Federal law to be provided to crew members of a commercial vessel,

"(ii) provided to crew members of a commercial vessel—

"(I) which is operating on the Great Lakes, the Saint Lawrence Seaway, or any inland waterway of the United States, and

"(II) which is of a kind which would be required by Federal law to provide food and beverages to crew members if it were operated at sea, or

"(iii) provided on an oil or gas platform or drilling rig if the platform or rig is located offshore or in the United States north of 54 degrees north latitude.

Clauses (i) and (ii) of subparagraph (F) shall not apply to vessels primarily engaged in providing luxury water transportation (determined under the principles of subsection (m))."

(b) EFFECTIVE DATES.—

(1) Clauses (i) and (ii) of section 274(n)(2)(F) of the 1986 Code, as added by subsection (a), shall apply to taxable years beginning after December 31, 1988.

(2) Clause (iii) of section 274(n)(2)(F) of the 1986 Code, as added by subsection (a), shall apply to taxable years beginning after December 31, 1987.

SEC. 335. TREATMENT OF CERTAIN INNOCENT SPOUSES.

Subsection (c) of section 424 of the Tax Reform Act of 1984 (relating to innocent spouse relieved of liability in certain cases) is amended by adding at the end thereof the following new paragraph:

"(3) TRANSITIONAL RULE.—If—

"(A) a joint return under section 6013 of the Internal Revenue Code of 1954 was filed before January 1, 1985,

"(B) on such return there is an understatement (as defined in section 6661(b)(2)(A) of such Code) which is attributable to disallowed deductions attributable to activities of one spouse,

"(C) the amount of such disallowed deductions exceeds the taxable income shown on such return,

"(D) the other spouse establishes that in signing the return he or she did not know, and had no reason to know, that there was such an understatement, and

"(E) the marriage between such spouses terminated and immediately after such termination the net worth of the other spouse was less than $10,000,

notwithstanding any law or rule of law (including res judicata), the other spouse shall be relieved of liability for tax (including interest, penalties, and other amounts) for such taxable year to the extent such liability is attributable to such understatement, and, to the extent the liability so attributable has been collected from such other spouse, it shall be refunded or credited to such other spouse. No credit or refund shall be made under the preceding sentence unless claim therefor has been submitted to the Secretary of the Treasury or his delegate before the date 1 year after the date of the enactment of this paragraph, and no interest on such credit or refund shall be allowed for any period before such date of enactment.".

SEC. 336. INTERIM TREATMENT OF CERTAIN AMOUNTS AWARDED TO CHRISTA McAULIFFE FELLOWS.

(a) IN GENERAL.—In the case of an individual who is a Christa McAuliffe Fellow (as defined in section 561(b) of the Higher Education Act of 1965) and is awarded a fellowship pursuant to section 561 of such Act, for purposes of the 1986 Code, gross income shall not include any amount of such fellowship award—

(1) which is expended for a project approved by the Secretary of Education pursuant to section 563(b) of such Act, and

(2) which is not expended directly or indirectly for the personal use or benefit of such individual.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to amounts received before July 1, 1990, in taxable years beginning before such date.

SEC. 337. DENIAL OF DEDUCTION FOR CERTAIN RESIDENTIAL TELEPHONE SERVICE.

(a) GENERAL RULE.—Section 262 of the 1986 Code (relating to personal, living, and family expenses) is amended to read as follows:

"SEC. 262. PERSONAL, LIVING, AND FAMILY EXPENSES.

"(a) GENERAL RULE.—Except as otherwise expressly provided in this chapter, no deduction shall be allowed for personal, living, or family expenses.

"(b) TREATMENT OF CERTAIN PHONE EXPENSES.—For purposes of subsection (a), in the case of an individual, any charge (including taxes thereon) for basic local telephone service with respect to the 1st telephone line provided to any residence of the taxpayer shall be treated as a personal expense."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1988.

PART II—ACCOUNTING PROVISIONS

SEC. 338. AMENDMENTS TO UNIFORM CAPITALIZATION RULES.

(a) TREATMENT OF CERTAIN PRODUCERS OF CREATIVE PROPERTY.—Section 263A of the 1986 Code is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) EXEMPTION FOR FREE LANCE AUTHORS, PHOTOGRAPHERS, AND ARTISTS.—

"(1) IN GENERAL.—Nothing in this section shall require the capitalization of any qualified creative expense.

"(2) QUALIFIED CREATIVE EXPENSE.—For purposes of this subsection, the term 'qualified creative expense' means any expense—

"(A) which is paid or incurred by an individual in the trade or business of such individual (other than as an employee) of being a writer, photographer, or artist, and

"(B) which, without regard to this section, would be allowable as a deduction for the taxable year.

Such term does not include any expense related to printing, photographic plates, motion picture films, video tapes, or similar items.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) WRITER.—The term 'writer' means any individual if the personal efforts of such individual create (or may reasonably be expected to create) a literary manuscript, musical composition (including any accompanying words), or dance score.

"(B) PHOTOGRAPHER.—The term 'photographer' means any individual if the personal efforts of such individual create (or may reasonably be expected to create) a photograph or photographic negative or transparency.

"(C) ARTIST.—

"(i) IN GENERAL.—The term 'artist' means any individual if the personal efforts of such individual create (or may reasonably be expected to create) a picture, painting, sculpture, statue, etching, drawing, cartoon, graphic design, or original print edition.

"(ii) CRITERIA.—In determining whether any expense is paid or incurred in the trade or business of being an artist, the following criteria shall be taken into account:

"(I) The originality and uniqueness of the item created (or to be created).

"(II) The predominance of aesthetic value over utilitarian value of the item created (or to be created).

"(D) TREATMENT OF CERTAIN PERSONAL SERVICE CORPORATIONS.—

"(i) IN GENERAL.—In the case of a personal service corporation, this subsection shall apply to any expense of such corporation which directly relates to the activities of the qualified employee-owner in the same manner as if such expense were incurred by such employee-owner.

"(ii) QUALIFIED EMPLOYEE-OWNER.—The term 'qualified employee-owner' means any individual who is an employee-owner of the personal service corporation and who is a writer, photographer, or artist, but only if substantially all of the stock of such corporation is owned by such individual and members of his family (as defined in section 267(c)(4)).

"(iii) PERSONAL SERVICE CORPORATION.—For purposes of this subparagraph, the term 'personal service corporation' means any personal service corporation (as defined in section 269A(b)).".

(b) TREATMENT OF ANIMALS PRODUCED IN FARMING BUSINESS.—

(1) IN GENERAL.—Subparagraph (A) of section 263A(d)(1) of the 1986 Code (relating to exception for farming businesses) is amended to read as follows:

"(A) IN GENERAL.—This section shall not apply to any of the following which is produced by the taxpayer in a farming business:

"(i) Any animal.

"(ii) Any plant which has a preproductive period of 2 years or less."

(2) CONFORMING AMENDMENTS.—

(A) The heading of paragraph (1) of section 263A(d) of the 1986 Code is amended to read as follows:

"(1) SECTION NOT TO APPLY TO CERTAIN PROPERTY.—".

(B) Subsections (d)(3) and (e) of section 263A of the 1986 Code are each amended by striking out "or animal" each place it appears.

(c) TREATMENT OF PISTACHIO TREES.—Subparagraph (B) of section 263A(d)(3) of the 1986 Code (relating to certain persons not eligible) is amended to read as follows:

"(B) CERTAIN PERSONS NOT ELIGIBLE.—No election may be made under this paragraph by a corporation, partnership, or tax shelter, if such corporation, partnership, or tax shelter is required to use an accrual method of accounting under section 447 or 448(a)(3)."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by this section shall take effect as if included in the amendments made by section 803 of the Tax Reform Act of 1986.

(2) SUBSECTION (b).—

(A) IN GENERAL.—The amendments made by subsection (b) shall apply to costs incurred after December 31, 1988, in taxable years ending after such date.

(B) REVOCATION OF ELECTION.—If the taxpayer made an election under section 263A(d)(3) of the 1986 Code for a taxable year beginning before January 1, 1989, such taxpayer may, without the consent of the Secretary of the Treasury or his delegate, revoke such election effective for the taxpayer's 1st taxable year beginning after December 31, 1988.

SEC. 339. TREATMENT OF SINGLE PURPOSE AGRICULTURAL OR HORTICULTURAL STRUCTURES.

(a) IN GENERAL.—Paragraph (3) of section 168(e) of the 1986 Code (relating to classification of property) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (C) the following new subparagraphs:

"(D) 8-YEAR PROPERTY.—The term '8-year property' means any property which would be described in section 48(p)(2) if 'poultry' were substituted for 'livestock' in subparagraph (A) thereof.

"(E) 12-YEAR PROPERTY.—The term '12-year property' means any single purpose agricultural or horticultural structure (within the meaning of section 48(p)) which is not described in subparagraph (D) of this paragraph."

(b) TECHNICAL AMENDMENTS.—

(1) The table contained in paragraph (1) of section 168(c) of the 1986 Code (as amended by title I) is amended by striking out the item relating to 10-year property and inserting in lieu thereof the following new items:

"8-year property	8 years
10-year property	10 years
12-year property	12 years".

(2) Subparagraph (C) of section 168(e)(3) of the 1986 Code is amended by adding "and" at the end of clause (i), by striking out clause (ii), and by redesignating clause (iii) as clause (ii).

(3) The table contained in subparagraph (B) of section 168(g)(3) of the 1986 Code is amended by striking out all that follows the item relating to subparagraph (C)(i) and inserting in lieu thereof the following new items:

"(D) or (E)	15
(F)(i)	24
(F)(ii)	24
(G)	50."

(4) The table contained in subparagraph (A) of section 467(e)(3) of the 1986 Code is amended by striking out the item relating to 10-year property and inserting in lieu thereof the following new items:

"8-year property	8 years
10-year property	10 years
12-year property	12 years".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 1988.

(2) EXCEPTION.—The amendments made by this section shall not apply to any property if such property is placed in service before January 1, 1990, and if such property—

(A) is constructed, reconstructed, or acquired by the taxpayer pursuant to a written contract which was binding on July 14, 1988, or

(B) is constructed or reconstructed by the taxpayer and such construction or reconstruction began by July 14, 1988.

SEC. 340. TREATMENT OF PROPERTY USED IN A FARMING BUSINESS.

(a) IN GENERAL.—Paragraph (2) of section 168(b) of the 1986 Code (as amended by title

I) is amended by striking out "or" at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

"(B) any property used in a farming business (within the meaning of section 263A(e)(4)), or".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 1988.

(2) EXCEPTION.—The amendments made by this section shall not apply to any property if such property is placed in service before July 1, 1989, and if such property—

(A) is constructed, reconstructed, or acquired by the taxpayer pursuant to a written contract which was binding on July 14, 1988, or

(B) is constructed or reconstructed by the taxpayer and such construction or reconstruction began by July 14, 1988.

SEC. 341. CERTAIN REPLEDGES PERMITTED.

(a) GENERAL RULE.—Section 453A(d) of the 1986 Code (relating to pledges, etc., of installment obligations) shall not apply to any pledge after December 17, 1987, of an installment obligation to secure any indebtedness if such indebtedness is incurred to refinance indebtedness which was outstanding on December 17, 1987, and which was secured on such date and all times thereafter before such refinancing by a pledge of such installment obligation.

(b) LIMITATION.—Subsection (a) shall not apply to the extent that the principal amount of the indebtedness resulting from the refinancing exceeds the principal amount of the refinanced indebtedness immediately before the refinancing.

(c) CERTAIN REFINANCINGS PERMITTED.—For purposes of subsection (a), if—

(1) a refinancing is attributable to the calling of indebtedness by the creditor, and

(2) such refinancing is not with the creditor under the refinanced indebtedness or a person related to such creditor,

such refinancing shall, to the extent the refinanced indebtedness qualifies under subsections (a) and (b), be treated as a continuation of such refinanced indebtedness.

SEC. 342. TREATMENT OF INDIRECT HOLDINGS THROUGH TRUSTS UNDER SECTION 448 OF THE 1986 CODE.

(a) GENERAL RULE.—Paragraph (2) of section 448(d) of the 1986 Code (defining qualified personal service corporation) is amended by adding at the end thereof the following new sentence:

"To the extent provided in regulations which shall be prescribed by the Secretary, indirect holdings through a trust shall be taken into account under subparagraph (B)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1986.

PART III—INSURANCE PROVISIONS

SEC. 343. CHURCH SELF-FUNDED DEATH BENEFIT PLANS TREATED AS LIFE INSURANCE.

(a) IN GENERAL.—Section 7702 of the 1986 Code (defining life insurance contract) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) CERTAIN CHURCH SELF-FUNDED DEATH BENEFIT PLANS TREATED AS LIFE INSURANCE.—

"(1) IN GENERAL.—In determining whether any plan or arrangement described in paragraph (2) is a life insurance contract, the requirement of subsection (a) that the contract be a life insurance contract under applicable law shall not apply.

"(2) DESCRIPTION.—For purposes of this subsection, a plan or arrangement is described in this paragraph if—

"(A) such plan or arrangement provides for the payment of benefits by reason of the death of the individuals covered under such plan or arrangement, and

"(B) such plan or arrangement is provided by a church for the benefit of its employees and their beneficiaries, directly or through an organization described in section 414(e)(3)(A) or an organization described in section 414(e)(3)(B)(ii).

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) CHURCH.—The term 'church' means a church or a convention or association of churches.

"(B) EMPLOYEE.—The term 'employee' includes an employee described in section 414(e)(3)(B)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendment made by section 221(a) of the Tax Reform Act of 1984.

SEC. 344. TREATMENT OF STRUCTURED SETTLEMENTS.

(a) TREATMENT UNDER MINIMUM TAX.—

(1) The last sentence of section 56(g)(4)(B)(iii) of the 1986 Code (as amended by title I) is amended to read as follows: "The preceding sentence shall not apply to any annuity contract which is held under a plan described in section 403(a) or which is described in section 72(u)(3)(C)."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 701 of the Reform Act.

(b) CERTAIN CREDITOR RIGHTS PERMITTED.—

(1) IN GENERAL.—Subsection (c) of section 130 of the 1986 Code (relating to certain personal injury liability assignments) is amended—

(A) by striking out subparagraph (C) of paragraph (2) and redesignating subparagraphs (D) and (E) of paragraph (2) as subparagraphs (C) and (D), respectively, and

(B) by adding at the end thereof the following new sentence:

"The determination for purposes of this chapter of when the recipient is treated as having received any payment with respect to which there has been a qualified assignment shall be made without regard to any provision of such assignment which grants the recipient rights as a creditor greater than those of a general creditor."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to assignments after the date of the enactment of this Act.

SEC. 345. TREATMENT OF CERTAIN WORKERS' COMPENSATION FUNDS.

(a) TREATMENT FOR TAXABLE YEARS BEGINNING BEFORE 1987.—In the case of any taxable year beginning before January 1, 1987, a deficiency shall not be assessed against (and if assessed, shall not be collected from) any qualified group self-insurers' fund to the extent such deficiency is attributable to the timing of policyholder dividend deductions.

(b) QUALIFIED GROUP SELF-INSURERS' FUND.—For purposes of this section, the term "qualified group self-insurers' fund" means any not-for-profit group of 2 or more employers who are engaged in the same or a similar type of trade or business, who are members of a bona fide trade or professional association which has been in existence for not less than 2 years, and who enter into agreements to pool their liabilities under the State workers' disability compensation laws for the purpose of qualifying as a self-insurer under such laws, if—

(1) the group has received a certificate of approval from, and is subject to regulation by, the State board or agency that is responsible for administering the State workers' disability compensation laws,

(2) each employer who is a member of the group, by written agreement, is jointly and severally bound to assume and discharge, by payment, any lawful judgment or award entered by a court of competent jurisdiction or by the State agency responsible for administering the State workers' disability compensation laws against a member of the group,

(3) the group is prohibited by State law or regulation from using the monies collected for a purpose other than to pay, or to reserve against, claims under the State workers' disability compensation laws and expenses,

(4) the group is bound by State law or regulation or by its governing documents to promptly return to its members all monies not needed to pay, or reserve against, claims under the State workers' disability compensation laws and expenses,

(5) the group is prohibited by State law or regulation from taking projected investment income into account in determining members' premiums,

(6) the group is required by State law or regulation to submit to the State board or agency that is responsible for administering the State workers' disability compensation laws, within 120 days after the end of the group's fiscal year, an audited financial statement certified by an independent certified public accountant, and

(7) the group's investments are limited by State law or regulation to bonds, notes, or other evidences of indebtedness issued, assumed or guaranteed by the United States of America, or by an agency or instrumentality thereof, certificates of deposit in a federally insured bank, shares or savings deposits in a federally insured savings and loan association or credit union, and certificates of deposit issued by a commercial bank duly chartered under State law.

SEC. 346. LIMITATION ON UNREASONABLE MORTALITY AND OTHER EXPENSE CHARGES UNDER SECTION 7702.

(a) GENERAL RULE.—Subparagraph (B) of section 7702(c)(3) of the 1986 Code (relating to guideline premium requirements) is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) reasonable mortality charges which meet the requirements (if any) prescribed in regulations and which (except as provided in regulations) do not exceed the mortality charges taken into account in determining reserves for the contract under section 807,

"(ii) any reasonable charges (other than mortality charges) which (on the basis of the company's experience) are reasonably expected to be actually paid, and".

(b) SPECIAL RULES.—Paragraph (3) of section 7702(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) SPECIAL RULES FOR SUBPARAGRAPH (B)(ii).—

"(i) CHARGES NOT SPECIFIED IN THE CONTRACT.—If any charge is not specified in the contract, the amount taken into account under subparagraph (B)(ii) for such charge shall be zero.

"(ii) NEW COMPANIES, ETC.—If any company does not have adequate experience for purposes of the determination under subparagraph (B)(ii), such determination shall be

made on the basis of the industry-wide experience."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to contracts issued on or after July 13, 1988.

(2) TREATMENT OF MATERIAL CHANGES.—The rules of section 7702A(c)(3) of the 1986 Code (as added by this Act) shall apply in determining whether a contract is issued on or after July 13, 1988.

SEC. 347. VALUATION OF GROUP-TERM LIFE INSURANCE.

(a) GENERAL RULE.—Subsection (c) of section 79 of the 1986 Code (relating to the determination of the cost of insurance) is amended by striking out the last sentence.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1988.

SEC. 348. STUDY.

(a) GENERAL RULE.—The Secretary of the Treasury and the Comptroller General of the United States shall each conduct a study on—

(1) the effectiveness of the revised tax treatment of life insurance and annuity products in preventing the sale of life insurance primarily for investment purposes, and

(2) the policy justification for, and the practical implications of, the present-law treatment of the earnings on the cash surrender value of life insurance and annuity contracts in light of the reforms made by the Tax Reform Act of 1986.

(b) REPORT.—Not later than March 1, 1989, the Secretary of the Treasury and the Comptroller General of the United States shall each submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the study conducted under subsection (a), together with such recommendations as they may deem advisable.

SEC. 349. PREPAID TAX CERTIFICATES.

(a) GENERAL RULE.—Part III of subchapter L of chapter 1 of the 1986 Code (relating to provisions of general application) is amended by adding at the end thereof the following new section:

"SEC. 847. PREPAID TAX CERTIFICATES.

"In the case of taxable years beginning after December 31, 1987, of an insurance company required to discount unpaid losses (as defined in section 846)—

"(1) ADDITIONAL DEDUCTION.—There shall be allowed as a deduction for the taxable year, if certificates are purchased as required by paragraph (2), an amount not to exceed the excess of—

"(A) the amount of the undiscounted, unpaid losses (as defined in section 846(b)) attributable to losses incurred after December 31, 1986, over

"(B) the amount of the related discounted, unpaid losses determined under section 846, to the extent such amount was not deducted under this paragraph in a preceding taxable year.

"(2) PURCHASE AND REDEMPTION OF CERTIFICATES.—The deduction under paragraph (1) shall be allowed only to the extent that prepaid tax certificates are purchased in an amount equal to the tax benefit attributable to such deduction, on or before the date that any taxes (determined without regard to this subsection) due for the taxable year for which the deduction is allowed are due to be paid. If a deduction would be allowed but for the fact that prepaid tax certificates were not timely purchased, such deduction shall be allowed to the extent such purchases are made within a reasonable time, as determined by the Secretary, if all interest and penalties, computed as if this sentence did not apply, are paid. For a taxable year for which amounts are included in gross income under paragraph (5) or (6), an amount of prepaid tax certificates equal to the additional tax due as a result of such inclusion shall be redeemed but only for purposes of being applied against such additional tax. If, after any such certificate is redeemed, there is an adjustment reducing the amount of such additional tax, in lieu of any credit or refund for such reduction, a prepaid tax certificate shall be issued equal to the amount otherwise allowable as a credit or refund.

"(3) SPECIAL LOSS DISCOUNT ACCOUNT.—Each company which is allowed a deduction under paragraph (1) shall, for purposes of this part, establish and maintain a special loss discount account.

"(4) ADDITIONS TO SPECIAL LOSS DISCOUNT ACCOUNT.—There shall be added to the special loss discount account for each taxable year an amount equal to the amount allowed as a deduction for the taxable year under paragraph (1).

"(5) SUBTRACTIONS FROM SPECIAL LOSS DISCOUNT ACCOUNT AND INCLUSION IN GROSS INCOME.—After applying paragraph (4), there shall be subtracted for the taxable year from the special loss discount account and included in gross income:

"(A) The excess (if any) of the amount in the special loss discount account with respect to losses incurred in each taxable year over the amount of the excess referred to in paragraph (1) with respect to losses incurred in that year, and

"(B) Any amount improperly subtracted from the special loss discount account under subparagraph (A) to the extent prepaid tax certificates were redeemed with respect to such amount.

"(6) RULES IN THE CASE OF LIQUIDATION OR TERMINATION OF TAXPAYER'S INSURANCE BUSINESS.—

"(A) IN GENERAL.—If a company liquidates or otherwise terminates its insurance business and does not transfer or distribute such business in an acquisition of assets referred to in section 381(a), the entire amount remaining in such special loss discount account shall be subtracted and included in gross income. Except in the case where a company transfers or distributes its insurance business in an acquisition of assets, referred to in section 381(a), if the company is not subject to the tax imposed by section 801 or section 831 for any taxable year, the entire amount in the account at the close of the preceding taxable year shall be subtracted from the account in such preceding taxable year and included in gross income.

"(B) ELIMINATION OF BALANCE OF CERTIFICATES.—In any case to which subparagraph (A) applies, any prepaid tax certificates remaining after the redemption attributable to the inclusion under subparagraph (A) shall be voided.

"(7) MODIFICATION OF THE VALUE OF PREPAID TAX CERTIFICATES IN THE EVENT OF SUBSEQUENT MARGINAL RATE REDUCTION OR INCREASE.—In the event of a reduction in the tax rate provided under section 11 for any tax year after the enactment of this section, the Secretary shall prescribe regulations providing for a reduction in the value of any prepaid tax certificates purchased in years before the effective date of such section 11 rate reduction. Such reduction in the value of the prepaid tax certificates shall reduce the value of the certificates to the value that they would have had if the special deduction permitted under paragraph (1) had occurred during a year that the lower marginal rate under section 11 applied. Similar rules shall be provided in the event of a marginal rate increase.

"(8) REGULATORY AUTHORITY.—The tax benefit attributable to the deduction under paragraph (1) shall be determined under regulations prescribed by the Secretary, by taking into account tax benefits that would arise from the carryback of any net operating loss for the year, as well as current year tax benefits. Tax benefits for the current year and carryback years shall include those that would arise from the filing of a consolidated return with another insurance company required to determine discounted, unpaid losses under section 846 without regard to the limitations on consolidation contained in section 1503(c)."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter L of chapter 1 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 847. Prepaid tax certificates."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.

PART IV—PROVISIONS RELATING TO DEFERRED COMPENSATION

SEC. 350. MODIFICATIONS TO SECTION 457.

(a) CODIFICATION OF EXCEPTION FOR CERTAIN PLANS.—

(1) Subsection (e) of section 457 of the 1986 Code (as amended by section 1107 of the Reform Act) is amended by adding at the end thereof the following new paragraph:

"(11) CERTAIN PLANS EXCEPTED.—Any bona fide vacation leave, sick leave, compensatory time, severance pay, disability pay, or death benefit plan shall be treated as a plan not providing for the deferral of compensation."

(2) Subsection (d) of section 457 of the 1986 Code (as in effect on the day before the date of the enactment of the Reform Act) is amended by adding at the end thereof the following new paragraph:

"(10) CERTAIN PLANS EXCEPTED.—Any bona fide vacation leave, sick leave, compensatory time, severance pay, disability pay, or death benefit plan shall be treated as a plan not providing for the deferral of compensation."

(b) REPEAL OF EXTENSION TO TAX-EXEMPT ORGANIZATIONS.—

(1) IN GENERAL.—Subparagraph (B) of section 457(e)(1) of the 1986 Code (as amended by section 1107 of the Reform Act) is amended to read as follows:

"(B) any rural electric cooperative (as defined in section 401(k)(7)(B))."

(2) CLERICAL AMENDMENTS.—

(A) The section heading of section 457 of the 1986 Code (as so amended) is amended by striking out "AND TAX-EXEMPT ORGANIZATIONS".

(B) The table of sections for subpart B of part II of subchapter E of chapter 1 of the 1986 Code is amended by striking out "and tax-exempt organizations" in the item relating to section 457.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1987.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to tax-

able years beginning after December 31, 1986.

(3) TREATMENT OF CERTAIN NONELECTIVE DEFERRED COMPENSATION.—Section 457 of the 1986 Code shall not apply to amounts deferred under a nonelective deferred compensation plan—

(A) if such amounts were deferred from periods before July 14, 1988, or

(B) if—

(i) such amounts are deferred from periods on or after such date pursuant to an agreement which—

(I) was in writing on such date, and

(II) on such date provides for a deferral for each taxable year covered by the agreement of a fixed amount or of an amount determined pursuant to a fixed formula, and

(ii) the individual with respect to whom the deferral is made was covered under such agreement on such date.

Subparagraph (B) shall not apply to any taxable year ending after the date on which any modification of the amount or formula described in subparagraph (B)(i)(II) is effective. Amounts described in the first sentence of this paragraph shall be taken into account for purposes of applying section 457 of the 1986 Code to other amounts deferred under any eligible deferred compensation plan.

(4) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study on the tax treatment of deferred compensation paid by State and local governments and tax-exempt organizations (including deferred compensation paid to independent contractors). Not later than March 1, 1989, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under this paragraph together with such recommendations as he may deem advisable.

SEC. 351. RURAL TELEPHONE COOPERATIVES PERMITTED TO HAVE QUALIFIED CASH OR DEFERRED ARRANGEMENTS.

(a) IN GENERAL.—Paragraphs (1) and (2) of section 401(k) of the 1986 Code (relating to cash or deferred arrangements) are each amended by striking out "or a rural electric cooperative plan" and inserting in lieu thereof "or a rural cooperative plan".

(b) RURAL COOPERATIVE PLAN DEFINED.—

(1) Paragraph (7) of section 401(k) of the 1986 Code (as amended by title I) is amended to read as follows:

"(7) RURAL COOPERATIVE PLAN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'rural cooperative plan' means any pension plan—

"(i) which is a defined contribution plan (as defined in section 414(i)), and

"(ii) which is established and maintained by a rural cooperative.

"(B) RURAL COOPERATIVE DEFINED.—For purposes of subparagraph (A), the term 'rural cooperative' means—

"(i) any organization which—

"(I) is exempt from tax under this subtitle or which is a State or local government or political subdivision thereof (or agency or instrumentality thereof), and

"(II) is engaged primarily in providing electric service on a mutual or cooperative basis,

"(ii) any organization described in paragraph (4) or (6) of section 501(c) and at least 80 percent of the members of which are organizations described in clause (i),

"(iii) a cooperative telephone company described in section 501(c)(12), and

"(iv) an organization which is a national association of organizations described in clause (i), (ii), or (iii)."

(2) Subparagraph (B) of section 401(k)(4) of the 1986 Code (as amended by title I) is amended by striking out "rural electric cooperative plan" and inserting in lieu thereof "rural cooperative plan".

(c) AMENDMENTS TO SECTION 457.—Section 457 of the 1986 Code (as amended by section 1107 of the Reform Act) is amended—

(1) by striking out "rural electric cooperative plan" in subsection (c)(2) and inserting in lieu thereof "rural cooperative plan", and

(2) by striking out "rural electric cooperative" in subsection (e)(1)(B) (as amended by section 350) and inserting in lieu thereof "rural cooperative".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 352. MISCELLANEOUS PROVISIONS.

(a) SECTION 403(b) NONDISCRIMINATION RULES.—In the case of any plan year beginning before the later of—

(1) January 1, 1991, or

(2) the day 6 months after the date on which rules are prescribed by the Secretary to carry out the nondiscrimination requirements of section 403(b) of the 1986 Code,

a plan shall be treated as meeting such requirements if such plan reasonably relied on a good faith interpretation of such requirements.

(b) AMENDMENT RELATED TO SECTION 1121 OF THE REFORM ACT.—

(1) Section 401(a)(9)(C) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In the case of a governmental plan, the required beginning date shall be the later of the date determined under the preceding sentence or April 1 of the calendar year following the calendar year in which the employee retires."

(2) The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 1121 of the Reform Act.

(c) AMENDMENT RELATED TO SECTION 1106 OF THE REFORM ACT.—

(1) MODIFIED LIMITATIONS.—Section 415(b) is amended by adding at the end thereof the following new paragraph:

"(10) SPECIAL RULE FOR STATE AND LOCAL GOVERNMENT PLANS.—

"(A) LIMITATION TO EQUAL ACCRUED BENEFIT.—In the case of a plan maintained for its employees by any State or political subdivision thereof, or by any agency or instrumentality of the foregoing, the limitation with respect to a qualified participant under this subsection shall not be less than the accrued benefit of the participant under the plan (determined without regard to any amendment of the plan made after October 14, 1987).

"(B) QUALIFIED PARTICIPANT.—For purposes of this paragraph, the term 'qualified participant' means a participant who first became a participant in the plan maintained by the employer before January 1, 1989.

"(C) ELECTION.—This paragraph shall not apply to any plan unless each employer maintaining the plan elects, in such manner and at such time as the Secretary may prescribe, to have this subsection (other than paragraph (2)(B)) applied without regard to paragraph (2)(F). An election may be made under this subparagraph only if it is made before the close of the first year beginning after December 31, 1988."

(2) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in this paragraph, the amendment made by this subsection apply to years beginning after December 31, 1982.

(B) ELECTION.—Section 415(b)(10) of the 1986 Code (as added by paragraph (1)) shall not apply to any year beginning before January 1, 1989.

(d) PROVISION RELATED TO SECTION 1112 OF THE REFORM ACT.—Section 401(a)(26) of the 1986 Code shall not apply to any governmental plan (within the meaning of section 414(d) of such Code) with respect to employees who were participants in such plan on July 14, 1988.

SEC. 353. AIR TRANSPORTATION OF CARGO AND OF PASSENGERS TREATED AS SAME SERVICE FOR PURPOSES OF FRINGE BENEFITS INCLUSION.

(a) IN GENERAL.—Subsection (h) of section 132 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) AIR CARGO.—For purposes of subsection (b), the transportation of cargo by air and the transportation of passengers by air shall be treated as the same service."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transportation furnished after December 31, 1987, in taxable years ending after such date.

SEC. 354. EXCISE TAX ON DISPOSITION OF STOCK BY AN ESOP NOT TO APPLY TO CERTAIN FORCED DISPOSITIONS.

(a) IN GENERAL.—Subsection (e) of section 4978A of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) FORCED DISPOSITION OCCURRING BY OPERATION OF A STATE LAW.—Any forced disposition of qualified employer securities by the employee stock ownership plan of a corporation occurring by operation of a State law shall not be treated as a disposition."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendment made by section 10413 of the Revenue Act of 1987.

SEC. 355. STUDY OF TREATMENT OF CERTAIN TECHNICAL PERSONNEL.

The Secretary of the Treasury or his delegate shall conduct a study of the treatment provided by section 1706 of the Reform Act (relating to treatment of certain technical personnel). The report of such study shall be submitted not later than September 1, 1989, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

PART V—FOREIGN PROVISIONS

SEC. 356. DUAL RESIDENT COMPANIES.

(a) GENERAL RULE.—In the case of a transaction which—

(1) involves the transfer after the date of the enactment of this Act by a domestic corporation, with respect to which there is a qualified excess loss account, of its assets and liabilities to a foreign corporation in exchange for all of the stock of such foreign corporation, followed by the complete liquidation of the domestic corporation into the common parent, and

(2) qualifies, pursuant to Revenue Ruling 87-27, as a reorganization which is described in section 368(a)(1)(F) of the 1986 Code,

then, solely for purposes of applying Treasury Regulation section 1.1502-19 to such qualified excess loss account, such foreign corporation shall be treated as a domestic corporation in determining whether such foreign corporation is a member of the affiliated group of the common parent.

(b) TREATMENT OF INCOME OF NEW FOREIGN CORPORATION.—

(1) IN GENERAL.—In any case to which subsection (a) applies, for purposes of the 1986 Code—

(A) the source and character of any item of income of the foreign corporation referred to in subsection (a) shall be determined as if such foreign corporation were a domestic corporation,

(B) the net amount of any such income shall be treated as subpart F income (without regard to section 952(c) of the 1986 Code), and

(C) the amount in the qualified excess loss account referred to in subsection (a) shall be reduced by the net amount of any such income.

(2) LIMITATION.—Paragraph (1) shall apply to any item of income only to the extent that the net amount of such income does not exceed the amount in the qualified excess loss account after being reduced under paragraph (1)(C) for prior income.

(3) BASIS ADJUSTMENTS NOT APPLICABLE.—To the extent paragraph (1) applies to any item of income, there shall be no increase in basis under section 961(a) of such Code on account of such income (and there shall be no reduction in basis under section 961(b) of such Code on account of an exclusion attributable to the inclusion of such income).

(4) RECOGNITION OF GAIN.—For purposes of paragraph (1), if the foreign corporation referred to in subsection (a) transfers any property acquired by such foreign corporation in the transaction referred to in subsection (a) (or transfers any other property the basis of which is determined in whole or in part by reference to the basis of property so acquired) and (but for this paragraph) there is not full recognition of gain on such transfer, the excess (if any) of—

(A) the fair market value of the property transferred, over

(B) its adjusted basis,

shall be treated as gain from the sale or exchange of such property and shall be recognized notwithstanding any other provision of law. Proper adjustment shall be made to the basis of any such property for gain recognized under the preceding sentence.

(c) DEFINITIONS.—For purposes of this section—

(1) COMMON PARENT.—The term "common parent" means the common parent of the affiliated group which included the domestic corporation referred to in subsection (a)(1).

(2) QUALIFIED EXCESS LOSS ACCOUNT.—The term "qualified excess loss account" means any excess loss account (within the meaning of the consolidated return regulations) to the extent such account is attributable—

(A) to taxable years beginning before January 1, 1988, and

(B) to periods during which the domestic corporation was subject to an income tax of a foreign country on its income on a residence basis or without regard to whether such income is from sources in or outside of such foreign country.

The amount of such account shall be determined as of immediately after the transaction referred to in subsection (a) and without, except as provided in subsection (b), diminution for any future adjustment.

(3) NET AMOUNT.—The net amount of any item of income is the amount of such income reduced by allocable deductions as determined under the rules of section 954(b)(5) of the 1986 Code.

(4) SECOND SAME COUNTRY CORPORATION MAY BE TREATED AS DOMESTIC CORPORATION IN CERTAIN CASES.—If—

(A) another foreign corporation acquires from the common parent stock of the foreign corporation referred to in subsection (a) after the transaction referred to in subsection (a),

(B) both of such foreign corporations are subject to the income tax of the same foreign country on a residence basis, and

(C) such common parent complies with such reporting requirements as the Secretary of the Treasury or his delegate may prescribe for purposes of this paragraph,

such other foreign corporation shall be treated as a domestic corporation in determining whether the foreign corporation referred to in subsection (a) is a member of the affiliated group referred to in subsection (a) (and the rules of subsection (b) shall apply (i) to any gain of such other foreign corporation on any disposition of such stock, and (ii) to any other income of such other foreign corporation except to the extent it establishes to the satisfaction of the Secretary of the Treasury or his delegate that such income is not attributable to property acquired from the foreign corporation referred to in subsection (a)).

SEC. 357. ELECTION TO BE TREATED AS QUALIFIED ELECTING FUND TO BE MADE BY TAXPAYER.

(a) GENERAL RULE.—Section 1295 of the 1986 Code (defining qualified electing fund) is amended to read as follows:

"SEC. 1295. QUALIFIED ELECTING FUND.

"(a) GENERAL RULE.—For purposes of this part, any passive foreign investment company shall be treated as a qualified electing fund with respect to the taxpayer if—

"(1) an election by the taxpayer under subsection (b) applies to such company for the taxable year, and

"(2) such company complies with such requirements as the Secretary may prescribe for purposes of—

"(A) determining the ordinary earnings and net capital gain of such company, and

"(B) otherwise carrying out the purposes of this subpart.

"(b) ELECTION.—

"(1) IN GENERAL.—A taxpayer may make an election under this subsection with respect to any passive foreign investment company for any taxable year of the taxpayer. Such an election, once made with respect to any company, shall apply to all subsequent taxable years of the taxpayer with respect to such company unless revoked by the taxpayer with the consent of the Secretary.

"(2) WHEN MADE.—An election under this subsection may be made for any taxable year at any time on or before the due date (determined with regard to extensions) for filing the return of the tax imposed by this chapter for such taxable year. To the extent provided in regulations, such an election may be made later than as required in the preceding sentence where the taxpayer fails to make a timely election because the taxpayer reasonably believed that the company was not a passive foreign investment company."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 1291(d) of the 1986 Code (as amended by title I) is amended by striking out "for each" in the material preceding subparagraph (A) and inserting in lieu thereof "with respect to the taxpayer for each".

(2) Subparagraphs (A)(i) and (B)(i) of section 1291(d)(2) of the 1986 Code (as amended by title I) are each amended by striking out "for a taxable year" and inserting in lieu thereof "with respect to the taxpayer for a taxable year".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect as if included in the amendments made by section 1235 of the Reform Act.

(2) TIME FOR MAKING ELECTION.—The period during which an election under section 1295(b) of the 1986 Code may be made shall in no event expire before the date 60 days after the date of the enactment of this Act.

SEC. 358. TREATMENT OF CERTAIN INSTRUMENTS UNDER FOREIGN CURRENCY RULES.

(a) GENERAL RULE.—Clause (iii) of section 988(c)(1)(B) of the 1986 Code (as amended by title I) is amended by striking out "unless such instrument would be marked to market under section 1256 if held on the last day of the taxable year".

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 988(a) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) APPLICATION OF SUBPARAGRAPH (B) IN THE CASE OF CERTAIN TRADERS.—In the case of any instrument—

"(i) which would be marked to market under section 1256 if held on the last day of the taxable year, and

"(ii) which was entered into or acquired by the taxpayer in the active conduct of the trade or business of trading such instruments,

to the extent provided in regulations, subparagraph (B) shall be applied without regard to the requirement that the instrument not be part of a straddle and without regard to the identification requirement contained therein."

(2) Paragraph (1) of section 988(d) of the 1986 Code is amended by striking out the second sentence and inserting in lieu thereof the following: "For purposes of the preceding sentence, the term 'section 988 transaction' shall not include any transaction with respect to which an election is made under subsection (a)(1)(B)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to forward contracts, future contracts, options, and similar financial instruments entered into or acquired after July 14, 1988.

SEC. 359. TREATMENT OF CERTAIN UNITED STATES AFFILIATE OBLIGATIONS.

(a) GENERAL RULE.—Subparagraph (B) of section 127(g)(3) of the Tax Reform Act of 1984 is amended by inserting before the period at the end thereof the following: "as such principles are applied in Revenue Ruling 86-6, except that the maximum debt-to-equity ratio described in such Revenue Rulings shall be increased from 5-to-1 to 25-to-1.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 360. TREATMENT OF CERTAIN GAMBLING WINNINGS RECEIVED BY NONRESIDENT ALIENS.

(a) EXEMPTION FROM TAX.—

(1) Section 871 of the 1986 Code (relating to tax on nonresident alien individuals) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) EXEMPTION FOR CERTAIN GAMBLING WINNINGS.—No tax shall be imposed under paragraph (1)(A) of subsection (a) on the proceeds from a wager placed in any of the following games: blackjack, baccarat, craps, roulette, or big-6 wheel. The preceding sentence shall not apply in any case where the Secretary determines by regulation that the collection of the tax is administratively feasible."

(2) Subsection (c) of section 1441 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(11) CERTAIN GAMBLING WINNINGS.—No tax shall be required to be deducted and withheld under subsection (a) from any amount exempt from the tax imposed by section 871(a)(1)(A) by reason of section 871(j)."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 361. TREATMENT OF CERTAIN INSURANCE BRANCHES OF FOREIGN CORPORATIONS.

(a) GENERAL RULE.—Section 964 of the 1986 Code (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

"(d) TREATMENT OF CERTAIN BRANCHES.—

"(1) IN GENERAL.—For purposes of this chapter, section 6038, section 6046, and such other provisions as may be specified in regulations—

"(A) a qualified insurance branch of a controlled foreign corporation shall be treated as a separate foreign corporation created under the laws of the foreign country with respect to which such branch qualifies under paragraph (2), and

"(B) except as provided in regulations, any amount directly or indirectly transferred or credited from such branch to one or more other accounts of such controlled foreign corporation shall be treated as a dividend paid to such controlled foreign corporation.

"(2) QUALIFIED INSURANCE BRANCH.—For purposes of paragraph (1), the term 'qualified insurance branch' means any branch of a controlled foreign corporation which is licensed and predominantly engaged on a permanent basis in the active conduct of an insurance business in a foreign country if—

"(A) separate books and accounts are maintained for such branch,

"(B) the principal place of business of such branch is in such foreign country,

"(C) such branch would be taxable under subchapter L if it were a separate domestic corporation, and

"(D) an election under this paragraph applies to such branch.

An election under this paragraph shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years of foreign corporations beginning after December 31, 1988.

PART VI—TAX-EXEMPT BOND PROVISIONS

SEC. 362. CLARIFICATION OF SMALL ISSUE BOND DEFINITION OF MANUFACTURING FACILITY.

(a) IN GENERAL.—Subparagraph (C) of section 144(a)(12) of the 1986 Code (defining manufacturing facility) is amended by adding at the end thereof the following new sentence: "For purposes of the 1st sentence of this subparagraph, the term 'manufacturing facility' includes facilities which are directly related and ancillary to a manufacturing facility (determined without regard to this sentence) if—

"(i) such facilities are located on the same site as the manufacturing facility, and

"(ii) not more than 25 percent of the net proceeds of the issue are used to provide such facilities."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to bonds issued after the date of the enactment of this Act.

(2) REFUNDINGS.—The amendment made by subsection (a) shall not apply to any bond issued to refund (or which is part of a series of bonds issued to refund) a bond issued on or before the date of the enactment of this Act if—

(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue, and

(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond.

For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b) of the 1986 Code.

SEC. 363. RULES APPLICABLE TO TAX AND REVENUE ANTICIPATION BONDS.

(a) CHANGE IN PERIOD USED TO DETERMINE CUMULATIVE CASH FLOW DEFICIT.—Subclause (III) of section 148(f)(4)(B)(iii) of the 1986 Code (relating to safe harbor for determining when proceeds of tax and revenue anticipation bonds are expended) is amended by striking out "the earliest of the maturity date of the issue, the date 6 months after such date of issuance," and inserting in lieu thereof "the earlier of the date 6 months after such date of issuance".

(b) DUE DATE FOR LAST INSTALLMENT OF ARBITRAGE REBATE.—Paragraph (3) of section 148(f) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"In the case of a tax and revenue anticipation bond, the last installment shall not be required to be made before the date 8 months after the date of issuance of the issue of which the bond is a part."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 364. RULES RELATING TO REBATE ON EARNINGS ON BONA FIDE DEBT SERVICE FUND.

(a) NO REBATE WHERE EARNINGS DO NOT EXCEED $100,000.—Clause (ii) of section 148(f)(4)(A) of the 1986 Code is amended by striking "unless the issuer otherwise elects,".

(b) $100,000 LIMIT NOT TO APPLY TO CERTAIN ISSUES.—Subparagraph (A) of section 148(f)(4) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"In the case of an issue no bond of which is a private activity bond, clause (ii) shall be applied without regard to the dollar limitation therein if the average maturity of the issue (determined in accordance with section 147(b)(2)(A)) is at least 5 years and the rates of interest on bonds which are part of the issue do not vary during the term of the issue."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 365. BONDS ISSUED BY VOLUNTEER FIRE DEPARTMENTS.

(a) OVERLAPPING AREAS.—Paragraph (2) of section 150(e) of the 1986 Code (relating to bonds of certain volunteer fire departments) is amended by adding at the end thereof the following new sentence:

"For purposes of subparagraph (A), other firefighting services provided in an area shall be disregarded in determining whether an organization is a qualified volunteer fire department if such other firefighting services are provided by a qualified volunteer fire department (determined with the application of this sentence) and such organization and the provider of such other services have been continuously providing firefighting services to such area since January 1, 1981."

(b) ACQUISITION OF LAND PERMITTED.—Subparagraph (B) of section 150(e)(1) of the 1986 Code is amended by inserting "(including land which is functionally related and subordinate thereto)" after "a firehouse".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 366. AMENDMENTS RELATING TO STUDENT LOAN BONDS.

(a) STUDENT LOAN INCENTIVE PAYMENTS TAKEN INTO ACCOUNT.—

(1) Section 148 of the 1986 Code is amended by striking out subsection (g) and by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(2) Subsection (a) of section 625 of the Tax Reform Act of 1984 is hereby repealed.

(b) REDUCTION IN PERMITTED ARBITRAGE ON ACQUIRED PROGRAM OBLIGATIONS.—

(1) IN GENERAL.—If—

(A) any bond which is part of an issue purports to be a qualified student loan bond (as defined in section 144(b) of the 1986 Code), and

(B) the date of issuance of the issue is after July 31, 1988,

the number of percentage points permitted under Treasury Regulation §1.103-13(b)(5)(viii)(B) (and any successor regulation) with respect to such issue shall not exceed 1.0 and Treasury Regulation §1.103-13(b)(5)(ix) (and any regulation which reaches the same result as such regulation) shall not apply. The Secretary of the Treasury or his delegate shall amend such regulations to carry out the effect of the preceding sentence.

(2) REFUNDING BONDS.—In the case of a bond issued to refund (or which is part of a series of bonds issued to refund) a bond issued before August 1, 1988, the portion of the proceeds of the issue of which the refunded bond is a part which is available (on the date of issuance of the refunding issue) to provide loans shall be treated as proceeds of a separate issue (issued after July 31, 1988) for purposes of applying paragraph (1).

(c) LOANS MUST ORIGINATE WITHIN 3 YEARS OF DATE OF ISSUE; REPAYMENTS MUST BE USED TO REDEEM BONDS.—Subsection (b) of section 144 of the 1986 Code (defining qualified student loan bond) is amended by adding at the end thereof the following new paragraph:

"(5) PROCEEDS MUST BE USED WITHIN 3 YEARS OF DATE OF ISSUANCE; REPAYMENTS MUST BE USED TO REDEEM BONDS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, a bond shall not be a qualified student loan bond unless—

"(i) all proceeds of the issue (of which such bond is a part) required to be used to provide student loans are so used within the 3-year period beginning on the date of issuance of the issue (or, in the case of a refunding bond, within the 3-year period beginning on the date of issuance of the original bond),

"(ii) no portion of the proceeds of the issue are used to make or finance any loan (other than a loan which is a nonpurpose investment within the meaning of section 148(f)(6)(B)) after the close of the period referred to in clause (i), and

"(iii) repayments of principal on student loans provided by the issue are used not

later than the close of the 1st semiannual period beginning after the date the repayment is received to redeem bonds which are part of such issue.

"(B) EXCEPTION WHERE REDEMPTION OF UNSPENT PROCEEDS WITHIN 6 MONTHS.—Subparagraph (A)(i) shall not apply if all proceeds of the issue—

"(i) which are required to be used to provide student loans, and

"(ii) which are not so used,

are used (not later than 6 months after the close of the period referred to in subparagraph (A)(i)) to redeem bonds which are part of such issue.

"(C) EXCEPTION FOR DE MINIMIS AMOUNTS.—Subparagraph (A) shall not be construed to require proceeds in amounts of less than $25,000 to be used to redeem bonds. The Secretary may by regulation treat related issues as 1 issue for purposes of the preceding sentence."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to bonds issued after July 31, 1988.

(2) SPECIAL RULES RELATING TO REFUNDING BONDS.—In the case of a bond issued to refund (or which is part of a series of bonds issued to refund) a bond issued before August 1, 1988, the amendments made by this section shall apply to payments received (including on loans made before the date of issuance of the refunding issue) on or after such date of issuance.

SEC. 367. RESTRICTIONS ON BONDS USED TO PROVIDE RESIDENTIAL RENTAL PROPERTY FOR FAMILY UNITS.

(a) 501 (C)(3) BONDS USED TO PROVIDE RESIDENTIAL RENTAL HOUSING FOR FAMILY UNITS MUST MEET TARGETING REQUIREMENTS.—Section 145 of the 1986 Code (defining qualified 501(c)(3) bond) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) RESTRICTIONS ON BONDS USED TO PROVIDE RESIDENTIAL RENTAL HOUSING FOR FAMILY UNITS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, a bond which is part of an issue shall not be a qualified 501(c)(3) bond if any portion of the net proceeds of the issue are to be used directly or indirectly to provide residential rental property for family units.

"(2) EXCEPTION FOR BONDS USED TO PROVIDE QUALIFIED RESIDENTIAL RENTAL PROJECTS.—Paragraph (1) shall not apply to any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide qualified residential rental projects (as defined in section 142(d))."

(b) RESIDENTIAL RENTAL PROJECT NOT LOCATED WITHIN JURISDICTION OF ISSUER TREATED AS INVESTMENT PROPERTY.—Paragraph (2) of section 148(b) of the 1986 Code (defining investment property) is amended by striking out "or" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(E) in the case of a bond other than a private activity bond, any residential rental property for family units which is not located within the jurisdiction of the issuer."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to obligations issued after July 14, 1988.

(2) EXCEPTION FOR CONSTRUCTION OR BINDING AGREEMENT.—

(A) The amendments made by this section shall not apply to bonds (other than refunding bonds) with respect to a facility—

(i)(I) the original use of which begins with the taxpayer, and the construction, reconstruction, or rehabilitation of which began before July 14, 1988, and was completed on or after such date, or

(II) the original use of which begins with the taxpayer and with respect to which a binding contract to incur significant expenditures for construction, reconstruction, or rehabilitation was entered into before July 14, 1988, and some of such expenditures are incurred on or after such date, and

(ii) described in an inducement resolution or other comparable preliminary approval adopted by an issuing authority (or by a voter referendum) before July 14, 1988.

For purposes of the preceding sentence, the term "significant expenditures" means expenditures greater than 10 percent of the reasonably anticipated cost of the construction, reconstruction, or rehabilitation of the facility involved.

(B) Subparagraph (A) shall not apply to any bond issued after December 31, 1989, and shall not apply unless it is reasonably expected (at the time of issuance of the bond) that the facility will be placed in service before January 1, 1990.

(3) REFUNDINGS.—The amendments made by this section shall not apply to any bond issued to refund (or which is part of a series of bonds issued to refund) a bond issued before July 15, 1988, if—

(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

(C) the proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b) of the 1986 Code.

PART VII—LOW-INCOME HOUSING CREDIT PROVISIONS

SEC. 368. CERTAIN DECREASES IN FAMILY SIZE NOT TAKEN INTO ACCOUNT IN DETERMINING LOW INCOME.

(a) IN GENERAL.—Paragraph (4) of section 42(g) of the 1986 Code (relating to certain rules made applicable) is amended by adding at the end thereof the following new sentence: "In applying the last sentence of section 142(d)(2)(B) for purposes of the preceding sentence, there shall not be taken into account decreases in family size resulting from death, divorce, separation, or abandonment."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 252 of the Reform Act.

SEC. 369. SIMPLIFICATION OF RULE WHERE PARTNERSHIP HOLDS QUALIFIED LOW-INCOME BUILDING.

(a) IN GENERAL.—Subparagraph (B) of section 42(j)(5) of the 1986 Code, as amended by title I of this Act, is amended to read as follows:

"(B) PARTNERSHIPS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any partnership which has 35 or more partners unless the partnership elects not to have this paragraph apply."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 252 of the Reform Act.

(2) The period for electing not to have section 42(j)(5) of the 1986 Code apply to any partnership shall not expire before the date which is 6 months after the date of the enactment of this Act.

PART VIII—ESTATE AND GIFT TAX PROVISIONS

SEC. 370. TREATMENT OF CERTAIN RENTS UNDER SECTION 2032A.

(a) GENERAL RULE.—Subparagraph (A) of section 2032A(b)(5) of the 1986 Code (relating to special rules for surviving spouse) is amended by adding at the end thereof the following new sentence: "For purposes of subsection (c), such surviving spouse shall not be treated as failing to use such property in a qualified use solely because such spouse rents such property to a member of such spouse's family on a net cash basis."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 371. VALUATION TABLES.

(a) GENERAL RULE.—Chapter 77 of the 1986 Code (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7520. VALUATION TABLES.

"(a) GENERAL RULE.—For purposes of this title, the value of any annuity, any interest for life or a term of years, or any remainder or reversionary interest shall be determined—

"(1) under tables prescribed by the Secretary, and

"(2) by using an interest rate equal to 120 percent of the Federal mid-term rate in effect under section 1274(d)(1) for the month in which the valuation date falls.

"(b) TABLES.—

"(1) IN GENERAL.—The tables prescribed by the Secretary for purposes of subsection (a) shall contain valuation factors for a series of interest rate categories.

"(2) INITIAL TABLE.—Not later than the day 3 months after the date of the enactment of this section, the Secretary shall prescribe initial tables for purposes of subsection (a). Such tables may be based on the same mortality experience as used for purposes of section 2031 on the date of the enactment of this section.

"(3) REVISION FOR RECENT MORTALITY CHARGES.—Not later than December 31, 1989, the Secretary shall revise the initial tables prescribed for purposes of subsection (a) to take into account the most recent mortality experience available as of the time of such revision. Such tables shall be revised not less frequently than once each 10 years thereafter to take into account the most recent mortality experience available as of the time of the revision.

"(c) VALUATION DATE.—For purposes of this section, the term 'valuation date' means the date as of which the valuation is made.

"(d) TABLES TO INCLUDE FORMULAS.—For purposes of this section, the term 'tables' includes formulas."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 7520. Valuation tables.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in cases where the valuation date on or after the 1st day of the 6th calendar month beginning after the date of the enactment of this Act.

SEC. 372. DISALLOWANCE OF MARITAL DEDUCTION WHERE SPOUSE IS NOT CITIZEN OF UNITED STATES.

(a) ESTATE TAX.—Section 2056 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(d) DISALLOWANCE OF MARITAL DEDUCTION WHERE SURVIVING SPOUSE NOT UNITED STATES CITIZEN.—

"(1) IN GENERAL.—If the surviving spouse of the decedent is not a United States citizen—

"(A) no deduction shall be allowed under subsection (a), and

"(B) section 2040(b) shall not apply.

"(2) TREATMENT OF CERTAIN SPOUSES.—If—

"(A) a property is transferred to the surviving spouse and but for paragraph (1) a deduction would have been allowable under this section with respect to such property, and

"(B) such surviving spouse dies and the estate of such surviving spouse is subject to the tax imposed by section 2001,

with respect to the property so transferred to the surviving spouse, there shall be allowed a credit under section 2013 to the estate of such surviving spouse and such credit shall be determined under subsections (b) and (c) of section 2013 without regard to when the transferor of the property died."

(b) GIFT TAX.—Section 2523 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(i) DISALLOWANCE OF MARITAL DEDUCTION WHERE SPOUSE NOT CITIZEN.—If the spouse of the donor is not a citizen of the United States—

"(1) no deduction shall be allowed under this section,

"(2) section 2503(b) shall be applied with respect to gifts made by the donor to such spouse by substituting '$100,000' for '$10,000', and

"(3) the principles of sections 2515 and 2515A (as such sections were in effect before their repeal by the Economic Recovery Tax Act of 1981) shall apply, except that the provisions of such section 2515 providing for an election shall not apply."

(c) ESTATES OF NONRESIDENTS WHO ARE NOT CITIZENS BUT HAVE CITIZENS AS SPOUSES.—Subsection (a) of section 2106 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) MARITAL DEDUCTION ALLOWED WHERE SPOUSE IS CITIZEN.—The amount which would be deductible with respect to property situated in the United States at the time of the decedent's death under the principles of section 2056."

(d) EFFECTIVE DATE.—

(1) The amendments made by subsection (a) and (c) shall apply to estates of the decedents dying after the date of the enactment of this Act.

(2) The amendments made by subsection (b) shall apply to gifts on or after July 14, 1988.

SEC. 373. RATE SCHEDULE FOR TAX ON ESTATES OF NONRESIDENTS NOT CITIZENS.

(a) GENERAL RULE.—Subsection (b) of section 2101 of the 1986 Code (relating to computation of tax) is amended by striking out "a tentative tax computed in accordance with the rate schedule set forth in subsection (d)" each place it appears and inserting in lieu thereof "a tentative tax computed under section 2001(c)".

(b) AMOUNT OF UNIFIED CREDIT.—Subsection (c) of section 2102 of the 1986 Code is amended to read as follows:

"(c) UNIFIED CREDIT.—

"(1) IN GENERAL.—A credit shall be allowed against the tax imposed by section 2101 equal to the amount which bears the same ratio to $192,800 as the value of the part of the decedent's gross estate which at the time of his death is situated in the United States bears to the value of his entire gross estate wherever situated. If a credit has been allowed under section 2505 with respect to any gift made by the decedent, the $192,800 amount referred to in the preceding sentence shall be reduced by the amount so allowed.

"(2) LIMITATION BASED ON AMOUNT.—The credit allowed by this subsection shall not exceed the amount of tax imposed by section 2101.

"(3) APPLICATION OF OTHER CREDITS.—For purposes of subsection (a), sections 2011 to 2013, inclusive, shall be applied as if the credit allowed under this subsection were allowed under section 2010."

(c) TECHNICAL AMENDMENTS.—

(1) Subsection (d) of section 2101 of the 1986 Code is hereby repealed.

(2) Subsection (a) of section 6018 is amended to read as follows:

"(a) RETURNS BY EXECUTOR.—

"(1) IN GENERAL.—In all cases where the gross estate at the death of the decedent exceeds $600,000, the executor shall make a return with respect to the estate tax imposed by subtitle B. The preceding sentence shall apply in the case of the estate of the decedent who is a nonresident not a citizen of the United States only if some portion of his gross estate is situated in the United States at the time of his death.

"(2) ADJUSTMENT FOR CERTAIN GIFTS.—The dollar amount set forth in paragraph (1) shall be reduced (but not below zero) by the sum of—

"(A) the amount of the adjusted taxable gifts (within the meaning of section 2001(b)) made by the decedent after December 31, 1976, plus

"(B) the aggregate amount allowed as a specific exemption allowed under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) with respect to gifts made by the decedent after September 8, 1976."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after the date of the enactment of this Act.

PART IX—EXCISE TAX PROVISIONS

SEC. 374. AUTHORITY TO PRESCRIBE TOLERANCES FOR THE VOLUME OF WINE IN BOTTLES FOR PURPOSES OF THE EXCISE TAX ON WINE.

(a) IN GENERAL.—Section 5041 of the 1986 Code (relating to imposition and rate of tax on wine) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) TOLERANCES.—Where the Secretary finds that the revenue will not be endangered thereby, he may by regulation prescribe tolerances (but not greater than ½ of 1 percent) for bottles and other containers, and, if such tolerances are prescribed, no assessment shall be made and no tax shall be collected for any excess in any case where the contents of a bottle or other container are within the limit of the applicable tolerance prescribed."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to wine removed after December 31, 1988.

SEC. 375. WHOLESALE DISTRIBUTORS TO ADMINISTER CLAIMS FOR REFUND OF GASOLINE TAX.

(a) IN GENERAL.—Subsection (a) of section 6416 of the 1986 Code (relating to certain taxes and services) is amended by adding at the end thereof the following new paragraph:

"(4) WHOLESALE DISTRIBUTORS TO ADMINISTER CREDITS AND REFUNDS OF GASOLINE TAX.—

"(A) IN GENERAL.—For purposes of this subsection, a wholesale distributor who purchases any product on which tax imposed by section 4081 has been paid and who sells the product to its ultimate purchaser shall be treated as the person (and the only person) who paid such tax.

"(B) WHOLESALE DISTRIBUTOR.—For purposes of subparagraph (A), the term 'wholesale distributor' has the meaning given such term by section 4092(b)(2) (determined by substituting 'any product taxable under section 4081' for 'a taxable fuel' therein)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuel sold by wholesale distributors (as defined in section 6416(a)(4)(B) of the 1986 Code, as added by this section) after September 30, 1988.

SEC. 376. AUTHORITY TO EXEMPT ARTICLES FROM EXCISE TAX ON HEAVY TRUCKS AND TRAILERS WHERE BENEFIT ACCRUES TO UNITED STATES.

(a) IN GENERAL.—Section 4293 of the 1986 Code is amended by inserting "section 4051," after "section 4041,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 377. DONATED CARGO EXEMPT FROM HARBOR MAINTENANCE TAX.

(a) GENERAL RULE.—Section 4462 of the 1986 Code (relating to definitions and special rules) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) EXEMPTION FOR HUMANITARIAN AND DEVELOPMENT ASSISTANCE CARGOS.—No tax shall be imposed under this subchapter on any nonprofit organization or cooperative for cargo which is owned or financed by such nonprofit organization or cooperative and which is certified by the United States Customs Service as intended for use in humanitarian or development assistance overseas."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on April 1, 1987.

SEC. 378. STUDY ON HEALTH CARE COSTS RESULTING FROM SMOKING.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall, in consultation with the Surgeon General of the Public Health Service, conduct an ongoing study of—

(1) the public and private health care costs incurred (with respect to smokers, their spouses, and others) as a result of cigarette smoking in the United States,

(2) the incidence of cigarette smoking in the United States by adults and by teenage and younger children, and

(3) the impact of the rate of the excise tax imposed by section 5701 of the Internal Revenue Code of 1986 on cigarette smoking by adults and by teenage and younger children.

(b) REPORTS.—Reports of the study required by subsection (a) shall be submitted every 2 years, with the 1st such report to be submitted by January 1, 1989. Each such report shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 379. QUARTERLY PAYMENT OF ARCHERY EXCISE TAX.

(a) IN GENERAL.—Subsection (d) of section 6302 of the 1986 Code (relating to mode or

time of collection) is amended to read as follows:

"(d) TIME FOR PAYMENT OF MANUFACTURERS' EXCISE TAX ON SPORTING GOODS.—The taxes imposed by subsections (a) and (b) of section 4161 (relating to taxes on sporting goods) shall be due and payable on the date for filing the return for such taxes."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to articles sold by the manufacturer, producer, or importer after December 31, 1988.

SEC. 380. IMPOSITION OF EXCISE TAX ON MANUFACTURE OR IMPORTATION OF PIPE TOBACCO.

(a) IN GENERAL.—Section 5701 of the 1986 Code (relating to rate of tax on cigarettes, etc.) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) PIPE TOBACCO.—On pipe tobacco, manufactured in or imported into the United States, there shall be imposed a tax of $2.67 per pound (and a proportionate tax at the like rate on all fractional parts of a pound)."

(b) PIPE TOBACCO DEFINED.—Section 5702 of the 1986 Code (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(o) PIPE TOBACCO.—The term 'pipe tobacco' means any tobacco which, because of its appearance, type, packaging, or labeling, is likely to be offered to, or purchased by, consumers as tobacco to be smoked in a pipe."

(c) TECHNICAL AMENDMENTS.—

(1) Subsection (c) of section 5702 of the 1986 Code (defining tobacco products) is amended by striking out "and smokeless tobacco" and inserting in lieu thereof "smokeless tobacco, and pipe tobacco".

(2) Subsection (d) of section 5702 of the 1986 Code (defining tobacco products) is amended by striking out "or smokeless tobacco" and inserting in lieu thereof "smokeless tobacco, or pipe tobacco".

(3) The chapter heading for chapter 52 of the 1986 Code is amended to read as follows:

"CHAPTER 52—CIGARS, CIGARETTES, SMOKELESS TOBACCO, PIPE TOBACCO, AND CIGARETTE PAPERS AND TUBES".

(4) The table of chapters for subtitle E is amended by striking the item relating to chapter 52 and inserting in lieu thereof the following new item:

"Chapter 52. Cigars, cigarettes, smokeless tobacco, pipe tobacco, and cigarette papers and tubes".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to pipe tobacco removed (within the meaning of section 5702(k) of the 1986 Code) after September 30, 1988.

(2) TRANSITIONAL RULE.—Any person who—

(A) on the date of the enactment of this Act, is engaged in business as a manufacturer of pipe tobacco, and

(B) before October 1, 1988, submits an application under subchapter B of chapter 52 of the 1986 Code to engage in such business, may, notwithstanding such subchapter B, continue to engage in such business pending final action on such application. Pending such final action, all provisions of chapter 52 of the 1986 Code shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit to manufacture pipe tobacco under such chapter 52.

(e) FLOOR STOCKS TAX.—

(1) IMPOSITION OF TAX.—On pipe tobacco manufactured in or imported into the United States which is removed before October 1, 1988, and held on such date for sale by any person, there is hereby imposed a tax of $2.67 per pound (and a proportionate tax at the like rate on all fractional parts of a pound).

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding pipe tobacco on October 1, 1988, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be treated as a tax imposed by section 5701 of the 1986 Code and shall be due and payable on November 14, 1988, in the same manner as the tax imposed by such section is payable with respect to pipe tobacco removed on or after October 1, 1988.

(C) TREATMENT OF PIPE TOBACCO IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) or any other provision of law, pipe tobacco which is located in a foreign trade zone on October 1, 1988, shall be subject to the tax imposed by paragraph (1) and shall be treated for purposes of this subsection as held on such date for sale if—

(i) internal revenue taxes have been determined, or customs duties liquidated, with respect to such pipe tobacco before such date pursuant to a request made under the first proviso of section 3(a) of such Act, or

(ii) such pipe tobacco is held on such date under the supervision of a customs officer pursuant to the second proviso of such section 3(a).

Under regulations prescribed by the Secretary of the Treasury or his delegate, provisions similar to sections 5706 and 5708 of the 1986 Code shall apply to pipe tobacco with respect to which tax is imposed by paragraph (1) by reason of this subparagraph.

(3) PIPE TOBACCO.—For purposes of this subsection, the term "pipe tobacco" shall have the meaning given to such term by subsection (o) of section 5702 of the 1986 Code.

(4) EXCEPTION WHERE LIABILITY DOES NOT EXCEED $1,000.—No tax shall be imposed by paragraph (1) on any person if the tax which would but for this paragraph be imposed on such person does not exceed $1,000. For purposes of the preceding sentence, all persons who are treated as a single taxpayer under section 5061(e)(3) of the 1986 Code shall be treated as 1 person.

PART X—COMPLIANCE PROVISIONS

SEC. 381. EXCHANGE OF INFORMATION.

Clause (i) of section 6103(b)(5)(B) of the 1986 Code (defining State) is amended by striking out "2,000,000" and inserting in lieu thereof "250,000".

SEC. 382. INCREASE IN PENALTY FOR BAD CHECKS.

(a) GENERAL RULE.—Section 6657 of the 1986 Code (relating to bad checks) is amended—

(1) by striking out "1 percent" and inserting in lieu thereof "2 percent",

(2) by striking out "$500" and inserting in lieu thereof "$750", and

(3) by striking out "$5" and inserting in lieu thereof "$15".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to checks or money orders received after the date of the enactment of this Act.

PART XI—MISCELLANEOUS PROVISIONS

SEC. 383. TAX EXEMPTION FOR ENJEBI COMMUNITY TRUST FUND.

(a) IN GENERAL.—Any earnings on, and distributions from, the Enjebi Community Trust Fund created under section 103 of the Compact of Free Association Act of 1985 shall be exempt from all Federal, State, or local taxation.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall apply to all taxable years whether beginning before, on, or after the date of the enactment of this Act.

SEC. 384. EXTENSION OF TIME FOR ENACTING AUTHORIZING LEGISLATION RELATING TO THE OIL SPILL LIABILITY TRUST FUND.

Subparagraph (B) of section 4611(f)(2) of the 1986 Code (defining qualified authorizing legislation) is amended by striking out "September 1, 1987" and inserting in lieu thereof "December 31, 1990".

SEC. 385. AUTHORITY TO PAY REFUNDS TO CERTAIN FIDUCIARIES OF INSOLVENT MEMBERS OF AFFILIATED GROUPS.

Section 6402 of the 1986 Code (relating to authority to make credits or refunds) is amended by adding at the end thereof the following new subsection:

"(i) REFUNDS TO CERTAIN FIDUCIARIES OF INSOLVENT MEMBERS OF AFFILIATED GROUPS.—Notwithstanding any other provision of law, in the case of an insolvent corporation which is a member of an affiliated group of corporations filing a consolidated return for any taxable year and which is subject to a statutory or court-appointed fiduciary, the Secretary may by regulation provide that any refund for such taxable year may be paid on behalf of such insolvent corporation to such fiduciary to the extent that the Secretary determines that the refund is attributable to losses or credits of such insolvent corporation."

SEC. 386. CANCELLATION OF CERTAIN DEBTS ORIGINATED BY OR GUARANTEED BY THE UNITED STATES NOT TAKEN INTO ACCOUNT IN DETERMINING TAX EXEMPT STATUS OF CERTAIN ORGANIZATIONS.

Subparagraph (A) of section 501(c)(12) of the 1986 Code shall be applied without taking into account any income attributable to the cancellation of any loan originally made or guaranteed by the United States (or any agency or instrumentality thereof) if such cancellation occurs after 1986 and before 1990.

SEC. 387. DETERMINATION OF OPERATING FOUNDATION STATUS FOR CERTAIN PURPOSES.

For purposes of section 302(c)(3) of the Deficit Reduction Act of 1984, a private foundation which constituted an operating foundation (as defined in section 4942(j)(3) of the Internal Revenue Code of 1986) for its last taxable year ending before January 1, 1983, shall be treated as constituting an operating foundation as of January 1, 1983.

SEC. 388. APPLICATION OF SECTION 7503 OF 1986 CODE FOR PURPOSES OF SECTION 10222(b) OF REVENUE ACT OF 1987.

Section 7503 of the 1986 Code shall apply for purposes of determining whether any disposition meets the requirements of section 10222(b)(2)(B) of the Revenue Act of 1987. If any disposition meets the requirements of such section by reason of the preceding sentence, for all purposes of the 1986 Code, such disposition shall be deemed to have occurred on December 31, 1988.

SEC. 389. REPEAL OF LIMIT ON LONG-TERM BONDS.

The last sentence of section 3102(a) of title 31, United States Code, is hereby repealed.

SEC. 390. EXTENSION OF PLACED IN SERVICE DATE FOR CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

Clause (ii) of section 29(f)(1)(A) of the 1986 Code is amended by striking out "January 1, 1990" and inserting in lieu thereof "January 1, 1991".

SEC. 391. CERTAIN DISCHARGE OF DEBT INCOME NOT INCLUDED IN ADJUSTED BOOK INCOME.

(a) GENERAL RULE.—Paragraph (2) of section 56(f) of the 1986 Code (defining adjusted net book income) is amended by redesignating subparagraph (I) as subparagraph (J) and by inserting after subparagraph (H) the following new subparagraph:

"(I) EXCLUSION OF CERTAIN INCOME FROM TRANSFER OF STOCK FOR DEBT.—In determining adjusted net book income, there shall not be taken into account any income resulting from the transfer of stock by the corporation issuing such stock to a creditor in satisfaction of its indebtedness. The preceding sentence shall apply only in the case of a debtor in a title 11 case (as defined in section 108(d)(2)) or to the extent the debtor is insolvent (as defined in section 108(d)(3))."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1986.

SEC. 392. TREATMENT OF CERTAIN BANK HOLDING COMPANIES.

(a) GENERAL RULE.—For purposes of subtitle A of the 1986 Code, the term "personal holding company income" shall not include any dividend received by a qualified bank holding company from a 25-percent owned bank during any taxable year ending in 1989 or 1990.

(b) $3,000,000 LIMITATION.—The aggregate amount excluded from the personal holding company income of any qualified bank holding company under subsection (a) for the taxable year shall not exceed $3,000,000.

(c) QUALIFIED BANK HOLDING COMPANY.—For purposes of this section, the term "qualified bank holding company" means any bank holding company (as defined in section 2(a) of the Bank Holding Company Act of 1956) if 80 percent or more (by value) of the assets of such company at all times during the taxable year consist of stock in 1 or more 25-percent owned banks.

(d) 25-PERCENT OWNED BANK.—For purposes of this section, the term "25-percent owned bank" means any bank (as defined in section 581 of the 1986 Code) if at least 25 percent of the stock of such bank (by vote and value) is owned by the bank holding company.

SEC. 393. PROVISIONS RELATING TO PREVIOUSLY REQUIRED STUDIES.

(a) REPEAL OF REQUIREMENT FOR CERTAIN STUDIES.—

(1) PIK STUDY.—Section 6 of the Payment-in-Kind Tax Treatment Act of 1983 is hereby repealed.

(2) ACCOUNTING METHODS FOR INVENTORY.—Section 238 of the Economic Recovery Tax Act of 1981 is hereby repealed.

(b) CHANGES IN DUE DATES FOR CERTAIN PERIODIC STUDIES.—

(1) REPORTS ON POSSESSIONS CORPORATIONS.—Effective for reports for calendar years after 1987, subsection (a) of section 441 of the Tax Reform Act of 1984 is amended—

(A) by striking out "1981" and inserting in lieu thereof "1988", and

(B) by striking out "second" and inserting in lieu thereof "fourth".

(2) REPORTS OF FSC PROVISIONS.—Effective for reports for calendar years after 1989, subsection (a) of section 804 of the Tax Reform Act of 1984 is amended—

(A) by striking out "1985" and inserting in lieu thereof "1990", and

(B) by striking out "second" and inserting in lieu thereof "fourth".

TITLE IV—AMENDMENTS RELATING TO SOCIAL SECURITY ACT PROGRAMS

Subtitle A—Old-Age, Survivors, and Disability Insurance and Related Provisions

SEC. 401. INTERIM DISABILITY BENEFITS IN CASES OF DELAYED FINAL DECISIONS.

(a) DISABILITY BENEFITS UNDER TITLE II.—Section 223 of the Social Security Act (42 U.S.C. 423) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"INTERIM BENEFITS IN CASES OF DELAYED FINAL DECISIONS

"(h)(1) In any case in which an administrative law judge has determined after a hearing as provided under section 205(b) that an individual is entitled to disability insurance benefits or child's, widow's, or widower's insurance benefits based on disability and the Secretary has not issued his final decision in such case within 110 days after the date of the administrative law judge's determination, such benefits shall be currently paid for the months during the period beginning with the month preceding the month in which such 110-day period expires and ending with the month preceding the month in which such final decision is issued.

"(2) For purposes of paragraph (1), in determining whether the 110-day period referred to in paragraph (1) has elapsed, any period of time for which the action or inaction of such individual or such individual's representative without good cause results in the delay in the issuance of the Secretary's final decision shall not be taken into account to the extent that such period of time exceeds 20 calendar days.

"(3) Any benefits currently paid under this title pursuant to this subsection (for the months described in paragraph (1)) shall not be considered overpayments for any purpose of this title (unless payment of such benefits was fraudulently obtained), and such benefits shall not be treated as past-due benefits for purposes of section 206(b)(1).".

(b) BENEFITS UNDER TITLE XVI.—Section 1631(a) of such Act (42 U.S.C. 1383(a)) is amended by adding at the end the following new paragraph:

"(8)(A) In any case in which an administrative law judge has determined after a hearing as provided in subsection (c) that an individual is entitled to benefits based on disability or blindness under this title and the Secretary has not issued his final decision in such case within 110 days after the date of the administrative law judge's determination, such benefits shall be currently paid for the months during the period beginning with the month in which such 110-day period expires and ending with the month in which such final decision is issued.

"(B) For purposes of subparagraph (A), in determining whether the 110-day period referred to in subparagraph (A) has elapsed, any period of time for which the action or inaction of such individual or such individual's representative without good cause results in the delay in the issuance of the Secretary's final decision shall not be taken into account to the extent that such period of time exceeds 20 calendar days.

"(C) Any benefits currently paid under this title pursuant to this paragraph (for the months described in subparagraph (A)) shall not be considered overpayments for any purposes of this title, unless payment of such benefits was fraudulently obtained.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to determinations by administrative law judges of entitlement to benefits made after 180 days after the date of the enactment of this Act.

SEC. 402. APPLICATION OF EARNINGS TEST IN YEAR OF INDIVIDUAL'S DEATH.

(a) YEAR IN WHICH INDIVIDUAL WOULD HAVE ATTAINED RETIREMENT AGE BUT FOR THE INDIVIDUAL'S DEATH IN SUCH YEAR TREATED AS A YEAR THROUGHOUT WHICH THE EARNINGS TEST FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE IS APPLICABLE.—Paragraph (3) of section 203(f) of the Social Security Act (42 U.S.C. 403(f)(3)) is amended by inserting "(or, but for the individual's death, would have attained)" after "who has attained".

(b) ELIMINATION OF THE SHORT TAXABLE YEAR IN THE YEAR OF DEATH FOR PURPOSES OF THE EARNINGS TEST.—Paragraph (3) of section 203(f) of such Act is further amended—

(1) by inserting after the first sentence the following new sentence: "For purposes of the preceding sentence, notwithstanding section 211(e), the number of months in the taxable year in which an individual dies shall be 12."; and

(2) in the last sentence, by striking "preceding sentence" and inserting "first sentence of this paragraph".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to deaths after the date of the enactment of this Act.

SEC. 403. EXEMPTIONS FROM REDUCTION IN WINDFALL BENEFITS.

(a) IN GENERAL.—Section 215(a)(7)(D) of the Social Security Act (42 U.S.C. 415(a)(7)(D)) is amended—

(1) by striking "30 years or more of coverage" in the first sentence and inserting "25 years or more of coverage";

(2) by striking "more than 25 years of coverage but less than 30 years of coverage" in the second sentence and inserting "more than 20 years of coverage but less than 25 years of coverage"; and

(3) by striking "29", "28", "27", and "26" (in clauses (i), (ii), (iii), and (iv)) and inserting "24", "23", "22", and "21", respectively.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to benefits payable for months after December 1988.

SEC. 404. DENIAL OF BENEFITS TO INDIVIDUALS DEPORTED OR ORDERED DEPORTED ON THE BASIS OF ASSOCIATIONS WITH THE NAZI GOVERNMENT OF GERMANY DURING WORLD WAR II.

(a) IN GENERAL.—Section 202(n)(1) of the Social Security Act (42 U.S.C. 402(n)(1)) is amended by striking "or (18)" in the matter preceding subparagraph (A) and inserting "(18), or (19)".

(b) TIME OF DEPORTATION.—Section 202(n) of such Act is further amended by adding at the end the following new paragraph:

"(3) For purposes of paragraphs (1) and (2) of this subsection, an individual against whom a final order of deportation has been issued under paragraph (19) of section 241(a) of the Immigration and Nationality Act (relating to persecution of others on account of race, religion, national origin, or political opinion, under the direction of or in association with the Nazi government of Germany or its allies) shall be considered to have been deported under such paragraph (19) as of the date on which such order became final.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply only in the case of deportations occurring, and final orders of deportation issued, on or after the date of enactment of this Act, and only to

benefits for months beginning (and deaths occurring) on or after such date.

SEC. 405. MODIFICATIONS IN THE TERM OF OFFICE OF PUBLIC MEMBERS OF THE BOARDS OF TRUSTEES OF THE SOCIAL SECURITY TRUST FUNDS.

(a) IN GENERAL.—Sections 201(c), 1817(b), and 1841(b) of the Social Security Act (42 U.S.C. 401(c), 1395i(b), 1395t(b)) are each amended by inserting after the first sentence the following: "A member of the Board of Trustees serving as a member of the public and appointed to fill a vacancy occurring during a term shall be appointed only for the remainder of such term. A member appointed as a member of the public may serve after the expiration of such member's term until such member's successor has taken office.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to members of the Boards of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, of the Federal Hospital Insurance Trust Fund, and of the Federal Supplementary Medical Insurance Trust Fund serving on such Boards of Trustees as members of the public on or after the date of the enactment of this Act.

SEC. 406. CONTINUATION OF DISABILITY BENEFITS DURING APPEAL.

Subsection (g) of section 223 of the Social Security Act (42 U.S.C. 423(g)) is amended—

(1) in paragraph (1)(iii), by striking "June 1989" and inserting "June 1990"; and

(2) in paragraph (3)(B), by striking "January 1, 1989" and inserting "January 1, 1990".

SEC. 407. EXEMPTION FROM SOCIAL SECURITY FOR EMPLOYERS AND EMPLOYEES WHO ARE BOTH MEMBERS OF CERTAIN RELIGIOUS FAITHS.

(a) EXEMPTION FROM COVERAGE UNDER SOCIAL SECURITY.—

(1) IN GENERAL.—Subchapter C of chapter 21 of the Internal Revenue Code of 1986 (general provisions under Federal Insurance Contributions Act) is amended by redesignating section 3127 as section 3128, and by inserting after section 3126 the following new section:

"SEC. 3127. EXEMPTION FOR EMPLOYERS AND THEIR EMPLOYEES WHERE BOTH ARE MEMBERS OF RELIGIOUS FAITHS OPPOSED TO PARTICIPATION IN SOCIAL SECURITY ACT PROGRAMS.

"(a) IN GENERAL.—Notwithstanding any other provision of this chapter (and under regulations prescribed to carry out this section), in any case where—

"(1) an employer is a member of a recognized religious sect or division thereof described in section 1402(g)(1) and an adherent of established tenets or teachings of such sect or division as described in such section, and has filed and had approved under subsection (b) an application (in such form and manner, and with such official, as may be prescribed by such regulations) for an exemption from the taxes imposed by section 3111, and

"(2) an employee of such employer who is also a member of such a religious sect or division and an adherent of its established tenets or teachings has filed and had approved under subsection (b) an identical application for exemption from the taxes imposed by section 3101,

such employer shall be exempt from the taxes imposed by section 3111 with respect to wages paid to each of his employees who meets the requirements of paragraph (2) and each such employee shall be exempt from the taxes imposed by section 3101 with respect to such wages paid to him by such employer.

"(b) APPROVAL OF APPLICATION.—An application for exemption filed by an employer under subsection (a)(1) or by an employee under subsection (a)(2) shall be approved only if—

"(1) such application contains or is accompanied by the evidence described in section 1402(g)(1)(A) and a waiver described in section 1402(g)(1)(B),

"(2) the Secretary of Health and Human Services makes the findings (with respect to such sect or division) described in section 1402(g)(1) (C), (D), and (E), and

"(3) no benefit or other payment referred to in section 1402(g)(1)(B) became payable (or, but for section 203 or 222(b) of the Social Security Act, would have become payable) to the individual filing the application at or before the time of such filing.

"(c) EFFECTIVE PERIOD OF EXEMPTION.—An exemption granted under this section to any employer with respect to wages paid to any of his employees, or granted to any such employee, shall apply with respect to wages paid by such employer during the period—

"(1) commencing with the first day of the first calendar quarter, after the quarter in which such application is filed, throughout which such employer or employee meets the applicable requirements specified in subsections (a) and (b), and

"(2) ending with the last day of the calendar quarter preceding the first calendar quarter thereafter in which (A) such employer or the employee involved ceases to meet the applicable requirements of subsection (a), or (B) the sect or division thereof of which such employer or employee is a member is found by the Secretary of Health and Human Services to have ceased to meet the requirements of subsection (b)(2).".

(2) CLERICAL AMENDMENT.—The table of sections for such subchapter C of such Code is amended by striking the last item and inserting the following:

"Sec. 3127. Exemption for employers and their employees where both are members of religious faiths opposed to participation in Social Security Act programs.

"Sec. 3128. Short title.".

(b) CONFORMING EXEMPTION FROM ELIGIBILITY FOR BENEFITS.—Section 202(v) of the Social Security Act (42 U.S.C. 402(v)) is amended—

(1) by inserting "(1)" after "(v)";

(2) by inserting "and subject to paragraph (3)," after "title,";

(3) by striking "waiver; except that" and all that follows and inserting "waiver."; and

(4) by adding at the end the following new paragraphs:

"(2) Notwithstanding any other provision of this title, and subject to paragraph (3), in the case of any individual who files a waiver pursuant to section 3127 of the Internal Revenue Code of 1986 and is granted a tax exemption thereunder, no benefits or other payments shall be payable under this title to him, no payments shall be made on his behalf under part A of title XVIII, and no benefits or other payments under this title shall be payable on the basis of his wages and self-employment income to any other person, after the filing of such waiver.

"(3) If, after an exemption referred to in paragraph (1) or (2) is granted to an individual, such exemption ceases to be effective, the waiver referred to in such paragraph shall cease to be applicable in the case of benefits and other payments under this title and part A of title XVIII to the extent based on—

"(A) his wages for and after the calendar year following the calendar year in which occurs the failure to meet the requirements of section 1402(g) or 3127 on which the cessation of such exemption is based, and

"(B) his self-employment income for and after the taxable year in which occurs such failure.".

(c) CONFORMING AMENDMENTS REMOVING TIME LIMIT ON SECA EXEMPTION APPLICATIONS.—Section 1402(g) of the Internal Revenue Code of 1986 is amended—

(1) by striking paragraphs (2) and (4); and

(2) by redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively.

(d) EFFECTIVE DATES.—The amendments made by subsection (a) shall apply to wages paid after December 31, 1988. The amendments made by subsection (b) shall apply to benefits paid for (and items and services furnished in) months after December 1988. The amendments made by subsection (c) shall apply to applications for exemptions filed on or after the date of the enactment of this Act.

SEC. 408. BLOOD DONOR LOCATOR SERVICE.

(a) EXPLICIT AUTHORIZATION OF USE OF SOCIAL SECURITY ACCOUNT NUMBERS TO ASSIST IN IDENTIFICATION OF BLOOD DONORS.—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended—

(1) by redesignating subparagraph (D) as subparagraph (E); and

(2) by inserting after subparagraph (C) the following new subparagraph:

"(D)(i) It is the policy of the United States that—

"(I) any State (or any political subdivision of a State) and any authorized blood donation facility may utilize the social security account numbers issued by the Secretary for the purpose of identifying blood donors, and

"(II) any State (or political subdivision of a State) may require any individual who donates blood within such State (or political subdivision) to furnish to such State (or political subdivision), to any agency thereof having related administrative responsibility, or to any authorized blood donation facility the social security account number (or numbers, if the donor has more than one such number) issued to the donor by the Secretary.

"(ii) If and to the extent that any provision of Federal law enacted before the date of the enactment of this subparagraph is inconsistent with the policy set forth in clause (i), such provision shall, on and after such date, be null, void, and of no effect.

"(iii) For purposes of this subparagraph—

"(I) the term 'authorized blood donation facility' means an entity described in section 1141(h)(1)(B), and

"(II) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands.".

(b) ESTABLISHMENT OF BLOOD DONOR LOCATOR SERVICE.—

(1) IN GENERAL.—Part A of title XI of such Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

"BLOOD DONOR LOCATOR SERVICE

"SEC. 1141. (a) IN GENERAL.—The Secretary shall establish and conduct a Blood Donor Locator Service, under the direction of the Commissioner of Social Security, which shall be used to obtain and transmit to any authorized person (as defined in subsection

(h)(1)) the most recent mailing address of any blood donor who, as indicated by the donated blood or products derived therefrom or by the history of the subsequent use of such blood or blood products, has or may have the virus for acquired immune deficiency syndrome, in order to inform such donor of the possible need for medical care and treatment.

"(b) PROVISION OF ADDRESS INFORMATION.—Whenever the Secretary receives a request, filed by an authorized person (as defined in subsection (h)(1)), for the mailing address of a donor described in subsection (a) and the Secretary is reasonably satisfied that the requirements of this section have been met with respect to such request, the Secretary shall promptly undertake to provide the requested address information from—

"(1) the files and records maintained by the Social Security Administration, and

"(2) such files and records obtained pursuant to section 6103(m)(6) of the Internal Revenue Code of 1986 as the Secretary considers necessary to comply with such request.

"(c) MANNER AND FORM OF REQUESTS.—A request for address information under this section shall be filed in such manner and form as the Secretary shall by regulation prescribe, shall include the blood donor's social security account number, and shall be accompanied or supported by such documents as the Secretary may determine to be necessary.

"(d) PROCEDURES AND SAFEGUARDS.—Any authorized person shall, as a condition for receiving address information from the Blood Donor Locator Service—

"(1) establish and maintain, to the satisfaction of the Secretary, a system for standardizing records with respect to any request, the reason for such request, and the date of such request made by or of it and any disclosure of address information made by or to it,

"(2) establish and maintain, to the satisfaction of the Secretary, a secure area or place in which such address information and all related blood donor records shall be stored,

"(3) restrict, to the satisfaction of the Secretary, access to the address information and related blood donor records only to persons whose duties or responsibilities require access and to whom disclosure may be made under the provisions of this section,

"(4) provide such other safeguards which the Secretary determines (and which the Secretary prescribes in regulations) to be necessary or appropriate to protect the confidentiality of the address information and related blood donor records,

"(5) furnish a report to the Secretary, at such time and containing such information as the Secretary may prescribe, which describes the procedures established and utilized by the authorized person for ensuring the confidentiality of address information and related blood donor records required under this subsection, and

"(6) destroy such address information and related blood donor records, upon completion of their use in providing the notification for which the information was obtained, so as to make such information and records undisclosable.

If the Secretary determines that any authorized person has failed to, or does not, meet the requirements of this subsection, the Secretary may, after any proceedings for review established under subsection (f), take such actions as are necessary to ensure such requirements are met, including refusing to disclose address information to such authorized person until the Secretary determines that such requirements have been or will be met. In the case of any authorized person who discloses any address information received pursuant to this section or any related blood donor records to any agent, this subsection shall apply to such authorized person and each such agent (except that, in the case of an agent, any report to the Secretary or other action with respect to the Secretary shall be made or taken through such authorized person). The Secretary shall destroy all related blood donor records in the possession of the Department of Health and Human Services upon completion of their use in transmitting mailing addresses as required under subsection (a), so as to make such records undisclosable.

"(e) ARRANGEMENTS WITH STATE AGENCIES AND AUTHORIZED PERSONS.—The Secretary, in carrying out the Secretary's duties and functions under this section, shall enter into arrangements—

"(1) with State agencies to accept and to transmit to the Secretary requests for address information under this section and to accept and to transmit such information to authorized persons, and

"(2) with State agencies and authorized persons otherwise to cooperate with the Secretary in carrying out the purposes of this section.

"(f) PROCEDURES FOR ADMINISTRATIVE REVIEW.—The Secretary shall by regulation prescribe procedures which provide for administrative review of any determination that any authorized person has failed to meet the requirements of this section.

"(g) UNAUTHORIZED DISCLOSURE OF INFORMATION.—Paragraphs (1), (2), and (3) of section 7213(a) of the Internal Revenue Code of 1986 shall apply with respect to the unauthorized willful disclosure to any person of address information or related blood donor records acquired or maintained by or under the Secretary, or pursuant to this section by any authorized person, or of information derived from any such address information or related blood donor records, in the same manner and to the same extent as such paragraphs apply with respect to unauthorized disclosures of return and return information described in such paragraphs. Paragraph (4) of section 7213(a) of such Code shall apply with respect to the willful offer of any item of material value in exchange for any such address information or related blood donor record in the same manner and to the same extent as such paragraph applies with respect to offers (in exchange for any return or return information) described in paragraph (4) of such subsection.

"(h) DEFINITIONS.—For purposes of this section—

"(1) AUTHORIZED PERSON.—The term 'authorized person' means—

"(A) any agency of a State (or of a political subdivision of a State) which has duties or authority under State law relating to the public health or otherwise has the duty or authority under State law to regulate blood donations, and

"(B) any entity engaged in the acceptance of blood donations which is licensed or registered by the Food and Drug Administration in connection with the acceptance of such blood donations, and which, in accordance with such regulations as may be prescribed by the Secretary, provides for—

"(i) the confidentiality of any address information received pursuant to this section and related blood donor records,

"(ii) blood donor notification procedures for individuals with respect to whom such information is requested and a finding has been made that they have or may have the virus for acquired immune deficiency syndrome, and

"(iii) counseling services for such individuals who have been found to have such virus.

"(2) RELATED BLOOD DONOR RECORD.—The term 'related blood donor record' means any record, list, or compilation which indicates, directly or indirectly, the identity of any individual with respect to whom a request for address information has been made pursuant to this section.

"(3) STATE.—The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands.".

(2) TIME LIMIT FOR ESTABLISHMENT OF BLOOD DONOR LOCATOR SERVICE.—The Secretary of Health and Human Services shall establish the Blood Donor Locator Service pursuant to section 1141 of the Social Security Act not later than 180 days after the date of the enactment of this Act.

(c) DISCLOSURE OF TAXPAYER ADDRESSES TO BLOOD DONOR LOCATOR SERVICE.—

(1) IN GENERAL.—Subsection (m) of section 6103 of the Internal Revenue Code of 1986 (relating to disclosure of taxpayer identity information) is amended by adding at the end the following new paragraph:

"(6) BLOOD DONOR LOCATOR SERVICE.—

"(A) IN GENERAL.—Upon written request pursuant to section 1141 of the Social Security Act, the Secretary shall disclose the mailing address of taxpayers to officers and employees of the Blood Donor Locator Service in the Department of Health and Human Services.

"(B) RESTRICTION ON DISCLOSURE.—The Secretary shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, assisting under the Blood Donor Locator Service authorized persons (as defined in section 1141(h)(1) of the Social Security Act) in locating blood donors who, as indicated by donated blood or products derived therefrom or by the history of the subsequent use of such blood or blood products, have or may have the virus for acquired immune deficiency syndrome, in order to inform such donors of the possible need for medical care and treatment.

"(C) SAFEGUARDS.—The Secretary shall destroy all related blood donor records (as defined in section 1141(h)(2) of the Social Security Act) in the possession of the Department of the Treasury upon completion of their use in making the disclosure required under subparagraph (A), so as to make such records undisclosable.".

(2) SAFEGUARDS.—

(A) IN GENERAL.—Paragraph (4) of section 6103(p) of such Code (relating to safeguards) is amended—

(i) in subparagraph (F)—

(I) by striking "manner; and" at the end of clause (i) and inserting "manner,";

(II) by adding "and" at the end of clause (ii)(III); and

(III) by inserting after clause (ii)(III) the following new clause:

"(iii) in the case of the Department of Health and Human Services for purposes of subsection (m)(6), destroy all such return information upon completion of its use in providing the notification for which the information was obtained, so as to make such information undisclosable;";

(ii) in the last sentence, by striking "subsection (m)(2) or (4)" and inserting "subsection (m)(2), (4), or (6)"; and

(iii) by adding at the end the following new sentence: "For purposes of applying this paragraph in any case to which subsection (m)(6) applies, the term 'return information' includes related blood donor records (as defined in section 1141(h)(2) of the Social Security Act).".

(B) CONFORMING AMENDMENT.—Paragraph (2) of section 7213(a) of such Code (relating to unauthorized disclosure of returns and return information) is amended by striking "(m)(2) or (4)" and inserting "(m)(2), (4), or (6)".

SEC. 409. PAYMENT OF LUMP SUM DEATH PAYMENTS TO LEGAL REPRESENTATIVES OF WIDOWS AND WIDOWERS WHO DIE BEFORE RECEIVING PAYMENT.

(a) IN GENERAL.—Section 202(i) of the Social Security Act (42 U.S.C. 402(i)) is amended—

(1) in paragraph (1), by striking "or" at the end;

(2) in paragraph (2), by striking "death." and inserting "death; or";

(3) by inserting after paragraph (2) the following new paragraph:

"(3) if no person qualifies for payment under paragraphs (1) and (2), and such amount is not payable under this subsection to any widow or widower (within the meaning of the first sentence of this subsection or within the meaning of paragraph (1)) solely because such widow or widower dies before receiving payment (including negotiating any check for such payment), to the legal representative (other than a State or a political subdivision thereof) of the estate of such widow or widower.";

(4) in the third sentence, by inserting "(or to the legal representative of the estate thereof pursuant to paragraph (3))" after "any person", and by inserting "or, in the case of a widow or widower referred to in paragraph (3), by such person's estate" after "competent)"; and

(5) in the last sentence, by inserting "(or to the legal representative of the estate thereof pursuant to paragraph (3))" after "any person", and by inserting "or, in the case of a widow or widower referred to in paragraph (3), by such person's estate," after "competent)".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to deaths (of widows and widowers referred to in section 202(i)(3) of the Social Security Act (as added by this Act)) occurring on or after January 1, 1989.

SEC. 410. REQUIREMENT OF SOCIAL SECURITY ACCOUNT NUMBER AS A CONDITION FOR RECEIPT OF SOCIAL SECURITY BENEFITS.

(a) IN GENERAL.—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended—

(1) in subparagraph (B)(i) in the matter preceding subclause (I), by inserting "and subparagraph (E)" after "subparagraph (A)";

(2) by redesignating subparagraph (E) (as redesignated by section 408(a)(1)) as subparagraph (F); and

(3) by inserting after subparagraph (D) (as added by section 408(a)(2)) the following new subparagraph:

"(E) The Secretary shall require, as a condition for receipt of benefits under this title, that an individual furnish satisfactory proof of a social security account number assigned to such individual by the Secretary or, in the case of an individual to whom no such number has been assigned, that such individual make proper application for assignment of such a number.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits entitlement to which commences after the sixth month following the month in which this Act is enacted.

SEC. 411. SUBSTITUTION OF CERTIFICATE OF ELECTION FOR APPLICATION TO ESTABLISH ENTITLEMENT FOR CERTAIN REDUCED WIDOW'S AND WIDOWER'S BENEFITS.

(a) WIDOW'S INSURANCE BENEFITS.—Section 202(e) of the Social Security Act (42 U.S.C. 402(e)) is amended—

(1) by redesignating paragraph (1)(C)(ii) as paragraph (1)(C)(iii);

(2) by striking paragraph (1)(C)(i) and inserting the following:

"(C)(i) has filed application for widow's insurance benefits,

"(ii) was entitled to wife's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which such individual died, and—

"(I) has attained retirement age (as defined in section 216(l)),

"(II) is not entitled to benefits under subsection (a) or section 223, or

"(III) has in effect a certificate (described in paragraph (8)) filed by her with the Secretary, in accordance with regulations prescribed by the Secretary, in which she elects to receive widow's insurance benefits (subject to reduction as provided in subsection (q)), or"; and

(3) by adding at the end the following new paragraph:

"(8) Any certificate filed pursuant to paragraph (1)(C)(ii)(III) shall be effective for purposes of this subsection—

"(A) for the month in which it is filed and for any month thereafter, and

"(B) for months, in the period designated by the individual filing such certificate, of one or more consecutive months (not exceeding 12) immediately preceding the month in which such certificate is filed;

except that such certificate shall not be effective for any month before the month in which she attains age 62.".

(b) WIDOWER'S INSURANCE BENEFITS.—Section 202(f) of such Act (42 U.S.C. 402(f)) is amended—

(1) by redesignating paragraph (1)(C)(ii) as paragraph (1)(C)(iii);

(2) by striking paragraph (1)(C)(i) and inserting the following:

"(C)(i) has filed application for widower's insurance benefits,

"(ii) was entitled to husband's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which such individual died, and—

"(I) has attained retirement age (as defined in section 216(l)),

"(II) is not entitled to benefits under subsection (a) or section 223, or

"(III) has in effect a certificate (described in paragraph (8)) filed by him with the Secretary, in accordance with regulations prescribed by the Secretary, in which he elects to receive widower's insurance benefits (subject to reduction as provided in subsection (q)), or"; and

(3) by adding at the end the following new paragraph:

"(8) Any certificate filed pursuant to paragraph (1)(C)(ii)(III) shall be effective for purposes of this subsection—

"(A) for the month in which it is filed and for any month thereafter, and

"(B) for months, in the period designated by the individual filing such certificate, of one or more consecutive months (not exceeding 12) immediately preceding the month in which such certificate is filed;

except that such certificate shall not be effective for any month before the month in which he attains age 62.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits payable under section 202(e) or section 202(f) of the Social Security Act on the basis of the wages and self-employment income of an individual who dies after the month in which this Act is enacted.

SEC. 412. CALCULATION OF THE WINDFALL BENEFIT GUARANTEE AMOUNT BASED ON PENSION AMOUNTS PAYABLE IN THE FIRST MONTH OF CONCURRENT ENTITLEMENT RATHER THAN CONCURRENT ELIGIBILITY.

(a) IN GENERAL.—Section 215(a)(7) of the Social Security Act (42 U.S.C. 415(a)(7)) is amended—

(1) in subparagraph (A), by striking "with respect to the initial month in which the individual becomes eligible for such benefits";

(2) in the second sentence of subparagraph (B)(i), by striking "eligibility for old-age or disability insurance benefits" and inserting "concurrent entitlement to such monthly periodic payment and old-age or disability insurance benefits"; and

(3) in subparagraph (C), by striking clause (iii) and redesignating clause (iv) as clause (iii).

(b) CONFORMING AMENDMENT.—Section 215(d)(5)(ii) of such Act (42 U.S.C. 415(d)(5)(ii)) is amended by striking "his or her eligibility for old-age or disability insurance benefits" and inserting "such concurrent entitlement".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits based on applications filed after the month in which this Act is enacted.

SEC. 413. CONSOLIDATION OF REPORTS ON CONTINUING DISABILITY REVIEWS.

(a) IN GENERAL.—Section 221(i)(3) of the Social Security Act (42 U.S.C. 421(i)(3)) is amended by striking "semiannually" and inserting "annually".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to reports required to be submitted after the date of the enactment of this Act.

SEC. 414. EXCLUSION OF EMPLOYEES SEPARATED FROM EMPLOYMENT BEFORE JANUARY 1, 1989, FROM RULE INCLUDING AS WAGES TAXABLE UNDER FICA CERTAIN PAYMENTS FOR GROUP-TERM LIFE INSURANCE.

(a) IN GENERAL.—Subsection (b) of section 9003 of the Omnibus Budget Reconciliation Act of 1987 (101 Stat. 1330-287) is amended by striking "December 31, 1987." and inserting "December 31, 1987, except that such amendments shall not apply with respect to payments by the employer (or a successor of such employer) for group-term life insurance for such employer's former employees who separated from employment with the employer on or before December 31, 1988, to the extent that such payments are not for coverage for any such employee for any period for which such employee is employed by such employer (or a successor of such employer) after the date of such separation.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply as if such amendment had been included or reflected in section 9003(b) of the Omnibus Budget Reconciliation Act of 1987 at the time of its enactment.

SEC. 415. CHARGING OF EARNINGS OF CORPORATE DIRECTORS.

(a) IN GENERAL.—

(1) The last paragraph of section 211(a) of the Social Security Act (as added by section 9022(a) of the Omnibus Budget Reconciliation Act of 1987) is amended by striking "Any income" and inserting "(E) For purposes of this section, any income", and by moving such paragraph as so amended to the end of section 203(f)(5) of such Act.

(2) The last paragraph of section 1402(a) of the Internal Revenue Code of 1986 (as added by section 9022(b) of the Omnibus Budget Reconciliation Act of 1987) is repealed.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply as if such amendments had been included or reflected in section 9022 of the Omnibus Budget Reconciliation Act of 1987 at the time of its enactment.

SEC. 416. CLARIFICATION OF APPLICABILITY OF GOVERNMENT PENSION OFFSET TO CERTAIN FEDERAL EMPLOYEES.

(a) CLARIFICATION OF TREATMENT OF FOREIGN SERVICE RETIREES.—Subsections (b)(4)(A)(ii)(II), (c)(2)(A)(ii)(II), (e)(7)(A)(ii)(II), (f)(2)(A)(ii)(II), and (g)(4)(A)(ii)(II) of section 202 of the Social Security Act (42 U.S.C. 402 (b)(4)(A)(ii)(II), (c)(2)(A)(ii)(II), (e)(7)(A)(ii)(II), (f)(2)(A)(ii)(II), (g)(4)(A)(ii)(II)) are each amended by striking "chapter 84 of title 5, United States Code," and inserting "the Federal Employees' Retirement System provided in chapter 84 of title 5, United States Code, or the Foreign Service Pension System provided in subchapter II of chapter 8 of title I of the Foreign Service Act of 1980".

(b) TREATMENT OF EMPLOYEES WHOSE FEDERAL EMPLOYMENT TERMINATED AFTER MAKING AN ELECTION INTO SOCIAL SECURITY COVERAGE BUT BEFORE THE EFFECTIVE DATE OF THE ELECTION.—Subsections (b)(4)(A)(i), (c)(2)(A)(i), (e)(7)(A)(i), (f)(2)(A)(i), and (g)(4)(A)(i) of section 202 of the Social Security Act (42 U.S.C. 402 (b)(4)(A)(i), (c)(2)(A)(i), (e)(7)(A)(i), (f)(2)(A)(i), (g)(4)(A)(i)) shall not apply with respect to monthly periodic benefits of any individual based solely on service which was performed while in the service of the Federal Government if—

(1) such person made, before January 1, 1988, an election pursuant to law to become subject to the Federal Employees' Retirement System provided in chapter 84 of title 5, United States Code, or the Foreign Service Pension System provided in subchapter II of chapter 8 of title I of the Foreign Service Act of 1980 (or such person made such an election on or after January 1, 1988, and before July 1, 1988, pursuant to regulations of the Office of Personnel Management relating to belated elections and correction of administrative errors (5 CFR 846.204) as in effect on the date of the enactment of this Act), and

(2) such service terminated before the date on which such election became effective.

(c) EFFECTIVE DATE.—The preceding provisions of this section (including the amendments made by subsection (a)) shall apply as if they had been included or reflected in the provisions of section 9007 of the Omnibus Budget Reconciliation Act of 1987 (101 Stat. 1330-289) at the time of its enactment.

SEC. 417. AMENDMENTS TO RULES GOVERNING SOCIAL SECURITY COVERAGE OF FEDERAL EMPLOYMENT.

(a) CLARIFICATION OF AUTHORITY TO MAKE DETERMINATIONS CONCERNING THE SOCIAL SECURITY COVERAGE OF FEDERAL EMPLOYEES.—

(1) AMENDMENTS TO THE SOCIAL SECURITY ACT.—Section 205(p)(1) of the Social Security Act (42 U.S.C. 405(p)(1)) is amended—

(A) by striking "whether an individual has performed such service, the periods of such service," in the first sentence;

(B) by striking "which constitute wages under the provisions of section 209" in the first sentence;

(C) by striking "wages were" in the first sentence and inserting "remuneration was"; and

(D) by adding at the end the following new sentence: "Nothing in this paragraph shall be construed to affect the Secretary's authority to determine under sections 209 and 210 whether any such service constitutes employment, the periods of such employment, and whether remuneration paid for any such service constitutes wages.".

(2) AMENDMENTS TO FICA.—Section 3122 of the Internal Revenue Code of 1986 (relating to Federal service) is amended—

(A) by striking "the determination whether an individual has performed service which constitutes employment as defined in section 3121(b)," in the first sentence;

(B) by striking "which constitutes wages as defined in section 3121(a)" in the first sentence; and

(C) by inserting after the first sentence the following new sentence: "Nothing in this paragraph shall be construed to affect the Secretary's authority to determine under subsections (a) and (b) of section 3121 whether any such service constitutes employment, the periods of such employment, and whether remuneration paid for any such service constitutes wages.".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to determinations relating to service commenced in any position on or after the date of the enactment of this Act.

(b) CLARIFICATION OF TREATMENT OF SERVICE COVERED UNDER THE FOREIGN SERVICE PENSION SYSTEM.—

(1) AMENDMENT TO THE SOCIAL SECURITY ACT.—Subparagraph (H) of section 210(a)(5) of the Social Security Act (42 U.S.C. 410(a)(5)(H)) is amended to read as follows:

"(H) service performed by an individual—

"(i) on or after the effective date of an election by such individual, under section 301 of the Federal Employees' Retirement System Act of 1986 or section 307 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, to become subject to the Federal Employees' Retirement System provided in chapter 84 of title 5, United States Code, or

"(ii) on or after the effective date of an election by such individual, under regulations issued under section 860 of the Foreign Service Act of 1980, to become subject to the Foreign Service Pension System provided in subchapter II of chapter 8 of title I of such Act;".

(2) AMENDMENT TO FICA.—Subparagraph (H) of section 3121(b)(5) of the Internal Revenue Code of 1986 (relating to employment) is amended to read as follows:

"(H) service performed by an individual—

"(i) on or after the effective date of an election by such individual, under section 301 of the Federal Employees' Retirement System Act of 1986 or section 307 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, to become subject to the Federal Employees' Retirement System provided in chapter 84 of title 5, United States Code, or

"(ii) on or after the effective date of an election by such individual, under regulations issued under section 860 of the Foreign Service Act of 1980, to become subject to the Foreign Service Pension System provided in subchapter II of chapter 8 of title I of such Act;".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply as if such amendments had been included or reflected in section 304 of the Federal Employees' Retirement System Act of 1986 (100 Stat. 606) at the time of its enactment.

(c) CONTINUATION OF SOCIAL SECURITY COVERAGE OF FEDERAL SERVICE AFTER ANY INITIAL COVERAGE OF SUCH SERVICE.—

(1) AMENDMENT TO THE SOCIAL SECURITY ACT.—Paragraph (5) of section 210(a) of the Social Security Act (42 U.S.C. 410(a)(5)) is amended, in the matter following subparagraph (B)(ii), by inserting after "with respect to" the following: "any such service performed on or after any date on which such individual performs".

(2) AMENDMENT TO FICA.—Paragraph (5) of section 3121(b) of the Internal Revenue Code of 1986 (relating to employment) is amended, in the matter following subparagraph (B)(ii), by inserting after "with respect to" the following: "any such service performed on or after any date on which such individual performs".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any individual only upon the performance by such individual of service described in subparagraph (C), (D), (E), (F), (G), or (H) of section 210(a)(5) of the Social Security Act (42 U.S.C. 410(a)(5)) on or after the date of the enactment of this Act.

SEC. 418. TECHNICAL CORRECTIONS IN OASDI PROVISIONS.

(a) TECHNICAL CORRECTIONS.—(1) Section 205(c)(2)(C)(iii) of the Social Security Act is amended by striking "the Social Security Act" and inserting "this Act".

(2) Section 211(a)(7) of such Act (as amended by section 9023(b)(1) of Public Law 100-203) is amended by inserting "of the Internal Revenue Code of 1986" before the semicolon at the end.

(3)(A) Subsection (d) of section 3121 of the Internal Revenue Code of 1986 (as amended by section 9002(b)(2) of Public Law 99-509) is amended—

(i) by redesignating paragraph (3) as paragraph (4), by striking "; or" at the end of such paragraph and inserting a period, and by moving such paragraph (as so redesignated and amended) to the end of the subsection; and

(ii) by redesignating paragraph (4) as paragraph (3), and by striking the period at the end and inserting "; or".

(B) Section 3306(i) of such Code (as amended by section 9002(b)(2) of Public Law 99-509) is amended by striking "paragraph (3) and subparagraphs (B) and (C) of paragraph (4)" and inserting "paragraph (4) and subparagraphs (B) and (C) of paragraph (3)".

(4) Section 13303(c)(2) of Public Law 99-272 is amended—

(A) by striking "3121(b)" and inserting "312(b)";

(B) by striking "is amended" and inserting ", and paragraph (20) of section 210(a) of the Social Security Act, are each amended"; and

(C) by striking "after 'service' " and inserting "before 'performed' ".

(5) Section 9006(b)(1) of Public Law 100-203 is amended by striking "3111(a)" and inserting "3111".

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall be effective on the date of the enactment of this Act.

(2) Any amendment made by this section to a provision of a particular Public Law which is referred to by its number, or to a provision of the Social Security Act or the Internal Revenue Code of 1986 as added or amended by a provision of a particular Public Law which is so referred to, shall be effective as though it had been included or reflected in the relevant provisions of that Public Law at the time of its enactment.

Subtitle B—Public Assistance and Unemployment Compensation

SEC. 421. EXTENSION OF MORATORIUM ON PENALTIES.

(a) MORATORIUM EXTENDED.—Section 403 of the Social Security Act (42 U.S.C. 603) is amended by adding at the end thereof the following:

"(k)(1) During the 12-month period beginning on July 1, 1988 (hereafter in this subsection referred to as the 'moratorium period'), the Secretary shall not impose any reductions in payments to States pursuant to subsection (i) (or prior regulations), or pursuant to any comparable provision of law relating to the programs under this part in Puerto Rico, Guam, the Virgin Islands, American Samoa, or the Northern Mariana Islands.

"(2) During the moratorium period—

"(A) the Secretary and the States shall continue to operate the quality control systems in effect under this part, and to calculate the error rates under the provisions referred to in paragraph (1), including the process of requesting and reviewing waivers; and

"(B) the Departmental Grant Appeals Board shall, notwithstanding paragraph (1), review disallowances for fiscal year 1981 and thereafter and hear appeals with respect thereto (but collection of disallowances owed as a result of Departmental Grant Appeals Board decisions shall not occur).

"(3) Not later than February 15, 1989, the Secretary shall submit to the Congress recommendations to revise the quality control systems under this part.".

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 12302(c)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272) is amended by striking "titles IV-A and" and inserting "title".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on July 1, 1988.

SEC. 422. SELF-EMPLOYMENT DEMONSTRATION PROJECT.

Section 9152(g) of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203) is amended—

(1) in paragraph (1), by striking out "two" in the first sentence and inserting in lieu thereof "three"; and

(2) in paragraph (2), by striking out "four" and inserting in lieu thereof "six".

SEC. 423. DISREGARD OF CERTAIN HOUSING ASSISTANCE PAYMENTS IN DETERMINING INCOME AND RESOURCES UNDER SSI PROGRAM.

(a) INCOME.—Section 1612(b) of the Social Security Act is amended—

(1) by striking "and" after the semicolon at the end of paragraph (12);

(2) by striking the period at the end of paragraph (13) and inserting "; and"; and

(3) by adding after paragraph (13) the following new paragraph:

"(14) assistance paid, with respect to the dwelling unit occupied by such individual (or such individual and spouse), under the United States Housing Act of 1937, the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, title V of the Housing Act of 1949, or section 202(h) of the Housing Act of 1959.".

(b) RESOURCES.—Section 1613(a) of such Act is amended—

(1) by striking "and" after the semicolon at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; and"; and

(3) by inserting after paragraph (7) the following new paragraph:

"(8) the value of assistance referred to in section 1612(b)(14), paid with respect to the dwelling unit occupied by such individual (or such individual and spouse).".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective as though they had been included in section 162 of the Housing and Community Development Act of 1987 at the time of its enactment.

SEC. 424. FOSTER CARE INDEPENDENT LIVING INITIATIVES.

(a) EXTENSION OF INDEPENDENT LIVING PROGRAM.—Section 477 of the Social Security Act (42 U.S.C. 677) is amended—

(1) by striking "1987 and 1988" in subsections (a) and (e)(1) and inserting "1987, 1988, 1989";

(2) by striking "for fiscal year 1988" and all that follows in subsection (c) and inserting "for the fiscal year 1988 or 1989, such description and assurances must be submitted prior to January 1 of such fiscal year.";

(3) by striking "Not later than March 1, 1988" in subsection (g)(1) and inserting "Not later than the first January 1 following the end of each fiscal year";

(4) by inserting "during such fiscal year" in subsection (g)(1) after "carried out";

(5) by striking "(2) Not later than July 1, 1988," in subsection (g)(2) and inserting the following:

"(2)(A) Not later than July 1, 1988, the Secretary shall submit an interim report on the activities carried out under this section.

"(B) Not later than March 1, 1989,"; and

(6) by striking "the fiscal year 1987" in subsection (g)(2) and inserting "fiscal years 1987 and 1988".

(b) PERMISSION TO EXPEND UNOBLIGATED FUNDS APPROPRIATED FOR 1987 IN 1989.—Subsection (f) of section 477 of such Act (42 U.S.C. 677(f)) is amended by inserting after and below paragraph (3) the following:

"Notwithstanding paragraph (3), payments made to a State under this section for fiscal year 1987 and unobligated may be expended by such State in fiscal year 1989.".

(c) INCLUSION IN INDEPENDENT LIVING PROGRAM OF NON-AFDC FOSTER CARE CHILDREN.—Subsection (a) of section 477 of such Act (42 U.S.C. 677(a)) is amended—

(1) by inserting "(1)" before "Payments";

(2) by striking "children" and all the follows through "age 16," and inserting "children described in paragraph (2) who have attained age 16"; and

(3) by adding at the end the following new paragraph:

"(2) A program established and carried out under paragraph (1)—

(A) shall be designed to assist children with respect to whom foster care maintenance payments are being made by the State under this part, and

(B) may at the option of the State also include any or all other children in foster care under the responsibility of the State.".

(d) INCLUSION IN INDEPENDENT LIVING PROGRAM OF CERTAIN FORMER FOSTER CARE CHILDREN.—Paragraph (2) of section 477(a) of the Social Security Act (42 U.S.C. 677(a)(2)) (as added by subsection (c) of this section) is further amended—

(1) by striking "and" in subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting ", and"; and

(3) by adding at the end the following new subparagraph:

"(C) may at the option of the State also include any child to whom foster care maintenance payments were previously made by a State under this part and whose payments were discontinued on or after the date such child attained age 16, and any child who previously was in foster care described in subparagraph (B) and for whom such care was discontinued on or after the date such child attained age 16, but such child may not be so included after the end of the 6-month period beginning on the date of discontinuance of such payments or care; and a written transitional independent living plan of the type described in subsection (d)(6) shall be developed for such child as a part of such program.".

(e) DETERMINATION OF SERVICES NEEDED FOR TRANSITION TO INDEPENDENT LIVING.—Subparagraph (C) of section 475(5) of such Act (42 U.S.C. 675(5)(C)) is amended by inserting "and, in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to independent living" before the semicolon.

(f) LIMITATION ON USE OF FUNDS.—Paragraph (3) of section 477(e) of such Act (42 U.S.C. 677(e)(3)) is amended by adding at the end the following: "Amounts payable under this section may not be used for the provision of room or board.".

(g) EFFECTIVE DATES.—(1) The amendments made by subsections (a), (b), and (e) shall take effect on October 1, 1988.

(2) The amendments made by subsections (c), (d), and (f) shall take effect on the date of the enactment of this Act.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as modified.

The committee amendment in the nature of a substitute, as modified, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. MURTHA] having assumed the chair, Mr. HAYES of Louisiana, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4333) to make technical corrections relating to the Tax Reform Act of 1986, and for other purposes, pursuant to House Resolution 507, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

□ 1345

The SPEAKER pro tempore (Mr. MURTHA). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROSTENKOWSKI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were— yeas 380, nays 25, not voting 26, as follows:

[Roll No. 266]

YEAS—380

Ackerman	Daub	Henry
Akaka	Davis (IL)	Herger
Alexander	Davis (MI)	Hiler
Anderson	de la Garza	Hochbrueckner
Andrews	DeFazio	Holloway
Annunzio	DeLay	Hopkins
Anthony	Dellums	Horton
Applegate	Derrick	Houghton
Archer	DeWine	Hoyer
Armey	Dickinson	Huckaby
Aspin	Dicks	Hunter
Atkins	Dingell	Hutto
AuCoin	DioGuardi	Inhofe
Badham	Dixon	Ireland
Baker	Donnelly	Jacobs
Ballenger	Downey	Jeffords
Bartlett	Durbin	Jenkins
Barton	Dwyer	Johnson (CT)
Bateman	Dymally	Johnson (SD)
Bates	Dyson	Jones (NC)
Beilenson	Early	Jontz
Bennett	Eckart	Kanjorski
Bentley	Edwards (CA)	Kaptur
Bereuter	Edwards (OK)	Kasich
Bevill	Emerson	Kastenmeier
Bilbray	English	Kennedy
Bilirakis	Erdreich	Kennelly
Boehlert	Evans	Kildee
Boggs	Fascell	Kleczka
Boland	Fawell	Kolbe
Bonior	Fazio	Konnyu
Bonker	Feighan	Kostmayer
Borski	Fish	Kyl
Bosco	Flake	LaFalce
Boucher	Flippo	Lagomarsino
Boxer	Florio	Lancaster
Brennan	Foglietta	Lantos
Broomfield	Foley	Latta
Brown (CA)	Ford (MI)	Leach (IA)
Brown (CO)	Frenzel	Leath (TX)
Bruce	Frost	Lehman (CA)
Bryant	Gallo	Lehman (FL)
Buechner	Garcia	Leland
Bunning	Gaydos	Lent
Byron	Gejdenson	Levin (MI)
Callahan	Gekas	Lewis (CA)
Campbell	Gephardt	Lewis (FL)
Cardin	Gibbons	Lewis (GA)
Carper	Gilman	Lightfoot
Carr	Gingrich	Lipinski
Chandler	Glickman	Lowery (CA)
Chapman	Gonzalez	Lowry (WA)
Chappell	Goodling	Lujan
Cheney	Gradison	Luken, Thomas
Clarke	Grandy	Lukens, Donald
Clay	Grant	Lungren
Clinger	Gray (IL)	Madigan
Coats	Gray (PA)	Manton
Coble	Green	Markey
Coelho	Guarini	Marlenee
Coleman (MO)	Gunderson	Martin (IL)
Coleman (TX)	Hall (OH)	Martin (NY)
Collins	Hall (TX)	Martinez
Combest	Hamilton	Matsui
Conte	Hammerschmidt	Mavroules
Conyers	Hansen	Mazzoli
Cooper	Harris	McCandless
Coughlin	Hastert	McCloskey
Courter	Hatcher	McCollum
Coyne	Hawkins	McCrery
Craig	Hayes (IL)	McCurdy
Crockett	Hayes (LA)	McDade
Darden	Hefner	McEwen
McGrath	Richardson	Spratt
McHugh	Ridge	St Germain
McMillan (NC)	Rinaldo	Staggers
McMillen (MD)	Ritter	Stallings
Mfume	Roberts	Stangeland
Michel	Robinson	Stark
Miller (CA)	Rodino	Stenholm
Miller (OH)	Roe	Stokes
Miller (WA)	Rogers	Stratton
Mineta	Rose	Studds
Moakley	Rostenkowski	Sundquist
Mollohan	Roth	Sweeney
Montgomery	Roukema	Swift
Moody	Rowland (CT)	Synar
Morella	Rowland (GA)	Tallon
Morrison (CT)	Roybal	Tauke
Morrison (WA)	Russo	Tauzin
Mrazek	Sabo	Thomas (CA)
Murtha	Saiki	Thomas (GA)
Myers	Savage	Torres
Nagle	Sawyer	Torricelli
Natcher	Saxton	Towns
Neal	Schaefer	Traficant
Nelson	Scheuer	Traxler
Nichols	Schneider	Udall
Nielson	Schroeder	Upton
Oakar	Schuette	Valentine
Oberstar	Schulze	Vento
Obey	Schumer	Visclosky
Olin	Sensenbrenner	Volkmer
Owens (NY)	Sharp	Vucanovich
Owens (UT)	Shaw	Walgren
Oxley	Shays	Walker
Packard	Shumway	Watkins
Panetta	Shuster	Waxman
Pashayan	Sikorski	Weber
Patterson	Sisisky	Weiss
Payne	Skaggs	Weldon
Pease	Skeen	Wheat
Pelosi	Skelton	Whittaker
Penny	Slattery	Whitten
Pepper	Slaughter (NY)	Williams
Perkins	Slaughter (VA)	Wilson
Petri	Smith (FL)	Wise
Pickett	Smith (IA)	Wolf
Pickle	Smith (NE)	Wolpe
Porter	Smith (NJ)	Wortley
Price	Smith (TX)	Wyden
Pursell	Smith, Robert (NH)	Wylie
Rahall	Smith, Robert (OR)	Yates
Rangel	Snowe	Yatron
Ravenel	Solarz	Young (AK)
Ray	Solomon	Young (FL)
Regula		
Rhodes		

NAYS—25

Bliley	Gregg	Meyers
Burton	Hefley	Moorhead
Crane	Hertel	Murphy
Dannemeyer	Hubbard	Parris
Dornan (CA)	Hughes	Smith, Denny (OR)
Dreier	Hyde	
Fields	Livingston	Stump
Frank	Lloyd	Swindall
Gallegly	Mack	

NOT VOTING—26

Barnard	Espy	Mica
Berman	Ford (TN)	Molinari
Biaggi	Gordon	Nowak
Boulter	Jones (TN)	Ortiz
Brooks	Kemp	Quillen
Bustamante	Kolter	Spence
Clement	Levine (CA)	Taylor
Dorgan (ND)	Lott	Vander Jagt
Dowdy	MacKay	

□ 1405

Mr. PORTER changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4333, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO HAVE UNTIL 5 P.M., FRIDAY, AUGUST 5, 1988, TO FILE REPORTS ON H.R. 4526, ADDITION TO MANASSAS NATIONAL BATTLEFIELD PARK, AND H.R. 4338, AMENDING MARINE PROTECTION, RESEARCH AND SANCTUARIES ACT OF 1972

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may have until 5 p.m., Friday, August 5, 1988, to file the committee reports on the following bills:

H.R. 4526. A bill to provide for the addition of approximately 600 acres to the Manassas National Battlefield Park; and

H.R. 4338. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to impose special fees on the ocean disposal of sewage sludge, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4396

Mrs. ROUKEMA. Mr. Speaker, due to an inadvertent reporting error, my name was added as a cosponsor of H.R. 4396. While I am considering the provisions of this measure, I must ask unanimous consent that my name be removed as a cosponsor at this time.

The SPEAKER. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 1467, ENDANGERED SPECIES ACT AMENDMENTS OF 1987

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill, H.R. 1467, to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

The Chair hears none, and appoints the following conferees: Messrs. JONES

of North Carolina, STUDDS, LOWRY of Washington, TAUZIN, ORTIS, DAVIS of Michigan, YOUNG of Alaska, and FIELDS.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO HAVE UNTIL 5 P.M., FRIDAY, AUGUST 5, 1988, TO FILE REPORTS ON H.R. 2999, ELEPHANT PROTECTION ACT, AND H.R. 5141, TEMPORARY DELAY IN SEA TURTLE CONSERVATION RULES

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may have until 5 p.m., Friday, August 5, 1988, to file reports on H.R. 2999, the Elephant Protection Act, and H.R. 5141, temporary delay in sea turtle conservation rules.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO HAVE UNTIL 5 P.M., FRIDAY, AUGUST 5, 1988, TO FILE REPORT ON H.R. 4118, PUBLIC TELECOMMUNICATIONS ACT OF 1988

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce may have until 5 p.m., Friday, August 5, 1988, in which to file a report on H.R. 4118, the Public Telecommunications Act of 1988.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. WALKER. Reserving the right to object, Mr. Speaker, has this been checked with the minority?

Mr. SWIFT. Mr. Speaker, if the gentleman will yield, this has been checked by the minority and approved by the minority.

Mr. WALKER. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

DESIGNATION OF THE HONORABLE NORMAN Y. MINETA TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH AUGUST 5, 1988

The SPEAKER laid before the House the following communication:

WASHINGTON, DC, *August 4, 1988.*

I hereby designate the Honorable Norman Y. Mineta to act as Speaker pro tempore and to sign enrolled bills and joint resolutions through August 5, 1988.

JIM WRIGHT,
Speaker of the House of Representatives.

The SPEAKER. Without objection, the designation is agreed to.

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked for this time for the purpose of inquiring of the distinguished majority leader the program for next week.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to my distinguished colleague, the gentleman from Washington, to respond to my inquiry.

Mr. FOLEY. Mr. Speaker, I thank the distinguished Republican leader for yielding to me.

Mr. Speaker, we have concluded the program for today and for the week. The House will not be in session tomorrow.

On Monday, the House will meet at noon and consider 30 bills under suspension of the rules, as follows:

H.R. 1149, to amend the Foreign Sovereign Immunities Act with respect to admiralty jurisdiction;

H.R. 3763, to amend the Foreign Sovereign Immunities Act with respect to certain activities of foreign governments;

H.R. 4458, Parimutuel Licensing Simplification Act of 1988;

H.R. 1158, to concur in Senate amendments to the fair housing amendments;

H.R. 5037, Refugee Resettlement Extension Act of 1988;

H.R. 4478, Deceptive Mailings Prevention Act of 1988;

S. 2200, to designate National Hispanic Heritage Month;

H.R. 4665, to allow the obsolete submarine Growler to be transferred to the Intrepid Sea-Air Space Museum in New York;

H.R. 4952, to require that all contributions in elections for Federal office be subject to the Federal Election Campaign Act of 1971;

H.R. 4843, Abandoned Infants Assistance Act;

S. 2561, technology-related assistance to individuals with disabilities;

H. Con. Res. 61, volunteers and the importance of volunteerism;

H.R. 3621, California Indian land transfers;

H.R. 5010, Water Resources Research Act extension;

H.R. 4754, Pennsylvania Avenue Development Corporation authorization;

H.R. 4777, to modify the boundary of the Guadalupe Mountains National Park;

H.R. 4180, to establish a mining experimental program on critical minerals;

S. 1360, Indian Financing Act amendments;

H.R. 4354, Oklahoma Wilderness;

H.R. 4060, Emergency Hunger Relief Act of 1988;

H.J. Res. 620, to express support for the restoration of full and genuine democracy in Chile;

H.J. Res. 602, in support of the restoration of a free and independent Cambodia;

S. Con. Res. 120, urging Iran to respect the human rights of members of the Baha'i faith;

H. Res. 514, in support of a peaceful negotiated settlement to the Cyprus dispute;

H. Res. 484, to encourage a genuine democracy in Pakistan;

H.R. 593, to award a gold medal to Andrew Wyeth;

H.R. 1270, to award a gold medal to Mrs. Jesse Owens;

H.R. 2999, Elephant Protection Act;

H.R. 5141, to delay temporarily certain regulations relating to sea turtle conservation; and

S. 1979, to authorize Gray's Harbor National Wildlife Refuge.

On Tuesday, August 9, the House will meet at noon to consider H.R. 5090, legislation to implement the United States-Canada Free Trade Agreement, with 3 hours of debate, and the conference report on H.R. 4800, the HUD appropriations for fiscal year 1989, and recorded votes on suspensions postponed from Monday, August 8.

On Wednesday, August 10, the House meets at 10 a.m. to consider H.R. 4526, the Manassas National Battlefield Park addition, subject to a rule, and an unnumbered bill, the omnibus drug abuse bill, subject to a rule.

On Thursday, August 11, the House will meet at 10 a.m. and consider H.R. 1580, the Anti-Apartheid Act Amendments of 1988, subject to a rule.

At the conclusion of business on Thursday, August 11, the House will begin its August/Labor Day district work period, and will adjourn until noon on Wednesday, September 7.

Conference reports, of course, may be brought up at any time and any further program will be announced later.

□ 1415

Mr. MICHEL. I thank the gentleman. Am I to assume that since the recorded votes on suspensions postponed from Monday could come later in the day on Tuesday after consideration of the Canada free trade agreement debate and HUD appropriations, or would those votes come to begin the session?

Mr. FOLEY. No. We would schedule the votes on suspensions after the con-

clusion of the free trade agreement and the conference report on housing and urban development.

Mr. MICHEL. Then as the gentleman well knows, we discussed consideration of the drug abuse bill. The Speaker was very anxious to try to finish it up even next week, but we had a problem on our side with several of our key players in the drug legislation also being key players in our platform considerations, and out of deference to their exercising those other responsibilities, we would confine the consideration of that to simply the rule and several hours, and we do not know for sure, but several hours of general debate. Is that not correct? That could leave some of the general debate, a little bit at least, prior to consideration of the amendments when we return?

Mr. FOLEY. Yes. The gentleman from Illinois has made clear to this side that several members of the minority would be expected to be very active with respect to the drug legislation and at the same time have responsibility, as he mentioned, with your platform considerations in New Orleans. We will schedule the rule and partial debate only on the drug bill on Wednesday. We assume that most of the general debate will probably be concluded on Wednesday, but I would say at least an hour will be available when we return for the purpose of final general debate prior to the bill being open for amendment.

Mr. MICHEL. I thank the gentleman. Furthermore, the gentleman will recall our having a discussion several days ago about the possibility of action on one of our Members whose trial the jury was sequestered for and, of course, earlier when the Ethics Committee had recommended expulsion there were those of us who thought with a pending trial the gentleman ought to at least be accorded the courtesy of deferring action until such time as there was some resolution of that trial. I understand today a decision has been rendered, and then that automatically triggers part of the discussion the gentleman and I had. I wonder if he would be willing to share with the Members what he perceives to be the scenario for resolution of that matter so far as the House is concerned.

Mr. FOLEY. Mr. Speaker, we intend to call up the matter of Representative BIAGGI of New York on September 7, the day the House returns from the district work period.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. Mr. Speaker, I am happy to yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Speaker, I have a question of the majority leader, the same question as I had asked before regarding minimum wage. As the majority leader knows, in March of this year the Committee on Education and Labor passed out a minimum wage bill. In April the Committee on Rules, as far as we can tell, took a unique step or a previously unprecedented step of requiring that Members file their proposed amendments with the Committee on Rules. This was in April of this year. The letter also said that the Committee on Rules would meet on the subject the following week. It has been 4 months now.

This is a major watershed kind of legislation. It is still unclear as to when this bill will come to the House floor. I have inquired of the majority leader three times using this forum on the House floor.

I have three questions about it: The first is: When will we likely see minimum wage on the floor this session? The second is: How much notice will House Members have on that schedule? The third is: Will it be brought up under an open rule so that Members are able to offer amendments which are germane to the bill?

Mr. FOLEY. In response to the gentleman, I would say it will be brought up, in my opinion, in September, in any case, prior to the conclusion of the Congress, the final adjournment, which as the gentleman knows is scheduled for October 5. The Members will be given the notice that is usually given of the announcement of the previous week, and as far as the Committee on Rules is concerned, it has not yet rendered a rule for that bill. I am not able to say to the gentleman whether the rule will be open or will be a modified open rule.

Mr. BARTLETT. The issue really is with regard to a rule. The minimum wage has been considered by this Congress, or by this House, seven times since 1938. Each time it has been under an open rule with only one exception, in which case all amendments relating to the rate and the effective date were available, but the other six times were a completely open rule.

Will the leadership be making a recommendation to the Committee on Rules as far as consideration of minimum wage?

Mr. FOLEY. I will advise the gentleman that if we do make recommendation to the Committee on Rules, they will hear it first. I will not announce it on the floor as a way of communicating with the Committee on Rules, nor would the Speaker, but in any event the Members will have the same notice, and it will be a timely notice, of both the decision on scheduling and any action taken by the Committee on Rules. As the gentleman knows, the Committee on Rules does afford hearings to every Member of Congress, the opportunity to appear and state the case for their view, as the gentleman has repeatedly stated his view that it should be an open rule.

Mr. BARTLETT. I do want to call the attention of the House and the majority leader to one additional item on the rule, in addition to being an open rule, that there is a subject with regard to minimum wage that has been widely debated in the country as a whole, and in the Congress as being germane to the subject, although it is not technically germane to this bill, because it affects another committee, and that is the expansion of the earned income tax credit as an alternative to the minimum wage legislation.

It seems to me, and I would just say on the record, and it will be said by many others on both sides of the aisle between now and then, that it is important that Members have an opportunity to vote on that approach to minimum wage, and in addition to the other votes on other germane amendments to the minimum wage bill.

Mr. MICHEL. Let me inquire on one further matter more personal. The distinguished majority leader may recall when we were considering the trade bill in the House this last time the gentleman from Illinois had a motion to recommit with respect to the ethanol provision. When the measure passed the other body, that measure was not included, but later in the day, it is my understanding, the distinguished Senator, or both distinguished Senators, from the State of Nebraska had introduced a concurrent resolution that was adopted relative to that provision that would alter the basic trade bill before it was enrolled or went to the President. Obviously if the trade bill itself reaches the President and is signed, it is rather moot, but I would be rather curious to know, with that concurrent resolution having been adopted over in the other body, is there any intention on the part of the Democratic leadership to bring up that concurrent resolution in this House?

Mr. FOLEY. I have no information to give the gentleman about that at this time. We have not scheduled that resolution for consideration.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

I am a little puzzled by the matter with regard to the ethics committee's report on a potential expulsion of a Member as recommended by the report. If I understood what the gentleman from Washington told us, we will be waiting more than a month to take up that particular resolution, given the congressional period. That would mean that the Member who has been recommended for expulsion, and I think this gentleman is correct, would continue to draw pay for that

month of that period, and we are talking about something on the order of $10,000 of taxpayers' money that would be involved in that.

I guess this gentleman's question is why we are now waiting for that particular action, and also it seems to me that each individual Member does have the right to call that report up since the report is privileged. Therefore, we could potentially have action on that next week. I am just trying to understand.

Mr. FOLEY. That has been true since the report of the Ethics Committee was first presented to the House. Anytime, every Member of the House was in a position to call up such a resolution, including the gentleman from Pennsylvania, but we have undertaken to advise the Members when there would be consideration of the report of the committee. Frankly, we have an extraordinarily heavy schedule for the next week, the largest Suspension Calendar in my memory, at least prior to an ending week of the Congress, and important trade legislation, legislation relating to protection of the national resources and, finally, the extremely important Foreign Affairs proposal involving the antiapartheid legislation.

Under the circumstances, we have tried to accommodate Members because of the approaching national convention of the Republican Party, as we would expect to be accommodated in reverse, and to do all of the business that we have scheduled, and to prepare for the district work period, which includes the period of the national convention, would make it extremely difficult for us to add additional matters that might take some time.

It is scheduled for a date certain. Members are aware of the date by this announcement. That announcement was made deliberately in advance of next week in order to assure Members that the matter has been tentatively scheduled and that Members will be expected to return on September 7 and to take up the matter at that time.

Mr. WALKER. Can we expect that that action would take place even if the Member resigns in the meantime?

Mr. FOLEY. I do not want to anticipate what might happen with respect to a resignation. In the past, resignation from the House has generally been considered to make moot a report recommending expulsion from the House during that particular Congress. The precedents run in that direction. When a Member has effectively resigned his seat, he is not a Member of Congress for the purpose of any action by the Committee on Standards, but for me to make a judgment about that would involve suppositions that I am not able to make.

Mr. WALKER. If in fact the Member would resign and the decision would be made not to hear the matter before the House, would the report, the committee report from the Committee on Ethics, still be filed indicating what the charges were, since that knowledge is not public knowledge at this point and all of the testimony was taken in secret? Could we expect that the report would be made public so that there would be an understanding of the circumstances surrounding this?

Mr. DIXON. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from California.

Mr. DIXON. Mr. Speaker, I would say to the gentleman from Pennsylvania that that has occurred in the past. That would be a decision that the committee would have to make.

Mr. MICHEL. In other words, it could be moot?

Mr. DIXON. If the committee decided to release the report, they would have the authority to do that.

Mr. MICHEL. It could be done?

Mr. WALKER. The concern of this gentleman is that the Bronx Democratic machine is one of the most corrupt in the country, and we certainly have indications of that in the report that has come from the gentleman. I think it is one of the things that we would want to reflect upon in the deliberations of the political year, and I would hope that we will get a release of that particular report, even if we are not given a chance to hear the circumstances that led the committee to its decision on the floor.

Mr. FOLEY. Mr. Speaker, if I may say, I regret personally that the gentleman from Pennsylvania has suggested that in a matter of a report from the Committee on Standards of Official Conduct that the matter should be politicized even in an election year. I think that it is the attitude of both sides of the aisle that by establishing a bipartisan committee on ethics and standards that we would take those issues out of politics and treat the reports on the basis of consideration of an other-than-political kind even in an election year.

□ 1430

Mr. WALKER. Will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Pennsylvania.

Mr. WALKER. This gentleman was not suggesting that it be politicized at all. This gentleman was simply suggesting there is a report that has been done, and energy and time have been spent on. Because of the delay in consideration of the expulsion, it is very likely that the Member would have a chance to resign. This gentleman is simply trying to assure that that for which a lot of time and energy has been spent will ultimately become public knowledge so that it can be reflected upon by those people who need to go to the polls and make decisions this year. I do not think that is politicizing the issue. I think it is a legitimate part of what we are supposed to be doing, and one of the reasons why the Ethics Committee exists.

Mr. FOLEY. Mr. Speaker, I will only comment that I do not want to continue this debate, but the gentleman in question was nominated by both parties for the office he seeks this fall.

Mr. WALKER. If the gentleman will yield, that is exactly the problem, and one which ought to be reflected upon in the situation.

I would agree with the gentleman, and it seems to me that the aura of corruption becomes particularly relevant in that particular situation.

Mr. MICHEL. Before yielding to the distinguished gentleman from California [Mr. DIXON] might I say that while we do not have to discuss these matters very often, and we regret even when it does happen on the relatively few times that we have to confront it, might I inquire of the distinguished chairman of the committee, the committee has issued a report on the subject matter, has it not?

Mr. DIXON. If the gentleman will yield, that is correct.

Mr. MICHEL. Would there be any reason in view of the subsequent developments in that case to amend that report in any way, either by way of buttressing the committee's findings when we finally get to that point of debating the expulsion recommendation on the floor of the House?

Mr. DIXON. If the minority leader will yield, to the gentleman from Pennsylvania I would say that our report in the matter has been published on February 18. I do not know what other report the gentleman is referring to. Obviously he is referring to some other report when he relates to the Democratic Party of New York.

The transcript of the trial is analyzed in this report. Some may draw conclusions as to what they think about the Democratic Party in New York. It was not on trial in this report nor at the time the case was heard.

Any subsequent information about this trial is not relevant to the matter that is before the House, and so you have all of the information filed on February 18 as it relates to the Member that we have a privileged resolution at the desk on. That is published and made public already.

Mr. FOLEY. If the gentleman will yield, I want to express my appreciation to the distinguished minority leader. In our colloquies over the recent months we have attempted by this means to inform Members of the schedule that is forthcoming for the House for their mutual convenience and understanding, and I do suggest that in the spirit of that undertaking it is better to debate issues relating to

issues of public policy of any kind at another time. We are not, in the normal course here, interested in objecting to colloquies. I think colloquy is helpful, but the purpose of our undertaking is to inform the Members of the schedule, not to debate the merits of the issues.

In that spirit, I hope we can continue to make the discussions between us useful to the Members and helpful to them in their planning for the legislative program.

ADJOURNMENT TO MONDAY, AUGUST 8, 1988

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. President, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO HAVE UNTIL 5 P.M., FRIDAY, AUGUST 5, 1988, TO FILE A REPORT ON H.R. 4060, EMERGENCY HUNGER RELIEF ACT OF 1988

Mr. PANETTA. Mr. Speaker, on behalf of the Committee on Agriculture, I ask unanimous consent that the committee may have until 5 p.m., Friday, August 5, 1988, to file a report on H.R. 4060, the Emergency Hunger Relief Act of 1988.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

REAGAN PRESIDENCY NOW FEATURES POLITICS

(Mr. COELHO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COELHO. Mr. Speaker, after Franklin Roosevelt, no President has used the national pulpit with greater mastery than Ronald Reagan.

When we lost *Challenger,* he healed us; when we soared at the Olympics, he inspired us. And for 7 years, he's reminded us that patriotism isn't corny and freedom isn't free.

Working on the deficit, arms control, or homelessness, the President could lead the Nation to greater heights.

Instead, the President has left the pulpit to join GEORGE BUSH in paving America with the political low road.

It's politics when the President lets become law a plant closing bill he's promised to veto.

It's politics when the President vetoes a strong $300 billion Defense bill and calls it weak.

It's politics—tasteless and premeditated—when he uses a slur like "invalid" to hype a false story on a candidate's mental health.

Get back to work, Mr. President, when you can still make a difference. Don't let Mr. BUSH or Lee Atwater squander the remainder of your term.

INTRODUCTION OF FEDERAL EMPLOYEE LONG-TERM CARE PROTECTION ACT

(Mr. SLAUGHTER of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLAUGHTER of Virginia. Mr. Speaker, there has been much debate in the 100th Congress regarding the need to find better avenues to finance the rapidly growing long-term health care needs of elderly Americans.

I believe that at this time Congress needs to encourage the private insurance industry to expand their long-term care insurance products and make them more widely available. As we all know, it is extremely doubtful that the Federal Government can solve the problem of financing long-term care without appealing to a substantial degree to the private sector.

Toward that end, I am introducing legislation today, along with several of my colleagues, which will offer Federal employees the option of purchasing needed group long-term care insurance. In addition, this program will serve as an actuarial model to stimulate underwriters to further develop and market group long-term care policies to a broad spectrum of Americans.

In order to increase the incentive for the 2.5 million active Federal employees to participate in this new long-term care insurance option, our bill would permit those insured under Federal group life insurance at age 50 to convert a portion of this policy to the long-term care insurance program, thereby lowering the monthly premium. This conversion option recognizes the decreasing need for life insurance as one gets older, the house is paid off, and the children are in the working world, as well as the increasing need for protection against the greatest fear of old age: A debilitating illness that leaves one unable to care for himself or herself.

Under the provisions of our bill, the Federal Government's share of the total amount of basic insurance would remain unchanged, because the long-term care insurance option would be financed solely by voluntary employee contributions, with no additional cost to the taxpayer.

By taking the lead in providing a market in this emerging new field, the Federal Government can greatly enhance the development of badly needed group long-term health care insurance policies. I urge my colleagues to join me in providing this initial response to a clear and growing national need: The financing of long-term care.

BUSH ON THE OFFENSIVE

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, GEORGE BUSH went on the offensive yesterday, and as usual he just ended up shooting himself in that old silver foot of his.

With his usual garbled logic, BUSH said that Dukakis' opposition to the star wars initiative would undermine the security of Israel.

This is pure campaign blather, and the Vice President ought to know better.

Israel's fundamental security isn't based on some dream of a space-shield 10 years down the road. It's rooted in an ironclad commitment to preserving the strength of the American-Israeli partnership, and in the effort to get Israel's Arab neighbors to recognize her existence and to finally enter into negotiations for real peace.

We can disagree among ourselves about which defensive systems will make sense, but to say that Mike Dukakis is soft on Israel because he opposes star wars is not just stretching—it's irresponsible and absolutely ludicrous.

What BUSH is talking about, the ATBM or AERO system, is only a tiny part of the SDI Program. Unlike the costly space-shield fantasy, this system deals not with ICBM's, but with short-range tactical missiles of the type that threaten Israel.

So BUSH also seems a little mixed up on the facts. The ATBM Program received full funding—over $100 million—in the Defense authorization bill that Congress sent to the President.

But yesterday the President responded by vetoing the bill.

So once again I think it's fair to ask that familiar question: Where was GEORGE?

If he really thought this program was so vital to Israel's security, why has he come out in strong support of Reagan's veto?

Surely, by supporting the veto, BUSH must also bear the blame for vetoing

several other provisions in the bill that would strengthen United States-Israeli relations—like, for example, the language enhancing the strategic cooperation between our two countries, as well as the restrictions on introducing F-15's into the volatile Middle East region.

Which brings us to what is really the most important point of all.

If BUSH really wants to improve Israel's security, then he should get his administration to stop selling highly sophisticated missiles and warplanes to the Saudis and the Kuwaitis.

BUSH can go on gazing into the stars for his solutions, but those of us here on the ground know that Israel's safety will be best served by a President who will put an end to the dangerous escalation of the arms race in the Middle East.

CAMPAIGN POLITICS

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, it is a little surprising to hear the majority whip come to the floor and talk about politics in this campaign year, and particularly the politics that he just talked about.

It is not politics when the Speaker of the House takes the plant closing bill to the Democratic Convention and enrolls it at the Democratic Convention? That is not politics?

Is it not politics when Michael Dukakis compares President Reagan to a rotten fish?

Is it not politics when the Democratic Party loads up a defense bill with all kinds of defense weakness kinds of goodies in it? That is not politics?

President Reagan had the good grace to apologize for the statement he made about Michael Dukakis. Michael Dukakis has yet to show that kind of grace.

I will say this also, President Reagan need not apologize at all for telling the American people the truth about Democratic Party weakness on defense and bankruptcy on national economic policy.

NEW BUSH EQUATION ON FOREIGN POLICY

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, GEORGE BUSH has offered a new equation in American foreign policy, that if you support Israel you must by definition support SDI, as if there were some relationship between the kinetic defensive weapons for tactical missiles that Israel is developing and that this Congress and my party has helped to authorize, and the trillion dollar system of unproven, untested technologies for exotic weapons already dismissed by the scientific community and the President's own advisors.

The better question might be: How could a Vice President who now claims to be concerned for the security of Israel sit silent while years passed with no diplomatic effort for a solution, inevitably rising to new Palestinian frustrations, and sit silent while literally billions upon billions of arms sales were proposed by his own administration for nations who are intent upon the very destruction of Israel?

Those are the questions of the day. Mr. Vice President, if it is to be taken seriously what you propose, speak seriously.

THE LAST TEMPTATION OF JESUS

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, there is a controversy at Universal City, CA, about a film that is due to be released next month called "The Last Temptation of Jesus." It has now become a widespread controversy. It is the subject of a lot of talk shows, and it has even been featured in major news magazine, for instance there was a big feature in People magazine.

What is going on here? To be blunt, there is now a vicious, dynamic anti-Christian spirit that has swept through Hollywood.

There are some of us who believe Jesus to be the Son of God as He said He was. Buddha never claimed to be such, nor did Mohammed, nor did confucious nor any of the other prophets or founders of great religions. Only Jesus has claimed to be the Son of God, and I accept that, as does a large segment of our society. And every time one of these Hollywood movies, and it is almost in every one now, they blaspheme the name of God by saying, "Jesus," or "Jesus Christ," or even put foul or scatological obscenities in between those two names, or even when they say, "God," and then "damn this" or "damn that" it makes the skin crawl on those of us who respect the name of God—Jews, Christians, every decent person in this society. It is offensive, it is blasphemy, it is a sin, it is evil. If any of these people were to do this against blacks as a racial group or to Asians, or to any other ethnic groups, or against any other religious groups, they would be roundly condemned.

Universal Studio must not release this film. As Hollywood has swallowed some films in the past—not many, but some—and put them on a shelf to last forever, "The Last Temptation of Jesus," Mr. Speaker, should not be released. It is an insult and a blasphemy.

□ 1445

PRESIDENT'S VETO OF THE DOD BILL HURTS OUR ARMED FORCES

(Mr. DARDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. DARDEN. Mr. Speaker, the President's veto of the Defense authorization bill did not hurt Congress, or the Dukakis campaign, as he might hope.

He did hurt our Armed Forces, which need clear and timely policy direction. He hurt the men and women who make those Armed Forces the world's best—and who deserve the 4.1-percent pay increase in that bill.

That Defense bill came in—as they say—ahead of schedule and under budget. It came as close as any Defense bill in recent years to meeting all Pentagon's requests, but also sought the greatest possible benefit from every dollar invested in defense.

The President—through his veto—also ignored the advice of his own Secretary of Defense, and his own National Security Adviser.

Mr. Speaker, the Defense authorization bill will soon return to President Reagan's desk as part of the Defense appropriations bill. When it does, I sincerely hope he will accept the counsel of his top military advisers, and give it his prompt signature. Let's not play politics with our national defense.

WHY THE PRESIDENT VETOED THE DOD BILL

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I hesitate to disagree with my good friend from Georgia, but I think just to set the record straight on why the President vetoed the defense bill, it is useful to read back in certain key sentences out of his veto message.

He said, and I quote:

> It would needlessly concede military advantage to the Soviets. It would reward the Soviets for their words and not their deeds. This I shall not do. The bill would return us to the practice of rushing to give away our negotiating leverage without receiving a single thing in return from the Soviets. The bill trades vitally needed defense muscle for the parochial interests of those in Congress.

Yes, there are many on the left who wanted to concede things to the Soviets and there are many who had a lot of pork in the bill but it was a wise and a good decision for this President to veto a bill which gave away American

strength while getting nothing from the Soviet Union.

DOD VETO CREATES A PROBLEM WHERE NONE EXISTS

(Mr. HEFNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFNER. Mr. Speaker, yesterday the President vetoed the Defense authorization bill.

This was a bill which included $300 billion for the defense of this country. The same amount the President agreed to at last year's summit.

The blueprint for spending the $300 billion was altered less than any defense budget in the last 6 years. This includes 4 years when the other party controlled the Senate. Approval of the Defense bill was recommended by such acknowledged experts as Senator SAM NUNN, chairman of the Senate Armed Services Committee; Senator JOHN WARNER, ranking Republican on the Senate Armed Services Committee; Congressman LES ASPIN, chairman of the House Armed Services Committee; Senator STROM THURMOND, past President pro tempore of the U.S. Senate as well as the Secretary of Defense, Frank Carlucci.

No one was 100-percent satisfied with this bill but few people will ever be completely satisfied. On balance this is a good bill, crafted by concerned, knowledgable Americans; supported by most of the knowledgable leadership in both bodies.

The President has chosen to create a problem where none exists. In an effort to fabricate a political argument which might separate the Presidential candidates, the President has jeopardized the military's ability to get these funds on time and now faces the real possibility of another continuing resolution. It is quite possible this will also affect other appropriation bills and stall a process which until now has made more progress than in any year of this administration. Should either the defense funds be delayed or a CR be required, the responsibility fully rests with the administration and those members who advocated possible short-term political gain at the expense of our Nation's defense.

MISCELLANEOUS REVENUE ACT

(Mr. SLATTERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLATTERY. Mr. Speaker, the tax bill the House passed today corrects two unfair, unjust taxes that restrict farmers' cash flow: The diesel fuel tax and the heifer tax.

With the passage of this bill, farmers will no longer be forced to "float loans" to the U.S. Government by paying, up-front, diesel fuel taxes that they did not owe in the first place.

With the passage of this bill, livestock producers will once again be able to deduct the costs of raising replacement heifers. The repeal of the heifer tax makes good sense. Farmers will get tax deductions in the same year they incur cash expenses—without having to struggle through a mountain of paperwork.

The average Kansas farmer will save an estimated $1,100 in up-front costs each year with the repeal of the diesel fuel tax alone.

Mr. Speaker, what may seem like relatively minor tax revisions, are in fact very real dollar and cents changes for the family farmer.

TRIBUTE TO PAULA RUTH LINDON, OUR GRANDDAUGHTER

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, despite a reluctance to break into the heavy subjects on this week's agenda, I feel compelled to do so because of the importance of the announcement that I will make.

Early yesterday morning, Wednesday, August 3, Paula Ruth Lindon was born in Orlando, FL. Little Polly, who weighed in at 7 pounds 14 ounces, is the daughter of Pam and Dale Lindon of Orlando and the sister of Will Lindon.

Coincidentally, Polly is the granddaughter of the gentleman from Minnesota and his beautiful wife, Ruthy.

Most Members are familiar with the dreaded infection known as "Grandparents' disease" and will understand the need for this announcement.

Because births are time for optimism, it is appropriate to focus on the opportunities that await Paula rather than to worry about how much debt she inherits from the work of this body.

Good luck, Paula.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO HAVE UNTIL MIDNIGHT, FRIDAY, AUGUST 5, 1988, TO FILE REPORT ON H.R. 5090, UNITED STATES-CANADA FREE TRADE AGREEMENT IMPLEMENTATION ACT OF 1988

Mr. SLATTERY. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce have until midnight, Friday, August 5, 1988, to file its report on the bill, H.R. 5090, a bill to implement the United States-Canada Free Trade Agreement.

The SPEAKER pro tempore (Mr. MCMILLEN of Maryland). Is there objection to the request of the gentleman from Kansas?

There was no objection.

FLIGHT DELAYS ARE TOO COMMON—WE NEED MORE AIRWAYS SYSTEMS SPECIALISTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. MOLINARI] is recognized for 5 minutes.

Mr. MOLINARI. Mr. Speaker, I am sure you have all experienced flight delays but were unaware of their causes. I, too, have experienced many delays. One in particular was on my flight from Newark to National in order to meet with the Federal Aviation Administrator T. Allan McArtor. The delay resulted from a computer breakdown at the Washington Air Traffic Control Center [ARTCC] in Leesburg, VA. Normally the backup computer which automatically goes on within seconds after the main computer malfunctions, for some reason was slow to respond to the crisis. Air traffic controllers had to rely on their memories and at times guess where the planes they were controlling on their now-blank screens were headed.

My experience, however, is one that is all too common. In a similar incident, delays of more than 130 flights plagued the Chicago area when two processors in the main computerized radar system at Chicago ARTCC failed twice.

Today I am introducing legislation that would provide incentives and initiatives to replenish the severely depleted work force that maintains the air traffic control computers and communication networks—the airway systems specialists. Seven years ago this profession had over 11,000 members maintaining approximately 19,000 FAA facilities and systems throughout the Nation. Their ranks have been reduced to under 6,000 specialists, yet now they maintain approximately 23,000 facilities. That is a cut of almost half the specialists, with a 20-percent increase in the number of systems maintained.

As a direct result of insufficient staffing, routine maintenance has decreased, causing a 42-percent increase in delays due to air traffic control equipment failures, according to the General Accounting Office [GAO]. Now the work force is faced with an even greater future shortage of experienced workers due to retirements. The country's air traffic control system is in danger of losing over a third of the technician work force by 1990. By 1995, an estimated 60 percent of the technicians will be eligible to retire. In the past, 55 percent of those eligible to retire do so during their first year of eligibility, and the remainder do so during the next 2 years. Based on these figures, the GAO estimates that over 1,800 retirements will take place by 1990. Already this year, the FAA has experienced 460 retirements, while only hiring 180. The average training period is 2 to 5 years which means that the FAA is replacing many experienced retiring technicians with only a few trainees.

Presently, almost 20 percent of daily maintenance remains unfinished. The shortage of personnel leaves technicians with an additional workload which is done on overtime. Over-

time hours in 1988 are expected to reach over 250,000 and to continue to increase rapidly. This not only costs additional funds, but it is a prime cause of "burnout." The FAA has recorded a burnout rate for technicians twice that of the air traffic controllers. In fact, technicians have the highest burnout rate in the entire FAA.

Congress has authorized the FAA plan to replace much of the new equipment used to control air traffic with newer technology. This plan, called the National Airspace System [NAS] Plan, assumed that fewer technicians would be needed for maintenance because of the new equipment. Based on this assumption, the FAA has used attrition to reduce the technician work force. But, staff reduction goals in the NAS Plan, independent studies have concluded, were unrealistic and underestimated. In addition, the NAS Plan experienced many equipment installation delays. Now the FAA has a depleted work force without the benefit of the full implementation of the advanced automated technology of the NAS Plan.

Everyone is in agreement that there is an insufficient maintenance staff and that we need a major adjustment to get back on the right track. The President's Commission on Aviation Safety noted this problem in its report, saying "we are facing severe hiring needs." The Department of Transportation [DOT], moreover, in its Secretary's Task Force on Internal Reforms of the FAA reported that, "the Federal classification and pay systems do not adequately recognize the differences in FAA working situations and may hinder the ability of the FAA to accomplish its mission most effectively." It recommended that the Office of Personnel Management study the current pay rates for safety related occupations. The FAA has also acknowledged that salaries and benefits fail to attract and retain safety related personnel at difficult-to-staff facilities. In addition, the DOT realized the necessity for recruitment and retention bonuses.

My legislation promotes public safety by setting a minimum staffing level for certified personnel and protects against future shortages of maintenance personnel and by establishing minimum levels for experienced technicians needed for maintaining a safe and efficient system. The bill will also require the Office of Personnel Management to review the classification, training, promotion procedures, and the need for a special pay rate for the maintenance work force. As for incentives, the bill provides for premium and standby pay.

I commend Howard E. Johannssen, president of the Professional Airways Systems Specialists, for his leadership, insights, and suggestions leading to the formation of this legislation.

In conclusion, Mr. Speaker, it is now in our hands to handle this problem and make for a safer and more smoothly run air traffic control system. If we are to restore the exhausted maintenance staff for the near future, we must address the major resources of the problem now. We must provide the incentives to keep experienced technicians while we hire and train the needed number of employees to effectively maintain the system. Both DOT and the Aviation Safety Commission have recognized the problems, but neither has proposed a suitable long-term solution. The FAA has been given a number of years to solve the problem, but they have, in effect, only prolonged it.

It is very clear that with the number of experienced technicians now retiring, the lack of new trainees, and the delays in the NAS Plan, we are headed for a serious safety crisis regarding our ability to maintain air traffic control equipment. The continuously increasing air traffic and a decreasing maintenance staff are resulting in an unsafe and inefficient air traffic control system.

We in Congress have an obligation to ensure a safe and efficient system. It is time to rebuild this system by retaining our experienced employees and hiring enough trainees. The American public can ill-afford the risks or the added delays caused by an understaffed work force. I urge my colleagues to support my legislation.

CONDEMNING ROMANIA'S POLICY OF DESTRUCTION OF VILLAGES AND PERSECUTION OF ETHNIC MINORITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. LANTOS] is recognized for 5 minutes.

Mr. LANTOS. Mr. Speaker, President Nicolae Ceausescu's current policy for destruction of traditional villages is completely inhumane and in violation of fundamental human rights. The policy, if implemented, will affect an estimated 46.4 percent of the Romanian population. The policy will raze more than half the traditional rural villages, destroy local architecture, force mobilization of community members to centrally located "urban agro-industrial centers," and seriously hamper food production. In a time of food shortage in Romania, it sees counterproductive for the Ceausescu government that the private agricultural holdings are to be forcibly assimilated into the State sector when private land holdings have been highly successful in food production.

The villages targeted for destruction are populated by disproportionately large numbers of ethnic minorities, especially Hungarians and Germans. The policy forces separation of family members and dispersion of longstanding and traditional communities. The Romanian policy is therefore expected to further repress ethnic minorities and ultimately eliminate the existent indigenous culture.

The following list identifies villages targeted by the Ceausescu government for the plan of massive demolition and resettlement which has already been implemented in many villages:

KOVÁSZNA (COVASNA) COUNTY

Almás, Bölön, Csomortán, Elopatak, Esztelnek, Illyefalva, Kisbacon, Kisborosnyo, Lécfalva, Magyarhermány, Miklósfalva, Miklósvár, Polyán, Zzárazatja, Zalán, Zalánpatak.

HARGITA (HARGHITA) COUNTY

Andrásfalva, Homoródalmas, Karácsonyfalva, Orotva, Pálpataka, Székelyderzs, Székelyzsombor, Szentábrahám.

TEMES (TIMIS) COUNTY

Bodó, Bogra, Józefszállás, Kisberekszó, Magyarszentmárton, Sándorháza, Szapáryfalva, Ótelek.

ARAD COUNTY

Ágya, Bélzerind, Feketegyarmat, Simonyifalva, Szapáryliget, Székudar, Vadázi.

Mr. Speaker, the destruction of these villages will cause immeasurable human rights violations. These outrageous conditions demand our attention. As cochairman of the Congressional Human Rights Caucus, I commend my distinguished colleague from California, Mr. DORNAN, for introducing House Resolution 505, condemning the systematic violation of international recognized human rights by the Government of Romania. At this time, I would like to submit for the RECORD the complete text of the resolution.

HOUSE RESOLUTION 505

Resolution condemning the systematic violation of international recognized human rights by the Government of Romania

Whereas in recent years the Congress has received a substantial body of evidence on a persistent pattern of severe human rights violations in the Socialist Republic of Romania;

Whereas among these violations is the denial of the right of free emigration for Jews and other Romanians and the systematic manipulation of emigration figures;

Whereas the Romanian Government continues to deny ethnic minorities, among them 2.5 million Hungarians, the basic right of preserving their unique cultural heritage and native language, and the opportunity for their children to be educated in their mother tongue;

Whereas the Romanian Government continues to interfere with freedom of religion, harassing, intimidating, and arresting religious believers for as little as the possession of Bibles, and destroying places of worship;

Whereas the Congress in recent years has repeatedly condemned the Romanian Government for these human rights violations and urged it to observe the international standards of human rights;

Whereas in 1987 both Houses of Congress approved, by substantial margins, the suspension of nondiscriminatory tariff treatment for the products of Romania (commonly referred to as most-favored-nation or MFN status) as a response to human rights violations by the government of that country;

Whereas the products of Romania will cease to be eligible for nondiscriminatory tariff treatment on July 3, 1988, as a result of a decision by the President;

Whereas Romania's human rights policies have not shown the slightest improvement even after last year's congressional action, and the Department of State has determined in its Country Report on Human Rights Practices for 1987 that "(t)he poor human rights picture in Romania in 1987 showed no improvement" and "its human rights abuses remained pervasive";

Whereas Romania is intensifying its forced rural collectivisation program pursuant to which traditional villages will be destroyed and the inhabitants removed to

make way for government-owned agricultural-industrial complexes; and

Whereas this program, if implemented, would eradicate a substantial part of the traditional settlement pattern, folk architecture, and way of life of the Romanian people and the Hungarian minority and would force the displaced population into government-owned, standardized colonies: Now, therefore, be it

Resolved, That the House of Representatives—

(1) condemns the continued practice of the Romanian Government of systematically violating a whole range of internationally recognized human rights;

(2) strongly protests the planned program of wholesale destruction of traditional settlements in violation of the human rights, minority cultural rights, and property rights of their inhabitants;

(3) urges the Romanian Government to revise its human rights policies and institute meaningful institutional reforms in compliance with international agreements that are binding Romania, including the Helinski Final Act of the Conference on Security and Cooperation in Europe and the Universal Declaration of Human Rights;

(4) calls on the President and the Secretary of State to continue to call these human rights violations to the attention of Romanian officials and demand meaningful reforms; and

(5) urges the President not to consider providing any special benefit for Romania until the implementation of a thorough reform in the human rights practices of the Government of Romania, including substantial actual improvement in the observance of the right of emigration, the rights of national minorities, and freedom of religion.

Mr. Speaker, I yield to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I am glad the gentleman has taken the lead on this because he sees everything through, generally, to a happy conclusion. This is such a horendous story: 8,000 villages, it is just mind boggling to think that anyone would conceive of doing this in the modern world.

I want to ask a question that I do not think is cynical, but it is realistic and very depressing.

Mr. Speaker, does the gentleman at this point think Nicolae Ceausescu is going to get away with this? Does the gentleman think he could get away with this? And if the answer is a depressing "yes" what can we do to turn around that reality that he might get away with this?

Mr. LANTOS. Well, I do not believe that Ceausescu will get away with this. And before I give you my answers may I just pay tribute to my friend from California who is the author of the House Resolution 505 calling the attention of this body and the whole civilized world to this outrage.

Ceausescu has built a permanent dictatorial regime unprecedented in this day and age.

As a matter of fact, at the very time when even the Soviet regime is moving toward some degree of legality, when there is an opening up along many lines, the Ceausescu regime if flying directly in the face of all trends in Eastern Europe.

The Ceausescu regime cannot insulate itself from the opprobrium and criticism of the rest of the civilized world. The Ceausescu regime is trying to develop economic ties with the Western Europe. The Ceausescu regime is in the process of negotiating a treaty with the European Economic Community.

I think it is incumbent upon us to advise our friends and colleagues in the European Parliaments that they should have nothing to do with this regime until and unless it ceases its outrageous practices of human rights violations.

Mr. DORNAN of California. Mr. Speaker, I rise today with several of my colleagues to bring to the attention of this Congress and the American public, the systematic abuse of human rights which continues in Romania today. There is already significant bipartisan support for a legislative initiative which I sponsored, House Resolution 505, which denounces in the strongest terms the Government of Romania's "agricultural modernization plan" which is nothing but a ploy to destroy traditional villages of the Hungarian minority of that nation.

This forced rural collectivisation program would eradicate a substantial part of the traditional settlement patterns, folk architecture and way of life of the Hungarian minority. The plan envisions putting the displaced population into government-owned, standardized colonies.

Mr. Speaker, House Resolution 505 was introduced with over 60 original cosponsors and represents a significant bipartisan effort to:

First, condemn the continued practice of the Romanian Government of systematically violating a whole range of internationally recognized human rights;

Second, strongly protests the planned program of wholesale destruction of traditional settlements in violation of the human rights, minority cultural rights, and property rights of their inhabitants;

Third, urge the Romanian Government to revise its human right policies and institute meaningful institutional reforms in compliance with international agreements that are binding in Romania, including the Helsinki final act and the Universal Declaration of Human Rights;

Fourth, call on the President and the Secretary of State to continue to call these human rights violations to the attention of Romanian officials and demand meaningful reform; and

Fifth, urge the President not to consider granting most-favored-nation trading status to Romania until the implementation of a thorough reform in the human rights practices, including emigration, the rights of national minorities, and freedom of religion has occurred.

Finally, Mr. Speaker, I would like to take this opportunity to acknowledge the Hungarian Human Rights Foundation for the outstanding work they have done to call attention to this despicable situation. I am proud to submit to the RECORD a short issue brief about that organization and the current plight of the oppressed minorities in Romania.

HHRF AND THE PLIGHT OF HUNGARIAN MINORITIES

At the center of concern for Hungarians around the world is the burning issue of the survival of the approximately 3.5 million Hungarians who live as minorities in Rumania, Czechoslovakia, Yugoslavia and the Soviet Union. Beyond the usual intolerance of a Communist state, Rumania's 2.5 million Hungarians (living primarily in the region of Transylvania and comprising the largest national minority in Europe), 250,000 Germans, and other minority inhabitants are additionally repressed: a systematic program of interlocking administrative measures, physical brutality and state terror relentlessly destroys their thousand year-old languages, cultures, churches and traditions.

The Hungarian Human Rights Foundation, initially Committee for Human Rights in Rumania, was formed in 1976 by young Hungarian-Americans to alert public opinion and the political leadership of the United States and other Western countries to the gross human rights violations against national minorities in Rumania. More than 12 years ago, the Foundation outlined the specific elements of discrimination in its first *New York Times* advertisement. These have tragically intensified and proliferated in recent years to include murder, imprisonment and exile of leading Hungarian intellectuals. The last Hungarian-language secondary school in Transylvania was closed in Fall 1985; all Hungarian and German language radio and TV broadcasts have been eliminated; 20,000 Hungarian-language bibles donated by the West were recycled into toilet paper.

Relying on well-developed sources within Eastern Europe, the Foundation serves as a clearing house of information for Western governments, human rights orgainzations, the media and the general public. Since 1984, when the Foundation was incorporated, its scope was expanded to include the Hungarian minority in Czechoslovakia. The Foundation operates through offices in New York and Washington, and branch offices and representatives in several U.S. cities, Canada and Europe. Organizing demonstrations, testifying before U.S. Congressional committees, and representing the plight of Hungarian minorities at Helsinki Final Act Follow-Up Meetings, the Foundation has been at the forefront of the West's mounting concern and activity regarding Rumania's minorities. Because of the Rumanian regime's human rights violations under dictator Nicolae Ceausescu, the Foundation spearheaded the campaign to revoke that country's Most-Favored-Nation status; this special trade benefit allowed the Rumanian government to export to the United States at substantially reduced tariffs, and was perhaps the most significant honor our government could bestow upon a Communist country. Our efforts were realized in 1987, when both Houses of Congress voted on four separate occasions to suspend the status for 6 months, and it was formally terminated on July 3, 1988.

The Rumanian regime's campaign of forced assimilation of minorities has recently reached such proportions that recently tens of thousands of Hungarians have begun fleeing into Hungary. The massive flight, amounting to forced expulsion, is but one aspect of Ceausescu's goal: to create a culturally and ethnically "pure" nation-

state. Coupled with Ceausescu's already initiated plan to demolish 8,000 of Rumania's 13,000 villages, the Hungarians of Rumania—and the Hungarian nation as a whole—presently the most critical juncture in their decades-old struggle for survival.

Most of these minorities live in Transylvania, one of Europe's most significant multiethnic regions populated by Hungarians, Germans, Rumanians, Jews and other nationalities for centuries. Transylvania, where in 1568 religious tolerance was enacted into law for the first time, could be the model for the coexistence of diverse nationalities. With its long and distinct tradition of literary and artistic achievements and independent and progressive thinking, Transylvania is also the well-spring of Hungarian culture.

Aware of the need to preserve this region's rich cultural heritage and to aid his less fortunate brethren, Baron Hans Heinrich Thyssen-Bornemisza, renowned art collector and European industrialist, in December 1986, offered a matching grant of $500,000 toward the creation of a special fund of the Hungarian Human Rights Foundation.

Baron Thyssen-Bornemisza is descended from the Hungarian Bornemiszas, who come from a long and proud tradition of contributing to the political leadership and cultural development of Transylvania. His generous offer to place the Foundation on a sound financial footing also represents a formidable challenge: to raise half a million dollars by December 31, 1988. Currently, the Foundation is investing all donations and the Baron's matching contributions into the HHRF Bornemisza Fund, an endowment whose interest will be used to help finance the organization's operating expenses. As of June 15, 1988, the Foundation has raised $91,000 of the $500,000 necessary to qualify for the grant.

Baron Thyssen-Bornemisza's offer is an unprecedented opportunity at a time when the sheer physical existence of Hungarians in Rumania is threatened as never before. The role of Hungarian-Americans is clear, and we call upon everyone to meet this challenge.

Mr. Speaker, the gentleman from California is Hungarian-born, he has been a most powerful voice in this House for decency and human rights.

If the gentleman will roll up his sleeves I will be at his side and I will do whatever I can to make his analysis come true that he will not get away with it before this world.

I thank the gentleman.

Mr. LANTOS. I thank my colleague for his remarks. Let me just say that the Congressional Human Rights caucus is unanimous in its condemnation of the policies of the Ceausescu regime. This is a totally nonpartisan issue and all of us, Democrats and Republicans, are united in demanding that the Romanian Government cease its policies of exterminating and destroying village cultures established for centuries and allowing these long-suppressed minorities to carry on with their peaceful and productive lives.

Mr. PORTER. Mr. Speaker, I want to commend Representatives TOM LANTOS and Robert DORNAN for calling today's special order to discuss human rights conditions in Romania. As cochairman and executive committee member, respectively, of the Congressional Human Rights Caucus, which I also cochair, Representatives LANTOS and DORNAN have continually displayed their leadership on this important issue.

I state my support for House Resolution 505, introduced by Representative DORNAN on July 28. This resolution has 67 original cosponsors, including myself, and was sent to the Foreign Affairs Committee.

House Resolution 505 finally puts on record the abhorrence of the U.S. Congress for the cruel methods of the Ceausescu regime. President Ceausescu is well-known for his egregious human rights record, including violations of religious freedom, freedom of emigration, minority rights, and many basic human rights guaranteed in international documents which the Romanian Government has signed.

President Ceausescu recently announced his plan to destroy thousands of villages in the Transylvanian region of Romania, which will displace hundreds of thousands of ethnic Romanians and Hungarians living in that area. I urge my colleagues to read the following article which further explains the situation occurring in Transylvania:

HUNGARY AND ROMANIA—WAR, ALMOST

In an earlier age, troops might have started moving into positions along the border, guns been heaved into place, hospital trains been shunted into convenient sidings. Such is the level of bitterness between Hungary and Romania.

Their argument is over Romania's treatment of the 1.7m Hungarian inhabitants of its Transylvania region. Since both countries belong to the Warsaw pact, their armies move only when the Soviet Union says so. Indignant Hungarians have therefore had to content themselves with a large demonstration in Budapest on June 27th, including a march to the Romanian embassy. President Nicolae Ceausescu of Romania promptly accused Hungary's rulers of having supported this "chauvinistic, nationalistic, anti-Romanian and anti-socialist" action, and retaliated by closing the Hungarian consulate in Cluj, the chief city of Transylvania.

This new vehemence in an old quarrel has been caused by the Romanian government's plan to bulldoze more than 7,000 villages in Transylvania, to rehouse their inhabitants in tower blocks (not necessarily in the same area), and to put them to work in large "agro-industrial complexes". The government claims that the aim is better use of land and more efficient agriculture.

The Hungarians say that Romania has plenty of land and can find better ways to make farming more efficient. They say Mr. Ceausescu's real intention is to disperse Transylvania's Hungarian population. A charge of genocide was included among the slogans used by the demonstrators in Budapest: in their view, the Romanian plan means the destruction of the Hungarian presence in Transylvania (which was part of Hungary before 1918). The anger in Hungary has been further inflamed by the arrival of a large number of refugees from Romania, most of them from its Hungarian minority.

Unfortunately for Hungary, there is not much it can do to put pressure on Romania. The Romanians have relinquished most-favoured-nation treatment for their trade with the United States, in the well-founded belief that the Americans would anyway soon stop thinking of Romania as deserving of favour. It has also paid off a large part of its foreign debt, so it is not particularly vulnerable to financial pressure. At the Vienna conference on European security and co-operation, part of the process started at Helsinki in 1975, the Hungarians have raised the plight of their minority in Romania as a human rights issue. Romania retaliated by preventing the conference from adopting a final declaration, which required the agreement of all the 35 participating states.

Will Mr. Mikhail Gorbachev urge Mr. Ceausescu to call off his bulldozers? Probably not. The Soviet Union has less influence in Romania than in any other East European county except Albania. Besides, Mr. Gorbachev has enough trouble trying to sort out his own Armenians and Azeris.

Mr. SMITH of New Jersey. Mr. Speaker, earlier in the summer Romanian President Nicolae Ceausescu announced his latest plan to uproot almost half the population of Romania, demolishing their villages and forcing them to consolidate and resettle in designated towns. President Ceausescu has already earned the dubious reputation of instigating other destruction and construction projects in urban areas and Bucharest, in particular. The creation of new agro-industrial centers will result in the displacement of millions and the further destruction of historic, religious and cultural sites and structures.

Mr. Speaker, 1 month has passed since Romania's most-favored-nation trading status expired. Both the House and Senate had decisively supported amendments to the omnibus trade bill in 1987 which would have suspended Romania's privileged trading relationship with the United States but President Ceausescu preempted the change in U.S. policy by rejecting the trading status outright in February of this year. At that time, Congress had not completed action on the conference report of the trade bill and, subsequently, the responding amendments were withdrawn.

Many of my colleagues are aware that Congressmen TONY HALL, FRANK WOLF and I had been working since 1985 to suspend Romania's MFN because of their egregious abuses of human rights, including religious, civil and cultural rights. As the truth about Ceausescu's iron-fist rule and the desperate plight of the peoples of Romania became known in Congress, it was clearly evident that MFN was not deserved and the United States must make a public condemnation of the repressive Ceausescu policies.

Unfortunately, for the people living in Romania, their situation continues to disintegrate around them. This latest inhumane tactic of repression—his proposal to create urban agro-industrial complexes—Ceausescu plans to implement beginning in September. Essentially, the Romanian authorities would raze more than half of the 13,000 plus villages—uprooting as many as 13 million people—and build nondescript, impersonal complexes in other designated towns. There are reliable reports that these complexes are not designed to accommodate modern bathing and plumbing facilities.

Mr. Speaker, in an unprecedented reaction by citizens in other East bloc nations, protests have been widespread—several thousand Poles signed an appeal on behalf of the villag-

ers, and outrage of the most radical measure has appeared in newspapers in Yugoslavia. In June an estimated 50,000 demonstrated in Budapest, Hungary, in solidarity with the citizens of Romania. Mr. Speaker, we also join in the protest. The destruction of family homes, village churches and cemeteries, and the uprooting of families and their neighbors is unconscionable. As stated in the appeal signed in Poland, this outrageous resettlement plan will result in "the burial of a people's religious, cultural, and national heritage."

Mr. Speaker, the Congress must again vocalize its deep rooted concerns. The Congress must boldly join in the movement of solidarity with the millions in Romania whose homesteads and villages—and lifestyles—are threatened by this ruthless plan for urbanization. We must again protest the abusive policies of the Ceausescu regime. We owe it to all the citizens of Romania whose voices are squelched by the repressive government under which they live.

Mr. GREEN. Mr. Speaker, I should like to commend my distinguished colleagues, Representatives DORNAN, LANTOS, and PORTER, for initiating this special order on the plight of the Hungarian minority in Romania. I should also like to commend them for initiating a letter to Secretary Shultz and a resolution on this same topic, both of which I am proud to have signed and cosponsored. All of those efforts are directed toward the same crucial end: drawing attention to the flagrant human rights violation to which the community of minority Hungarians in Romania has been subjected.

The 2.5 million Hungarians living in Romania face the systematic and forced destruction of their ethnic identity. Most recently the Romanian Government has announced its intention to bulldoze the majority of the area's small villages and move their occupants into prefabricated housing, leaving no trace of the ancient architecture, churches, and schools that knit communities together and help to preserve traditions.

Other continuing abuses include the progressive eradication of the native language, the closing of minority press and theater, and encroaching restrictions on minority churches. Intimidation tactics, including beatings and the imprisonment of ethnic leaders, are a regular part of the Socialist crusade of persecution that the Hungarians endure.

It was, in part, these violations which prompted President Reagan to decide to terminate Romania's tenure as a most favored nation for trade purposes. Romania's prejudicial policy of discrimination violates many international agreements to which the government had previously acceded. It is incumbent upon us to remind the Romanians continuously of their obligations under the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Helsinki Final Act.

As Americans, we take pride in the rich ethnic diversity that has shaped our own country. As world citizens, we have a responsibility to use our influence to protect persecuted minorities in others countries.

Mr. COELHO. Mr. Speaker, I rise today to express my deep concern about the deteriorating human rights situation in the Socialist Republic of Romania and to urge my colleagues to cosponsor and support House Resolution 505 condemning Romania's human rights abuses.

For years the Romanian Government has been trying to destroy the cultural and ethnic diversity of the region of Transylvania. In this effort to denationalize the region the Romanians have closed schools, abridged freedoms of religious worship, and have systematically eradicated the symbols of cultural heritage which are so important to the Jews, Germans, and over 2 million Hungarians who live there.

However, these actions, which are in violation of a number of international convenants to which the Romanian Government is a signatory—including the 1975 Helsinki Final Act—have been recently overshadowed by a new and more sinister development. The government of Romanian President Ceaucescu has now proposed to eradicate over half of the country's 13,000 villages and to resettle the inhabitants in government agro-communities. These resettlements would annihilate Transylvania.

This plan, Mr. Speaker, evokes memories of Stalin's forced collectivization in the Soviet Union and similarly brutal reforms in Mao's China. Given the ongoing reform process in both of those countries, Romania's action seems all the more barbaric. I support the suspension of Romania's most-favored-nation trading status and urge the Romanian Government to reconsider its actions.

Mr. WORTLEY. Mr. Speaker, I am proud to join with my colleagues in condemning the plan by the Romanian Government to destroy at least 7,000 villages.

The people of Romania have suffered greatly under a government which does not heed its wishes and is unresponsive to the need for reform. The Ceausescu regime has proven it cannot even feed its own people, and now is further demonstrating its self-destructive tendencies by demolishing the country's ethnic heritage.

Romania's human rights record has already resulted in the suspension of most-favored-nation status, and this latest outrage should only harden our resolve to continue to oppose the totalitarian extremes of its Communist dictator. While most of the Eastern bloc seems to be waking up to the realities and benefits of reform, Romanian Communists seem intent on cementing the country into the dark winter of Stalinism.

The proposed demolition is to be condemned because it is targeted at the Hungarian minority population of Romania. We know from experience that we cannot ignore for long the brutalization of any ethnic group.

Numerous organizations and governments have already spoken out against the demolition. Most impressive perhaps is the recent action by Romania's Warsaw Pact ally Hungary to strengthen international protection for ethnic minorities. Even a country behind the Iron Curtain can appreciate the danger presented by a policy of demolition and ethnocide. In an unprecedented move, 100,000 Hungarians demonstrated in Budapest on June 27 in recognition of the violence perpetrated by Romania.

Mr. Speaker, if unopposed, the demolition will permanently scar Romania, and threaten long-term relations with the United States. We must focus attention on the proposal now because the damages will remain long after Ceausecu passes from the scene.

Mr. HENRY. Mr. Speaker, the Romanian Government has announced its intention to bulldoze up to 8,000 Romanian villages. This action would mean the destruction of centuries old churches and cemeteries, mother tongue schools, historical buildings, and greatly alter the way of life for many, particularly the Hungarian minority. I read with great interest this article from the London Times and urge my colleagues to do the same.

[From the London Times, June 30, 1988]

ROMANIAN HORROR STORIES

The Hungarian newspapers are reporting the expulsion by Romania of Hungarian consular officials from the city of Kolozsvar—which according to the Romanian newspapers does not exist. They call it Cluj. The more traditional German newspapers, for their part, still refer to it as Klausenburg.

This trinity of names reflects the ethnic composition of the province of Transylvania. Until 1919 it was one of the "lands of the Crown of St Stephen", founder of the Kingdom of Hungary. With the collapse of the Austro-Hungarian Empire the previous year, it was annexed by Romania. Partially recovered by Hungary in alliance with Hitler, it was lost again in 1945.

The majority of the population is Romanian, and their proportion has been increasing as West Germany has gradually brought out, and bought out, the previously large German-speaking community. Now the Hungarian minority of almost two million is also under threat, as Romania's "Conducator" (Leader), President Ceausescu, pursues his vision of an ethnically and ideologically "pure" Romania under the hereditary rule of the Ceausescu dynasty. The fictional home of horror stories is full of real ones.

The furious reaction of ordinary Hungarians, with an increasing amount of sympathy from their Government, has turned the policies of the Romanian Government in Transylvania into an international issue. The key issue is the extraordinary plan to demolish up to 8,000 Romanian villages so that the inhabitants can be concentrated into new concrete "agro-industrial complexes".

If President Ceausescu pushes ahead, almost two thirds of all villages across the whole of Romania will ultimately be affected. Their houses, churches and graveyards will be smashed into the mud by bulldozers. All links with the past will be broken. Massive concentrations of concrete hutches will be the breeding places for the New Romanian Man.

That President Ceausescu is deadly serious about this can already be seen in the Capital, Bucharest. Vast swathes of the old city, with its unique mixture of Ottoman and European architecture, are being demolished to make way for ceremonial avenues and squares, where the regimented masses can demonstrate their love for their Leader before concrete monuments.

In a bow to world opinion, a few famous churches are being moved bodily out of the way, but many others have already been destroyed. The Romanian Orthodox Church's declared approval for this and the other policies of the Romanian State may be explicable in terms of that Church's tradition of subordination to monarchical power. It remains however one of the most shameful

instances of dereliction of duty in the history of Orthodox Christianity.

The Orthodox bishops may well be rejoicing in the prospect of a Romania purged of "impure" Hungarians and Germans, Catholics, Protestants and Uniates. They may hope to provide the religious element in President Ceausescu's paradise. Much more likely, Ceausescu and his kind will continue to treat them with contempt.

The official defenders of the destruction of Bucharest compare it brazenly to the reconstruction of Paris by Napoleon III's Prefect Haussmann. Haussmann, for all his faults, did express the justified confidence and pride of a dynamic new age, which was bringing many benefits to the world. Ceausecu's Stalinism has been repudiated by every other communist State, with the inglorious exception of Albania. His shivering, hungry subjects know very well what it has brought to Romania.

Mr. FEIGHAN. Mr. Speaker, I'm pleased to join this special order today to protest the continuing oppression of national minorities in Romania. I'd like to take this opportunity to commend my colleague, Representative TOM LANTOS, for organizing this event, and indeed for his outstanding leadership in the area of human rights.

As many Members of Congress are now aware, the Romanian Government has accelerated its plan to demolish over one-half of Romania's villages and to assimilate by force its largest minority, the 2.5 million Hungarians who live in Romania.

Repression in Romania has hit ethnic Hungarians especially hard. The Romanian Government has forbidden or restricted the use of the Hungarian language, even in private matters. It has cut back forums for Hungarian cultural exchange and destroyed historical landmarks. Religious persons and activists have been beaten, forced into emigration, and even murdered. And Hungarians have been forced to move into Romanian areas of the country.

Most recently, Romania has begun demolishing 8,000 villages: bulldozing homes, schools, important village architecture, and centuries-old churches and cemeteries. Villagers will be forced to move instead into government-owned, concrete apartment buildings. The Hungarian Press of Transylvania, an underground news agency, has obtained a list of the villages which are to be evacuated by August 10. Villagers are receiving eviction notices, ordering them to tear down their homes or pay the Romanian Government to do it. Already, three of these villages have disappeared.

It's absolutely critical that the U.S. Government speak out loudly in opposition to these cruel policies. I urge the administration and my colleagues in the Congress to use every opportunity to protest the Ceausescu regime's increasingly barbaric conduct.

Mr. HALL of Ohio. Mr. Speaker, I am pleased to join in this special order today regarding the current situation in Romania. I commend the gentleman from California [Mr. LANTOS] for taking this opportunity to focus the attention of the House on the systematic violations of human rights by the Government of Romania. I am also pleased to join him as an original cosponsor of House Resolution 505, which expresses the concern of the House about these developments in Romania.

I traveled to Romania in 1985, along with the gentleman from New Jersey [Mr. SMITH] and the gentleman from Virginia [Mr. WOLF], and I saw first hand the lack of civil rights and human rights for the Romanian people. I was especially struck by the efforts of the Romanian Government to harass and repress the free exercise of religion.

As the oustside world knows well by now, churches have been bulldozed, Bibles have been turned into toilet paper, and pastors and lay leaders have been jailed or heavily fined for preaching. Beatings and other forms of torture have been given to religious prisoners of conscience. During my visit in 1985, individuals would press messages into my hand as they shook hands with me. The information in these messages often concerned imprisoned family members and other personal tribulations imposed on them because of their Christian faith. My colleagues and I were deeply moved by the courage of the Romanian believers.

Efforts to bring about improvements in human rights conditions in Romania were unsuccessful, so my colleagues and I offered amendments to the trade bill to provide for a 6-month suspension of most-favored-nation trade benefits for the Ceausescu government. These amendments, which passed both the House and Senate by substantial margins, put the Romanian Government on notice that as a condition of continued trade benefits Congress expected to see genuine improvements regarding a wide range of human rights abuses, including religious restrictions, labor and emigration problems, and discrimination against ethnic minorities.

Reflecting congressional concern, State Department officials stressed the U.S. position on human rights issues in their dealings with the Ceausescu government. However, at the initiative of the Romanians, MFN trade status was completely suspended, effective as of July 3, 1988. In effect, the Ceausescu government has indicated that it would rather not have MFN benefits if this means that it must comply with internationally accepted standards on emigration, overall human rights, religious liberties, and the treatment of ethnic minorities.

The suspension of MFN has not ended congressional interest in the plight of the Romanian people under the Ceausescu regime. Indeed, as a result of the controversy over MFN trade status, human rights considerations are now acknowledged as a key element in United States-Romanian relations.

This fact is certainly highlighted by House Resolution 505, which I am pleased to cosponsor with the gentleman from California [Mr. LANTOS] and with other Members who have shared a deep concern for the well-being of the Romanian people. It should be noted that this resolution urges the President not to consider providing any special benefit for Romania "until the implementation of a thorough reform in the human rights practices of the Government of Romania, including substantial actual improvement in the observance of the right of emigration, the rights of national minorities, and freedom of religion."

The resolution also strongly protests "the planned program of wholesale destruction of traditional settlements in violation of the human rights, minority cultural rights, and property rights of the inhabitants." This particular provision is most timely in view of the current implementation of the campaign of the Ceausescu government to bulldoze about 7,000 traditional villages to make way for government-owned agricultural-industrial complexes. About 7,000 of the country's 13,000 villages are scheduled to be leveled by 1995, and their inhabitants will be relocated in about 600 agro-industrial centers. First they bulldozed churches and synagogues. Now they are going to bulldoze literally thousands of villages. What will be bulldozed next?

The targeted villages are mainly in Transylvania, where most of Romania's 2.5 million ethnic Hungarians live. The destruction of these villages would be yet another blow by the Ceausescu government against the culture and identity of ethnic Hungarians in Romania. Thousands have demonstrated in Hungary and Poland to protest the village destruction and resettlement campaign. As an appeal in Poland stated, "This is not solely an internal Romanian question, but an issue affecting the cultural legacy of all mankind."

The destruction of the ethnic Hungarian villages and other villages in Romania may exacerbate the movement of refugees from Romania to neighboring Hungary. It has been reported that over the past year, some 30,000 Romanian citizens have fled to Hungary. It is unprecedented for citizens from one Warsaw Pact country to seek refuge in another Warsaw Pact country. This situation is further straining relations between Hungary and Romania. At the end of June, the Romanian Government expelled the Hungarian consul-general in Transylvania and ordered the closing of the Hungarian cultural center in Bucharest. These actions apparently were in retaliation to a march by 50,000 Hungarians past the Romanian Embassy in Budapest to protest the destruction of the Transylvanian villages.

The United States needs to make clear its strong opposition to the actions and policies of the Ceausescu government. That government must understand that its relations with the United States cannot improve until it ends its repression of religious and ethnic groups and respects the basic human rights of all its citizens.

The resolution we have introduced provides an opportunity for the House to state a firm position on the current situation in Romania. I would urge my colleagues on the House Committee on Foreign Affairs and on the Subcommittee on Human Rights and International Organizations to expedite full House consideration of House Resolution 505. In particular, swift action is needed to put the House clearly on record in opposition to the impending destruction of the Hungarian culture in Transylvania.

Mr. LIPINSKI. Mr. Speaker, I would like to thank my colleague from California for calling this special order supporting H.R. 505, the resolution condemning the present Romanian Government's violation of human rights. It is necessary and very important that this body call attention to the human rights violations of the Romanian Government.

In this day when peace breakthroughs are enthusiastically reached between the United

States and the Soviet Union, it is important that American leaders and the American public do not become overly satisfied or starry-eyed with the new style and conduct of Soviet-bloc countries. Rather, we should keep in mind that in many aspects of the behavior of Communist regimes, little has changed. Of course, the area where significant strides toward improvement still must be taken is that of human rights.

Americans can be reminded daily that in many Communist bloc countries oppression of peoples and violation of human rights continue unabated. The most serious example of such violations taking place today is the treatment of Hungarians and other minorities in Romania.

While glasnost political trends have brought social and human rights improvements for some peoples of the Soviet bloc, such improvements are absent in Romania. In fact, the neo-Stalinist leader of Romania, Nicolae Ceausescu, has stepped up efforts of oppression in that country. Such efforts are mainly directed at Romanian minorities, primarily the country's 2 million Hungarians.

The most recent Romanian initiative to suppress minorities threatens to completely destroy the rights and culture of Hungarians in Romania. Romania's plan to bulldoze hundreds of villages in Transylvania will act to erase the Hungarian culture in that country by wiping out traditional Hungarian churches, schools, architecture, and all other signs of heritage. This program is only the latest of the Government's attempts at slashing minority rights, and diluting any cultural identities in the state. Romania has long been closing Hungarian-language schools, restricting native language use and publications, and general intimidation. Romania, in its attempt to destroy native Hungarian culture, is attempting to destroy a way of life.

In America, we know of the contributions which every ethnic group has made toward our country. We have experienced it. Thus, we know that it is ridiculous for any state to require such complete assimilation of its ethnic groups. This is especially true when one considers that Romania signed the Universal Declaration of Human Rights, the Helsinki Final Act, among other human rights treaties. It is obvious that Romania is violating those agreements, in addition to casting a large cloud over the sincerity of Soviet-bloc glasnost.

It is important for all those with a realistic view of United States relations with the Soviet Union to take a strong stance against blatant human rights violations in Romania and support H.R. 505. Terminating Romania's most-favored-nation status was a step in the right direction, and through H.R. 505 we must continue to condemn the Romanian Government.

As we continue to take steps toward peace with the Soviet Union, it is imperative that we be careful not to overlook serious violations in other parts of the Soviet bloc. We cannot proceed with symbolic strides toward peace until the Romanian Government takes responsibility for its conduct and stops the violation of Hungarians' rights in that country.

Mr. DWYER of New Jersey. Mr. Speaker, I want to thank my colleague, Mr. LANTOS, for obtaining time this evening to discuss a deplorable human rights situation in Eastern Europe.

While Soviet General Secretary Gorbachev has had noted success in bringing the Soviet Union and many of the Eastern bloc countries into an era of new openness, Romania has remained conspicuously imbedded in the era of Stalin. And actions taken by President Ceausescu have created an unprecedented rift between two Warsaw Pact nations, Romania and Hungary. The issue which has caused this break is the Romanian Government's policy toward minorities inside Romania, most notably Hungarians.

Located inside Romania's boundaries because of border realignments following World War I, there are over 2 million Hungarians living in a cultural exile in Transylvania. The Ceausescu government has had a very poor human rights record for many years, but its recent activities toward the Hungarian minorities can only be interpreted as deliberate efforts to denationalize the Hungarian community.

Romania has announced plans to raze over 7,000 traditional villages in order to establish Government-owned agricultural-industrial complexes. The prime targets are the Hungarian areas and churches, schools, and cemeteries have already been destroyed. Hungarians are being relocated to other areas of the country, areas with a majority of Romanian population. This is being done in an obvious effort to scatter, and therefore destroy, the Hungarian nation inside Romania.

To date, between 15,000 and 30,000 ethnic Hungarians have sought refuge in Hungary. The 2 million Hungarians still inside Romania continue to be victims of a regime which is becoming more repressive, as its efforts to destroy their ethnic heritage meets with greater criticism from both Eastern and Western governments.

A resolution has recently been introduced in this body condemning the violation of human rights in Romania and recently a letter was sent to Secretary Shultz asking him to consider the economic pressures placed on Hungary by the influx of refugees seeking asylum from the oppression of the Ceausescu government. I am pleased to be a part of both of these initiatives.

Again, I commend Mr. LANTOS for providing us with this forum and hope that we will continue to speak out against the abuses against the Hungarian minority in Romania.

Mr. BORSKI. Mr. Speaker, I rise in strong support of this resolution condemning blatant and well-documented abuse of human and minority rights in Romania.

The recently accelerated plan to level 8,000 of Romania's 13,000 traditional villages is only the latest chapter in the Ceausescu regime's history of brutal repression of its ethnic minorities, particularly of the 2.5 million ethnic Hungarians in their ancient Transylvania homeland.

The village-razing process will be thorough. It will be merciless. And, most tragically, it will be permanent. An ancient and beautiful culture will be willfully destroyed. A people who already struggle not only for life's physical necessities and who cannot freely speak or read their own language will not lose their homes, their roots, and their history.

In destroying centuries-old settlements, Romanian officials hope to further obliterate traces of non-Romanian settlements in the country. The forced assimilation of ethnic Hungarians has been degrading and cruel, in forbidding the use of the Hungarian language in schools, the press, place names, and even personal names.

Our first reaction to these human rights violations may well be shocked disbelief. But no one who is familiar with the Ceausescu regime's record can doubt that this Romanian Government will indeed proceed to destroy villages, lives, and a whole culture without a qualm. One need only see the ashen faces of Western diplomats as they describe the rubble that is Bucharest today; what is to prevent Ceausescu from extending his megalomaniacal policies to the entire countryside?

Last April, this body took a definite stand on this issue when it passed the Wolf amendment to the trade bill, voting 232 to 183 to suspend most-favored-nation status for Romania. This year, realizing that MFN would likely be revoked, the Romanian Government ostensibly rejected extension of MFN. Current Romanian repression of its ethnic minorities is so much a part of the country's basic domestic policy that Romania is no longer willing to debate this policy, even at the price of MFN.

The Ceausescu regime becomes ever more intractable. Its leaders no longer even pay lipservice to internationally recognized human rights. To this very day, the Romanian delegation to the Helsinki follow-up conference in Vienna continues to block passage of a concluding agreement that makes strong reference to minority rights.

I urge all of my distinguished colleagues to join me in resoundingly condemning human rights violations in Romania.

Mr. RITTER. Mr. Speaker, I wholeheartedly add my support to Representative DORNAN'S resolution condemning human rights violations against the ethnic Hungarian minority in Romania.

The current Romanian regime's plan to eliminate 8,000 Hungarian villages from the map is nothing short of cultural destruction. Nicolai Ceausescu's clear intention is to destroy all vestiges of Hungarian culture within Romania and therefore remove a major source of opposition to his rule—an idea and act which is abhorrent. Yet, unfortunately, it's no longer just a plan: Last week the Voice of America reported that three Hungarian villages have already been ruthlessly destroyed.

These actions have proceeded with tremendous cynicism. In Covasna country, villagers were forced to either demolish their own homes or else pay the government to do it. And what awaits these displaced villagers? They are forced to move into crowded concrete high-rises to be built on the site of their once proud cities, where city halls, historic buildings, and landmarks have been torn down.

Similar "rebuilding" has also resulted in the destruction of Romanian and German culture. In Bucharest, Ceausescu tore down the old Romanian center to build himself a massive and expensive monument to himself. It has also been carried out in Csikszereda—Miercurea Ciuc—and Szatmarnemeti—Satu

Mare—both historically significant cities from former centuries, when Hungarian culture flourished in Transylvania—then still part of Hungary.

These policies are a sad, yet realistic, commentary on the nature of Marxist-Leninism in Romania. The destruction of culture in order to more fully control its citizenry demonstrates the inherent bankruptcy of Romania's political system.

These actions are also at complete odds with the Helsinki accords to which Romania is partner.

The Helsinki accords in principle VII states that signatory states, such as Romania, will "promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms all of which derive from the inherent dignity of the human person." What could be more detrimental to people than denying them the rights to live in their homes and communities which have nurtured them, to maintain the cultures which inspire them, and to transmit their culture to future generations.

By forcing people to relocate to larger industrial centers, the Romanian Government is violating individual rights of self-determination. While self-determination is usually thought of in terms of a nation, many Helsinki commentators have considered that this right should also extend to the individual.

I call upon my colleagues to support Representative ROBERT DORNAN'S resolution, of which I am a sponsor, which condemns Ceausescu's policy of destroying Hungarian villages and culture. And I call on the Foreign Affairs Committee to expedite the passage of this legislation. The Hungarian minority in Romania, unable to freely speak for itself, is depending on the free world to stand up for their rights. This cruelty and destruction must stop. For three villages, it is unfortunately too late.

GENERAL LEAVE

Mr. LANTOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ESOP'S: WHO REALLY BENEFITS?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, since the passage of the Employee Retirement Income Security Act of 1974, we in Congress have encouraged the formation of employee stock ownership plans [ESOP's] by enacting a series of very favorable tax incentives. We have done this because we have perceived an ESOP to be an employee benefit, a way for workers to share in the profitability of their company, a way for the little guy to get a well-deserved piece of the action.

It's time we stopped to assess the results of our actions. Are the little guys getting a piece of the action? Are American workers, the backbone of this country, sharing in the profitability of their labors? Are ESOP's really providing a benefit to loyal employees?

Let's take a look at some ESOP's. Hyatt-Clark, a ball-bearing plant, was purchased by an ESOP in 1981. In 1984, management voted bonuses for themselves, but put the employees shared profits into capital improvements. The plant closed in 1987.

Raymond Engineering terminated their pension plan to fund an ESOP. Unfortunately, the pricing projections were inaccurate and the company went out of business taking with it not only the jobs but the pensions of the employees as well.

In 1986, Wesray purchased Avis for $250 million plus the assumption of $1.6 billion in debt. Wesray then sold most of Avis' European operations for $234 million, a large portion of the domestic leasing operation for $140 million plus $148 million in debt, then sold what was left of the company to the employees—for $1.75 billion. Wesray made a $740 million profit on a 1-year cash investment of $265 million. Will the employees fare as well on their investment?

Some years ago, the Scott & Fetzer Co., proposed an ESOP in which management investors and investment bankers would purchase 29 percent of the corporation's stock for $9 million. The ESOP would purchase 41 percent of the same stock for $182 million. This worked out to a purchase price of $3.10 a share for the investors and $44 a share for the employees—for the same stock. Because of tax incentives encouraging ESOP formation, the taxpayers of this country would have invested $100 million so that the employees could obtain stock worth between $13 and $40 million, at a cost almost 15 times greater than the cost to investors. This just doesn't make sense. Fortunately, this particular sweetheart deal collapsed under the weight of its own excessiveness.

Current ESOP tax provisions, especially as they apply to highly leveraged transactions, encourage the formation of ESOP's as financing tools for corporate executives and investors, but do little if anything to encourage the formation of ESOP's as employee benefits. To quote Joseph Schuchert of Kelso & Co., "Take away the tax savings and there is no reason to do an ESOP."

If employee stock ownership means that employees take all the risks but get few, if any, of the benefits, then it's time to correct our course.

I am introducing two bills to do just that. The first will require the Securities and Exchange Commission to develop standards for determining the fair value of closely held stock. This will put an end to the sort of deal where the employees pay $44 per share and the investors pay $3 per share for the same stock.

The second bill will amend the Internal Revenue Code of 1986 to treat the interest exclusion on loans to ESOP's as a tax preference item for purposes of minimum tax. It will also require passthrough voting rights to ESOP participants where the ESOP owns a substantial part of the corporation. This will discourage those ESOP's that are formed for the sole purpose of securing cheap money at the expense of the taxpayer with no regard for the welfare or rights of employee participants.

I ask my colleagues to join me in preserving the employee benefit concept that led to the passage of ERISA, and to continue to monitor ESOP trends.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

□ 1500

THE UNITED STATES SHOULD RETURN WITH ITS SHIELD

The SPEAKER pro tempore (Mr. MCMILLEN of Maryland). Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, the word Aegis comes from the Greek—meaning shield. And that is what the Aegis is for the U.S. Navy.

The Aegis is the Navy's answer to the Air Force AWACS planes. The state-of-the-art integration of computers, radars, missiles, and software of the Aegis provides an unprecedented level of protection to naval battle groups.

The Aegis is one of the key underpinnings of America's new, high technology Navy. The numbers of the United States fleet are still below 600 surface combatant ships, which is a far cry from the over 2,000-ship Soviet Navy.

The U.S. Navy holds its own because of superior electronics and design. If the Soviets had the same technology and if they used it, the sheer weight of numbers would favor the Soviets in any possible confrontation.

That is why technology transfer to any country concerns me, but, in view of the recent Toshiba scandal, transfers of technology worry me greatly. The Toshiba incident highlighted the fact that Japanese compaines have been trafficking for years with the Soviets. And, from what I understand, other Japanese companies are under investigation for being conduits to the Soviets of American military secrets.

In response to the United States demands, the Japanese have promised to tighten security. Yet, this is a promise we have heard before.

But what has happened?

The Japanese Diet refuses to pass an antiespionage law.

History has shown that the Japanese are long on promises but short on performance. The book, "The Japanese Conspiracy," which I have been reading on the floor, catalogs promise after promise made, broken, and replaced by a new promise.

Can the United States leave its defenses to mere promises? Americans deserve better. How can we, in Con-

gress, justify $300 billion in defense spending but not, at the same time, safeguard the secrets that are necessary to insure our defense?

Further, why should foreigners be subject to different—and laxer—espionage laws than Americans. The people who release our secrets should be prosecuted under American law, in American courts.

Is this unreasonable? In an analogous situation, India is trying to extradite United States Union Carbide officials for criminal prosecution.

Should United States secrets that involve the very defense of our country and the lives of our military be treated in a lesser manner?

But beyond the security aspects, there are economic reasons also. To build a frigate with Aegis capabilities costs somewhere in the neighborhood of $750 million in the United States. In Japan, this same ship would cost an additional $200 million.

If the Japanese used prevailing United States contracting officer logic, there would be no question that it would be purchased in the United States—because it's cheaper over here. I had hoped that the other body was going to hold firm that the Aegis could be sold to Japan only if the entire unit was built in the United States. But that apparently is not to be.

But the Japanese want something—the technology. The United States makes the best surface combatant ship in the world. The Japanese want to learn the knowhow of the way a modern fighting ship is built. But, beyond that, there is the question of the software.

In the past 10 years, the Japanese have shot past the United States in microchips and small computers. The United States is still the world's acknowledged leader in software. Can we really afford to give this to a competitor in the world market?

The Japanese have already taken advantage of the F-15 technology to leap frog from a propellor plane industry into production of commercial jets.

Yesterday, former Senator Jeremiah Denton, a retired Navy admiral and more respected Vietnam prisoner of war, told me that he and other military experts were shocked to learn that the United States would turn over such technology. It also happens that the Aegis cruiser and its technology were the speciality of Senator Denton when he was on active duty. And more than one expert has stated that the technology could be reverse engineered and, within 3 to 4 years, put to use in parallel civilian ways as well as military production.

So why is the United States doing this? And what happens to the American shipyard workers who could have stayed employed but for the fact the 2 or more Aegis cruisers would be built in Japan.

We should retain our Aegis—our shield. The Greeks used to say, "Return with your shield or on it." And United States sailors and United States shipyardworkers will not be able to return with their shield if that shield is in Japan.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

THE AMERICAN CRISIS IN SELF-GOVERNMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I want to talk today on the American crisis in self-government. There are actually two crises. One involves the Presidency, and the other involves the U.S. House of Representatives.

The crisis in the House can be represented by a single number: 98.5; 98.5 is the percent of incumbents who were reelected in 1986. That is a real crisis because the Founding Fathers intended for elections to be fair, to be honest, and to involve the process of truly challenging whether or not the incumbent should be rehired. When only 1.5 percent of the incumbents are defeated, we or anyone with common sense know automatically that in fact we have a crisis in the system because it is not renewing itself.

The Founding Fathers debated in the Constitutional Convention whether we should have elections every 6 months or every 2 years. It was a very long debate, running almost a month, in which they argued for 6-month elections because they really believed that while they should elect the Senate and the White House for a long period of time, the one branch of Congress should be permanently scared.

Yet over a long period of time, in a trend which began in the 1890's and which accelerated dramatically after 1974, we have seen the building up of professional politicians' abuse until today the incumbent is so invulnerable that it is a major crisis in the system.

It is literally true that 1988 will be the first year in which the people of Mexico will have had a greater likelihood of defeating incumbents than the people of the United States. That is an historic moment, a moment in which literally in elections for the U.S. House of Representatives you are less likely to affect the balance of power with your vote than you would in elections in Mexico. And indeed if Gorbachev's glasnost succeeds, you will be less likely to affect the balance of power in the U.S. House than you would in the Soviet central parliament that they are inventing.

That sounds like hyperbole, that sounds like rhetoric, but it is literally and statistically true that in 1986, 98.5 percent of the incumbents were reelected. That is a fundamental subversion of the Founding Fathers' constitutional intent of having fair elections in which the challenger had a fair opportunity to defeat the incumbent and in which the voter had a fair choice.

The crisis in the House has led to a much, much more left-wing policy than the American people believe in. The fact is that the average American is part of a center-right majority, and that again and again, from 1968 to the present, the average American has voted against leftwing candidates for President. Hubert Humphrey got 43 percent of the vote, George McGovern got 38 percent, Jimmy Carter beat all the liberals in 1976 when he was perceived as a Southern Baptist populist, and in 1980 Jimmy Carter beat EDWARD KENNEDY and then was defeated. Then in 1984, Walter Mondale proudly stood up in San Francisco and said, "I really am a liberal," and the country said, "Yes, you are," and he got 41 percent of the vote.

So at the Presidential level we have had absolute evidence for a generation that leftwing policies do not get very much support. That has led, however, to the second crisis in our system, and that is the fact that self-government requires honesty and openness and requires some minimum level of candor to work. That is, the voter has to have the ability by election day to have some reasonable understanding of what the politician who is running for office stands for. If the politician can get away with a very high level of disinformation or just plain dishonesty, then the voters are not really sure what they are voting for.

As I reported in two previous special orders, we now have a systems crisis in which one of the two major parties, the Democratic Party, having concluded after 20 years of Presidential election results that it is simply not possible to run an honest liberal and win, has given up on the word, "honesty." So what we now have is a party systematically running a deceptive campaign. This was best illustrated recently in a three-page article by Fred Barnes in the New Republic.

But it emerges again in the current mini-flap over Governor Dukakis' health records. Let me say for the record that I think that it is Governor Dukakis' personal choice whether or not he releases his health records. I think he has every right as an individual citizen to not release his health records, and I think there is no automatic requirement that you release your records just in order to run for the Presidency.

I do think there is a legitimate concern on the part of the American people that they have a pretty good knowledge that the person they put next to the nuclear button, the person who in the Oval Office could start a nuclear war, be a relatively healthy and calm and rational person. And I think there are profound reasons for that, that starting with the rise of the nuclear age, beginning with Truman and Eisenhower, there has been a growing tendency to expect Presidents to be remarkably candid. Many people my age will remember Lyndon Johnson showing off his scars. Others a little older will remember Eisenhower's heart attacks. There has been a remarkable pattern of openness about Presidential health, because the Presidency is the one institution that could start a nuclear war.

But I do not object to Governor Dukakis having a right to privacy. He is an American citizen, and even though he is running for the Presidency, he has every right to remain private. I think there is an easy, simple compromise that he could follow, and that would be to allow two or three nationally respected doctors to review his health records, maintaining the privacy but nonetheless having neutral parties, not his mutual doctor and friend for 17 years, tell us how healthy he is.

But the point I want to make goes a bit deeper. It goes to the issue of deception, not the issue of health. Governor Dukakis has been running around the country saying that he is going to be the ethics President, that in his administration ethics is going to be in the Oval Office. He made the promise that there will be no secrets from the American people in the Dukakis administration. Now, I do think he has an obligation, if he is going to be honest, to withdraw that promise. He has every right to keep his health records private, to keep them secret, as long as he admits there are times he is going to be secret.

I am frankly willing to have a man run for President who says, "Yes, there are some secrets you won't learn. Yes, if we do certain things in international affairs and we have to keep them secret to protect our allies, you won't learn them."

I am willing to have a man who says, "Yes, there are times when the lives of American agents may be at stake, and you won't learn them." That is perfectly fine.

What I find impossible in this age of television is to have a candidate like Governor Dukakis who says, "I promise you there will be no secrets," and then 3 days later he says, "Oh, by the way, there are a few secrets you are not allowed to look at. Please don't pay attention to those."

□ 1515

Now which is it? And I think Mike Dukakis has to come clean with the rest of us. He has to either say, "Yes, I'm running an ethics campaign, I'm going to have ethics in the Oval Office, and here are my health records," or he has to say, "No, there are times I'm going to keep a few secrets, this is one of them, and by the way I take back all that stuff I said earlier."

Now I raise this because this is only the latest in a long series of deceptive efforts. If my colleagues will notice, in the Democratic platform in Atlanta they worked overtime to avoid the word "liberal" because they figured out that liberal is not a good word. They worked overtime to avoid talking about tax increases because tax increases, which is what liberal Democrats do to turn people off, and they do not get elected.

Also, they have worked very, very hard to hide the extent of the budget crisis in Massachusetts. All the time this spring that Governor Dukakis was parading around the country telling everyone what a great job he was doing in Massachusetts, in fact the government in Massachusetts was disintegrating, and the budget was getting worse and worse. They now have a crisis which is being papered over only by trying to do radical things like raid the pension funds of the teachers and the government employees, raise taxes in a variety of areas, borrow a lot of money. In effect Governor Dukakis is trying to hide the deficit in Massachusetts until he gets through to the election.

And, again, I just want to suggest that it is very difficult in the process of self-government to have an honest campaign in which a candidate like Governor Dukakis persists in saying things that are simply not candid and simply not forthcoming.

Now let me tie the two together, the crisis in the Congress and the crisis in the Presidential campaign process. The U.S. House, because it is no longer representative or accountable, because the American people cannot fire the Members, because, as I said earlier, 98.5 percent of us get reelected, the U.S. House is now the bastion of leftwing thought in America. Members of Congress who know they do not have to be afraid of the voter because the voters, after all, are not going to be able to fire them then look for the next source of pleasure and pain, and in the House and in the majority party that is the Democratic Caucus.

The Democratic Caucus is somewhere around Walter Mondale and liberalism with a strong faction to the left of McGovern, a weak faction that is around the SAM NUNN-Chuck Robb kind of southern moderatism, and the base of the party is somewhere between Mondale and McGovern. It is on foreign policy an increasingly leftwing majority, a majority that on any given day is more likely to understand the Nicaraguan Communist government than to understand the pro-American Nicaraguan freedom fighters, a majority that on any given day is more likely to accept the Soviet version of arms control than the American Government's version, a majority that tolerate having the Speaker of the House meet in secret on Veterans' Day with a Nicaraguan Communist dictator.

The fact is that the American people face a crisis in the process of governing themselves because Members of the House cannot be fired for all practical purposes. We have Members of this House who have been sanctioned by the ethics committee. We have some who have been sanctioned for some pretty bizarre things. They get reelected. We have a few Members of the House who get convicted of various things. They get reelected. We have a process here where we have Members who clearly would not under any circumstance be representative of a majority of American voters. Not only do they get reelected, which is perfectly reasonable; this House should represent all sorts of groups, but they are gradually elevated in power in positions which the vast majority of Americans would not understand, and the fact is we now have a Congress which has in the current Congress more ethics cases and more ethics problems than any Congress in modern history. We have a Congress which is out of control which the voters have lost the ability to directly influence and on which Members use the tax money given to them to do pretty much what they want.

It is interesting. For example, most voters do not realize that one party, the Democrats, have controlled the House for 34 years. Most voters do not realize that during that time that the Democrats have controlled the House we have built up a modern, invincible incumbent who has $1,200,000 a cycle in tax-paid opportunities: direct mail, staff, computers, offices, travel, a million two hundred thousand dollars before the challenger gets to raise a dime. Most voters do not realize that the power of the subcommittee chairmen and committee chairmen is now so great that in most cases it is not political action committees corrupting Congressmen. It is Congressmen like medieval aristocrats demanding tribute, in effect demanding the political action committees into contributing.

We have one Member, a chairman of a subcommittee, who has gotten 350 executives of that particular industry that goes to that subcommittee to give a thousand dollars apiece to that chairman. Just a straight relationship that says, "You have power over my

business; what can I do to make you happy so you won't punish me?"

The result is that the average voter's ability to fire their incumbent is less in America today than it was a few weeks ago in the Mexican election, and I think that is an historic watershed. I think that political science and government classes and civics classes are about a generation behind the reality of American politics. I think most newspaper, television and radio reporters have not looked carefully at the implications of having a Congress which is not only out of control; that is, as it grows harder to defeat incumbents, incumbents get more arrogant, incumbents get more inclined to do what they want to, and incumbents get more willing to impose their views, not the views of their district.

But in addition, because the House has been controlled for 34 years by one party, the Democrats, because the House has been controlled for 34 years by a party which has been moving to the left, which has moved from Sam Rayburn, if you will, to Jesse Jackson, which is now a much more left-wing party than it was 34 years ago, because the left wing of that party has an agenda, a world view, and a willingness to use its muscle to get what it wants, you end up, as I read earlier, with the following message.

This is from the President of the United States talking about a bill which passed the House which he vetoed on defense. He charged in his veto message of yesterday that the bill: "Would needlessly concede military advantage to the Soviets."

That is that the Soviets would get advantages out of the bill that the Americans would not get. He charged in his veto message: "It would reward the Soviets for their words and not their deeds."

My colleagues might say to themselves: now wait a second. On a defense bill written by the Committee on Armed Services passed by the House why would we be conceding military advantage to the Soviets? Why would we be rewarding the Soviets? Well, the President went on to say: "The bill would return us to the practice of rushing to give away our negotiating leverage without receiving a single thing in return from the Soviets."

Now the fact is, when one looks at that, this House is dominated by a leftwing majority of the Democratic Caucus which believes, when possible, in unilaterally disarming and unilaterally giving up to the Soviets in appeasing the Communist dictatorship in the hopes that then it will behave nicely, a belief which Frank Gregorski reported in an essay entitled, "Whatever Happened to the Democrats in Foreign Policy?" in which he reported year by year, starting in 1970 with Cambodia, and Vietnam, and Laos, and Angola with Nicaragua, how year by year it is possible for leftwing Democrats to always find one more excuse, one more explanation, one more reason to vote for a weaker America and to accept an aggressive Communist world.

There is a second factor, As the Congress has gotten further and further away from being policed by the American people by having to worry about reelection, by being concerned that they might be fired, the special interests inside the Congress have grown more and more powerful. The President comments on that in his veto message when he says in short:

"The bill trades vitally needed defense muscle for the parochial interests of those in the Congress."

In other words, the mandated waste of the Congressmen who impose things on the Defense Department which the Defense Department does not want, and let me say very often ironically it is precisely the leftwing Member who is anti-Defense who then insures that his or her district gets the things they want out of the Defense budget.

Because it is impossible in a free society, even one in which the biases are so massively in favor of the incumbent with all the advantages I described, for an incumbent to go home and say openly, "I don't care what you believe. You can't fire me. I have power. I'm going to do what I want to do," incumbents learn over time not to be totally candid. Incumbents learn over time not to necessarily say to the voter exactly what they are doing. They learn to use artful words. They learn, if you will, to use deceptive language.

That is important because it relates directly to what is happening now in the Presidential election. The fact is when Governor Dukakis goes to the New Jersey beaches and says he would clean them up, he does not tell anyone that he is leaving behind in Massachusetts 11 beaches that have been closed this year because of the raw sewage that is spilling in. When Governor Dukakis suggests that he is concerned about ocean dumping, he does not tell people that it is his friends in the Democratic machine in New York City who refuse to stop the ocean dumping. He does not comment when he is pledging openness on the fact that he is in fact currently fighting a court order or fighting a court case which would require him to release 200 documents in the New Braintree Prison scandal.

When Michael Dukakis talks about the success that he has had in creating jobs—and imagine, if you will, the tremendous gall of a man who attacks Reagan, attacks the Reagan economy, attacks the Reagan tax cuts and then says that he brought about the Massachusetts miracle as though he was president of Massachusetts and it was an independent country. The fact is that Massachusetts did pretty well in a country which was creating 16 million jobs. New Hampshire did better. Rhode Island did better. Connecticut did better. Maine did better. In fact, the truth is that Massachusetts has the slowest growth rate of new jobs and new income of any New England State in the last 8 years. The truth is that the Massachusetts miracle was riding an escalator built by Ronald Reagan, and Dukakis was claiming he was carrying the State up on his own back and then not only not crediting Ronald Reagan, but attacking Reagan for the very economy which had allowed Massachusetts to grow.

The fact is that according to Ralph Nader the mental health programs of Massachusetts are far below the national average. The fact is that the prisons of Massachusetts are so bad that a newspaper in Massachusetts won a Pulitzer Prize describing the scandal in Michael Dukakis' prisons. The fact is that while Michael Dukakis claims to be against crime, he is a strong defender of a program that is reported in an article entitled, "Getting Away With Murder," in the Reader's Digest in July, a program which furloughs murderers on the weekends and which in some cases has had murderers out on the street who have then raped, tortured and in some cases killed other people.

Again and again, when one looks at these things, it is discovered that Governor Dukakis specializes, if you will, in deceptively packaging the version he wishes us to see.

So I come back full circle to suggest to my colleagues that there is a direct relationship between the conversation we had on the floor today about whether or not convicted felons should serve in Congress, about the Bronx machine, about a May 5 dinner of the Bronx machine which brought together all three elements of a Democratic Party which has less and less concern about honesty. At the base of the Bronx machine, which has been covered in Tom Wolf's fine novel, "Bonfire of the Vanities," at that particular dinner there were indicted city officials sitting at the head table. In addition there was a convicted U.S. Congressman who already had a report urging his expulsion sitting at the head table, and there was the Governor of Massachusetts, Governor Dukakis, proudly prepared to say he was in favor of ethics even while he sat at a machine dinner with a convicted Congressman and indicted city officials.

Let me say finally, because I think this fits into that pattern, that far from being ashamed of having people there who were convicted felons, far from being ashamed about having people there who were indicted city officials, that in fact, that convicted felon was introduced as one of Ameri-

ca's greatest Congessmen, and did Michael Dukakis object? Did he say, "Oh, I'm going to be the ethics President?" No. Far from it because he was among his friends.

Now I think that is important because every citizen who cares about the poor, every citizen who worries about the south Bronx or Jersey City, every citizen who worries about the homeless in Chicago or the difficulties in Boston has to recognize that for 40 years the invisible prison in American life has been the big city machines that are corrupt. For 40 years we have failed to pay attention to what happens in situations where the big city machines are, in fact, ripping off both the poor and the taxpayer. For 40 years we who work hard and are honest have been told we have to raise our taxes so the liberal Democrats can give more goodies away to their big corrupt city machines.

I had a chance to meet yesterday with Gov. Tom Kean of New Jersey, a courageous crusader, a man who went into the Jersey City schools because he was concerned about education and discovered to his shock that the machine in Jersey City was dumping all of its hack politicians into the administration building of the school system, that people who were supposedly being paid to take care of the schoolchildren were, in fact, taking care of themselves, that the administration that was supposed to be taking care of the schools was, in fact, taking care of its cronies. Governor Kean moved to take over the Jersey City schools on the grounds that having a corrupt machine which trapped those children in classrooms where they were not learning was a form of child abuse, that the cocaine addict, the prostitute, and the AIDS victim of the future was being aided by the corrupt machine of the present.

□ 1530

He discovered to his shock two reactions: The Democratic Party opposed him bitterly, fought for its allies' right to rip off the public and rip off those children; but the parents did not jump up and say, "Why are you taking over our schools?"

He discovered to his shock from all over New Jersey, in inner city school after inner city school, parents began signing petitions, petitions that said, "Come and save our children, too."

Now, let us go back and look at the problems of New York, the problems of the homeless, the problems of the schools, the problems of AIDS victims. The fact is when you look at Boston, when you look at Chicago, when you look at Philadelphia, when you look at the District of Columbia, when you look at Jersey City, and there are others that could be lined up on this list, that again and again we have a problem of the corrupt big city Democratic Party which has no concern about the taxpayer and no concern about the poor, which systematically tolerates a level of bureaucratic corruption, which makes it almost impossible to truly help those who need help, and no one is willing to speak out against it, no one is going to stand up and say it has to be changed.

Furthermore, you could not get an investigation in the U.S. House of Representatives of a single corrupt big city. You could not get the Democrats to agree to hold a series of public hearings looking into a single corrupt machine. You could not get a single open effort to lay out a standard of honesty, because the truth is that the coalition that keeps the Democratic Party alive is a coalition that relies heavily on not being candid, on not being straightforward; to use plain old fashioned words, on not being honest.

Therefore, it was suggested today that we ought to allow a twice-convicted felon an extra 30 or 40 days. We ought to allow a man who pled guilty yesterday, it will be suggested, to have at least a month or a mouth and a half. That is a second member who has pled guilty this week. One was convicted this week, the other pled guilty. He only stole $130,000 from people, not a big amount. I find it interesting and fascinating that both at the Presidential level and at the congressional level the basic question of self-government, the basic question of the requirement of honesty, comes back to haunt those who most aggressively attack on that issue, comes back to haunt those who have told us for a year, "Let's not protect Ollie North. Let's not protect John Poindexter. Let's not protect the Israelis. Let's not protect America's allies. We have to know all the secrets."

All the Members who voted so eagerly for public hearings, for television, for making sure that week after week we looked at America's secrets, in the next few weeks they will get a chance to do the same thing in terms of the Congress.

Should we in fact have ethics committee hearings involving the Speaker out in the open with television under the Iran-Contra rules? Should we in fact have action on two felons, one convicted, one self-confessed? Should we in fact look at the big city machines that are corrupt? Should we in fact insist, very simply, either that Governor Dukakis release his health records or that he withdraw his pledges to have the Oval Office as an ethics office, that there will be no secrets in the Dukakis administration.

In 1988 for the first time in history, as I said earlier, the people of Mexico will have had a greater chance of defeating an incumbent than the people of the United States voting in U.S. House races. That should frighten every citizen who looks at the reality that in 1986 98.5 percent of the incumbents were reelected. That requires I think a crusade for honest self-government that is willing to turn over every rock, to open up every door, to look into every room, and that is going to require a lot of citizens to decide on this 200th anniversary of the 1st election under the Constitution that it is worth their time and their effort to go out and say to their Members of Congress, to their politicians, to their Presidential candidate, "if you can't be honest, don't expect my vote. If you can't be candid, don't expect my vote, and if you are going to arrogantly try to deceive me, expect me to aggressively try to defeat you."

Only if the citizens are willing to work to contribute, to fight for their rights, can we expect to have the kind of honest self-government that the Founding Fathers thought we deserve.

THE SAVINGS AND LOAN INDUSTRY CRISIS

The SPEAKER pro tempore. Under a previous order the House, the gentleman from Virginia [Mr. PARRIS] is recognized for 5 minutes.

Mr. PARRIS. Mr. Speaker, I thank the Chair for the time. I especially want to express to the gentleman in the Chair my appreciation for accommodating this request.

Mr. Speaker, I come before the House this afternoon to attempt to educate by repetition of the status of the Federal Savings and Loan Insurance Corporation, the so-called FSLIC, the insurance fund that insures the deposits of every depositor in federally insured savings and loan institutions, thrift institutions of various kinds, in this nation up to a statutory limit of $100,000.

Now, let me initially reemphasize not everybody that has a modest account in some savings and loans around this Nation should run down and jerk it out. That is not the problem. This is not an individual depository problem. It is an industry problem.

There are approximately 1,400 savings and loans in the United States that either are insolvent on their normal accounting practices or they are undercapitalized and unable to compete in a normal marketplace for mortgage financing.

Now, the problem, Mr. Speaker, is very simply that of the savings and loan industry, the thrift industry generally in this Nation, about 75 percent, perhaps 70 or 75 percent are adequately financed. They are reasonably managed and they are doing very well. As a matter of fact, they are making record profits.

The problem is that the remaining 20 to 25 percent are losing money at a rate of three times as fast as the well-managed and well-capitalized institu-

tions are making, so that it is costing the taxpayers of the United States in one way or another, direct or indirect, about $1 billion a month to sustain the thrift industry in this Nation.

Now, everybody says, well, that is a serious problem and it is. The resolution cost of that problem, depending on who you talk to, the Federal Home Loan Bank Board Chairman, Mr. Wall, testified before the committee a week or so ago that his estimate of the resolution cost now is $42.5 billion. There are others, experts in the field, who tell it is $50, $70, or $100 billion. It does not matter. It is an enormous number, whatever it is. The question is, What do we do about it, and how? Well, the answer is that it is not just enough to wring our hands and moan about the condition of the 140 institutions in Texas, for instance, that are either insolvent or undercapitalized, and this is the point that I want to make this afternoon, because we are overlooking the impact that that 25 to 30 percent has on the other healthy part of the industry.

The Chairman of the Home Loan Bank told us just a month or so ago that the Home Loan Bank was increasing the premium, the extraordinary premium, let alone the normal insurance premium, they are increasing the extra premium on insurance coverage for covered institutions by $700 million a year over the next decade, or $7 billion; so that the gross amount of the premiums are something close to 50 to 60 percent, based again on whose projections you believe, on the total income of the entire thrift industry over the next decade will go just to help maintain the existence of this braindead portion of the industry.

Now, the problem is not just how do we solve the problems of the 1,400 institutions that are in trouble. The real question is, how do we accomplish what I call severability, so that we take those 20 to 25 percent and put them over here and deal with them in a separate way and take the 70 to 75 percent industry that is doing very well, let it compete in the marketplace and provide mortgage financing for the great American dream for the average homeowner.

The answer to that, Mr. Speaker, is to the extent that we ignore a solution of the problem of the thrift industry that is in trouble, we are jeopardizing the continued existence of the healthy part of the industry. The reason for that is very simple. If you have an institution that is well managed and adequately financed and it is competing in a markeplace with an institution that is braindead, it is very likely, if not certain, that the braindead institution is paying what is commonly called a Texas premium, which is increased interest rates on deposit accounts so that they can attract more money to make more speculative investments in California, for instance, up to 100 percent of total assets. They then take that money that they have obtained by excessive interest rates and they put it into undermarket rate loans. That makes an institution that is well managed has to meet that underrate market loan. It increases their costs and reduces their profits and jeopardizes their existence.

In the meantime, we continue to tell them that they have to attrack additional capital and we increase the premiums paid to the Federal Government, which makes it impossible to generate earned income, and therefore they cannot afford to attract the capital.

Mr. Speaker, this is a serious problem, and we simply have got to address it at an early timeframe.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. BENTLEY) to revise and extend their remarks and include extraneous material:)

Mr. SOLOMON, for 60 minutes, on August 9.

Mr. WOLF, for 60 minutes, on August 8.

Mr. MOLINARI, for 5 minutes, today.

Mr. HORTON, for 10 minutes, today.

(The following Members (at the request of Mr. LANTOS) to revise and extend their remarks and include extraneous material:)

Mr. LANTOS, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. STAGGERS, for 10 minutes, today.

Mr. COELHO, for 60 minutes, on August 9.

Mr. GONZALEZ, for 60 minutes, each day on August 8 and 11.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. PARRIS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. BENTLEY) and to include extraneous matter:)

Mr. GOODLING.

Mr. SCHUETTE.

Mr. MACK in two instances.

Mr. LAGOMARSINO.

Mr. LUJAN.

Mr. GILMAN in two instances.

Mr. CLINGER.

Mr. TAUKE.

Mr. BROOMFIELD in two instances.

Mr. DAVIS of Illinois.

Mr. MCEWEN in two instances.

Mrs. BENTLEY in two instances.

Mr. PORTER.

(The following Members (at the request of Mr. LANTOS) and to include extraneous matter:)

Mr. MATSUI.

Mr. TRAFICANT in two instances.

Mr. HOYER.

Mr. LANTOS in two instances.

Mr. STARK.

Mr. FLORIO.

Mr. LIPINSKI.

Mr. MICA.

Mr. WEISS.

Mr. BENNETT.

Mr. CLAY.

Mr. TORRICELLI.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1912. An act to authorize a study of the Mimbres culture in southwestern New Mexico, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 2157. An act to authorize a feasibility study of the Spanish Frontier Culture and Spanish Borderlands story, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 2496. An act to provide for the leasing of certain real property to the American National Red Cross, District of Columbia Chapter, for the construction and maintenance of certain buildings and improvements; to the Committee on Public Works and Transportation.

SENATE ENROLLED JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled Joint Resolutions of the Senate of the following titles:

S.J. Res. 40. Joint resolution to give special recognition to the birth and achievements of Aldo Leopold;

S.J. Res. 248. Joint resolution to designate the week of October 8, 1988, as "Mental Illness Awareness Week";

S.J. Res. 263. Joint resolution to designate the period commencing November 13, 1988, and ending November 19, 1988, as "Geography Awareness Week";

S.J. Res. 273. Joint resolution designating October 6, 1988, as "German-American Day"; and

S.J. Res. 356. Joint resolution to provide for the extension of a temporary prohibition of striker or lockout with respect to the Chicago and Northwestern Transportation Co. labor-management dispute.

ADJOURNMENT

Mr. PARRIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 41 minutes p.m.) under its previous order, the House adjourned until Monday, August 8, 1988, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4122. A letter from the Secretary of Transportation transmitting the views of the Department on Senate Joint Resolution 356; to the Committee on Energy and Commerce.

4123. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Egypt for defense articles and services estimated to cost $21 million (Transmittal No. 88-48), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

4124. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting a report on the application of travel restrictions to personnel of certain countries and organizations, pursuant to 22 U.S.C. 4316; to the Committee on Foreign Affairs.

4125. A letter from the Comptroller General transmitting a report on the review of the independent certified public accountant's audit of the Financing Corporation's financial statements for the period August 18, 1987 (date of inception), through December 31, 1987 (GAO/AFMD-88-61; August 1988), pursuant to 31 U.S.C. 9105; jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FASCELL: Committee on Foreign Affairs. H.R. 5090. A bill to implement the United States-Canada Free-Trade Agreement. (Rept. 100-816, Pt. 3). Ordered to be printed.

Mr. RODINO: Committee on the Judiciary. H.R. 5090. A bill to implement the United States-Canada Free-Trade Agreement (Rept. 100-816, Pt. 4). Ordered to be printed.

Mr. GAYDO: Committee on House Administration. House Resolution 500. Resolution providing amounts from the contingent fund of the House for further expenses of investigations and studies by the Committee on Standards of Official Conduct in the second session of the One Hundredth Congress; with an amendment (Rept. 100-818). Referred to the House Calendar.

Mr. HAWKINS: Committee on Education and Labor. H.R. 4904. A bill to establish a program of grants to States to promote the provision of technology-related assistance to individuals with disabilities, and for other purposes; with an amendment (Rept. 100-819). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAWKINS: Committee on Education and Labor. H.R. 4986. A bill to amend the Higher Education Act of 1965 to reduce the default rate on student loans under that Act, and for other purposes; with an amendment (Rept. 100-820). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4843. A bill to authorize the Secretary of Health and Human Services to make grants for demonstration projects for foster care and residential care of infants and young children abandoned in hospitals, and for other purposes. (Rept. 100-821, Pt. 1). Ordered to be printed.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. ST GERMAIN: Committee on Banking, Finance, and Urban Affairs. H.R. 5094. A bill to strengthen the competitiveness and protect the safety and soundness of depository institutions, to provide additional benefits to and protections for consumers of financial services, to strengthen the enforcement authority of depository institutions regulatory agencies, and for other purposes; with an amendment; referred to the Committee on Energy and Commerce, for a period ending not later than September 22, 1988, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(h), rule X. (Rept. 100-822, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. COLEMAN of Texas (for himself, Mr. ORTIZ, and Mr. BUSTAMANTE):

H.R. 5156. A bill to direct the Administrator of the Environmental Protection Agency to establish a demonstration program for installation of sewer and water supply facilities for certain colonias in the State of Texas and to establish a revolving loan fund to enable residents of such colonias to connect their residence to such facilities, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. ACKERMAN:

H.R. 5157. A bill to prohibit in any program or activity under the jurisdiction of a State educational agency or local educational agency that receives Federal financial assistance the recording of information relating to sexual maturity, including any description of any sexual part, or any rating or scale based on such description, with respect to any individual other than any employee of such an agency who is at least 21 years of age; to the Committee on Education and Labor.

By Mr. BENNETT (for himself and Mr. RIDGE):

H.R. 5158. A bill to improve contracting procedures for procurements of advisory and assistance services by the Federal Government; to improve public access to information concerning such contracts and other contracts, and for other purposes; to the Committee on Government Operations.

By Mr. CLEMENT:

H.R. 5159. A bill to amend title II of the Social Security Act to provide for an improved benefit computation formula for workers who attain age 65 in or after 1982 and to whom applies the 15-year period of transition to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 (and related beneficiaries) and to provide prospectively for increases in their benefit accordingly; to the Committee on Ways and Means.

By Mrs. JOHNSON of Connecticut:

H.R. 5160. A bill to strengthen the role of United States business enterprises in the educational, community, and economic development of South African workers and their families; to the Committee on Foreign Affairs.

By Mr. KASTENMEIER (for himself, Mr. HYDE, and Mr. BOUCHER):

H.R. 5161. A bill to provide to Claims Court judges pay equality with judges of the U.S. Tax Court, to provide retirement and survivors' annuities for Claims Court judges, and for other purposes; jointly, to the Committees on the Judiciary and Post Office and Civil Service.

By Mr. LIPINSKI:

H.R. 5162. A bill to amend the Merchant Marine Act, 1936, to extend the Great Lakes set aside for the duration of the increase in the cargo preference; to the Committee on Merchant Marine and Fisheries.

By Mr. MACK (for himself and Mr. SMITH of New Hampshire):

H.R. 5163. A bill to provide that Members of Congress shall vote on any increase in the rates of pay of Members of Congress; jointly, to the Committees on Rules, Post Office and Civil Service, and House Administration.

By Mr. MAZZOLI (for himself, Mr. FRANK, Mr. SWINDALL, Mr. KASTENMEIER, Mr. RANGEL, and Mr. FUSTER):

H.R. 5164. A bill to provide for a hearing before an administrative law judge respecting the release of certain Mariel Cuban detainees; to the Committee on the Judiciary.

By Mr. MOLINARI:

H.R. 5165. A bill to promote the recruitment and retention of airways systems specialists; jointly, to the Committees on Post Office and Civil Service and Public Works and Transportation.

By Mr. RITTER:

H.R. 5166. A bill to permit the Federal Communications Commission to utilize value based assignments in awarding licenses for the use of the electromagnetic spectrum; to the Committee on Energy and Commerce.

By Mr. SLAUGHTER of Virginia (for himself, Mr. RINALDO and Mr. BURTON of Indiana):

H.R. 5167. A bill to make long-term care insurance available to civilian Federal employees, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. STALLINGS (for himself and Mr. CRAIG):

H.R. 5168. A bill to extend the moratorium on reconnaissance studies of plans for the importation of water into the Colorado River basin from certain other basins; to the Committee on Interior and Insular Affairs.

By Mr. STARK:

H.R. 5169. A bill to amend the Internal Revenue Code of 1986 to make permanent, and extend to 100 percent, the deduction for health insurance costs of self-employed individuals; to the Committee on Ways and Means.

H.R. 5170. A bill to amend the Internal Revenue Code of 1986 to treat the exclusion for certain loans to acquire employer securities as a tax preference for purposes of the minimum tax, and for other purposes; to the Committee on Ways and Means.

H.R. 5171. A bill to direct the Securities and Exchange Commission to develop stand-

ards for valuing stock which is not readily marketable for purposes of the provisions of the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 which relate to employee stock ownership plants; jointly, to the Committees on Energy and Commerce, Ways and Means, and Education and Labor.

By Mr. TRAFICANT:

H.R. 5172. A bill to amend the Internal Revenue Code of 1986 to allow a tax credit to corporations equal to 55 percent of the cost of relocating certain foreign operations to labor surplus areas in the United States, and to partially recover such tax benefits if a relocated foreign operation is terminated within 5 years after commencement; to the Committee on Ways and Means.

By Mr. GOODLING:

H.J. Res. 632. Joint resolution designating April 2, 1989, as "National Cleaning Professionals Recognition Day"; to the Committee on Post Office and Civil Service.

By Mr. TORRICELLI (for himself and Mr. WILSON):

H.J. Res. 633. Joint resolution designating August 14, 1989, as "America-Pakistan Day"; to the Committee on Post Office and Civil Rights.

By Mr. BILBRAY:

H. Con. Res. 347. Concurrent resolution welcoming the board of directors of the Japan Association of Travel Agents on the occasion of their visit to the United States; to the Committee on Post Office and Civil Service.

By Mr. HORTON:

H. Con. Res. 348. Concurrent resolution expressing the sense of the Congress concerning the 1988 Seoul Olympic Games; to the Committee on Foreign Affairs.

By Mrs. MARTIN of Illinois (for herself, Mr. HAYES of Illinois, Mr. SAVAGE, Mr. RUSSO, Mr. DAVIS of Illinois, Mr. LIPINSKI, Mr. HYDE, Mrs. COLLINS, Mr. ROSTENKOWSKI, Mr. YATES, Mr. PORTER, Mr. ANNUNZIO, Mr. CRANE, Mr. FAWELL, Mr. HASTERT, Mr. MADIGAN, Mr. EVANS, Mr. MICHEL, Mr. BRUCE, Mr. DURBIN, and Mr. GRAY of Illinois):

H. Con. Res. 349. Concurrent resolution commemorating the 130th anniversary of the Lincoln-Douglas debate and the rededication of the Lincoln-Douglas debate site; to the Committee on Post Office and Civil Service.

By Mr. ROSTENKOWSKI:

H. Con. Res. 350. Concurrent resolution authorizing the printing of a history of the Committee on Ways and Means; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. BADHAM introduced a bill (H.R. 5173) for the relief of Ray F. Seuga; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of the rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 592: Mr. GALLEGLY.
H.R. 1198: Mr. ECKART.
H.R. 1382: Mr. ECKART.
H.R. 1555: Mr. MCEWEN.
H.R. 1810: Mr. WOLPE.
H.R. 2036: Mr. ST GERMAIN.
H.R. 2268: Mr. ECKART.
H.R. 2697: Mr. DAUB.
H.R. 3241: Mr. VOLKMER.
H.R. 3314: Mr. JONTZ and Mr. HANSEN.
H.R. 3639: Mr. OBERSTAR, Mr. PARRIS, and Mr. MILLER of Ohio.
H.R. 3654: Mr. CONTE, Mr. SHAW, Mr. STUMP, Mr. WOLF, Mr. PURSELL, Mr. LUNGREN, Mr. HYDE, Mr. LATTA, Mr. BOEHLERT, Mr. TAUKE, Mr. LEWIS of Florida, Mr. HASTERT, Mr. COATS, Mr. ROGERS, Mr. SLAUGHTER of Virginia, Mr. STANGELAND, Mr. DYSON, Mrs. BYRON, Mr. ANDERSON, Mr. RHODES, Mr. ARMEY, Mr. GINGRICH, Mrs. MORELLA, Mr. LENT, Mr. YOUNG of Alaska, Mr. LUJAN, Mr. MILLER of Ohio, Mr. BEREUTER, Mr. BROOMFIELD, Mr. UPTON, Mr. BALLENGER, Mr. DONALD E. LUKENS, Mr. BURTON of Indiana, Mr. DREIER of California, Mr. DELAY, Mr. RANGEL, Mr. GUARINI, Mr. GILMAN, Mr. CHENEY, Mr. MARKEY, Mr. RINALDO, Mr. MCEWEN, Mr. SOLOMON, Mr. KYL, Mr. MCCRERY, Mr. BUECHNER, Mr. GRANDY, and Mr. PORTER.
H.R. 3723: Mrs. VUCANOVICH.
H.R. 3845: Mr. BERMAN.
H.R. 3864: Mr. BRYANT.
H.R. 3978: Mr. ATKINS, Mr. WEISS, and Mr. FEIGHAN.
H.R. 4119: Mr. PORTER, Mr. MORRISON of Washington, Mr. TAUZIN, Mrs. BENTLEY, Mr. MICHEL, and Mr. MACK.
H.R. 4127: Mr. CHANDLER, Mr. MURPHY, Mr. CLAY, Mr. EMERSON, Mr. NOWAK, Mr. ALEXANDER, Mr. RINALDO, Mr. MICA, Mr. SCHUMER, Mr. SKELTON, Mr. PENNY, Mr. VISCLOSKY, Mr. COYNE, and Mr. CARDIN.
H.R. 4390: Mr. TOWNS, Mr. BUECHNER, Mr. FAUNTROY, Mr. FRANK, Mr. ATKINS, and Mr. OWENS of New York.
H.R. 4472: Mr. BURTON of Indiana.
H.R. 4478: Mr. HORTON.
H.R. 4479: Mr. HORTON, Mr. ROE, Mr. EDWARDS of California, Mr. HYDE, Mr. JONTZ, and Mr. WYDEN.
H.R. 4548: Mr. ECKART.
H.R. 4570: Mrs. BOXER.
H.R. 4575: Mr. LIPINSKI, Mr. DELLUMS, Mr. MAVROULES, Mr. DE LUGO, Mr. WEISS, Mr. SOLARZ, Mr. BOEHLERT, and Mr. RINALDO.
H.R. 4632: Mr. GALLO, Mr. HASTERT, Mr. SHARP, and Mr. YATRON.
H.R. 4680: Mrs. MARTIN of Illinois, Mr. HEFLEY, Mr. EVANS, and Mr. HERGER.
H.R. 4695: Mr. TORRES, Mr. DYMALLY, Mr. MILLER of California, and Mr. JOHNSON of South Dakota.
H.R. 4866: Mr. PENNY and Mr. SHAW.
H.R. 4963: Mr. TORRICELLI and Mr. HOYER.
H.R. 4964: Mr. TORRICELLI and Mr. HOYER.
H.R. 4965: Mr. TORRICELLI and Mr. HOYER.
H.R. 4966: Mr. TORRICELLI and Mr. HOYER.
H.R. 4992: Ms. SNOWE, Mr. KENNEDY, Mr. DEFAZIO, and Mrs. PATTERSON.
H.R. 5000: Mrs. SAIKI, Mr. LANCASTER, and Mr. JONTZ.
H.R. 5001: Mr. ROE.
H.R. 5010: Mr. RAHALL, Mr. CAMPBELL, Mr. BOUCHER, and Mr. YOUNG of Alaska.
H.R. 5018: Miss SCHNEIDER, Mr. ROE, Mr. KASTENMEIER, Mr. DELLUMS, Mr. COOPER, Mr. RANGEL, Mr. DE LUGO, Mr. ACKERMAN, Mr. BATES, Ms. PELOSI, Mr. UDALL, Mr. HAWKINS, Mr. OBERSTAR, Mr. FAUNTROY, Mrs. COLLINS, Mr. FLAKE, Mr. FORD of Tennessee, Mr. CLAY, and Mr. DYMALLY.
H.R. 5032: Mr. PEASE, Mr. ACKERMAN, Mr. DIOGUARDI, Mr. FISH, Mr. GARCIA, Mr. GILMAN, Mr. HOCHBRUECKNER, Mr. HORTON, Mr. HOUGHTON, Mr. LAFALCE, Mr. MCGRATH, Mr. MCHUGH, Mr. MARTIN of New York, Mr. MRAZEK, Mr. NOWAK, Mr. SCHEUER, Ms. SLAUGHTER, of New York, Mr. SOLARZ, Mr. WEISS, Mr. WORTLEY, Mr. SCHUMER, Mr. BIAGGI, and Mr. ATKINS.
H.R. 5043: Mr. MACKAY.
H.R. 5056: Mr. LANCASTER.
H.R. 5068: Mr. BONIOR of Michigan, Mr. BORSKI, Mr. GEJDENSON, Mr. LANCASTER, Mr. MOLLOHAN, Mr. ACKERMAN, Mr. BOEHLERT, Mr. BUSTAMANTE, and Mr. HOCKBRUECKNER.
H.R. 5086: Mr. COELHO, Mr. LEWIS of Florida, Mr. HOPKINS, Mr. JOHNSON of South Dakota, Mr. CALLAHAN, Mr. WILSON, Mr. BEVILL, Mr. DE LUGO, Mr. PARRIS, Mr. NIELSON of Utah, Mr. TOWNS, Mrs. BENTLEY, Mr. MARTINEZ, Mr. MURTHA, Mr. YATRON, Mr. CLINGER, and Mr. HORTON.
H.R. 5119: Mr. RODINO, Mr. NOWAK, Mr. DIOGUARDI, Mr. MCGRATH, Mr. FLAKE, Mr. BIAGGI, Mr. DOWNEY of New York, and Mr. RANGEL.
H.R. 5129: Mr. ROBERTS and Mr. HATCHER.
H.R. 5151: Mr. KOSTMAYER, Mr. MURTHA, Mr. YATRON, Mr. KOLTER, and Mr. THOMAS of California.
H.J. Res. 330: Mr. KENNEDY, Mr. OLIN, Mr. JOHNSON of South Dakota, Mr. GRAY of Illinois, and Mr. LEHMAN of Florida.
H.J. Res. 390: Mr. FEIGHAN, Mr. STUMP, and Mr. DANNEMEYER.
H.J. Res. 540: Mr. DAVIS of Michigan, Mr. CHENEY, Mr. ESPY, Mr. BEVILL, Mr. BRUCE, Mr. JENKINS, Mr. FLIPPO, Mr. BADHAM, Mr. SHAYS, and Mr. HALL of Ohio.
H.J. Res. 543: Mr. BORSKI, Mr. CARDIN, Mr. CARPER, Mr. DAVIS of Michigan, Mr. FORD of Tennessee, and Mr. ECKART.
H.J. Res. 559: Mr. FORD of Tennessee.
H.J. Res. 574: Mr. RANGEL, Mr. GORDON, Mr. DEFAZIO, and Mr. BOLAND.
H.J. Res. 584: Mr. LANCASTER, Mr. RAVENEL, and Mr. EMERSON.
H.J. Res. 592: Mr. SWEENEY, Mr. HAMMERSCHMIDT, Mr. QUILLEN, Mr. GEJDENSON, Mr. PEPPER, and Mr. RHODES.
H.J. Res. 598: Mr. FOLEY, Mr. PURSELL, Mr. KANJORSKI, Mr. MURPHY, Mr. OWENS of New York, Mr. MILLER of Ohio, Mr. RAVENEL, Mr. NATCHER, Mr. SMITH of New Hampshire, Mr. BILBRAY, Mr. SUNIA, Mr. WALGREN, Mr. REGULA, Mr. JENKINS, Mr. MACK, Mrs. MARTIN of Illinois, Mr. GALLEGLY, Mr. LEWIS of Florida, Mr. JOHNSON of South Dakota, Mr. WOLF, Mr. SCHEUER, Mr. RITTER, Mrs. BENTLEY, Mr. CARPER, Mr. CHENEY, Mr. TOWNS, and Mr. HOLLOWAY.
H.J. Res. 609: Mr. CAMPBELL, Mr. CLINGER, Mr. ROWLAND of Connecticut, and Mr. BIAGGI.
H.J. Res. 613: Mr. KASICH, Mrs. BYRON, Mr. FRENZEL, Mr. SPRATT, Mr. LEVINE of California, Mr. BUNNING, Mr. MRAZEK, Mr. SHARP, Mr. FAZIO, Ms. KAPTUR, Mr. RANGEL, Mr. KLECZKA, Mr. HOLLOWAY, Mr. JONTZ, and Mr. JENKINS.
H.J. Res. 620: Mr. JEFFORDS, Mr. DORNAN of California, and Ms. SNOWE.
H. Con. Res. 258: Mr. BARNARD, Mr. MACKAY, Mr. THOMAS of Georgia, and Mr. YOUNG of Alaska.
H. Con. Res. 263: Mrs. MEYERS of Kansas.
H. Con. Res. 310: Mr. CHANDLER.
H. Con. Res. 326: Mr. HORTON, Mr. RAY, and Mr. UPTON.
H. Con Res. 329: Mr. KASTENMEIER, Mr. MINETA, Mr. FAUNTROY, Mr. EVANS, Mr. RANGEL, Mr. GARCIA, Mr. LEVIN of Michigan, Mrs. LLOYD, Mr. MAZZOLI, and Mr. KOLBE.
H. Res. 467: Mr. FAWELL, and Mr. FLORIO.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4396: Mrs. ROUKEMA.