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House of Representatives

The House met at 10 a.m.

The Reverend Lloyd W. Johnson, Jr., St. Paul's Episcopal Church, Pekin, IL, offered the following prayer:

Almighty God, who hast given us this good land for our heritage: We humbly beseech thee that we may always prove ourselves a people mindful of thy favor and glad to do thy will.

Bless our land with honorable industry, sound learning, and pure manners. Save us from violence, discord, and confusion; from pride and arrogance, and from every evil way. Defend our liberties, and fashion into one united people the multitudes brought hither out of many kindreds and tongues. Endue with the spirit of wisdom those to whom in thy name we entrust the authority of government, especially the Members of this House of Representatives, that there may be justice and peace at home, and that, through obedience to thy law, we may show forth thy praise among the nations of the Earth.

In the time of prosperity, fill our hearts with thankfulness, and in the day of trouble, suffer not our trust in thee to fail; all which we ask through Jesus Christ our Lord. 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.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER led the House in the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 1553. An act to amend the President John F. Kennedy Assassination Records Collection Act of 1992 to extend the authorization of the Assassination Records Review Board until September 30, 1998.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will receive five 1-minutes on each side.

WELCOMING REV. LLOYD W. JOHNSON, JR.

(Mr. LAHOOD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAHOOD. Mr. Speaker, we are privileged to have Rev. Lloyd W. Johnson, Jr., as our guest chaplain today. A native of Hartford, CT, Reverend Johnson has served as a priest of the Episcopal Church for 30 years. He is presently the Rector of St. Paul's Episcopal Church in Pekin, IL, which is in my district.

Born to Lloyd and Vera Johnson in 1939, he was raised in Connecticut and Vermont. In 1963, Reverend Johnson graduated from the University of Miami with a degree in business administration. He later was awarded his master of divinity degree from Nashotah House, a seminary of the Episcopal Church in Wisconsin.

Ordained to the ministry in 1966, he has served congregations of the Episcopal Church in southern Florida and in central Illinois.

Now Reverend Johnson is married to Jane Fontaine Gray, and together they have raised three children: A son, Mark, who toils in the House of Representatives as deputy chief of staff to our friend, the gentleman from Tennessee, Congressman ED BRYANT; Andrew, living and working in New Orleans; and Mary, living and working in San Antonio.

Above and beyond his ministerial duties, Reverend Johnson and his wife have devoted the majority of their free time to supporting the establishment of marriage through volunteer service in the ministry of Worldwide Marriage Encounter.

Mr. Speaker, I hope you will join me in welcoming Reverend and Mrs. Johnson to this Chamber and in thanking him for his words of thanksgiving and prayer. Welcome, Reverend Johnson.

TAX RELIEF ACT OF 1997

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

Mr. GINGRICH. Mr. Speaker, I rise to point out to my colleagues that yesterday the House cast a vote for the future by passing the first balanced budget in 29 years. This will give our children and grandchildren lower taxes, lower interest rates, more economic opportunity.

Today we cast a historic vote for America's families by passing the first tax cut in 16 years. Think of it. Tiger Woods was 5 years old the last time we had a tax cut. That is how long it has been. And while he was growing up, we had tax increase after tax increase. Now, finally, he wins the Masters and we win taxes, as time goes on. So I think that the people have a good reason to be interested and excited.

Those of our Members and those of the public who are interested, we have a new website, Speakernews.house.gov, which I recommend because one of the goals of this Congress is not only to return your money to you, but to return your Government to you by giving you the information that you can gain access to, so you do not need a lobbyist,

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you do not need a trade association, you do not need anyone between you and information about the U.S. Congress.

If you would like more information on the first tax cut in 16 years and first balanced budget agreement in 29 years, all you have to do is enter Speakernews.house.gov and you can get all the information at no cost, without paying anybody. Because you, as a citizen, deserve to know what your Congress is doing.

TAX CUTS: A WINDFALL FOR THE RICH

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

Mr. PALLONE. Mr. Speaker, the word is getting out to most Americans that the Republican bill being considered today provides tax cuts to the rich and not for the working middle class. But today I read in the New York Times that there is another huge tax break for the wealthy that most of us did not know about.

Buried in the estate tax section of the big tax cut bill is an obscure provision that would cost the Government $9 million a year in lost revenue and give a bonanza worth thousands of dollars to about a thousand wealthy taxpayers.

A tax lawyer in New York, who spoke on the condition that his name may not be used, said his client, who he would not identify, stood to save at least $100,000 in taxes if this provision in question became law.

Who knows what other tax breaks for rich individuals or corporations are in the Republican bill we will consider today? I urge my colleagues to vote ''no'' on this windfall for the rich at the expense of working Americans.

H.R. 1270 WILL DESTROY ENVIRONMENT

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, here we go again. Wake up America. The headline news from a June 20th New York Times article reads: ''Doubt Cast on Prime Site as Nuclear Waste Dump.'' The article states that ''researchers have found that rain water, which could dissolve nuclear waste, has seeped from the top of the mountain to 800 feet into its innards, where high-level waste would be stored, in just 40 years, much faster than scientists had predicted.''

The scientists had originally believed that it would take hundreds of thousands of years to travel the same distance. The article goes on to say that the find ''raises the possibility that radiation would be spread into the environment much sooner then they anticipated.''

Mr. Speaker, H.R. 1270 will destroy the environment and endanger lives. Do not waste your votes. I urge my colleagues to oppose this very bad bill.

FISCAL YEAR 1998 TAX BILL

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

Mr. DAVIS of Illinois. Mr. Speaker, Voltaire once said that the purpose of politics is to take as much money as you can from one group of people and give it to another.

It seems to me that that is exactly what my Republican colleagues have taken a page from, taking money from the low-income working class families so that they can give it to the rich, taking milk out of the mouth of babes so that the richest 5 percent of the people in our country get a break. Denying working families the opportunity to send their sons and daughters to college so that the rich, the wealthiest 1 percent of families, can boost their incomes by an average of $27,000 per year.

If this is what America is about, then I say, ''Gimme a break.'' That is why I support the Rangel Democratic alternative which will allow millions of Americans to realize real savings.

I also urge my colleagues to continue to do more, and that is why I have introduced a measure that will give working families with children up to age 18 additional relief and would further target capital gains credits for these families.

EPA IN OUR WALLETS AGAIN

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the EPA is once again in our wallets. The EPA is forcing American companies and workers to cough up $60 billion for new clean air regulations. To boot, EPA's own scientists say these regulations are not justified. Now if that is not enough to file your chapter 7, Congress never approved them. Beam me up. Talk about a government coming at us. IRS one day, EPA the next.

Wake up, Congress. The people did not elect the EPA. They elected a Congress to run our Government. I say fire these fat-cat bureaucrats of the EPA who are so dumb they could throw themselves at the ground and miss. After all, we can hire regulators a lot cheaper from Korea to screw our country up.

I yield back the balance of any more of this pollution.

□ 1015

AMERICA IS OVERTAXED

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

Mr. HEFLEY. Mr. Speaker, American people are certainly not undertaxed. From the moment you wake up to the moment you go to sleep, and even while you are sleeping, you are being taxed.

When you have your morning coffee, you pay a coffee tax. When you take a shower, you pay a water tax. When you get in a car to drive to work, you pay a gas tax and a property tax. While you are at work, you are accruing an income tax. You pay electricity taxes all day and when you get home at night and turn on your TV, you pay a cable tax. Even when you flush the toilet, you are paying a tax.

Americans are tired of paying so much in taxes for a government that is so lacking in accountability and responsibility. Today we have a tax reduction bill. It does not go as far as I would like, but it is the first step toward getting government off the backs of the people and probably the only tax relief bill we will get past the veto pen of Bill Clinton.

Mr. Speaker, support real tax relief for all Americans today.

TAX RELIEF FOR THE WEALTHY VERSUS TAX RELIEF FOR THE NATION

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, today the American public will witness the difference between the two parties. Today the Republicans will put on the House floor a tax bill that will provide the overwhelming amount of benefits to the top 1 percent of the taxpayers in this country, taxpayers earning in excess of $250,000, that will get $27,000 in tax relief while the lower 60 percent of the taxpayers in this country will get only 12 percent of that relief.

What does that mean? That means that millions of American families who work every day, go to work, pay their taxes, starting police officers, school teachers and others with children, will not get the benefit of this tax bill. Why will they not get the benefit of this tax bill? Because the Republicans have decided that this should be tax relief for the wealthy as opposed to tax relief for the Nation. They have decided that this tax relief should be directed at those who need it the least and it should be taken from those who need it the most.

Mr. Speaker, that is the difference that will be debated on this floor today. That is why this legislation eventually will be vetoed by the President of the United States.

THE 50TH WEDDING ANNIVERSARY OF GROVER AND LORENE HOBBS

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

Mr. BARR of Georgia. Mr. Speaker, 50 years ago this Saturday, Grover Hobbs and Lorene Fincher were married in Heard County, GA. After Grover

served 7 years as a gunner in World War II, he went to work for Lorene's father, where they first met.

After they wed, they lived on a small farm in Harrisonville, GA, and every day Grover commuted to Hapeville, GA, to work for Ford Motor Co. During this time, Lorene worked at Callaway Mills until she decided to quit in order to raise their three children. In 1975, Grover and Lorene sold the farm and went to work for Milliken Mills until their retirement in the late 1980's.

In addition to working hard and raising a great family, the Hobbses helped to found the Harrisonville Baptist Church in which, as a church service, they regularly visit the local nursing home.

It is extremely heart warming, Mr. Speaker, to see two people so devoted to church, their family, and of course to each other. Their commitment truly personifies what marriage ought to be. I would like to extend the warmest of congratulations to Grover and Lorene Hobbs for years past and years to come of a happy and healthy marriage on their 50th wedding anniversary.

REPUBLICAN TAX BILL OFFERS BONANZA FOR AFFLUENT, CRUMBS FOR WORKING CLASS

(Ms. VELÁZQUEZ asked and was given permission to address the House for 1 minute.)

Ms. VELÁZQUEZ. Mr. Speaker, the Republicans will stand here today and say that they are bringing tax relief to the middle class. They complain that the Democrats are being less than honest about the Republicans' attack on working families. Well, Mr. Speaker, even the Wall Street Journal, no friend of the Democrats, agreed with us.

Here it is in the Wall Street Journal. The Republican bill is, and I quote, ''a bonanza for the affluent, crumbs for the working class.'' It ''shamefully short changes the working poor.'' The Wall Street Journal says that under the Republican plan, Bill Gates will get a $4,000 tax break for education expenses, while a new police officer making $23,000 will be denied a tax credit for his kids.

Mr. Speaker, if the Republicans are not listening to the American people and they are not listening to the Wall Street Journal, it seems obvious who they are listening to, to their campaign contributors.

PROVIDING FOR CONSIDERATION OF CONCURRENT RESOLUTION PROVIDING FOR ADJOURNMENT OF HOUSE AND SENATE FOR INDEPENDENCE DAY DISTRICT WORK PERIOD

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 176 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 176

Resolved, That upon the adoption of this resolution it shall be in order, any rule of the House to the contrary notwithstanding, to consider a concurrent resolution providing for adjournment of the House and Senate for the Independence Day district work period.

The SPEAKER pro tempore (Mr. UPTON). The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MOAKLEY), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 176 provides for the consideration in the House of a concurrent resolution providing for the adjournment of the House and Senate for the Independence Day district work period. All points of order are waived against the resolution and its consideration.

As Members are aware, section 309 of the Budget Act states that the House cannot adjourn for more than 3 calendar days in July if it has not completed actions on all appropriations bills. In addition, section 310 requires that reconciliation legislation if directed by the budget resolution, be completed before such an adjournment.

Ordinarily, these two potential points of order against an adjournment resolution for the Fourth of July District Work Period are waived by unanimous consent. In fact, we attempted to work with the minority to reach an acceptable unanimous consent agreement. When we were in the minority, we consistently allowed these unanimous consent agreements. This year, however, the minority rejected our request.

It is true that the Congress has not completed its work on the appropriations bills and the reconciliation legislation, and I guess I can understand the despondency of the minority. The past few days have not been enjoyable for those who support high taxes and big government solutions.

However, these are extraordinary times for those of us who support the axiom that the Government is too big and spends too much. In fact, I would say that this Congress, more than any other, has led the way in exhibiting fiscal sanity.

No, the appropriations bills and the reconciliation legislation are not yet complete. However, balancing the budget is more difficult than the practice of past Congresses, which simply passed irresponsible debt on to our grandchildren.

America was headed for a future in which interest on the debt would surpass spending on the defense of our Nation, a future in which Medicare would go bankrupt by 2002, and a future which had taxpayers giving more and more of their hard-earned money to support a bloated Washington bureaucracy.

Our Nation could have lost control of its destiny, but this Congress took action to save Medicare, pass a balanced budget and provide massive tax relief for our families. These are truly historic accomplishments.

Independence Day is a time to celebrate the birth of this Nation and the perseverance of the Founding Fathers who fought the heavy hand of government and oppressive taxes. The budget passed by this Congress reduces the oppressive taxes on American families and balances the budget.

Mr. Speaker, this resolution simply allows us to go home to our friends and neighbors to listen to what our constituents have to say about issues that are important to their lives. As we celebrate the birth of our Nation with them, I believe they will be very pleased to celebrate the triumph of lower taxes, less Government and more freedom.

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

Mr. MOAKLEY. Mr. Speaker, I thank the gentleman from Georgia [Mr. LINDER] for yielding me the customary half hour, and I yield myself such time as I may consume.

Mr. Speaker, this resolution is one more way for the Republican leadership to go on vacation before their work is done. It is one more way for my Republican colleagues to get out of their responsibilities to the people of this country, and I think it is a bad idea. Normally adjournment resolutions are privileged, but in the rare cases when Congress fails to get its work done, the Budget Act kicks in and exposes these adjournment resolutions to points of order.

According to the Budget Act, Mr. Speaker, the House cannot adjourn for more than 3 days unless it passes all its appropriations bills and unless the reconciliation bill has been signed into law. Mr. Speaker, we all know the appropriations bills are nowhere near finished.

The first part of the reconciliation bill passed the House only last night and the second part of the reconciliation bill will be considered for the first time later today. The Senate has just started debating the reconciliation bill and the conference committee has not even met yet. In other words, Mr. Speaker, if you are waiting for these spending bills to be finished, please do not hold your breath.

Mr. Speaker, the American people sent us to Congress to act responsibly and the Congressional Budget Act gives us some very specific responsibilities. Section 300 requires that Congress complete action on reconciliation legislation by June 15 and pass all 13 appropriations bills by June 30. Mr. Speaker, this Congress has not even come close. The appropriations bills may not seem urgent now, but unless the House does its work and unless the House gives the Senate enough time to do its work, we will be approaching another September 30 without all appropriations bills being signed. If we fail

to finish the appropriations bills and they are not signed into law, the American people could very well see their Government shut down for the third time under the Republican leadership's watch. All because the Republican leadership has not done their work.

That is not the worst of it, Mr. Speaker. What the Republican leadership has done is even worse than what they have not done. This week the Republican leadership unveiled their tax and entitlement package and, Mr. Speaker, it does not look good. Under the Republican bill, the families of 40 percent of American children will get no tax relief because their income is too low.

Let me add, Mr. Speaker, these people are not on welfare. These people actually work for a living. Meanwhile, according to the Center on Budget and Policy Priorities, the Republican bill provides 87 percent of its benefits to the richest 20 percent of Americans while the 40 million families with the lowest income may actually lose money.

Even the Treasury Department says that when this bill has been fully implemented, the top 1 percent of taxpayers will get nearly 20 percent of the benefits, and the bottom 60 percent will get only 12 percent of the benefits.

Once again, Mr. Speaker, the Republican leadership is taking from the poor and the middle class and giving to the rich. It is a Robin Hood reversal. It does not stop there, Mr. Speaker. According to today's New York Times, a small provision in this Republican bill will take $9 million and split it among 1,000 wealthy taxpayers. Some of these taxpayers actually stand to gain $100,000 each under this bill.

Mr. Speaker, not 5 miles from here are American children who do not get enough to eat during the summer because they have lost their school lunches, but my Republican colleagues still want to hand those enormous tax breaks to the very richest Americans and hand just about nothing to the rest.

Mr. Speaker, the American people do not think millionaires need more money. They think everyone else needs child tax credits and tuition tax credits. The American people do not think the richest 1 percent of Americans need a $27,000 tax break and certainly not if it is going to cost the poorest 20 percent of American families $63 apiece to give it to them. But that is exactly what my Republican colleagues want to do.

On the other hand, Mr. Speaker, the House Democrats have put together a bill that gives tax relief to the people that really need it, the middle class, people who are trying to send their kids to college, working families, and family-owned businesses.

I urge my colleagues to join me in opposing this resolution. This Congress should be helping the middle class and not padding the pockets of millionaires.

□ 1030

And we should have finished our work a long time ago.

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

Mr. LINDER. Mr. Speaker, I yield myself 1 minute to respond to the gentleman from Massachusetts who is so concerned that we have not completed our work.

The same argument came up 1 year ago on this same issue because the Democrats at that time were again not cooperative on unanimous consent. My colleague, the gentleman from Florida [Mr. DIAZ-BALART], went back 6 years prior to 1996 and discovered that not once, not once during those 6 years were all 13 appropriations bills passed by the July recess; and indeed, if we go back 40 years, one time, 1988, were all the appropriations bills passed by the July recess.

. . . .

Mr. MOAKLEY. Mr. Speaker, I take the gentleman's words down calling me dishonest.

Mr. LINDER. Mr. Speaker, I apologize and ask unanimous consent to withdraw the words.

The SPEAKER pro tempore. Without objection, the words are withdrawn.

There was no objection.

Mr. MOAKLEY. Mr. Speaker, I would like to ask the gentleman to look at the last year of Speaker Foley when we passed all 13 appropriations bills.

Mr. LINDER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I will not withdraw my words. I am not going to impugn anybody's integrity. But I am going to talk about two kinds of baloney, two kinds. One is the baloney about why we are not going home this week and why we ought to stay here and work, because that is a lot of baloney; and then I am going to talk about complaining about the tax cuts, and let me tell my colleagues that is a lot of baloney on the other side of the aisle.

Let us talk about it for a minute. First of all, the gentleman from Massachusetts [Mr. MOAKLEY], my good friend, and I have the greatest respect for him, I literally love him. He is my ranking member over on the other side of the aisle. He sings little Irish ditties, and he really keeps us in a good mood, so I certainly would never impugn his integrity. But let me just say he mentioned something about how we ought to stay here and deal with this business.

As my colleagues know, back in 1993 the Democrat-controlled House and the Democrat-controlled Senate and the Democrat-controlled White House under President Clinton gave us on October 10 the biggest tax increase in history. Now that was, I beg my colleagues' pardon, on August 10. Now that is several, a couple of months down the road yet, but we Republicans, having taken control of the House and the Senate, are now giving the American people one of the biggest tax cuts in American history, and we are doing it way ahead of that August 10 date. So boy, we are on line.

So let us just talk for a minute about not having the work done. As my colleagues know, we have just passed the largest spending cut bill in centuries here; OK. Seven hundred billion dollars in entitlement controls; come over here and read them. And we had about 53 good Democrats vote for this yesterday along with the overwhelming majority of Republicans, and the President of the United States, thank goodness, is going to sign the bill over the objections of the big spenders on that side of the aisle.

Now let us talk about the big spenders for a minute because I am going to sit here for the next hour and I am going to keep track of all of the people who come over here and start complaining about this tax cut; OK? Mr. Speaker, I want you to listen. These Members who oppose the tax cuts, keep in mind that every single one of them are going to be on the National Taxpayers Union's list of biggest spenders.

Now why do my colleagues think they want to oppose this tax cut? Because they want to keep the money in the Federal coffers so that they can spend it and the American people cannot.

Now let me tell my colleagues something about this tax cut here. There is a $500 tax credit for people with children. Now that means a family of 3, and in my Hudson River Valley municipalities all 157 of them, that is about what we are made up with; we are an average of a family with 3 children, and this is going to give them $500 per child tax credit every year for the next 15 years. Now add that up; that is $1,500 a year we are putting back into the pockets of that family, 15 years. Quick calculation: that must add up to about $22,500 a year over 15 years; and if they invest it properly, it is going to be worth maybe $40,000, $50,000 or $60,000 over 15 years. Do my colleagues know what that does at paying college tuitions?

I just put five kids through college. My wife and I had five children in 7 years, and we struggled all those years to raise those children and then to put them through college. Let me tell my colleagues $65,000 would have been a godsend to us, but we did not have this $1,500 tax credit at that time; we are going to get it today.

So I want my colleagues to come over here, and I want them to do what is right for the American people. I want them to vote for this tax cut package. But in the meantime we are going to keep track of all of them that come over here, and they will be the biggest spenders in the Congress, and they will have been here for years spending the taxpayers' money. So let us just keep track of it, and then we are going to send it out to all their constituents and let them know that

our colleagues can spend their money better than they can.

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

Mr. Speaker, my chairman of the Committee on Rules and I are very, very friendly, and this debate is strictly on the issue. But actually up in his office, really being ourselves, we really do get along, and actually I was looking forward when he talked about baloney because I thought he was talking about the menu of those people that I represent. As my colleagues know, his people are going to be eating steaks when this tax bill goes through; my people are going to be eating baloney.

Mr. Speaker, I yield 15 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I thank the gentleman from Massachusetts for yielding the time.

I also want to say that I do not think that the American people do believe it is baloney if we stay here and do the work they sent us to do here.

House rules say that we cannot go on vacation until it is finished with appropriations work, and we know that the work has not been finished, otherwise we would not be here asking for a waiver. And the reason why the work is not finished is because what we have seen here is that the Republican majority has spent their time crafting a tax bill that in fact benefits the rich at the expense of average American families. And in fact we have a historic opportunity and the American public has an opportunity to take a look at what is in a Republican tax cut proposal and what is in a Democratic tax cut proposal because the Democrats in fact have a very sound and solid tax cut proposal.

My colleagues on the other side of the aisle accuse us of waging class warfare in this debate, but in fact it is the Republican tax bill that is a declaration of war on working middle-class families in America. Under the Republican bill, over half the tax benefits go to the top 5 percent of Americans, those making an average of $250,000 a year. And quite honestly what this bill does, it gives a $22 billion tax break to the largest businesses and corporations in the United States by scaling back the alternative minimum tax which was in fact proposed and supposed to ensure that large corporations pay at least some taxes the way that ordinary working families pay taxes in this country every year.

But do not just take my word for it. Let us take a look at this morning's headlines. The Washington Post: No to a bad tax bill. And I quote: ''The tax bill will be the great atrocity'', is what the Washington Post says this morning. The New York Times, quote: ''Break for a few rich, for the rich few, sneaks into the tax cut bill''. We are going to see $9 million a year in lost revenue to the United States to give a bonanza worth thousands of dollars to 1,000 wealthy taxpayers. What about working middle-class families in this country?

Mr. MILLER of California. Mr. Speaker, will the gentlewoman yield?

Ms. DELAURO. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, I think the gentlewoman asked the absolutely pertinent question here, what about working middle-class families, and it is pointed out in this morning's Wall Street Journal. What we see is people who were earning $23,000 a year with two children will find that at the end of that year they will not get the benefits of this child's tax credit, they will not get the benefits because the Republicans have decided that the benefits will only go to those individuals at the top levels.

Rather than sharing this tax cut, rather than sharing the money that is now being accumulated because of the efforts to balance the budget over the last 5 years with these middle-class families, they have decided, as the gentlewoman pointed out, that half of the benefits will go to the top 5 percent of the people in this country.

And so people who are going to work every day as law enforcement officials, as fire protection people, as teachers, as oil refinery workers are going to find out that they will not qualify for that.

In fact, in my State of California 56 percent of the children will not be eligible for the child tax credit, and I think that is what is going to happen to working families, and I thank the gentlewoman for pointing that out.

Ms. DELAURO. Mr. Speaker, I thank my colleague.

Mr. PALLONE. Mr. Speaker, will the gentlewoman yield?

Ms. DELAURO. I yield to my colleague from New Jersey.

Mr. PALLONE. Mr. Speaker, I just wanted to say I am looking at some figures with regard to New York State, the gentleman from New York [Mr. SOLOMON] who spoke before on the Republican side. It says that tax plans, the child credit, the child credit under the Republican plan would exclude 53 to 56 percent of the children in New York State; 3,183,357 New York kids will be ineligible under the House plan for the child tax credit. This is from Citizens for Tax Justice, a nonpartisan Washington-based research organization that released a study today showing that the proposed child credit in the pending House of Representatives tax plan would exclude 56 percent of New York children. The Senate bill would exclude 53 percent. Obviously the families of New York have been promised a child tax credit for 3 years, but now many of them, the majority of them will actually get nothing.

Ms. DELAURO. That is absolutely right. I just say that there is a Los Angeles Times article this morning: Take from the poor give to the rich. The current Republican tax and entitlement package denies help to 28 million working families.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentlewoman yield?

Ms. DELAURO. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, my colleagues ought to make clear the basis on which the Republicans are denying these families that participation in the tax cut. They are apparently under the impression that Social Security payroll taxes are not taxes but are a voluntary gift that the lowest earning people in America make to the Government. What the Republican bill does is to say that people who get the earned income tax credit will not be eligible on the whole for this other credit.

Now the earned income tax credit was something that Ronald Reagan thought well of, but the current group has made some of us who believe in moderation nostalgic for Mr. Reagan from time to time because what they say is this. The earned income tax credit compensates people who have families, by and large, who make 20 and 25 and $26,000 a year and who pay the highest percentage of their income in taxes of any of us because every penny they make is fully taxed under the Social Security payroll tax. And what the earned income tax credit does is offset to some extent the regressiveness of the Social Security payroll tax, and people who get the earned income tax credit, they do not get the earned income tax credit unless they are working or paying payroll tax on all of their income and they are then getting some credit for that less than the aggressiveness. And the Republicans are now saying, ''If that's your situation, you're not a taxpayer.'' They said we cannot give this to people, they do not pay taxes.

Mr. Speaker, if Social Security payroll taxes are not taxes, then I guess we need a new dictionary and that is how it becomes so regressive. What they are saying to people is, ''You are paying these very aggressive Social Security taxes,'' for which, by the way, according to the Senate they have to wait a couple more years to get anything for medical care, ''and we are going to deny you as a consequence of that the tax credit.''

Ms. DELAURO. I will just say that, if we are Bill Gates we are going to get a tax credit, but a police officer who is making $23,000 a year who might be happy to get the earned income tax, paying taxes, is going to be denied a child tax credit.

Mr. FRANK of Massachusetts. The argument that we have heard from Republicans, from the Speaker, and others that, ''Oh, you shouldn't give the tax credit to these people who don't pay any taxes,'' they forget to say income taxes or capital gains taxes, that is true. Very few of these people making 23 and $24,000 a year are paying capital gains taxes. They are paying the Social Security taxes in the most aggressive way; that is the group of people who are getting hurt by this.

Mr. MILLER of California. The fact is many young families starting out with young children pay more in payroll taxes, Social Security than they pay in income taxes. But the Republican plan will not give them the benefit of the $500 child credit.

What does that mean? That means that these working families making 20, $25,000 a year are going to find themselves without the benefit of this. They still have two young children. They are still struggling hard. But the Republicans do not understand that because one does not make a lot of money does not mean they do not work hard. They work very hard and they pay the most regressive taxes, and they refuse to give the child credit to those families.

Mr. FRANK of Massachusetts. Mr. Speaker, if the gentlewoman will continue to yield, the gentleman is absolutely right, and I think what we have here is something we can offer up to the dictionary. This is the definition of adding insult to injury. These working people who work in hard jobs at relatively low wages are injured by the Republican bill by being denied the tax credit that everybody else gets. Even if they have two and three children, their children do not qualify, and then they are insulted by being characterized as people who do not work and as simply tax eaters.

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I would just close by saying we have this national effort, I thought, to help people get off welfare and into the wage-earning pool. Well, it is precisely the formal welfare recipients who are being told to go to work, who are being required to go to work, who will then be penalized by the way the Republican tax bill is crafted, because they will go to work at the beginning at relatively low wages, will pay a full Social Security tax for every penny they earn, but not get the tax credit.

Mr. WYNN. Mr. Speaker, will the gentlewoman yield?

Ms. DELAURO. I yield to the gentleman from Maryland.

Mr. WYNN. Mr. Speaker, I share my colleague's concern. I too am appalled when I hear the Republicans suggest that the Democratic tax plan amounts to welfare. It is basically tax fairness. They are giving all of the tax breaks to the wealthy. The top 5 percent are getting over 50 percent of the tax breaks under their proposal, and then when we say that the Democratic alternative provides tax relief for the truly working middle class, they suggest it is welfare.

I did a little research and an article in the Wall Street Journal indicated that a police officer in Gwinnett County, GA, incidentally the Speaker's district, makes about $23,000 a year. Under their program, he is not eligible for a tax break, yet he pays payroll taxes. He is, in fact, the working middle class of people who are excluded by the proposal of the Republicans.

Basically what they are offering us is not tax relief for Americans, it is tax relief for the rich. My grandmother used to say when I was a kid, the rich get richer, the poor get poorer. I think we are seeing it in action today.

Ms. STABENOW. Mr. Speaker, will the gentlewoman yield?

Ms. DELAURO. I yield to the gentlewoman from Michigan.

Ms. STABENOW. Mr. Speaker, if I could just add to that, that police officer making $23,000 is getting a tax benefit through something called earned income tax credit. The Republican plan is saying, if one is getting one tax deduction, one cannot get a second, meaning the $500 children's tax credit as we see it.

Mr. MOAKLEY. Mr. Speaker, will the gentlewoman yield?

Ms. DELAURO. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Speaker, I would like to say I have just been handed an item from the Citizens For Tax Justice, which is a nonpartisan Washington-based research group, saying that 897,000 Massachusetts children would be ineligible under the House plan, and 850,000 would be ineligible under the Senate plan. That is 48 percent of Massachusetts' children ineligible under the House plan and 46 percent ineligible under the Senate plan. This is not a good bill for children.

Ms. STABENOW. Mr. Speaker, will the gentlewoman yield?

Ms. DELAURO. I yield to the gentlewoman from Michigan.

Ms. STABENOW. Mr. Speaker, if I might just continue in talking about fairness, when we each do our taxes, we use tax deductions. What the Republican plan is saying is if one gets one tax deduction, one cannot get the $500 children's tax credit; but yet if one makes three times that salary and one gets a lot of different tax deductions, one gets the $500. That makes absolutely no sense. For those on the upper end who get lots of tax deductions, they ought to be treated the same, or the folks at the low end who ought to get a couple breaks ought to get the same benefit of the $500.

Ms. DELAURO. Mr. Speaker, reclaiming my time, the 1,000 families who are going to get some, and it is quoted in the article today, could get up to $100,000 in that particular tax cut and are probably going to get many others.

I think another area which is important to mention in this debate is that with the Democratic tax cut proposal, we are going to see working families who want to get their kids to school and provide education for their kids; education in this country has been the great equalizer to allow families to be able to have their kids succeed.

The Democratic proposal is for the full $1,500 tax credit for college students, where the Republican proposal would cut that in half, would not allow working families to realize a HOPE scholarship and provide them with all of the help they might be able to get to get their kids to school.

Mr. ALLEN. Mr. Speaker, will the gentlewoman yield?

Ms. DELAURO. I yield to the gentleman from Maine.

Mr. ALLEN. Mr. Speaker, the gentlewoman makes a very good point. Because in fact, the HOPE credit, the HOPE scholarship would be offset, reduced dollar for dollar by the amount of a Pell grant. So here again we have the same situation, where if one gets a Pell grant one cannot get the full benefit of a HOPE scholarship.

It seems to me that this Republican tax bill ought to be judged by two standards. One is fairness and the other is fiscal responsibility. We have talked a fair bit about fairness.

This bill provides 41 percent of its benefits to the top 1 percent of the taxpayers, those whose household incomes are over $240,000 a year. In contrast, 20 percent of those in lower tax brackets would not receive any benefit. It is simply not fair.

Also, in terms of fiscal responsibility, we look out at the second 10 years, and we are going to be giving up $500 to $600 million in tax revenues that is not going to help a balanced budget. We need a balanced budget that we can get to and stay with, and these tax cuts explode in the outyears, they are not fiscally responsible, and they ought to be rejected for that reason as well.

Mr. LINDER. Mr. Speaker, I yield myself 1½ minutes just to respond to some of these remarks we have been hearing.

The liberals have always trotted out liberal so-called nonpartisan organizations to argue against letting people keep more of what they earn, and we are seeing it now. How do these people get wealthy? Let me tell my colleagues how the administration determines who is wealthy.

They determine what one's income is, say it is $50,000 a year, and then the Treasury Department says, but, aha, if one is living in one's own home and one could rent it for $10,000, one must consider that as more income, even though one does not get it. If one owns an asset that has appreciated in value and have not sold it, their proposal says, if it has grown in value, one must consider that as part of one's annual wealth. So they have bogused up these numbers to make everybody appear wealthy so they can transfer more money as welfare to the poor. This is an effort to undermine last year's welfare reform.

I would like to also point out that their arguments go against the Joint Tax Committee's argument, which is the only official organ for determining distribution tables. The Joint Tax Committee says the following: Ninety-three percent of the benefits go to people with incomes of less than $100,000 a year; 76 percent of the benefits go to people with incomes below $75,000 a year. That simply is a fact. It is not a comfortable fact for liberals, but it is a fact.

Mr. Speaker, I yield 4 minutes to the gentleman from Florida [Mr. SCARBOROUGH].

Mr. SCARBOROUGH. Mr. Speaker, I do not know what it is, maybe it is the summer heat, maybe it is the 50th anniversary of Roswell, but the Democrats, the liberals, actually the radicals that control this party are crawling out from underneath their rocks and once again showing why they were voted out in 1994.

Here we have people that increase the crushing tax burden on the American family from 10 percent when they gain control to something like 50.2 percent, according to NTU, in 1994, lecturing us on taxes. They gave us the highest tax increase in the history of this country a few years ago, and yet they are still talking about how if we actually give tax relief to Americans, that it is going to crush the poor children 5 miles from the Capitol.

I think they have got it backward. The children 5 miles from the Capitol that are suffering are suffering because of higher taxes and bigger Government spending and more regulations that they are going to shove down the American people's throats this summer. I think if they talk about the problems in south central L.A. or in Chicago, it is because government has failed, the big taxing and big spending policies have failed.

Let me challenge every one of these big spenders, every one of these people that have supported taxes over the years, to stand up and tell us how much they care about the children 5 miles from this Capitol when the delegate from Washington, DC begged for tax relief. The gentlewoman from the District of Columbia said please, give us a flat tax. Please cut taxes in Washington, DC. She was abandoned by every single liberal that stands up here today and acts as if they really do care about what happens 5 miles from this Capitol; and no, I am anticipating the gentleman's question, I will not yield. My colleagues on the other side of the aisle all have already put on their sideshow.

I want somebody that stood up a few minutes ago talking about how much they care about the residents of this inner city and the residents of inner cities all over the country to stand up and tell me that yes, they do support the tax plan of the gentlewoman from the District of Columbia [Ms. NORTON] for tax reduction in this city.

My colleagues cannot have it both ways. They cannot say sure, we want to help them, and yet every time there is a chance to cut taxes and give tax relief to American people, my colleagues fight it time and time again.

This is not about protecting the poor. My colleagues know that tax relief has helped the poor. History has shown it time and time again. This is about protecting the coffers of the Federal Treasury and keeping more and more money in Washington, DC and not allowing it to get out.

Again, I challenge anybody, and I especially challenge the ranking member who I am sure does sing really good Irish ditties, and a man that I respect watching him work, I challenge him. I would challenge the ranking member and again, any other liberal that stood up here opposing tax relief talking about how they care about what happens 5 miles from Washington, DC to stand up and say yes, we will support the plan of the gentlewoman from the District of Columbia [Ms. NORTON] for a flat tax in Washington, DC. If so, then I think that is a good start to agree that Americans need tax relief.

Like the Delegate from Washington, DC recognizes herself, big spending, big taxing, big government has failed. What Americans need now is tax relief, and tax relief helps everybody.

My colleagues just cannot have it both ways. They cannot quote liberal columnists like Al Hunt, they cannot quote liberal agencies run by, I believe, Ralph Nader, and then come in here and say they want to help people in the inner cities when they turn their backs on the very delegates from those inner cities who beg for tax relief.

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

I am glad my colleague brought that up. What he is talking about is exactly what I am going to do. The Democratic alternative does help these children 5 miles from here. The Rangel alternative does help these children 5 miles from here, but it does not give those 1,000 people up to $100,000 additional tax break.

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

Mr. LINDER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, first of all, I have some good news for my colleagues. Well, no, it is not good news for the big spenders, because the Supreme Court a few minutes ago, within the last hour, just threw out the case of the opponents of the line-item veto for lack of standing. Whoopee. We won another one.

Now, let us just answer some of the people here that are talking about people with children are not going to get this tax cut, this $500 tax credit. Again, here we go with the baloney again. Anybody paying Federal income taxes is going to get that tax cut, make no mistake about it.

Now, we are also hearing about this 5 percent, that all of the tax cuts are going to 5 percent of the most rich. Let me state the facts for you. Seventy-two percent of these tax cuts in this bill are going to people with incomes between $20,000 and $70,000, and that means people on Social Security as well, who may be working and paying a little income tax as well.

Mr. Speaker, I heard the gentleman from Massachusetts [Mr. FRANK] stand up here and talk about the regressiveness of the Social Security payroll tax. Well, what is the payroll tax and why was it established under Franklin Delano Roosevelt? It was a forced savings account so that the American people, all of them who work, would have to save a little bit for the rainy day so that they would not become wards of the State and the rest of us who did save would have to end up supporting them.

☐ 1100

That is what it is all about. Nothing regressive about it. It means that with the first few thousand dollars of your income you are going to put away a little bit of that. That is the way it should be.

Now people are complaining that maybe some people with incomes of $25,000 do not pay any income tax and therefore they do not get this credit. Let me tell them what we are going to do. In this spending cut bill we are cutting back on Federal regulation.

If Members look at the other taxes they pay in town, city, village, and county taxes and all of the fees, it is caused mostly by this Federal Government, their mandates. We are not going to mandate on local governments anymore, forcing them to raise land taxes.

So come on over here, vote for this tax cut bill, and let us give it to the President. I have a feeling he is going to sign it.

Mr. LINDER. Mr. Speaker, I yield 3 minutes to the gentleman from South Dakota [Mr. THUNE].

Mr. THUNE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I was sitting in my office listening to the debate that was going on over here, and I could not help but feel the need to come over and respond. There is a lot of liberal drivel going on in this Chamber right now. I cannot help but get up here and say something in response to that.

If I were on the other side I would be crushed, too, I really would. Because we have worked with their President to balance the budget, lower taxes, and save Medicare. This is an indictment of big Government. We are saying today we are interested in doing something to address a problem that has been around this place for 30 years. We have not had the courage to balance the budget, to lower the tax burden, or to address a bigger and bigger Government in this country.

I cannot help but listen as well and respond to what is being said about trying to somehow gear this thing so that it affects people in lower-income categories.

People in my State, in South Dakota, understand the difference between the income tax and the payroll tax. You pay 6.2 percent of your income when you get a payday, so you will have a security program, a retirement program when you retire. You pay 1.45 percent so you will have a health care program when you retire. You are paying that for a benefit. You cannot have a tax credit if you do not pay taxes.

What this simply says, and I think the distinction, the difference we are

drawing here is that we want to bring tax relief to people who are paying taxes, and they want to increase payments, welfare payments, to people who are not. It is that simple. You cannot have it that way. If you are going to have a tax credit, you have to pay taxes.

I used the illustration last night, if we told people with red hair they were going to get a tax credit, my daughter would qualify. But she does not pay taxes, so she cannot get a tax credit. The Medicare and Social Security payment are retirement programs that people pay into so they will get a benefit later on. They cannot have a tax credit unless they are paying taxes.

I would say to my colleagues here that we have a definition problem. We have a definition problem here, because we have to draw a distinction between a tax credit and a government payment. The earned income tax credit today, 80 percent of it is a payment. It is not a credit. Let us make that very, very clear. So people who are currently getting an earned income tax credit are already offsetting the payroll tax they pay in Social Security and Medicare.

What the gentleman is saying is that he wants to give them another $500 payment on top of them. That is not a tax credit, that is a government payment. There is an important distinction here which needs to be made. I am getting tired of listening to the rhetoric on the other side.

This ought to be a great day for America. They ought to be working with us balancing the budget, lowering taxes. I was just looking at some statistics from the IRS here. Thirty-seven percent of the taxes are paid by people who make less than $75,000. The balance, 63 percent, is paid by those who make more than that. Yet 76 percent of the tax relief in this package goes to people who make less than $75,000.

This is a good day for America, it is a good day for taxpayers. It is a good day for this institution. We ought to be working together to get this job done.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Speaker, I think we need to take a deep breath and all calm down a little bit, because all we are talking about doing is allowing the American people to keep a little more of what they earn so they do not have to send it to Washington.

I understand some of my friends on the other side of the aisle do not really want to do that because they want more Washington spending. I do not denigrate the position that they have taken for 60 years, that Washington has the answers and we have to get this money to Washington so Washington can do great things for us. Most of us in this Chamber, Democrats and Republicans, believe it is time to allow the American people to make more of those decisions on their own.

So this package today that lowers taxes, the first tax cut from Washington in 16 years, is aimed at American middle-class taxpayers who are bearing the biggest burden today.

What does this plan do? It provides an IRA for parents who pay taxes who want to send their children to college. It lets them save tax-free. It provides a tax credit for parents who are sending their children on to college or other postsecondary education. It provides a $500 per child tax credit to American families that make under, roughly, $100,000.

Fourth, homeowners, it allows someone to sell their home, and 95 percent of the American people who own homes are going to be able to sell their homes and not pay any tax on the gain from the sale of their home.

What we are trying to do here is to try to help every taxpayer in the country at every stage of their life. Whether they are parents with children, trying to raise them, parents with children trying to send them to college, whether it is people trying to save for their own retirement, with our cut in capital gains taxes and the cut in the taxes on the sale of their home, we are trying to help all taxpayers. This is good policy.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from Georgia [Mr. NORWOOD].

Mr. NORWOOD. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I think for a long time we have been trying to make an effort to let people who pay taxes keep more of their own hard-earned money. Yet all we hear is that all of this is for the rich. Let us talk about what ''rich'' means.

Mr. Speaker, 2.4 million elementary and high school teachers have family incomes, and they are considered rich; 1.7 million union members have family incomes, and they are considered rich; 8.1 million Federal, State, and local government workers have family incomes, and they are considered rich; 120,000 editors and reporters across the country are considered rich; and 4.2 million mechanics and repairmen and construction workers have family incomes that under the administration's definition of rich, they are considered rich.

I would like to ask, if I might, for anybody on that side to stand up and when they say we are returning money to the rich, define what they mean by rich. If Members believe we should have everybody receive a $500 per child tax credit, even those who do not pay taxes, they should be honest enough to call it what they are talking about. They are talking about a welfare program.

What we are trying to do is return some of the hard-earned money that working people in this country earn who work every day. If Members want other children and other families who are not paying taxes to have a $500 per child tax credit, say so, but be honest about it. Call it what it is. It is a welfare program.

Mr. MOAKLEY. Mr. Speaker, I yield 6 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I listened to the gentleman from Georgia, and I want to point out exactly the type of person that the Democrats are trying to help, the person who is out there working.

We mentioned the Georgia policeman. This is from the Wall Street Journal today. This is a starting police officer in Gwinnett County, GA, coincidentally part of Speaker GINGRICH's district. He is paid $23,078 a year. If his family has two kids, it gets $1,668 in earned income tax credit, this is the deduction we were talking about before, which offsets his $675 in Federal taxes, and yields a check for $993. But that family pays $1,760 in payroll taxes, and another $354 in Federal excise taxes. That is even after this deduction that we are talking about.

The out-of-pocket Federal taxes for this family would be at least $1,121 a year, and in reality, more like $2,800 a year. What we are saying is that that policeman right now, under this Republican proposal, does not get that $500 deduction, the child tax credit. That person is paying payroll taxes to the Federal Government, excise taxes to the Federal Government. The gentleman is saying that that Georgia policeman, who is out there every day on the line, is a welfare recipient. That is exactly what the gentleman is saying. That is what the Democrats are saying is not right.

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

Mr. PALLONE. I yield to the gentleman from Texas.

Mr. DOGGETT. Mr. Speaker, we are of course back here today to discuss another wreckconciliation bill. We are having another big wreck in Congress, even bigger than the one yesterday; and of course it is true that the liberals in Washington are causing this wreck, those who are so liberal with the truth that they defy reality.

I would ask the gentleman, in light of some of those who had been so liberal in the truth, if he is aware of a time in American history, in the entire history of this country, when a majority party would come to this floor and ask to adjourn for a week or 10 days and not have passed one single appropriations bill, not one? Is the gentleman aware of any time in American history when that has happened?

We are not talking about passing them automatically, but not passing a single bill; but they are leaving, are they not, presenting a present to the limousine crowd in giving them a tax break? I am sure the gentleman from New Jersey, like me, we have nothing against limousines, we have nothing against country clubs. We just think if tax cuts are so good, why not share them with the working families of America and give them a chance to climb up the economic ladder and have a limousine of their own? Is that not correct?

Mr. PALLONE. Exactly. I appreciate that.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. PALLONE. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, under the original Contract With America, that police officer was going to get that tax credit. But what they decided this year was they wanted to give more money to the wealthy, so they had to cut that police officer out of their tax plan, but that was the original promise in the Contract With America. They just decided they would rather deal with the people on Wall Street instead of the people on Main Street.

Mr. PALLONE. I would add also, Mr. Speaker, that Senator LOTT in his Republican plan early this year, just like the Contract With America, also promised that child credit to that Georgia policeman. So now all of a sudden the Republican leadership has changed its mind, because they want to give that money to the fat cats, to their wealthy contributors.

Ms. STABENOW. Mr. Speaker, will the gentleman yield?

Mr. PALLONE. I yield to the gentlewoman from Michigan.

Ms. STABENOW. Mr. Speaker, I find it humorous, as a new Member coming in in January from Michigan, to hear the word ''liberal'' thrown around all the time. I want Members to know that for someone coming from Michigan who was in the State Senate, I sponsored the State's largest property tax cut as a Democrat. I understand what middle-class tax cuts look like and feel like. This is not it.

As the gentleman knows, we are talking about what we want to see happen for average folks, to put money in their pocket, to send their kids to school, pay for child care, be able to get a tax break when they sell their home, be able to get a tax break on their small business, if someone passes away, be able to get a tax break on their family-owned business and their family-owned farm. What we are talking about here is how we make sure that the majority of the dollars that keep this country going, to create jobs, go directly into the pockets of middle class Americans. Is that not what we are talking about?

Mr. PALLONE. Absolutely. The gentlewoman pointed out, we were only talking about Federal taxes, payroll taxes, excise taxes. That Georgia policeman is probably paying property taxes. He may be paying other State or local taxes. They are saying he is on welfare.

Ms. STABENOW. Not only that, he probably is investing in a home. Most middle class Americans are investing in savings through equity in their homes, and we want to make sure they are getting the tax breaks; that when you talk about capital gains tax cuts, that he is going to get protected when he sells his home; if he wants to send his kids to college, he is going to get the maximum tax break, and that if he goes on to invest in a small business at some point, he is again going to get a maximum tax break.

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

Mr. PALLONE. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Speaker, our colleagues on the other side are so concerned that a starting police officer at $23,000 or a young teacher at $23,000 might get a tax credit for their children, but they are not concerned that the changes they are making in the alternative minimum tax would give tax rebates to large corporations like Texas Utilities, that did not pay a penny in Federal taxes.

The only reason they paid $19 million on their $1 billion profit was the AMT, and their repeal of the AMT will give them a tax rebate of $18 million on taxes they did not even pay, and we do not have a penny for the police officer or a penny for the young teacher. It is outrageous.

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

Mr. PALLONE. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Speaker, the question is about choices: are we going to give the policeman a choice of buying his family and kids new clothes for school or having a decent diet, or is somebody going to be able to extend their European vacation going over on the Concorde? Where is this House at? Are we going to help people who have to take care of kids and the basic needs of a family, while the wealthiest Americans are trying to figure out whether they can extend their trip to London for the weekend?

Mr. LINDER. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. SOLOMON].

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Mr. SOLOMON. Mr. Speaker, it shows that some people are watching C–SPAN. I just got a call from one of my constituents making $23,500. He said he hears Members on the Democrat side railing about the excise taxes and the payroll taxes. He said, ''Why don't you cut those, JERRY?'' I said, I will be glad to. Just let them make these amendments in order, offer them and we will accept them.

We want to cut everybody's taxes, all kinds of taxes, and that is why we have got this bill. The gentleman from Massachusetts [Mr. MOAKLEY], the gentlewoman from Connecticut [Ms. DELAURO], the gentleman from California [Mr. MILLER], the gentleman from Maryland [Mr. WYNN], the gentleman from Massachusetts [Mr. FRANK], the gentleman from Connecticut [Mr. GEJDENSON], the gentleman from Oregon [Mr. DEFAZIO], all the bigger spenders in the Congress, according to the National Taxpayers Union.

I include the entire list of big spenders for the RECORD.

NATIONAL TAXPAYERS UNION BIG SPENDERS OF 1993

ALABAMA

Rep. Tom Bevill.
Rep. Robert E. Cramer.
Rep. Earl F. Hilliard.

ARIZONA

Rep. Karan English.
Rep. Ed Pastor.

ARKANSAS

Sen. Dale Bumpers.
Sen. David Pryor.
Rep. Ray Thornton.

CALIFORNIA

Sen. Barbara Boxer.
Sen. Dianne Feinstein.
Rep. Xavier Becerra.
Rep. Howard L. Berman.
Rep. George E. Brown.
Rep. Ronald V. Dellums.
Rep. Julian C. Dixon.
Rep. Don Edwards.
Rep. Anna G. Eshoo.
Rep. Sam Farr.
Rep. Vic Fazio.
Rep. Bob Filner.
Rep. Dan Hamburg.
Rep. Jane Harman.
Rep. Tom Lantos.
Rep. Matthew G. Martinez.
Rep. Robert T. Matsui.
Rep. George Miller.
Rep. Norman Y. Mineta.
Rep. Nancy Pelosi.
Rep. Lucille Roybal-Allard.
Rep. Pete Stark.
Rep. Esteban E. Torres.
Rep. Walter R. Tucker.
Rep. Maxine Waters.
Rep. Henry A. Waxman.
Rep. Lynn Woolsey.

COLORADO

Sen. Ben Nighthorse Campbell.
Rep. David E. Skaggs.

CONNECTICUT

Sen. Christopher J. Dodd.
Rep. Rosa DeLauro.
Rep. Sam Gejdenson.
Rep. Barbara B. Kennelly.

DELAWARE

Sen. Joseph R. Biden Jr.

FLORIDA

Sen. Bob Graham.
Rep. Jim Bacchus.
Rep. Corrine Brown.
Rep. Peter Deutsch.
Rep. Sam M. Gibbons.
Rep. Alcee L. Hastings.
Rep. Harry A. Johnston.
Rep. Carrie P. Meek.
Rep. Pete Peterson.
Rep. Karen L. Thurman.

GEORGIA

Rep. Sanford D. Bishop.
Rep. George Darden.
Rep. John Lewis.
Rep. Cynthia A. McKinney.

HAWAII

Sen. Daniel K. Akaka.
Sen. Daniel K. Inouye.
Rep. Neil Abercrombie.
Rep. Patsy T. Mink.

ILLINOIS

Sen. Carol Moseley-Braun.
Sen. Paul Simon.
Rep. Cardiss Collins.
Rep. Richard J. Durbin.
Rep. Lane Evans.
Rep. Luis V. Gutierrez.
Rep. Mel Reynolds.
Rep. Dan Rostenkowski.
Rep. Bobby L. Rush.

Rep. George E. Sangmeister.
Rep. Sidney R. Yates.

INDIANA

Rep. Frank McCloskey.
Rep. Peter J. Visclosky.

IOWA

Sen. Tom Harkin.
Rep. Neal Smith.

KANSAS

Rep. Dan Glickman.

KENTUCKY

Sen. Wendell H. Ford.
Rep. Romano L. Mazzoli.

LOUISIANA

Sen. John B. Breaux.
Sen. J. Bennett Johnston.
Rep. Cleo Fields.
Rep. William J. Jefferson.

MAINE

Sen. George J. Mitchell.
Rep. Thomas H. Andrews.

MARYLAND

Sen. Barbara A. Mikulski.
Sen. Paul S. Sarbanes.
Rep. Benjamin L. Cardin.
Rep. Steny H. Hoyer.
Rep. Kweisi Mfume.
Rep. Albert R. Wynn.

MASSACHUSETTS

Sen. Edward M. Kennedy.
Sen. John Kerry.
Rep. Barney Frank.
Rep. Joseph P. Kennedy.
Rep. Edward J. Markey.
Rep. Joe Moakley.
Rep. Richard E. Neal.
Rep. John W. Olver.
Rep. Gerry E. Studds.

MICHIGAN

Sen. Carl Levin.
Sen. Donald W. Riegle Jr.
Rep. David E. Bonior.
Rep. Bob Carr.
Rep. Barbara-Rose Collins.
Rep. John Conyers.
Rep. John D. Dingell.
Rep. William D. Ford.
Rep. Dale E. Kildee.
Rep. Sander M. Levin.

MINNESOTA

Sen. Paul Wellstone.
Rep. James L. Oberstar.
Rep. Martin Olav Sabo.
Rep. Bruce F. Vento.

MISSISSIPPI

Rep. G.V. Montgomery.
Rep. Bennie Thompson.
Rep. Jamie L. Whitten.

MISSOURI

Rep. William L. Clay.
Rep. Richard A. Gephardt.
Rep. Ike Skelton.
Rep. Harold L. Volkmer.
Rep. Alan Wheat.

MONTANA

Sen. Max Baucus.
Rep. Pat Williams.

NEVADA

Sen. Harry Reid.
Rep. James Bilbray.

NEW JERSEY

Rep. Robert Menendez.
Rep. Donald M. Payne.
Rep. Robert G. Torricelli.

NEW MEXICO

Rep. Bill Richardson.

NEW YORK

Sen. Daniel Patrick Moynihan.
Rep. Gary L. Ackerman.
Rep. Eliot L. Engel.
Rep. Floyd H. Flake.
Rep. Maurice D. Hinchey.
Rep. George J. Hochbrueckner.
Rep. Nita M. Lowey.
Rep. Thomas J. Manton.
Rep. Michael R. McNulty.
Rep. Jerrold Nadler.
Rep. Major R. Owens.
Rep. Charles B. Rangel.
Rep. Charles E. Schumer.
Rep. Jose E. Serrano.
Rep. Louise M. Slaughter.
Rep. Edolphus Towns.
Rep. Nydia M. Velazquez.

NORTH CAROLINA

Rep. Eva Clayton
Rep. W.G. Hefner.
Rep. Stephen L. Neal.
Rep. David Price.
Rep. Charlie Rose.
Rep. Melvin Watt.

OHIO

Sen. John Glenn.
Sen. Howard M. Metzenbaum.
Rep. Douglas Applegate.
Rep. Sherrod Brown.
Rep. Tony P. Hall.
Rep. Tom Sawyer.
Rep. Louis Stokes.
Rep. Ted Strickland.

OKLAHOMA

Rep. Mike Synar.

OREGON

Rep. Elizabeth Furse.
Rep. Mike Kopetski.
Rep. Ron Wyden.

PENNSYLVANIA

Sen. Harris Wofford.
Rep. Lucien E. Blackwell.
Rep. Robert A. Borski.
Rep. William J. Coyne.
Rep. Thomas M. Foglietta.
Rep. Paul E. Kanjorski.
Rep. John P. Murtha.

RHODE ISLAND

Sen. Claiborne Pell.
Rep. Jack Reed.

SOUTH CAROLINA

Sen. Ernest F. Hollings.
Sen. James E. Clyburn.
Sen. Butler Derrick.
Rep. John M. Spratt.

SOUTH DAKOTA

Sen. Tom Daschle.

TENNESSEE

Sen. Harlan Mathews.
Sen. Jim Sasser.
Rep. Harold E. Ford.

TEXAS

Rep. Jack Brooks.
Rep. John Bryant.
Rep. Jim Chapman.
Rep. Ronald D. Coleman.
Rep. E. de la Garza.
Rep. Martin Frost.
Rep. Henry B. Gonzalez.
Rep. Gene Green.
Rep. Eddie Bernice Johnson.
Rep. Solomon P. Ortiz.
Rep. J.J. Pickle.
Rep. Frank Tejeda.
Rep. Craig Washington.
Rep. Charles Wilson.

VERMONT

Sen. Patrick J. Leahy.
Rep. Bernard Sanders.

VIRGINIA

Rep. Rick Boucher.
Rep. Leslie L. Byrne.
Rep. James P. Moran.
Rep. Robert C. Scott.

WASHINGTON

Sen. Patty Murray.
Rep. Norm Dicks.
Rep. Mike Kreidler.
Rep. Jim McDermott.
Rep. Al Swift.
Rep. Jolene Unsoeld.

WEST VIRGINIA

Sen. Robert C. Byrd.
Sen. John D. Rockefeller IV.
Rep. Alan B. Mollahan.
Rep. Nick J. Rahall.
Rep. Bob Wise.

WISCONSIN

Rep. Gerald D. Kleczka.
Rep. David R. Obey.

Mr. LINDER. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. NORWOOD].

Mr. NORWOOD. Mr. Speaker, I rise to tell my friend from New Jersey, the problem with that Georgia policeman is that he most assuredly will receive some tax relief on this, because you have raised taxes so high over the last 20 years that I guarantee you his wife is having to work, too. So when we combine those incomes, that family will indeed, and I remind you again that 2.4 million teachers are going to get some tax relief, 4.2 million mechanics and repairmen and construction workers are going to get some tax relief. I know you call everybody rich who has a job, but those are the people who are paying into this Government, and it is high time we let them have some more of their own income because most assuredly they can spend it much wiser than we do up here.

Mr. MOAKLEY. Mr. Speaker, I yield 2½ minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I wanted to enter into the RECORD the study from the Citizens for Tax Justice that shows just how many children are excluded from this tax credit and point out that in the State of Georgia, the previous speaker's home State, the Republican tax plan excludes 49 to 52 percent of Georgia kids. The Citizens for Tax Justice study says that the House plan, the Republican plan, would exclude 52 percent of Georgia's children and the Senate tax plan would exclude 49 percent of Georgia's children. They would not receive it, including that police officer.

Mr. Speaker, I yield to the gentleman from Maine [Mr. ALLEN].

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding. I just want to refer to a couple of other States here, first my home State of Maine, the Citizens for Tax Justice report indicates that 45 percent of the children in the State of Maine will not get the benefit of this $500-per-child tax credit. A little bit of that is because of age but almost all of it is because of this income floor.

The gentleman from South Dakota who was speaking earlier should recognize that the number for his State is the same; 45 percent of the children in that State will be ineligible for the $500-per-child tax credit and it is the same reason. The fact is that this tax

credit, this tax bill is weighted very heavily for the wealthiest people in this society. It provides 41 percent of its benefits to the top 1 percent of taxpayers and those in lower tax brackets, the lowest 20 percent, are expected to pay maybe an additional $60 a year. They do not get the benefits of this.

I agree with my friend from Florida on one point he said; this is not about protecting the poor. It is not. It is about protecting hard-working middle-income Americans and making sure that they get the benefit, they get some of the benefit of this tax bill, and they are not getting it now.

Mr. PALLONE. Mr. Speaker, we have a statistic here that just shows you that the billionaire, Bill Gates, would get capital gains and estate tax reductions and even a new IRA provision that would let him take a $4,000 tax break for educational expenses for his kids, but that Georgia policeman making $23,000 is denied a tax credit for his kids.

Mr. Speaker, I yield to the gentlewoman from Michigan [Ms. STABENOW].

Ms. STABENOW. Mr. Speaker, I think it is important for people that are watching today, it gets very confusing when we are talking about a lot of different statistics about where the tax relief goes. The reality is that in this, in the Republican proposal, we are talking about the top 5 percent of Americans who make $250,000 or more. That is what we are talking about in terms of where the bulk of the tax relief goes.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DREIER].

Mr. DREIER. Mr. Speaker, I thank my friend from Atlanta for yielding me the time.

Mr. Speaker, I want to say that this has become a very, very sad time for me, having worked since the beginning of this Congress and actually in many previous Congresses on this issue of the capital gains tax cut. I have about 165 Democrats and Republicans who joined as cosponsors of H.R. 14.

The gentleman from Florida [Mr. SCARBOROUGH] has been one of our great fighters on behalf of reducing the top rate on capital gains, knowing full well that it is not a tax cut for the rich. We have been able to successfully throw that us-versus-them class warfare mentality out throughout the debate on capital gains. We got the President in the agreement to acknowledge that reducing the top rate on capital gains will in fact benefit the middle-income wage earner. In fact a study that we did found that the average family of four, if we were to get to a 14-or 15-percent rate, would see their take-home pay increase by $1,500. Those are the ones who benefit from things like a capital gains tax rate reduction. Yes, there are people today in this country who are unemployed and we need to get capital invested so that we can create job opportunities for them.

So the reason this is a sad day is that many of my Democratic colleagues who have joined as cosponsors of H.R. 14 have unfortunately now been drawn in by their party to this trap of saying that this is simply a tax cut for the rich. Nothing could be further from the truth. We will hear it time and time again that 76 percent of the benefits go to people earning between $20,000 and $75,000. Ninety-three percent of the benefits go to people with incomes of less than $100,000.

So the fact is, we are there trying desperately to help those struggling middle-income wage earners create greater opportunities, improve their quality of life, and things like a capital gains tax rate reduction will do just that. So I just want to say that it saddens me that we have seen the debate come down to this level.

Mr. MOAKLEY. Mr. Speaker, I yield the balance of my time to the gentleman from Maine [Mr. BALDACCI].

Mr. BALDACCI. Mr. Speaker, we have been down this road before, where we were offered trickle-down tax cuts in the 1980's, that benefited the very well to do and did not get down to working men and women and those families. Those incomes have been stagnant. They have not gotten any rewards for their work. Their tax rates and tax burdens have increased. What we need to do is to better focus the tax breaks on working men and women, as the Democratic substitute has done, and not to allow trickle-down to happen again. All that happened with trickle-down is the heavy lifting was done by the working men and women and the people who are trying to provide for their families at the expense of those who were getting heavy from their lifting.

If we are going to reform welfare, if we are going to reward work, we are going to need to make sure that working men and women have the opportunities of tax credits for education, tax credits for health care, to make sure that they can provide for their families and not go down through the trickle-down economic theories that we went through in the early 1980's.

They got nothing but debt and deficit and that left people out of work or at very low incomes. So I think the important thing to do is to not support the rule and to not support the proposal that has been put forward.

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

The people watching this on C–SPAN must be thoroughly confused by now, because according to the comments from the other side, virtually everybody in America is wealthy. They have been quoting all day Citizens for Tax Justice, a so-called nonpartisan think tank which is in fact connected to Ralph Nader. The American people ought to know that.

The fact of the matter is the Heritage Foundation and other studies such as the Tax Foundation have said that the Republican plan covers 11 more, 11 million, the Republican plan covers 11 million more children than the President's plan. Indeed, the gentleman from California [Mr. MILLER] has been concerned about the children being excluded. The Republican plan in his own district covers 24,735 more children than the President's plan.

The President and the Treasury Department have been simply unfair to this debate because they recalculated wealth. And in fact they included in your income to consider how wealthy you are such items as employer costs such as payroll taxes, fringe benefits, and pensions. Their proposal says that those people must consider that as their income, even though they do not get it, and goes so far as to say that if they could rent their home out, the home they are living in and buying, that 10,000 a year must be considered income also.

Under their calculation of income and who is wealthy, 2.4 million elementary and high school teachers, over half of the teachers in this Nation are considered under their standards rich; 1 out of every 10 union members, 1.7 million of them, under their standards are rich; 8.1 million Federal, State, and local government workers under their measurement are rich. The honest deduction is this, the Joint Committee on Taxation has made it very clear, 93 percent of the benefits go to families with incomes under $100,000. Indeed the largest part of this package is the child tax credit, the single largest part of the benefit is the child tax credit and that is capped at $110,000 for couples also and $55,000 for singles. So this is a fair plan. It is fair for all.

For the rest of this day, those of you watching this debate are going to hear the same class warfare, the same argument that the rich are benefiting when in fact the Joint Committee on Taxation makes it clear that 76 percent goes to people with family incomes less than $75,000 a year. They are going to be very surprised to discover how wealthy they are tonight.

But when we pass this we will have for the first time in 16 years provided decent, honest, and across-the-board tax relief for all Americans at every stage in life.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

Mr. LINDER. Mr. Speaker, I ask unanimous consent that if an electronic vote on House Concurrent Resolution 108 occurs immediately after an electronic vote on another question, then the minimum time for that electronic vote on agreeing to the concurrent resolution may be 5 minutes.

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

There was no objection.

GENERAL LEAVE

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to extend their remarks during the debate on House Resolution 176.

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

There was no objection.

Mr. MOAKLEY. Mr. Speaker, I include for the RECORD the following:

METHODOLOGY PROBLEMS AND MULTIBILLION DOLLAR ERRORS PRODUCE LARGE DISTORTIONS IN TAXPAYERS UNION RATINGS

The tally of Congressional voting records which the National Taxpayers Union Foundation released today is marred by flawed methodology and multi-billion dollar errors, according to a Center on Budget and Policy Priorities analysis of the NTUF tally.

The deficiencies in the NTUF analysis are sufficiently serious as to make its tally of little value, the Center said. The Center also reported that NTUF's mistakes and methodological errors tend to have a greater adverse effect on members of the minority party than on members of the majority party and that some of its interpretations of its vote tally appear to be marked by partisan leanings.

ENTITLEMENT TREATMENT MAKES MANY WHO VOTED TO REDUCE SPENDING LOOK LIKE THEY VOTED TO INCREASE SPENDING

The NTUF tallies are dominated by entitlement spending. But the NTUF entitlement spending figures are flawed. Most notably, the cost of federal entitlement programs will automatically rise $54.5 billion between FY 1995 and FY 1996 because of such factors as the annual cost-of-living adjustment in Social Security, veterans, and other benefits, the increase in the number of Americans reaching age 65 and qualifying for Social Security and Medicare, and normal year-to-year increases in doctor and hospital fees. NTUF charges all Members of Congress with voting to increase entitlement spending by this $54.5 billion, although no such votes occurred. This distorts the NTUF tallies.

One hundred fifty-one of the 172 House Democrats, the one House independent, and the one House Republican who NTUF says voted to increase spending in 1995—as well as all 28 Senate Democrats and the one Senate Republican who NTUF said voted to raise spending—should have been tallied as voting to decrease spending. These are the members whom the NTUF rating shows as voting to increase spending but by less than $54.5 billion. When the automatic increases that occurred without any vote and that were due to factors such as the Social Security COLA are put to the side, these members voted to lower spending.

Most citizens who hear about the NTUF tally will assume these members voted to make programs more costly than they would otherwise be. Few will understand that NTUF is charging these members with voting to increase spending merely because the member did not vote to cancel Social Security cost-of-living adjustments, deny Medicare benefits to those newly turning 65, or make cuts yielding equivalent savings.

NTUF EXAGGERATES SIZE OF SOME SPENDING CUTS

Those members whom NTUF shows as voting to reduce spending would be given credit for reducing spending by a larger amount if this $54.4 billion in automatic entitlement spending were not counted against them. At the same time, NTUF gives many of these same members more credit than they are due for reducing spending in other areas because of mistakes in counting votes for various bills the House and Senate passed.

When a member voted both for an authorization bill and an appropriations bill that cover the same programs, NTUF is supposed to make an adjustment to avoid a double-count. But it sometimes neglects to do so. It incorrectly gives members who voted for the Amtrak reauthorization bill and the transportation appropriations bill credit twice for the same Amtrak cuts. This also is true of cuts in the Interstate Commerce Commission.

NTUF also overstates the cuts in the FY 1996 agriculture appropriations bill by $5 billion due to an error involving farm price supports.

Still other problems in NTUF's methodology stem from the fact that NTUF counts votes for authorization bills for discretionary programs as votes to increase or decrease spending even though authorization bills do not cause discretionary spending to increase or decrease. Only the discretionary spending caps and appropriations bills do that.

LARGEST DEFICIT REDUCTION PLAN NOT GIVEN APPROPRIATE CREDIT

While NTUF sometimes presents its vote tally as a measure of fiscal responsibility, this is not accurate. NTUF ignores many votes to reduce or increase the deficit.

NTUF does not count votes to increase or decrease government subsidies that are provided through the tax code, which many experts, the General Accounting Office, the Joint Tax Committee, and individuals such as Alan Greenspan call ''tax expenditures.'' If a member votes to cut health programs to fund a corporate tax subsidy without reducing the deficit, NTUF rates the member as voting to cut spending. A member who votes against such a measure does less well in the NTUF rankings.

This approach adversely affects the rankings of a substantial number of House and Senate members who voted for the ''Coalition'' budget. The Coalition budget, developed by a group of House Democrats, reduced the deficit more than the Republican reconciliation bill. While the Republican plan cut programs more, it also contained large tax cuts, including expansion of a number of corporate and individual tax expenditures. By contract, the Coalition budget contained no tax cuts and reduced some tax expenditures. Although the Coalition budget reduced the deficit more, members voting for it fare less well in the NTUF rankings than members voting for the Republican budget.

Particularly serious is NTUF's mischaracterization of ''Blue Dog'' Democrats who supported the Coalition budget as being opponents of cuts in discretionary spending. Many House members voted against various appropriations bills that would cut discretionary spending because of ''riders'' attached to these bills that would weaken environmental protection and health and safety standards—or because the members disagreed with where the discretionary spending cuts were being made—not because the members opposed cutting discretionary spending.

In fact, a number of members who voted against various appropriations bills voted for the Coalition budget, which contained binding discretionary spending caps that would force more than $300 billion in discretionary spending reductions over seven years. NTUF fails to count votes to lower the binding discretionary spending caps as votes to cut spending, an egregious error. This affects all members who voted for budgets that would reduce the caps.

NTUF'S REMARKABLE SCORING OF VOICE VOTES

NTUF ''scores'' a number of voice votes, even though not all members may have been in favor of the measure in question. In this area, NTUF has altered its methodology since 1994.

Even members who were out of town and missed the vote altogether are scored as having voted to increase or reduce spending on voice votes.

The NTUF methodology on these voice votes has a more damaging effect on Democrats than on Republicans. NTUF scores voice votes on amendments to some bills. If the members voted for final passage of the bill, NTUF then cancels out the voice vote. But if the member voted against final passage, NTUF leaves the voice vote in its tally. If you are in the minority, you are more likely to be charged with the cost of voice vote amendments that add spending, as most of the amendments that NTUF counts did, since you are more likely not to vote for final passage of the bill.

NTUF's use of voice votes is different now than it was in 1994. At that time, it did not score voice votes on amendments.

The Center on Budget and Policy Priorities is a nonpartisan research organization and policy institute that conducts research and analysis on a range of government policies and programs, and specializes in issues related to fiscal policy. Is is supported primarily by foundation grants.

PARLIAMENTARY INQUIRIES

Mr. LINDER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. LINDER. Mr. Speaker, if those extensions of remarks on this debate are admitted to the Record, must they be on the subject which is the resolution under consideration, or can they be on the tax bill?

The SPEAKER pro tempore. It would be on this subject.

Mr. LINDER. They must be on this subject, or they would be out of order?

The SPEAKER pro tempore. The request specified that it covered the subject of the resolution.

Mr. LINDER. On the subject of the resolution.

Mr. WISE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WISE. Mr. Speaker, is that saying that anyone submitting remarks in the context that they have been offered during the last hour would not be permitted or that someone would be trying to censor them in order to get them into the RECORD?

The SPEAKER pro tempore. The issue before the House is on the propriety of the resolution making in orders a fourth of July recess beginning today. Under House rules, any remarks that are relevant to the rubric of that resolution would be in order and would come within the unanimous-consent request and printed in distinctive style.

The SPEAKER pro tempore. The question is on the resolution.

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

Mr. MOAKLEY. 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 230, nays 194, not voting 10, as follows:

[Roll No. 242]

YEAS—230

Aderholt	Gillmor	Pappas
Archer	Gilman	Parker
Armey	Goodlatte	Pastor
Bachus	Goodling	Paul
Baker	Goss	Paxon
Ballenger	Graham	Pease
Barr	Granger	Peterson (PA)
Barrett (NE)	Greenwood	Petri
Bartlett	Gutknecht	Pickering
Barton	Hansen	Pitts
Bass	Hastert	Pombo
Bateman	Hastings (WA)	Porter
Bereuter	Hayworth	Portman
Bilbray	Hefley	Pryce (OH)
Bilirakis	Herger	Quinn
Bliley	Hill	Radanovich
Blumenauer	Hilleary	Ramstad
Blunt	Hobson	Redmond
Boehlert	Hoekstra	Regula
Boehner	Horn	Riggs
Bonilla	Hostettler	Riley
Bono	Houghton	Rogan
Boswell	Hulshof	Rogers
Brady	Hunter	Rohrabacher
Bryant	Hutchinson	Ros-Lehtinen
Bunning	Hyde	Roukema
Burr	Inglis	Royce
Burton	Istook	Ryun
Buyer	Jenkins	Salmon
Callahan	Johnson (CT)	Sanford
Calvert	Johnson, Sam	Saxton
Camp	Jones	Scarborough
Campbell	Kelly	Schaefer, Dan
Canady	Kim	Schaffer, Bob
Cannon	King (NY)	Sensenbrenner
Chabot	Kingston	Sessions
Chambliss	Klink	Shadegg
Chenoweth	Klug	Shaw
Christensen	Knollenberg	Shays
Coble	Kolbe	Shimkus
Coburn	LaHood	Shuster
Collins	Largent	Skeen
Combest	Latham	Smith (MI)
Cook	LaTourette	Smith (NJ)
Cooksey	Lazio	Smith (OR)
Crane	Leach	Smith (TX)
Crapo	Lewis (CA)	Smith, Linda
Cunningham	Lewis (KY)	Snowbarger
Davis (VA)	Linder	Solomon
Deal	Livingston	Souder
DeLay	LoBiondo	Spence
Diaz-Balart	Lucas	Stearns
Dickey	Manzullo	Stump
Dixon	McCarthy (NY)	Sununu
Doolittle	McCollum	Talent
Dreier	McCrery	Tauzin
Duncan	McDade	Taylor (NC)
Dunn	McHugh	Thomas
Ehlers	McInnis	Thornberry
Ehrlich	McIntosh	Thune
Emerson	McKeon	Tiahrt
English	Metcalf	Traficant
Ensign	Mica	Upton
Everett	Miller (FL)	Walsh
Ewing	Molinari	Wamp
Fawell	Moran (KS)	Watkins
Foley	Morella	Watts (OK)
Forbes	Murtha	Weldon (FL)
Fowler	Myrick	Weldon (PA)
Fox	Nethercutt	Weller
Franks (NJ)	Neumann	White
Frelinghuysen	Ney	Whitfield
Gallegly	Northup	Wicker
Ganske	Norwood	Wolf
Gekas	Nussle	Young (AK)
Gibbons	Oxley	Young (FL)
Gilchrest	Packard	

NAYS—194

Abercrombie	Brown (CA)	Davis (FL)
Ackerman	Brown (FL)	Davis (IL)
Allen	Brown (OH)	DeFazio
Andrews	Capps	DeGette
Baesler	Cardin	Delahunt
Baldacci	Carson	DeLauro
Barcia	Clay	Dellums
Barrett (WI)	Clayton	Deutsch
Becerra	Clement	Dicks
Berman	Clyburn	Dingell
Berry	Condit	Doggett
Bishop	Conyers	Dooley
Blagojevich	Costello	Doyle
Bonior	Coyne	Edwards
Borski	Cramer	Engel
Boucher	Cummings	Eshoo
Boyd	Danner	Etheridge
Evans	Lewis (GA)	Rodriguez
Farr	Lipinski	Roemer
Fattah	Lofgren	Rothman
Fazio	Lowey	Roybal-Allard
Filner	Luther	Sabo
Foglietta	Maloney (CT)	Sanchez
Ford	Maloney (NY)	Sanders
Frank (MA)	Manton	Sandlin
Frost	Markey	Sawyer
Furse	Martinez	Schumer
Gejdenson	Mascara	Scott
Gephardt	Matsui	Serrano
Goode	McCarthy (MO)	Sherman
Gordon	McDermott	Sisisky
Green	McGovern	Skaggs
Gutierrez	McHale	Skelton
Hall (OH)	McIntyre	Slaughter
Hall (TX)	McKinney	Smith, Adam
Hamilton	McNulty	Snyder
Harman	Meehan	Spratt
Hastings (FL)	Meek	Stabenow
Hefner	Menendez	Stark
Hilliard	Millender-McDonald	Stenholm
Hinchey	Miller (CA)	Stokes
Hinojosa	Minge	Strickland
Holden	Mink	Stupak
Hooley	Moakley	Tanner
Hoyer	Mollohan	Tauscher
Jackson (IL)	Moran (VA)	Taylor (MS)
Jackson-Lee (TX)	Nadler	Thompson
Jefferson	Neal	Thurman
John	Oberstar	Tierney
Johnson (WI)	Obey	Torres
Johnson, E. B.	Olver	Towns
Kanjorski	Ortiz	Turner
Kaptur	Pallone	Velazquez
Kennedy (MA)	Pascrell	Vento
Kennedy (RI)	Payne	Visclosky
Kennelly	Pelosi	Waters
Kildee	Peterson (MN)	Watt (NC)
Kilpatrick	Pickett	Waxman
Kind (WI)	Pomeroy	Wexler
Kleczka	Poshard	Weygand
Kucinich	Price (NC)	Wise
LaFalce	Rahall	Woolsey
Lampson	Rangel	Wynn
Lantos	Reyes	Yates
Levin	Rivers	

NOT VOTING—10

Bentsen	Flake	Rush
Castle	Gonzalez	Schiff
Cox	Kasich	
Cubin	Owens	

□ 1149

Mrs. ROUKEMA and Mr. MCINTOSH changed their 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.

PROVIDING FOR ADJOURNMENT OF THE HOUSE FROM THURSDAY, JUNE 26, 1997, TO TUESDAY, JULY 8, 1997, AND RECESS OR ADJOURNMENT OF THE SENATE FROM THURSDAY, JUNE 26, 1997, OR THEREAFTER, TO MONDAY, JULY 7, 1997

Mr. SOLOMON. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 108) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 108

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, June 26, 1997, it stand adjourned until 12:30 p.m. on Tuesday, July 8, 1997, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Thursday, June 26, 1997, Friday, June 27, 1997, Saturday, June 28, 1997, or Sunday, June 29, 1997, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this concurrent resolution, it stand recessed or adjourned until noon on Monday, July 7, 1997, or such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

SUPREME COURT LETS LINE-ITEM VETO LAW STAND

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. SOLOMON. Mr. Speaker, I submit for the RECORD the entire text of the Supreme Court decision throwing out the challenge to the line-item veto by a vote of 7 to 2.

SUPREME COURT LETS LINE-ITEM VETO LAW STAND

JUSTICES RULE SENATORS LACKED STANDING TO CHALLENGE THE LAW

WASHINGTON (AllPolitcs, June 26).—In a victory for line-item veto supporters, the Supreme Court ruled today that a group of senators who challenged the law did not have legal standing to do so. The law will likely face a second constitutional review, but for now it stands.

The line-item veto, approved by Congress in March 1996, allows the president to strike individual spending items from larger measures.

A group of congressional lawmakers, led by Sen. Robert Byrd of West Virginia, opposed the law and sued the Clinton Administration on grounds that the law usurped congressional authority to write the nation's laws.

''After Congress, made up of 535 individuals, passes a law and sends it to the president, he signs it into law,'' Byrd said. The line-item veto ''would allow him to change that law unilaterally and that's not constitutional, that's not right, that's wrong,'' he said.

But with today's decision, the Supreme Court decided the lawmakers lacked the standing to file such a suit. The case is Raines vs, Byrd, 96–1671.

It's usually risky to read too much into the justices' questions during oral argument. But when the case was heard, some of them wondered out loud whether lawmakers on the losing side had standing to sue, or whether someone affected by an actual exercise of the line-item veto would have to claim an injury for the case to move forward. So far, Clinton has yet to exercise the new power, because no spending bills have reached him yet.

''Practically, it is a majority of Congress that has caused this injury, not the president,'' Justice Ruth Bader Ginsburg said during oral arguments. ''They are only injured by their own folly.''

The high court had agreed to rule on a fast-track basis. But justices did not address the underlying constitutional issue of the transfer of power from the legislative to executive branch, since the justices' decision solely addressed whether the lawmakers could legally challenge the measure.

In early April, U.S. District Court Judge Thomas Penfield Jackson ruled that the line-item veto law violates the Constitution's separation of powers, which gives Congress the power to tax and spend.

''Where the president signs a bill but then purports to cancel parts of it, he exceeds his constitutional authority and prevents both houses of Congress from participating in the exercise of lawmaking authority,'' Jackson wrote. ''Never before has Congress attempted to give away the power to shape the content of a statute of the United States, as the Act purports to do . . . Congress has turned the constitutional division of responsibilities for legislating on its head.''

FREDERICK D. RAINES, DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET, ET AL., APPELLANTS v. ROBERT C. BYRD ET AL., NO. 96–1671, SUPREME COURT OF THE UNITED STATES, 1997 U.S. LEXIS 4040, MAY 27, 1997, ARGUED, JUNE 26, 1997, DECIDED

PRIOR HISTORY: ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA.

Syllabus: Appellees, Members of the 104th Congress, voted ''nay'' when Congress passed the Line Item Veto Act (Act), which gives the President the authority to cancel certain spending and tax benefit measures after he has signed them into law. The day after the Act went into effect, they filed suit against appellants, Executive Branch officials, challenging the Act's constitutionality. The District Court denied appellants' motion to dismiss, finding that appellees' claim that the Act diluted their Article I voting power was sufficient to confer Article III standing; and that their claim was ripe, even though the President had not yet used the Act's cancellation authority, because they found themselves in a position of [*2] unanticipated and unwelcome subservience to the President before and after their votes on appropriations bills. The court then granted appellees summary judgment, holding that the Act violated the Presentment Clause, Art. I, §7, cl. 2, and constituted an unconstitutional delegation of legislative power to the President.

Held: Appellees lack standing to bring this suit. Pp. 6–19.

(a) The federal courts have jurisdiction over this dispute only if it is case or controversy. Art. III, §2. In order to meet the standing element of the case-of-controversy requirement, appellees must allege a personal injury that is particularized, concrete, and otherwise judicially cognizable. *Lujan v. Defenders of Wildlife, 504 U.S. 555, 561; Allen v. Wright, 468 U.S. 737, 751.* This Court insists on strict compliance with the jurisdictional standing requirement, see, e.g., *id., at 752,* and its standing inquiry is especially rigorous when reaching the merits of a dispute would force it to decide the constitutionality of an action taken by one of the other two branches of the Federal Government. Pp. 6–8.

(b) This Court has never had occasion to rule on [*3] the legislative standing question presented here. Appellees are not helped by *Powell v. McCormack, 395 U.S. 486, 496, 512–514,* in which the Court held that a Congressman's challenge to the constitutionality of his exclusion from the House of Representatives presented an Article III case or controversy. Appellees have not been singled out for specially unfavorable treatment as opposed to other Members of their respective bodies, but claim that the Act causes a type of institutional injury which damages all Members of Congress equally. And their claim is based on a loss of political power, not loss of something to which they are personally entitled, such as their seats as Members of Congress after their constituents elected them. Pp. 8–10.

(c) Appellees' claim also does not fall within the Court's holding in *Coleman v. Miller, 307 U.S. 433,* the one case in which standing has been upheld for legislators claiming an institutional injury. There, the Court held that state legislators who had been locked in a tie vote that would have defeated the State's ratification of a proposed federal constitutional amendment, and who alleged that their votes were nullified when [*4] the Lieutenant Governor broke the tie by casting his vote for ratification, had ''a plain, direct and adequate interest in maintaining the effectiveness of their votes.'' *Id., at 438.* In contrast, appellees have not alleged that they voted for a specific bill, that there were sufficient votes to pass the bill, and that the bill was nonetheless deemed defeated. In the vote on the Act, their votes were given full effect; they simply lost that vote. To uphold standing here would require a drastic extension of Coleman, even accepting appellees' argument that the Act has changed the ''meaning'' and ''effectiveness'' of their vote on appropriations bills, for there is a vast difference between the level of vote nullification at issue in Coleman and the abstract dilution of institutional power appellees allege. Pp. 10–14.

(d) Historical practice cuts against appellees' position as well. Several episodes in our history show that in analogous confrontations between one or both Houses of Congress and the Executive Branch, no suit was brought on the basis of claimed injury to official authority or power. If appellees' claim were sustained, presumably several Presidents would have had [*5] standing to challenge the Tenure of Office Act, which prevented the removal of a presidential appointee without Congress' consent; the Attorney General could have challenged the one-House veto provision because it rendered his authority provisional rather than final; President Ford could have challenged the Federal Election Campaign Act's appointment provisions which were struck down in *Buckley* v. *Valeo, 424 U.S. 1;* and a Member of Congress could have challenged the validity of President Collidge's pocket veto that was sustained in *The Pocket Veto Case, 279 U.S. 655.* While a system granting such standing would not be irrational, our Constitution's regime contemplates a more restrictive role for Article III courts. See *United States* v. *Richardson, 418 U.S. 166, 192* (Powell, J., concurring). Pp. 14–18.

(e) Some importance must be attached to the fact that appellees have not been authorized to represent their respective Houses in this action, and indeed both Houses actively oppose their suit. In addition, the conclusion reached here neither deprives Members of Congress of an adequate remedy—since they may repeal the Act or exempt appropriations bills from [*6] its reach—nor forecloses the Act from constitutional challenge by someone who suffers judicially cognizable injury resulting from it P. 18.

956 F. Supp. 25, vacated and remanded.

Judges: Rehnquist, C. J., delivered the opinion of the Court, in which O'Connor, Scalia, Kennedy, Thomas, and Ginsburg, JJ., joined. Souter, J., filed an opinion concurring in the judgment, in which Ginsburg, J., joined. Stevens, J., and Breyer, J., filed dissenting opinions.

Opinion By: Rehnquist.

Opinion: Chief Justice Rehnquist delivered the opinion of the Court.*

*Justice Ginsburg joins this opinion.

The District Court for the District of Columbia declared the Line Item Veto Act unconstitutional. On this direct appeal, we hold that appellees lack standing to bring this suit, and therefore direct that the judgment of the District Court be vacated and the complaint dismissed.

I

The appellees are six Members of Congress, four of whom served as Senators and two of whom served as Congressmen in the 104th Congress (1995–1996).[1] On March [*7] 27, 1996, the Senate passed a bill entitled the Line Item Veto Act by a vote of 69–31. All four appellee Senators voted ''nay.'' 142 Cong. Rec. S2995. The next day, the House of Representatives passed the identical bill by a vote of 232–177. Both appellee Congressmen voted ''nay.'' Id., at H2986. On April 4, 1996, the President signed the Line Item Veto Act (Act) into law. Pub. L. 104–130, 110 Stat. 1200, codified at *2 U.S.C.A. §691* et seq. (Supp. 1997). The Act went into effect on January 1, 1997. See Pub. L. 104–130, §5. The next day, appellees filed a complaint in the District Court for the District of Columbia against the two appellants, the Secretary of the Treasury and the Director of the Office of Management and Budget, alleging that the Act was unconstitutional. [*8]

The provisions of the Line Item Veto Act do not use the term ''veto.'' Instead, the President is given the authority to ''cancel'' certain spending and tax benefit measures after he has signed them into law. Specifically, the Act provides:

''The President may, with respect to any bill or joint resolution that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States, cancel in whole—(1) any dollar amount of discretionary budget authority; (2) any item of new direct spending; or (3) any limited tax benefit; if the President—

''(A) determines that such cancellation will—(i) reduce the Federal budget deficit; (ii) not impair any essential Government functions; and (iii) not harm the national interest; and

''(B) notifies the Congress of such cancellation by transmitting a special message . . . within five calendar days (excluding Sundays) after the enactment of the law [to which the cancellation applies].'' §691(a) (some indentations omitted).

The President's ''cancellation'' under the Act takes effect when the ''special message'' notifying Congress of the cancellation is received in the House and Senate. With respect to dollar amounts [*9] of ''discretionary budget authority,'' a cancellation means ''to rescind.'' §691e(4)(A). With respect to ''new direct spending'' items or ''limited tax benefits,'' a cancellation means that the relevant legal provision, legal obligation, or budget authority is ''prevented . . . from having legal force or effect.'' §§691e(4)(B), (C).

The Act establishes expedited procedures in both Houses for the consideration of ''disapproval bills,'' §691d, bills or joint resolutions which, if enacted into law by the familiar procedures set out in Article I, §7 of the Constitution, would render the President's cancellation ''null and void,'' §691b(a). ''Disapproval bills'' may only be one sentence long and must read as follows after the enacting clause: ''That Congress disapproves of cancellations _____ as transmitted by the President in a special message on _____ regarding _____'' §691e(6)(C). (The blank spaces correspond to the cancellation reference numbers as set out in the special message, the date of the President's special message, and the public law number to which the special message relates, respectively. Ibid.)

The Act provides that ''any Member of Congress or any individual adversely [*10] affected by [this Act] may bring an action, in

the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of this part violates the Constitution.'' §692(a)(1). Appellees brought suit under this provision, claiming that ''the Act violates Article I'' of the Constitution. Complaint P17. Specifically, they alleged that the Act ''unconstitutionally expands the President's power,'' and ''violates the requirements of bicameral passage and presentiment by granting to the President, acting alone, the authority to 'cancel' and thus repeal provisions of federal law.'' Ibid. They alleged that the act injured them ''directly and concretely . . . in their official capacities'' in three ways:

''The Act . . . (a) alters the legal and practical effect of all votes they may cast on bills containing such separately vetoable items, (b) divests the [appellees] of their constitutional role in the repeal of legislation, and (c) alters the constitutional balance of powers between the Legislative and Executive Branches, both with respect to measures containing separately vetoable items and with respect to other matters [*11] coming before Congress.'' Id., P14.

Appellants moved to dismiss for lack of jurisdiction, claiming (among other things) that appellees lacked standing to sue and that their claim was not ripe. Both sides also filed motions for summary judgment on the merits. On April 10, 1997, the District Court (i) denied appellants' motion to dismiss, holding that appellees had standing to bring this suit and that their claim was ripe, and (ii) granted appellees' summary judgment motion, holding that the Act is unconstitutional. *956 F. Supp. 25.* As to standing, the court noted that the Court of Appeals for the District of Columbia ''has repeatedly recognized Members' standing to challenge measures that affect their constitutionally prescribed lawmaking powers.'' *Id., at 30* (citing, e.g., *Michel v. Anderson, 14 F. 3d 623, 625 (CADC 1994); Moore v. U.S. House of Representatives, 733 F. 2d 946, 950–952 (CADC 1984)).* See also *956 F. Supp., at 31* (''The Supreme Court has never endorsed the [Court of Appeals'] analysis of standing in such cases''). The court held that appellees' claim that the Act ''diluted their Article I voting power'' was sufficient to confer Article III standing: [*12] ''[Appellees'] votes mean something different from what they meant before, for good or ill, and [appellees] who perceive it as the latter are thus 'injured' in a constitutional sense whenever an appropriations bill comes up for a vote, whatever the President ultimately does with it. . . . Under the Act the dynamic of lawmaking is fundamentally altered. Compromises and trade-offs by individual lawmakers must take into account the President's item-by-item cancellation power looming over the end product.'' Ibid.

The court held that appellees' claim was ripe even though the President had not yet used the ''cancellation'' authority granted him under the Act: ''Because [appellees] now find themselves in a position of unanticipated and unwelcome subservience to the president before and after they vote on appropriations bills, Article III is satisfied, and this Court may accede to Congress' directive to address the constitutional cloud over the Act as swiftly as possible.'' *Id., at 32* (referring to §692(a)(1), the section of the Act granting Members of Congress the right to challenge the Act's constitutionality in court). On the merits, the court held that the Act violated the Presentment [*13] Clause, Art. I, §7, cl. 2, and constituted an unconstitutional delegation of legislative power to the *President. 956 F. Supp., at 33, 35, 37–38.*

The Act provides for a direct, expedited appeal to this Court. §692(b) (direct appeal to Supreme Court); §692(c) (''It shall be the duty of . . . the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any [suit challenging the Act's constitutionality] brought under [§3(a) of the Act]''). On April 18, eight days after the District Court issued its order, appellants filed a jurisdictional statement asking us to note probable jurisdiction, and on April 21, appellees filed a memorandum in response agreeing that we should note probable jurisdiction. On April 23, we did so. 520 U.S. _____ (1977). We established an expedited briefing schedule and heard oral argument on May 27.[2] We now hold that appellees have no standing to bring this suit, and therefore direct that the judgment of the District Court be vacated and the complaint dismissed. [*14]

II

Under Article III, §2 of the Constitution, the federal courts have jurisdiction over this dispute between appellants and appellees only if it is a ''case'' or ''controversy.'' This is a ''bedrock requirement.'' *Valley Forge Christian College v. Americans United for Separation of Church and State, Inc., 454 U.S. 464, 471 (1982).* As we said in *Simon v. Eastern Ky. Welfare Rights Organization, 426 U.S. 26, 37 (1976),* ''No principle is more fundamental to the judiciary's proper role in our system of government than the constitutional limitation of federal-court jurisdiction to actual cases or controversies.''

One element of the case-or-controversy requirement is that appellees, based on their complaint, must establish that they have standing to sue. *Lujan v. Defenders of Wildlife, 504 U.S. 555, 561 (1992)* (plaintiff bears burden of establishing standing). The standing inquiry focuses on whether the plaintiff is the proper party to bring this suit, *Simon, supra, at 38,* although that inquiry ''often turns on the nature and source of the claim asserted,'' *Warth v. Seldin, 422 U.S. 490, 500 (1975).* To meet the standing requirements of Article III, ''[a] [*15] plaintiff must allege personal injury fairly traceable to the defendant's allegedly unlawful conduct and likely to be redressed by the requested relief.'' *Allen v. Wright, 468 U.S. 737, 751 (1984)* (emphasis added). For our purposes, the italicized words in this quotation from Allen are the key ones. We have consistently stressed that a plaintiff's complaint must establish that he has a ''personal stake'' in the alleged dispute, and that the alleged injury suffered is particularized as to him. See, e.g., *Lujan, 504 U.S., at 560–561 and n. 1* (to have standing, the plaintiff must have suffered a ''particularized'' injury, which means that ''the injury must affect the plaintiff in a personal and individual way''); *Bender v. Williamsport Area School Dist., 475 U.S. 534, 543–544 (1986)* (school board member who ''has no personal stake in the outcome of the litigation'' has no standing); *Simon, supra, at 39* (''The necessity that the plaintiff who seeks to invoke judicial power stand to profit in some personal interest remains an Art. III requirement'').

We have also stressed that the alleged injury must be legally and judicially cognizable. This requires, among other [*16] things, that the plaintiff have suffered ''an invasion of a legally protected interest which is . . . concrete and particularized,'' *Lujan, 504 U.S., at 560,* and that the dispute is ''traditionally thought to be capable of resolution through the judicial process,'' *Flast v. Cohen, 392 U.S. 83, 97 (1968).* See also *Allen, 468 U.S., at 752* (''Is the injury too abstract, or otherwise not appropriate, to be considered judicially cognizable?'').

We have always insisted on strict compliance with this jurisdictional standing requirement. See, e.g. ibid. (under Article III, ''federal courts may exercise power only 'in the last resort, and as a necessity''') (quoting *Chicago & Grand Trunk R. Co. v. Wellman, 143 U.S. 339, 345 (1892)); Muskrat v. United States, 219 U.S. 346, 356 (1911)* (*From its earliest history this Court has consistently declined to exercise any powers other than those which are strictly judicial in their nature''). And our standing inquiry has been especially rigorous when reaching the merits of the dispute would force us to decide whether an action taken by one of the other two branches of the Federal Government was unconstitutional. See, [*17] e.g., *Bender, supra, at 542; Valley Forge, supra, at 473–474.* As we said in *Allen, supra, at 752,* ''the law of Art. III standing is built on a single basic idea—the idea of separation of powers.'' In the light of this overriding and time-honored concern about keeping the Judiciary's power within its proper constitutional sphere,[3] we must put aside the natural urge to proceed directly to the merits of this important dispute and to ''settle'' it for the sake of convenience and efficiency. Instead, we must carefully inquire as to whether appellees have met their burden of establishing that their claimed injury is personal, particularized, concrete, and otherwise judicially cognizable. [*18]

III

We have never had occasion to rule on the question of legislative standing, presented here.[4] In *Powell* v. *McCormack, 395 U.S. 486, 496, 512–514 (1969),* we held that a Member of Congress' constitutional challenge to his exclusion from the House of Representatives (and his consequent loss of salary) presented an Article III case or controversy. But Powell does not help appellees. First, appellees have not been singled out for specially unfavorable treatment as opposed to other Members of their respective bodies. Their claim is that the Act causes a type of institutional injury (the diminution of legislative power), which necessarily damages all Members of Congress and both Houses of Congress equally. See n. 7, infra. Second, appellees do not claim that they have been deprived of something to which they personally are entitled—such as their seats as Members of Congress after their constituents had elected them. Rather, appellees' claim of standing is based on a loss of political power, not loss of any private right, which would make the injury more concrete. Unlike the injury claimed by Congressman Adam Clayton Powell, the injury claimed by the Members [*19] of Congress here is not claimed in any private capacity but solely because they are members of Congress. See Complaint P14 (purporting to sue ''in their official capacities''). If one of the Members were to retire tomorrow, he would no longer have a claim; the claim would be possessed by his successor instead. The claimed injury thus runs (in a sense) with the Member's seat, a seat which the Member holds (it may quite arguably be said) as trustee for his constituents, not as a prerogative of personal power. See the Federalist No. 62, p. 378 (J. Madison) (C. Rossiter ed. 1961) (''It is a misfortune incident to republican government, though in a less degree than to other governments, that those who administer it may forget their obligations to their constituents and prove unfaithful to their important trust''). [*20]

The one case in which we have upheld standing for legislators (albeit state legislators) claiming an institutional injury is *Coleman* v. *Miller, 307 U.S. 433 (1939).* Appellees, relying heavily on this case, claim that they, like the state legislators in Coleman, ''have a plain, direct and adequate interest in maintaining the effectiveness of their votes,'' *id., at 438,* sufficient to establish standing. In Coleman, 20 of Kansas' 40 State Senators voted not to ratify the proposed ''Child Labor Amendment'' to the Federal Constitution. With the vote deadlocked 20–

20, the amendment ordinarily would not have been ratified. However, the State's Lieutenant Governor, the presiding officer of the State Senate, cast a deciding vote in favor of the amendment, and it was deemed ratified (after the State House of Representatives voted to ratify it). The 20 State Senators who have voted against the amendment, joined by a 21st State Senator and three State House Members, filed an action in the Kansas Supreme Court seeking a writ of mandamus that would compel the appropriate state officials to recognize that the legislature had not in fact ratified the amendment. That court held [*21] that the members of the legislature had standing to bring their mandamus action, but ruled against them on the merits. See *id., at 436–437.*

This Court affirmed. By a vote of 5–4, we held that the members of the legislature had standing.[5] In explaining our holding, we repeatedly emphasized that if these legislators (who were suing as a bloc) were correct on the merits, then their votes not to ratify the amendment were deprived of all validity: [*22]

''Here, the plaintiffs include twenty senators, whose votes against ratification have been overridden and virtually held for naught although if they are right in their contentions their votes would have been sufficient to defeat ratification. We think that these senators have a plain, direct, and adequate interest in maintaining the effectiveness of their votes.'' *Id., at 438* (emphasis added).

''The twenty senators were not only qualified to vote on the question of ratification but their votes, if the Lieutenant governor were excluded as not being a part of the legislature for that purpose, would have been decisive in defeating the ratifying resolution.'' *Id., at 441* (emphasis added).

''We find no departure from principle in recognizing in the instant case that at least the twenty senators whose votes, if their contention were sustained, would have been sufficient to defeat the resolution ratifying the proposed constitutional amendment, have an interest in the controversy which, treated by the state court as a basis for entertaining and deciding the federal questions, is sufficient to give the Court jurisdiction to review that decision.'' [*23] *Id., at 446* (emphasis added).

It is obvious, then, that our holding in Coleman stands (at most, see n. 8, infra) for the proposition that legislators whose votes would have been sufficient to defeat (or enact) a specific legislative act have standing to sue if that legislative action goes into effect (or does not go into effect), on the ground that their votes have been completely nullified.[6]

It should be equally [*24] obvious that appellees' claim does not fall within our holding in Coleman, as thus understood. They have not alleged that they voted for a specific bill, that there were sufficient votes to pass the bill, and that the bill was nonetheless deemed defeated. In the vote on the Line Item Veto Act, their votes were given full effect. They simply lost that vote.[7] Nor can they allege that the Act will nullify their votes in the future in the same way that the votes of the Coleman legislators had been nullified. In the future, a majority of Senators and Congressmen can pass or reject appropriations bills; the Act has no effect on this process. In addition, a majority of Senators and Congressmen can vote to repeal the Act, or to exempt a given appropriations bill (or a given provision in an appropriations bill) from the Act; again, the Act has no effect on this process. Coleman thus provides little meaningful precedent for appellees' argument.[8] [*25]

Nevertheless, appellees rely heavily on our statement in Coleman that the Kansas senators had ''a plan, direct, and adequate interest in maintaining the effectiveness of their votes.'' Appellees claim that this statement applies to them because their votes on future appropriations [*26] bills (assuming a majority of Congress does not decide to exempt those bills from the Act) will be less ''effective'' than before, and that the ''meaning'' and ''integrity'' of their vote has changed. Brief for Appellees 24, 28. The argument goes as follows. Before the Act, Members of Congress could be sure that then they voted for, and Congress passed, an appropriations bill that included funds for project X, one of two things would happen: (1) the bill would become law and all of the projects listed in the bill would go into effect, or (ii) the bill would not become law and none of the projects listed in the bill would go into effect. Either way, a vote for the appropriations bill meant a vote for a package of projects that were inextricably linked. After the Act, however, a vote for an appropriations bill that includes Project X means something different. Now, in addition to the two possibilities listed above, there is a third option: the bill will become law and then the President will ''cancel'' project X.[9] [*27]

Even taking appellees at their word about the change in the ''meaning'' and ''effectiveness'' of their vote for appropriations bills which are subject to the Act, we think their argument pulls Coleman too far from its moorings. Appellees' use of the word ''effectiveness'' to link their argument to Coleman stretches the word far beyond the sense in which the Coleman opinion used it. There is a vast difference between the level of vote nullification at issue in Coleman and the abstract dilution of institutional legislative power that is alleged here. To uphold standing here would require a drastic extension of Coleman. We are unwilling to take that step.

Not only do appellees lack support from precedent, but historical practice appears to cut against them as well. It is evident from several episodes in our history that in analogous confrontations between one or both Houses of Congress and the Executive Branch, no suit was brought on the basis of claimed injury to official authority or power. The Tenure of Office Act, passed by Congress and the Executive Branch, no suit was brought on the basis of claimed injury to official authority or power. The Tenure of Office Act, passed by Congress over the veto of President Andrew Johnson in 1867, was a thorn in the side of succeeding Presidents until it was finally repealed at the [*28] behest of President Grover Cleveland in 1887. See generally W. Rehnquist, Grand Inquests: The Historic Impeachments of Justice Samuel Chase and President Andrew Johnson 210–235, 260–268 (1992). It provided that an official whose appointment to an Executive Branch office required confirmation by the Senate could not be removed without the consent of the Senate. 14 Stat. 430, ch. 154. In 1868, Johnson removed his Secretary of War, Edwin M. Stanton. Within a week, the House of Representatives impeached Johnson. 1 Trial of Andrew Johnson, President of the United States, Before the Senate of the United States on Impeachment by the House of Representatives for High Crimes and Misdemeanors 4 (1868). One of the principal charges against him was that his removal of Stanton violated the Tenure of Office Act. Id., at 6–8. At the conclusion of his trial before the Senate, Johnson was acquitted by one vote. 2 id., at 487, 496–498. Surely Johnson had a stronger claim of diminution of his official power as a result of the Tenure of Office Act than do the appellees in the present case. Indeed, if their claim were sustained, it would appear that President Johnson would have had standing to [*29] challenge the Tenure of Office Act before he ever thought about firing a cabinet member, simply on the grounds that it altered the calculus by which he would nominate someone to his cabinet. Yet if the federal courts had entertained an action to adjudicate the constitutionality of the Tenure of Office Act immediately after its passage in 1867, they would have been improperly and unnecessarily plunged into the bitter political battle being waged between the President and Congress.

Succeeding Presidents—Ulysses S. Grant and Grover Cleveland—urged Congress to repeal the Tenure of Office Act, and Cleveland's plea was finally heeded in 1887. 24 Stat. 500, ch. 353. It occurred to neither of these Presidents that they might challenge the Act in an Article III court. Eventually, in a suite brought by a plaintiff with traditional Article III standing, this Court did have the opportunity to pass on the constitutionality of the provision contained in the Tenure of Office Act. A sort of mini-Tenure of Office Act covering only the Post Office Department had been enacted in 1872, 17 Stat. 284, ch. 335, §2, and it remained on the books after the Tenure of Office Act's repeal in 1887. In the last [*30] days of the Woodrow Wilson administration, Albert Burleson, Wilson's Postmaster General, came to believe that Frank Myers, the Postmaster in Portland, Oregon, had committed fraud in the course of his official duties. When Myers refused to resign, Burleson, acting at the direction of the President, removed him. Myers sued in the Court of Claims to recover lost salary. In *Myers v. United States, 272 U.S. 52 (1926),* more than half a century after Johnson's impeachment, this Court held that Congress could not require senatorial consent to the removal of a Postmaster who had been appointed by the President with the consent of the Senate. *Id., at 106–107, 173, 176.* In the course of its opinion, the Court expressed the view that the original Tenure of Office Act was unconstitutional. Id., at 176. See also id., at 173 (''This Court has, since the Tenure of Office Act, manifested an earnest desire to avoid a final settlement of the question until it should be inevitably presented, as it is here'').

If the appellees in the present case have standing, presumably President Wilson, or Presidents Grant and Cleveland before him, would likewise have had standing, and could have [*31] challenged the law preventing the removal of a presidential appointee without the consent of Congress. Similarly, in *INS v. Chadha, 462 U.S. 919 (1983),* the Attorney General would have had standing to challenge the one-House veto provision because it rendered his authority provisional rather than final. By parity of reasoning, President Gerald Ford could have sued to challenge the appointment provisions of the Federal Election Campaign Act which were struck down in *Buckley v. Valeo, 424 U.S. 1 (1976),* and a Member of Congress could have challenged the validity of President Coolidge's pocket veto that was sustained in *The Pocket Veto Case, 279 U.S. 655 (1929).*

There would be nothing irrational about a system which granted standing in these cases; some European constitutional courts operate under one or another variant of such a regime. See, e.g., Favoreu, Constitutional Review in Europe, in Constitutionalism and Rights 38, 41 (L. Henkin & A. Rosenthal eds. 1990); Wright Sheive, Central and Eastern European Constitutional Courts and the Antimajoritarian Objection to Judicial Review, 26 Law & Pol'y Int'l Bus. 1201, 1209 (1995); A. Stone, The Birth of Judicial [*32] Politics in France 232 (1992); D. Kommers, Judicial Politics in West Germany: A Study of the Federal Constitutional Court 106 (1976). But it is obviously not the regime

that has obtained under our Constitution to date. Our regime contemplates a more restricted role for Article III courts, well expressed by Justice Powell in his concurring opinion in *United States v. Richardson, 418 U.S. 166 (1974):*

''The irreplaceable value of the power articulated by Mr. Chief Justice Marshall [in *Marbury v. Madison, 1 Cranch 137 (1803)*] lies in the protection it has afforded the constitutional rights and liberties of individual citizens and minority groups against oppressive or discriminatory government action. It is this role, not some amorphous general supervision of the operations of government, that has maintained public esteem for the federal courts and has permitted the peaceful coexistence of the countermajoritarian implications of judicial review and the democratic principles upon which our Federal Government in the final analysis rests.'' *Id. at 192.*

IV

In sum, appellees have alleged no injury to themselves as individuals (contra Powell), the institutional [*33] injury they allege is wholly abstract and widely dispersed (contra Coleman), and their attempt to litigate this dispute at this time and in this form is contrary to historical experience. We attach some importance to the fact that appellees have not been authorized to represent their respective Houses of Congress in this action, and indeed both Houses actively oppose their suit.[10] See note 2, supra. We also note that our conclusion neither deprives Members of Congress of an adequate remedy (since they may repeal the Act or exempt appropriations bills from its reach), nor forecloses the Act from constitutional challenge (by someone who suffers judicially cognizable injury as a result of the Act). Whether the case would be different if any of these circumstances were different we need not now decide. [*34]

We therefore hold that these individual members of Congress do not have a sufficient ''personal stake'' in this dispute and have not alleged a sufficiently concrete injury to have established Article III standing.[11] The judgment of the District Court is vacated, and the case is remanded with instructions to dismiss the complaint for lack of jurisdiction.

It is so ordered.

Concur by: Souter

Concur: [*35]

Justice Souter, concurring in the judgment, with whom Justice Ginsburg joins, concurring.

Appellees claim that the Line Item Veto Act, Pub. L. 104–130, 110 Stat. 1200, codified at 2 *U.S.C. A. §691* et seq. (Supp. 1997), is unconstitutional because it grants the President power, which Article I vests in Congress, to repeal a provision of federal law. As Justice Stevens points out, appellees essentially claim that, by granting the President power to repeal statutes, the Act injures them by depriving them of their official role in voting on the provisions that become law. See post, at 2–3. Under our precedents, it is fairly debatable whether this injury is sufficiently ''personal'' and ''concrete'' to satisfy the requirements of Article III.[12]

There is, first, difficulty in applying the rule that an injury [*36] on which standing is predicated be personal, not official. If our standing doctrine recognized this as a distinction with a dispositive effect, the injury claimed would not qualify: the Court is certainly right in concluding that appellees sue not in personal capacities, but as holders of seats in the Congress. See ante, at 9. And yet the significance of this distinction is not so straightforward. In *Braxton County Court* v. *West Virginia ex rel. State Tax Comm'rs, 208 U.S. (1908),* it is true, we dismissed a challenge by a county court to a state tax law for lack of jurisdiction, broadly stating that '''the interest of a [party seeking relief] in this court should be a personal and not an official interest,''' *id., at 198* (quoting *Smith* v. *Indiana, 191 U.S. 138, 149 (1903);* accord, *Joint Anti-Fascist Refugee Comm.* v. *McGrath, 341 U.S. 123, 151 (1951)* (Frankfurter, J., concurring). But the Court found Braxton County ''inapplicable'' to a challenge by a group of state legislators in *Coleman* v. *Miller, 307 U.S. 433, 438, and n. 3 (1939),* and found the legislators had standing even though they claimed no injury but a deprivation of official [*37] voting power, *id., at 437–446.*[13] Thus, it is at least arguable that the official nature of the harm here does not preclude standing. [*38]

Nor is appellees' injury so general that, under our case law, they clearly cannot satisfy the requirement of concreteness. On the one hand, appellees are not simply claiming harm to their interest in having government abide by the Constitution, which would be shard to the same extent by the public at large and thus provide no basis for suit, see, e.g., *Valley Forge Christian College v. Americans United for Separation of Church and State, Inc., 454 U.S. 464, 482–483 (1982); Schlesinger v. Reservists Comm. to Stop the War, 418 U.S. 208, 217, 220 (1974); Fairchild v. Hughes, 258 U.S. 126, 129–130 (1922).* Instead, appellees allege that the Act deprives them of an element of their legislative power; as a factual matter they have a more direct and tangible interest in the preservation of that power than the general citizenry has. Cf. *Coleman, supra, at 438* (concluding that state legislators had a ''plain'' and ''direct'' interest in the effectiveness of their votes); see also *Hendrick v. Walters, 865 P. 2d 1232, 1236–1238 (Okla. 1993)* Concluding that a legislator had a personal interest in a suit to determine whether the Governor had lawfully assumed [*39] office due to substantial interaction between the Governor and legislature); *Colorado General Assembly v. Lamm, 704 P. 2d 1371, 1376–1378 (Colo. 1985)* (concluding that the legislature had suffered an injury in fact as a result of the Governor's exercise of his line item veto power). On the other hand, the alleged, continuing deprivation of federal legislative power is not as specific or limited as the nullification of the decisive votes of a group of legislators in connection with a specific item of legislative consideration in Coleman, being instead shared by all the members of the official class who could suffer that injury, the Members of Congress.[14] [*40]

Because it is fairly debatable whether appellees' injury is sufficiently personal and concrete to give them standing, it behooves us to resolve the question under more general separation-of-powers principles underlying our standing requirements. See *Allen v.Wright, 468 U.S. 737, 752 (1984); United States v. Richardson, 418 U.S. 166, 188–197 (1974)* (Powell, J., concurring). While ''our constitutional structure [does not] require . . . that the Judicial Branch shrink from a confrontation with the other two coequal branches, ''*Valley Forge Christian College, supra, at 474,* we have cautioned that respect for the separation of powers requires the Judicial Branch to exercise restraint in deciding constitutional issues by resolving those implicating the powers of the three branches of Government as a ''last resort,'' see ibid. The counsel of restraint in this case begins with the fact that a dispute involving only officials, and the official interests of those, who serve in the branches of the National Government lies far from the model of the traditional common-law cause of action at the conceptual core of the case-or-controversy requirement, see Joint Anti-Fascist [*41] *Refugee Comm., supra, at 150, 152* (Frankfurter, J., concurring). although the contest here is not formally between the political branches (since Congress passed the bill augmenting Presidential power and the President signed it), it is in substance an inter-branch controversy about calibrating the legislative and executive powers, as well as an intrabranch dispute between segments of Congress itself. Intervention in such a controversy would risk damaging the public confidence that is vital to the functioning of the Judicial Branch, cf. *Valleg Forge Christian College, supra, at 474* (quoting *Richardson, supra, at 188* (Powell, J., concurring)), by embroiling the federal courts in a power contest nearly at the height of its political tension.

While it is true that a suit challenging the constitutionality of this Act brought by a party from outside the Federal Government would also involve the Court in resolving the dispute over the allocation of power between the political branches, it would expose the Judicial Branch to a lesser risk. Deciding a suit to vindicate an interest outside the Government raises no specter of judicial readiness to enlist on one side of a political tug-of-war, [*42] since ''the propriety of such action by a federal court has been recognized since *Marbury v. Madison, 1 Cranch 137 (1803).'' Valley Forge Christian College, supra, at 473–474.* And just as the presence of a party beyond the Government places the Judiciary at some remove form the political forces, the need to await injury to such a plaintiff allows the courts some greater separation in the time between the political resolution and the judicial review.

''By connecting the censureship of the laws with the private interests of members of the community, . . . the legislation is protected from wanton assailants, and from the daily aggressions of party-spirit.'' 1 A. de Tocqueville, Democracy in America 105 (Schoken ed. 1961).

The virtue of waiting for a private suit is only confirmed by the certainty that another suit can come to us. The parties agree, and I see no reason to question, that if the President ''cancels'' a conventional spending or tax provision pursuant to the Act, the putative beneficiaries of that provision will likely suffer a cognizable injury and thereby have standing under Article III. See Brief for United States 19–20, and n. 10; Brief for Appellees 32–33. [*43] By depriving beneficiaries of the money to which they would otherwise be entitled, a cancellation would produce an injury that is ''actual,'' ''personal and individual,'' and involve harm to a ''legally protected interest,'' *Lujan v. Defenders of Wildlife, 504 U.S. 555, 560, and n. 1 (1992)* (internal quotation marks omitted); assuming the canceled provision would not apply equally to the entire public, the injury would be ''concrete,'' *id., at 560, 573–574;* and it would be ''fairly traceable to the challenged action of the'' executive officials involved in the cancellation, *id., at 560* (internal quotation marks omitted), as well as probably ''redressable by a favorable decision,'' *id., at 561* (internal quotation marks and citation omitted). See, e.g., *Train v. City of New York, 420 U.S. 35, 40 (1975)* (suit by City of New York seeking proper allotment of federal funds). While the Court has declined to lower standing requirements simply because no one would otherwise be able to litigate a claim, see *Valley Forge Christian College, 454 U.S. at 489; Schlesinger, 418 U.S., at 227; United States v. Richardson, supra, at 179,* the certainty of a plaintiff [*44] who obviously would have standing to bring a suit to court after the politics had at least subsided from a full boil is a good reason to resolve doubts about standing against the plaintiff invoking an official interest, cf. *Joint Anti-Fascist Refugee Comm., 341 U.S., at 153–154* (Frankfurter, Jr., concurring) (explaining that the availability of another person to bring suit may affect the standing calculus).

I therefore conclude that appellees' alleged injuries are insufficiently personal and concrete to satisfy Article III standing requirements of personal and concrete harm. Since this would be so in any suit under the conditions here, I accordingly find no cognizable injury to appellees.

Dissent by: Stevens; Breyer

Dissent: Justice Stevens, dissenting.

The Line Item Veto Act purports to establish a procedure for the creation of laws that are truncated versions of bills that have been passed by the Congress and presented to the President for signature. If the procedure were valid, it would deny every Senator and every Representative any opportunity to vote for or against the truncated measure that survives the exercise of the President's cancellation authority. Because the opportunity to [*45] cast such votes is a right guaranteed by the text of the Constitution, I think it clear that the persons who are deprived of that right by the Act have standing to challenge its constitutionality. Moreover, because the impairment of that constitutional right has an immediate impact on their official powers, in my judgment they need not wait until after the President has exercised his cancellation authority to bring suit. Finally, the same reason that the respondents have standing provides a sufficient basis for concluding that the statute is unconstitutional.

Article I, §7, of the Constitution provides that every Senator and every Representative has the power to vote on ''Every Bill . . . before it become a law'' either as a result of its having been signed by the president or as a result of its ''Reconsideration'' in the light of the President's ''Objections.''[15] In contrast, the Line Item Veto Act establishes a mechanism by which bills passed by both Houses of Congress will eventually produce laws that have not passed either House of Congress and that have not been voted on by any Senator or Representative.

''Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States: If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.'' U.S. Const., Art. I, §7. [*46]

Assuming for the moment that this procedure is constitutionally permissible, and that the President will from time to time exercise the power to cancel portions of a just-enacted law, it follows that the statute deprives every Senator and every Representative of the right to vote for or against measures that may become law. The appellees cast their challenge to the constitutionality of the Act in a slightly different way. Their complaint asserted that the Act ''alters the legal and practical effect of all votes they may cast on bills containing such separately vetoable items'' and ''divest them of their constitutional role in the repeal of legislation.'' Complaint P 14. These two claimed injuries are at base the same as the injury on which I rest my analysis. The reason the complaint frames the issues in the way that it does is related to the Act's technical operation. Under the Act, the President would receive and sign a bill exactly as it passed both Houses, and would exercise his partial veto power only after the law had been enacted. See *2 U.S.C.A. §691*(a) (Supp. 1997). The appellees thus articulated their claim as a combination of the diminished effect of their initial [*47] vote and the circumvention of their right to participate in the subsequent repeal. Whether one looks at the claim from this perspective, or as a simple denial of their right to vote on the precise text that will ultimately become law, the basic nature of the injury caused by the Act is the same.

In my judgment, the deprivation of this right—essential to the legislator's office—constitutes a sufficient injury to provide every Member of Congress with standing to challenge the constitutionality of the statue. If the dilution of any individual voter's power to elect representatives provides that voter with standing—as it surely does, see, e.g., *Baker* v. *Carr, 369 U.S. 186, 204–208 (1962)*—the deprivation of the right possessed by each Senator and Representative to vote for or against the precise text of any bill before it becomes law must also be a sufficient injury to create Article III standing for them.[16] Although, as Justice Breyer demonstrates, see ante at 2–5 (dissenting opinion), the majority's attempt to distinguish *Coleman* v. *Miller, 307 U.S. 433, 438 (1939)*, is not persuasive, I need not rely on that case to support my view that the Members of Congress [*48] have standing to sue in this instance. In Coleman, the legislators complained that their votes were denied full effectiveness. See Ibid.; see also *Dyer* v. *Blair, 390 F. Supp. 1291, 1297, n.12 (ND Ill. 1975)*. But the law at issue here does not simply alter the effect of the legislators votes; it denies them any opportunity at all to cast votes for or against the truncated versions of the bills presented to the President.[17] [*49]

Moreover, the appellees convincingly explain how the immediate, constant threat of the partial veto power has a palpable effect on their current legislative choices. See Brief for Appellees 23–25, 29–31. Because the Act has this immediate and important impact on the powers of Members of Congress, and on the manner in which they undertake their legislative responsibilities, they need not await an exercise of the President's cancellation authority to institute the litigation that the statute itself authorizes. See *2 U.S. C.A. §692*(a)(1) (Supp. 1997).

Given the fact that the authority at stake is granted by the plain and unambiguous text of Article I, it is equally clear to me that the statutory attempt to eliminate it is invalid.

Accordingly, I would affirm the judgment of the District Court.

Justice Breyer, dissenting.

As the majority points out, Congress has enacted a specific statute (signed by the President) granting the plaintiffs authority to bring this case. Ante, at 3, citing *2 U.S.C. §692*(a)(1). That statutory authorization ''eliminates any prudential standing limitations and significantly lessens the risk of unwanted conflict with the Legislative Branch.'' [*50] Ante, at 8, n. 3. Congress, however, cannot grant the federal courts more power than the Constitution itself authorizes us to exercise. Cf. *Hayburn's Case, 2 Dall. 409 (1792)*. Thus, we can proceed to the merits only if the ''judicial Power'' of the United States—''extending to . . . Cases, in Law and Equity'' and to ''Controversies''—covers the dispute before us. U.S. Const., Art. III, §2.

I concede that there would be no case or controversy here were the dispute before us not truly adversary, or were it not concrete and focused. But the interests that the parties assert are genuine and opposing, and the parties are therefore truly adverse. Compare *Chicago & Grand Trunk R. Co. v. Wellman, 143 U.S. 339 (1892)*. Moreover, as Justice Stevens points out, the harm that the plaintiffs suffer (on their view of the law) consists in part of the systematic abandonment of laws for which a majority voted, in part of the creation of other laws in violation of procedural rights which (they say) the Constitution provides them, and in part of the consequent and immediate impediment to their ability to do the job that the Constitution requires them to do. See ante, at 1–2, 4 (Stevens, [*51] J., dissenting); Complaint P14; App. 34–36, 39–40, 42–46, 54–55, 57–59, 62–64. Since federal courts might well adjudicate cases involving comparable harms in other contexts (such as purely private contexts), the harm at issue is sufficiently concrete, Cf., e.g., Bennett v. Spear, 520 U.S. ___, ___ (1997) (slip op. at 11–19); *Northeastern Fla. Chapter, Associated Gen. Contractors of America v. Jacksonville, 508 U.S. 656 (1993)*. See also ante, at 2–3, (Souter, J., concurring in judgment). The harm is focused and the accompanying legal issues are both focused and of the sort that this Court is used to deciding. See, e.g., *United States v. Munoz-Flores, 495 U.S. 385, 392–396 (1990)*. The plaintiffs therefore do not ask the Court ''to pass upon'' an ''abstract, intellectual problem,'' but to determine ''a concrete, living contest between'' genuine ''adversaries.'' *Coleman v. Miller, 307 U.S. 433, 460 (1939)* (Frankfurter, J., dissenting).

Nonetheless, there remains a serious constitutional difficulty due to the fact that this dispute about lawmaking procedures arises between government officials and is brought by legislators. The critical question is [*52] whether or not this dispute, for that reason, is so different in form from those ''matters that were the traditional concern of the courts at Westminster'' that it falls outside the scope of Article III's judicial power. Ibid. Justice Frankfurter explained this argument in his dissent in Coleman, saying that courts traditionally ''leave intra-parliamentary controversies to parliaments and outside the scrutiny of law courts. The procedures for voting in legislative assemblies—who are members, how and when they should vote, what is the requisite number of votes for different phases of legislative activity, what votes were cast and how they were counted—surely are matters that not merely concern political action, but are of the very essence of political action, if 'political' has any connotation at all. . . . In no sense are they matters of 'private damage.' They pertain to legislators not as individuals but as political representatives executing the legislative process. To open the law courts to such controversies is to have courts sit in judgment on the manifold disputes engendered by procedures for voting in legislative assemblies.'' *Id., at 469–470*.

Justice Frankfurter [*53] dissented because, in his view, the ''political'' nature of the case, which involved legislators, placed the dispute outside the scope of Article III's ''case'' or ''controversy'' requirement. Nonetheless, the Coleman court rejected his argument.

Although the majority today attempts to distinguish Coleman, ante, at 9–14, I do not believe that Justice Frankfurter's argument or variations on its theme can carry the day here. First, as previously mentioned, the jurisdictional statute before us eliminates all but constitutional considerations, and the circumstances mentioned above remove all but the ''political'' or intragovernmental'' aspect of the constitutional issue. Supra, at 1–2.

Second, the Constitution does not draw an absolute line between disputes involving a

''personal'' harm and those involving an ''official'' harm. Cf. ante, at 6, 9. See ante, at 2, n. 2 (Souter, J., concurring in judgment). Justice Frankfurter himself said that this Court had heard cases involving injuries suffered by state officials in their official capacities. *Coleman, supra, at 466* (citing *Blodgett v. Silberman, 277 U.S. 1 (1928).* and *Boynton v. Hutchinson, 291 U.S. [*54] 656,* cert. dism'd on other grounds, *292 U.S. 601 (1934)).* See also, e.g., *Will v. Calvert Fire Ins. Co., 437 U.S. 655, 661 (1978)* (federal district judge appealing mandamus issued against him in respect to a docket-keeping matter); *Board of Ed. of Central School Dist. No. 1 v. Allen, 392 U.S. 236, 241, n. 5 (1968)* (indicating that school board has standing where members must either violate oath or risk loss of school funds and expulsion from office). Coleman itself involved injuries in the plaintiff legislators' official capacity. And the majority in this case, suggesting that legislators might have standing to complain of rules that ''denied'' them ''their vote . . . in a discriminatory manner,'' concedes at least the possibility that any constitutional rule distinguishing ''official'' from ''personal'' injury is not absolute. Ante, at 12, n. 7. See also ante, at 9.

Third, Justice Frankfurter's views were dissenting views, and the dispute before us, when compared to Coleman, presents a much stronger claim, not a weaker claim, for constitutional justiciability. The lawmakers in Coleman complained of a lawmaking procedure that, at worst, improperly [*55] counted Kansas as having ratified one proposed constitutional amendment, which had been ratified by only 5 other States, and rejected by 26, making it unlikely that it would ever become law. *Coleman, supra, at 436.* The lawmakers in this case complain of a lawmaking procedure that threatens the validity of many laws (for example, all appropriations laws) that Congress regularly and frequently enacts. The systematic nature of the harm immediately affects the legislators, ability to do their jobs. The harms here are more serious, more pervasive, and more immediate than the harm at issue in Coleman. Cf. *Valley Forge Christian College v. Americans United For Separation of Church and State, Inc., 454 U.S. 464, 471 (1982),* quoting *Chicago & Grand Trunk R. Co. v. Wellman, 143 U.S., at 345* (judicial power '' 'is legitimate only in the last resort, and as a necessity in the determination of a real, earnest and vital controversy' '').

The majority finds a difference in the fact that the validity of the legislators' votes was directly at issue in Coleman.

''Our holding in Coleman stands . . . for the proposition that legislators whose votes would have been sufficient [*56] to defeat (or enact) a specific legislative act have standing to sue if that legislative action goes into effect (or does not go into effect), on the ground that their votes have been completely nullified.'' Ante, at 11.

But since many of the present plaintiffs will likely vote in the majority for at least some appropriations bills that are then subject to presidential cancellation, I think that—on their view of the law—their votes are threatened with nullification too. Cf. ante, at 11–12, n. 6, 13–14.

The majority also suggests various distinctions arising out of the fact that Coleman involved a state legislature, rather than the federal Congress. Ante, at 13, n. 8. See also ante, at 3, n. 3 (Souter, J., concurring in judgment). But Justice Frankfurter treated comparable arguments as irrelevant, and the Coleman majority did not disagree. *Coleman, 307 U.S., at 462, 465–466 and n. 6* (Frankfurter, J., dissenting); *id., at 446.* While I recognize the existence of potential differences between state and federal legislators, I do not believe that those differences would be determinative here, where constitutional, not prudential, considerations are [*57] at issue, particularly given the Constitution's somewhat comparable concerns for state authority and the presence here of a federal statute (signed by the President) specifically authorizing this lawsuit. Compare ante, at 4–5 (Souter, J., concurring in judgment). And in light of the immediacy of the harm, I do not think that the possibility of a later challenge by a private plaintiff, see ante, at 5–6 (Souter, J., concurring in judgment), could be constitutionally determinative. Finally, I do not believe that the majority's historical examples primarily involving the Executive Branch and involving lawsuits that were not brought, ante, at 14–17, are legally determinative. See ante, at 4, n. 3 (Stevens, J., dissenting).

In sum, I do not believe that the Court can find this case nonjusticiable without overruling Coleman. Since it does not do so, I need not decide whether the systematic nature, seriousness, and immediacy of the harm would make this dispute constitutionally justiciable even in Coleman's absence. Rather, I can and would find this case justiciable on Coleman's authority. I add that because the majority has decided that this dispute is not [*58] now justiciable and has expressed no view on the merits of the appeal, I shall not discuss the merits either, but reserve them for future argument.

NOTES

[1] Three of the Senators—Robert Byrd, Carl Levin, and Daniel Patrick Moynihan—are still Senators. The fourth—Mark Hatfield—retired at the end of the 104th Congress. The two Congressmen—David Skaggs and Henry Waxman—remain Congressmen.

[2] The House Bipartisan Legal Advisory Group (made up of the Speaker, the Majority Leader, the Minority Leader, and the two Whips) and the Senate filed a joint brief as amici curiae urging that the District Court be reversed on the merits. Their brief states that they express no position as to appellees' standing.

[3] It is settled that Congress cannot erase Article III's standing requirements by statutorily granting the right to sue to a plaintiff who would not otherwise have standing. *Gladstone, Realtors v. Village of Bellwood, 441 U.S. 91, 100 (1979).* We acknowledge, though, that Congress' decision to grant a particular plaintiff the right to challenge an act's constitutionality (as here, see §692(a)(1), supra, at 3) eliminates any prudential standing limitations and significantly lessens the risk of unwanted conflict with the Legislative Branch when that plaintiff brings suit. See, e.g., Bennett v. Spear, 520 U.S. ___ (1997) (slip op., at 9–10).

[4] Over strong dissent, the Court of Appeals for the District of Columbia Circuit has held that Members of Congress may have standing when (as here) they assert injury to their institutional power as legislators. See, e.g., *Kennedy v. Sampson, 511 F. 2d 430, 435–436 (CADC 1974); Moore v. United States House of Representatives, 733 F. 2d 946, 951 (CADC 1984); id., at 956* (Scalia, J., concurring in result); *Barnes v. Kline, 759 F. 2d 21, 28–29 (CADC 1985); id., at 41* (Bork, J., dissenting). But see *Holtzman v. Schlesinger, 484 F. 2d 1307, 1315 (CA2 1973)* (Member of Congress has no standing to challenge constitutionality of American military operations in Vietnam war); *Harrington v. Schlesinger, 528 F. 2d 455, 459 (CA4 1975)* (same).

[5] Chief Justice Hughes wrote an opinion styled ''the opinion of the Court.'' *Coleman, 307 U.S., at 435.* Four Justices concurred in the judgment, partially on the ground that the legislators lacked standing. See *id., at 456–457* (opinion of Black, J., joined by Roberts, Frankfurter, and Douglas, JJ.); *id., at 460* (opinion of Frankfurter, J., joined by Roberts, Black, and Douglas, JJ.). Two justices dissented on the merits. *See id., at 470* (opinion of Butler, J., joined by McReynolds, J.). Thus, even though there were only two justices who joined Chief Justice Hughes's opinion on the merits, it is apparent that the two dissenting Justices joined his opinion as to the standing discussion. Otherwise, Justice Frankfurter's opinion denying standing would have been the controlling opinion.

[6] See also *Bender v. Williamsport Area School Dist., 475 U.S. 534, 544–545, n. 7 (1986)* (in dicta, suggesting hypothetically that if state law authorized a school board to take action only by unanimous consent, if a school board member voted against a particular action, and if the board nonetheless took the action, the board member ''might claim that he was legally entitled to protect 'the effectiveness of [his] vote,' Coleman[, *307 U.S., at 438,*] . . .but in that event [he] would have to allege that his vote was diluted or rendered nugatory under state law'').

[7] Just as appellees cannot show that their vote was denied or nullified as in Coleman (in the sense that a bill they voted for would have become law if their vote had not been stripped of its validity), so are they unable to show that their vote was denied or nullified in a discriminatory manner (in the sense that their vote was denied its full validity in relation to the votes of their colleagues). Thus, the various hypotheticals offered by appellees in their briefs and discussed during oral argument have no applicability to this case. See Reply Brief for Appellees 6 (positing hypothetical law in which ''first-term Members were not allowed to vote on appropriations bills,'' or in which ''every Member was disqualified on grounds of partiality from voting on major federal projects in his or her own district''); Tr. of Oral Arg. 17 (''Question: But [Congress] might have passed a statute that said the Senator from Iowa on hog-farming matters should have only half-a-vote. Would they have standing to challenge that?'').

[8] Since we hold that Coleman may be distinguished from the instant case on this ground, we need not decide whether Coleman may also be distinguished in other ways. For instance, appellants have argued that Coleman has no applicability to a similar suit brought in federal court, since that decision depended on the fact that the Kansas Supreme Court ''treated'' the senators' interest in their votes ''as a basis for entertaining and deciding the federal questions.'' *307 U.S., at 446.* They have also argued that Coleman has no applicability to a similar suit brought by federal legislators, since the separation-of-powers concerns present in such a suit were not present in Coleman, and since any federalism concerns were eliminated by the Kansas Supreme Court's decision to take jurisdiction over the case.

[9] Although Congress could reinstate Project X through a ''disapproval bill,'' it would assumedly take two-thirds of both Houses to do so, since the President could be expected to veto the Project X ''disapproval bill.'' But see Robinson, Public Choice Speculations on the Item Veto, *74 Va. L. Rev. 403, 411–412 (1988)* (political costs that President would suffer in important congressional districts might limit use of line-item veto).

[10] Cf. *Bender, 475 U.S., at 544* (''Generally speaking, members of collegial bodies do not have standing to perfect an appeal the body itself has declined to take''); *United States v. Ballin, 144 U.S. 1, 7 (1892)* (''The two houses of Congress are legislative bodies representing larger constituencies. Power is not vested in any one individual, but in the aggregate of the members who compose the body, and its action is not the action of any separate member or number of members, but the action of the body as a whole'').

[11] In addition, it is far from clear that this injury is ''fairly traceable'' to appellants, as our precedents require, since the alleged cause of appellees's injury is not appellants' exercise of legislative power but the actions of their own colleagues in Congress in passing the Act. Cf. *Holtzman v. Schlesinger, 484 F. 2d 1307, 1315 (CA2 1973)* (''Representative Holtzman . . . has not been denied any right to vote on [the war in Cambodia] by any action of the defendants [Executive Branch officials]. . . . The fact that her vote was ineffective was due to the contrary votes of her colleagues and not the defendants herein'').

[12] While Congress may, by authorizing suit for particular parties, remove any prudential standing barriers, as it has in this case, see, ante, at 8, n. 3, it may not reduce the Article III minimums.

[13] As appellants note, it is also possible that the impairment of certain official powers may support standing for Congress, or one House thereof, to seek the aid of the Federal Judiciary. See Brief for United States 26, n. 14 (citing *McGrain* v. *Daugherty, 273 U.S. 135, 174 (1927)).* And, as appellants concede, see Brief for United States 20–21, 25–28, an injury to official authority may support standing for a government itself or its duly authorized agents, see, e.g., *Diamond* v. *Charles, 476 U.S. 54, 62 (1986)* (noting that ''a State has standing to defend the constitutionality of its statute'' in federal court); *ICC* V. *Oregon-Washington R. & Nav. Co., 288 U.S. 14, 25–27 (1933)* (explaining that a federal agency had standing to appeal, because an official or an agency could be designated to defend the interests of the Federal Government in federal court); *Coleman* v. *Miller, 307 U.S. 433, 441–445 (1939)* (discussing cases).

[14] As the Court explains, Coleman may well be distinguishable on the further ground that it involved a suit by state legislators that did not implicate either the separation-of-powers concerns raised in this case or corresponding federalism concerns (since the Kansas Supreme Court had exercised jurisdiction to decide a federal issue). See ante, at 13, n. 8.

[15] The full text of the relevant paragraph of §7 provides:

''Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the United States: If he approves he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in Like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.'' U.S. Const., Art. I, §7.

[16] The respondents' assertion of their right to vote on legislation is not simply generalized interest in the proper administration of government, cf. *Allen v. Wright, 468 U.S. 737, 754 (1984)*, and the legislators' personal interest in the ability to exercise their constitutionally ensured power to vote on laws is certainly distinct from the interest that an individual citizen challenging the Act might assert.

[17] The majority's reference to the absence of any similar suit in earlier disputes between Congress and the President, see ante, at 14–17, does not strike me as particularly relevant. First, the fact that others did not choose to bring suit does not necessarily mean the Constitution would have precluded them from doing so. Second, because Congress did not authorize declaratory judgment actions until the Federal Declaratory Judgment Act of 1934, 48 Stat. 955, the fact that President Johnson did not bring such an action in 1868 is not entirely surprising.

TAXPAYER RELIEF ACT OF 1997

The SPEAKER pro tempore (Mr. ROGAN). Pursuant to House Resolution 174 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. 2014.

□ 1155

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. 2014) to provide for reconciliation pursuant to subsections (b)(2) and (d) of section 105 of the concurrent resolution on the budget for fiscal year 1998, with Mr. GOODLATTE 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 Texas [Mr. ARCHER] and the gentleman from New York [Mr. RANGEL] each will control 90 minutes.

The Chair recognizes the gentleman from Texas [Mr. ARCHER].

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

Mr. Chairman, it has been 16 years since the American people have received tax relief, 16 years. While taxes have not gone down for such a long time, they surely have gone up over and over again. For too many years, the Government has failed to listen to those who sent us here. For too many years, taxes went up, spending went up, and the size and power of Washington Government went up.

But in the last 2½ years, since the American people elected a new Congress, I am proud to say that the era of big government is over and the era of big taxes is over. With the vote that we cast today, we will tell the American people that we have heard their message. It is time for Washington to tax less, so that the American people can do more.

This plan provides tax relief for life. It lets people keep more of the money that they make so that they can spend it or save it as they see fit. This plan will be a helping hand from the childhood years to the education years, from the saving years to the retirement years.

It offers a $500 per child tax credit, including teenagers. It provides educational tax relief so parents can send their children to college. It creates incentives for people to work hard and save by reducing the capital gains tax rate, and by expanding the individual retirement accounts. It even provides long overdue relief from the death tax.

This plan is dedicated to America's forgotten middle-income taxpayers. Fully 76 percent of the tax relief in this plan goes to people with incomes between $20,000 and $75,000 a year.

When it comes to taxes, my philosophy is simple. We must cut taxes because tax money does not belong to the government; it belongs to the middle-income workers of America who earned it, who made it and who are entitled to spend it in the way that they want to spend it. People in Washington, I think, sometimes forget that, but I never will.

Yesterday a young couple working in Manassas, VA, came to Washington. They are middle income. The husband and wife both have to work in order to make ends meet. They are the backbone of this country. With two children, I told them yesterday and I repeat it today, tax relief is dedicated to them. A working mom and dad, they get up every morning, go to work, play by the rules and try every day to make ends meet. Because they are middle income, they should not lose this credit as they do on the suggested Democrat substitute.

□ 1200

Even with a strong economy they know how tough it can be to get by, especially with teenage children. They both have to work so they can live the American dream.

Some Democrats in Washington consider them rich and want to take the $500-per-child credit away, but we will not let that happen. Like millions of other middle-income Americans they need and deserve tax relief, and that is what the vote today is all about.

Today's vote is about providing tax relief to the people who pay taxes. We are not only providing tax relief to the couple I mentioned, Debbie and Phil Spindle, we are cutting wasteful Washington spending so we can balance the budget for their children, James and Philip, and for the grandchildren one day they will have.

Remember, my colleagues, balancing the budget and providing tax relief are not matters of accounting; they are issues involving our values, our sense of right and wrong, how to be helpful and how to make the government work for a change. In the end what we are doing is downsizing the power and the scope of Washington, DC, and upsizing the power, responsibilities, and opportunities of the American people.

So in closing I dedicate this vote to Debbie and Phil Spindle of Manassas and to the millions of other middle-income Americans who have their taxes raised and want relief. What we do today we do for Debbie and Phil and working couples across this country who are trying to make ends meet, trying to rear their children, trying to provide an education. They are the backbone of America.

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

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

Mr. Chairman, there is a lot of talk about this being the first tax cut in 16 years. We do not hear much about what President is the one that is advocating the tax cut. We do not hear much about how the economy has improved from a deficit that was inherited toward a balanced budget, and our major problem today is that people have a different concept of the middle class.

President Clinton has reached out to my Republican friends and said, ''Can't we work together?''

Mr. Chairman, I think the President will speak for himself in saying what a terrible disappointment it has been where the White House, the policy makers, has been excluded from the Republican bill.

Bipartisanship means Democrats and Republicans working together with the President of the United States, and the President now says that this has moved so far away from the issue of fairness that he would not be able to sign the Republican bill.

Even in the State of Texas they have so skewed and increased the number of people that will be ineligible for the child credit that half of the kids in Texas and over half of the kids in the State of New York will be ineligible for the family tax credit.

It seems to me that fairness is something that should govern, but somehow if we can find people who are working every day, paying taxes to local and State government, that when it comes to saying give them a break, the people on the other side think that people who work in low incomes are asking for welfare.

Mr. Chairman, I think it is arrogant and all Americans ought to be indignant, when people do not even consider going on welfare and they work every day, they work with their families. We will hear cases like this, but we are saying, ''We have to pass over you because we want to make tax lighter on the very richest of Americans.''

It seemed to me, too, that when my colleagues get a chance to see the Democratic substitute, we really believe that we should have strong law enforcement but we should concentrate on our school system the same way the other side of the aisle concentrates on death penalties and jail sentences. What we are talking about is that the Democratic bill improves our public educational system, brings in the private sector working as partners. We do not just talk about diplomas, we talk about jobs, and we are talking about getting America to move forward in this next century with productivity, effectiveness and the education to do the job we have to do.

Mr. Chairman, I now would like to hold onto the time that we have for the other speakers that are here, and I do hope that people listen and see the difference between how we can deal with a tax bill in a bipartisan manner in which the President would want and how our Republican friends deserted and left him, locked him out of the room when these important decisions were made.

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

Mr. ARCHER. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio [Mr. KASICH] who has really brought us here, a gentleman who has spent so many untold hours working so we can achieve the goal of a balanced budget for our children and their children with tax relief.

Mr. KASICH. Mr. Chairman, I have to take a moment to pay very high tribute to the gentleman from Texas [Mr. ARCHER], and I would like the Members of the House to note something that is very significant that sometimes goes unnoticed in this debate. Americans all of my lifetime argued that lobbyists, the special interest groups, should not be able to carve out special benefits for themselves because they had powerful lobbyists or fancy lawyers, and in fact for many, many years, the years in which we were in the minority, the Tax Code had benefits carved out for special interest groups who because of the slickness and because of their ability to meet with the right people, to gain access to the right people, were able to carve out in the Tax Code loopholes that were not fair.

Now I listened to this from liberals all these years about the need to close loopholes, and it took the elevation of the gentleman from Texas [Mr. ARCHER] to become chairman of the Committee on Ways and Means so that over the course of the last 2 years we have closed loopholes, we have closed loopholes on those powerful special interest groups that were able to carve out benefits that should have flowed to all hard-working American taxpayers.

Contained in this tax bill are the closing of loopholes to the rich and the powerful, and when we closed those loopholes we were able to, instead of giving special benefits to a select group of people, we were able to have a more broad-based tax cut program that would do a number of things:

One, a child tax credit. Every family with kids who pay taxes under the income level $100,000 are going to get a $500 tax credit. Got two kids? Keeps $1,000 in their pockets. We do not want them to give it to the Government. We want them to be enhanced, we want them to be made more powerful. The child tax credit is all about putting power in the pockets of America's families and to reinforce that most precious American institution.

Second, capital gains tax cut. Look, folks, I am the son of a blue collar worker. The bottom line on a capital gains tax cut is this: ''If you take a risk, if you work hard, if you put what you have on the table to build something, you ought to get a reward for it. You ought not to be punished for it.'' And there are millions upon millions of middle income Americans who will realize benefits under the capital gains tax cut, but it is about what is right about America, the idea that if someone takes a risk, they ought to get a reward.

Estate taxes? We want to reduce estate taxes. Why? Mr. Chairman, for those men and women who build businesses, who have high blood pressure, who have bypasses, who have employed many, many people and help many families across this country . For those men and women that made the great sacrifice, at the end of the day they should not have to give 55 percent of everything they earn to the Government. They ought to be able to give more to their families. They ought to be able to give more to their communities.

The bottom line is today we are significantly beginning to shift not just power and not just influence but our constituents' money away from this city, back into their hands.

Now as we get these tax cuts, as we get more personal power, it is not good enough. It is not good enough to bury that money in the backyard and just buy a fancy boat. Part of the responsibility as we get more of our money back is not just to take care of our family, but to help in our own communities, to help heal the communities across this country.

The gentleman from Texas [Mr. ARCHER] has done a terrific job. He has fought the powerful special interests, he has closed loopholes, he has provided tax relief to the American people. He has helped people who take risks, he has helped people who have built businesses, and he has given them a reason to let every boy and girl in this country know that in America if someone works hard, if they sacrifice, they can get ahead, and if we can couple that with some good old fashioned American values, America will shine on.

Mr. RANGEL. Mr. Chairman, I yield 15 minutes to the gentleman from Washington [Mr. MCDERMOTT].

Mr. MCDERMOTT. Mr. Chairman, I would like to begin by saying that the last speaker talked about the child credit. I think everyone should know that 50 percent of the children in Ohio, the State he represents, will not get the child credit. That is more than 1.4 million children in that State will not get this so-called fair tax credit.

Mr. Chairman, I want to talk about the fact that Democrats always want to reduce taxes but they want to do it fairly, and that is, really, I think, we ought to have a little discussion out here about this question because fairness is a central issue in taxation in this country, in a democracy.

We started on taxation without representation. That was what the whole thing was about. That is how we came into existence. But in this debate we have to have honesty.

I listen to the special orders that go on in this place, and a couple of nights ago one of the Members got up and said it is important for the American people to understand when they hear things like, ''If you're earning $20,000, you're not going to get a tax cut,'' there is a very good reason that a family of four earning $20,000 is not going to get a tax cut. Listen to this: They do not pay Federal taxes.

Now since I was 16 years old I have been working. I started at the National Tea Store in Illinois, and every week we got a check and always got a tax stub with it, and I have always looked at my tax stub. And everybody watching and thinking about this should take out their tax stub and look at it. On my tax stub it says I pay Federal tax. That is withholding tax on the income.

Then there is something called FICA.

In my FICA tax, 7 percent of what I pay is Federal taxes. It goes to pay for Medicare and Social Security. Anybody who is paying FICA is paying taxes. They are paying Federal taxes. The other side here wants to say, ''If you don't have to pay income tax on a 1040, you're not paying taxes.'' But if someone is a $20,000 worker in this country and they are paying 7 percent of their $20,000 on FICA taxes, they are paying Federal taxes, and they ought to be able to get the tax breaks in this bill.

There are a number of issues that I think we ought to talk about, and, Mr. Chairman, the gentleman from Louisiana [Mr. JEFFERSON] knows about capital gains. Let us talk about the fairness of capital gains in this bill that the Republicans have put out here.

Mr. JEFFERSON. Mr. Chairman, will the gentleman yield?

Mr. MCDERMOTT. I yield to the gentleman from Louisiana.

Mr. JEFFERSON. Mr. Chairman, I appreciate the gentleman yielding to me.

The question is whether ordinary working families, ordinary working people, will benefit from this capital gains tax relief. The answer is very few of them will, because to get tax relief they have to own capital assets, and very, very few working families own capital assets in this country.

For instance last year if someone made between zero and $25,000, they paid 2.2 percent of all the capital gains taxes paid in the country. If they earned between $50,000 and $100,000, they paid 8 percent of all the capital gains taxes.

Mr. MCDERMOTT. The gentleman means up to 50 percent.

Mr. JEFFERSON. Up to $50,000, 10 percent of the capital gains taxes were paid, and between $50,000 and $100,000, another 16 percent of those persons paid capital gains tax. So between zero and $100,000, 26 percent of the capital gains taxes were paid, which means that above $100,000, 74 percent of all the capital gains taxes were paid in the country. Which means, to put it another way, if we give a break in capital gains, we are going to give a break that is going to affect, 76 percent of the capital gains tax is going to affect 4 to 5 percent of the taxpayers in this country.

□ 1215

Put another way, if one makes over $200,000, one paid 60 percent of the capital gains taxes last year. That is 1 percent of all of the taxpayers in this country; 110,000 taxpayers out of 110 million taxpayers in America.

So a great part of this bill, $8 billion a year, is going to end up in benefits for the top 1 percent of the earners in our country, people who make over $200,000 and who, on the average, make $650,000 a year. So if people are watching this television program now and are expecting a capital gains tax cut and are making $30,000 or less, even if one makes $50,000, as we just talked about, they can turn the TV off and go and do something more meaningful, because there is nothing in this bill that is really going to help those people.

But if one makes over $200,000, they want to stay tuned, because there is a whole lot here that is going to get them out of a big bunch of trouble. Those people are going to save collectively, as a group, $7 billion to $8 billion a year out of this bill just on the capital gains issue.

On the estate tax, it does not get any better. Out of the 2.5 million people who died last year, only 39,000 paid estate taxes. That is less than 2 percent.

Mr. MCDERMOTT. Mr. Chairman, reclaiming my time, is the gentleman saying that we are writing this provision on estate taxes for 1.8 percent of the people?

Mr. JEFFERSON. Mr. Chairman, if the gentleman will yield, those are the only people who are affected by this whole discussion about estate taxes.

Mr. MCDERMOTT. Mr. Chairman, I would ask the gentleman, is that fair?

Mr. JEFFERSON. Mr. Chairman, it is not fair, because it leaves out, as the gentleman can see, 98 percent of the taxpayers in one case, and in another case leaves out almost 99 percent for any meaningful tax relief.

This is a bill for people who make a lot of money and who have a great deal in their estates, and that is about it. It is not a bill that is going to help middle-income people or working families.

Mr. MCDERMOTT. Mr. Chairman, once again reclaiming my time, what is the level that the gentleman would say that people should stay and watch this program and it is going to do some good for them? What kind of income level would it really mean?

Mr. JEFFERSON. Mr. Chairman, if one makes more $200,000 a year, stay tuned on capital gains taxes. If one makes more than $100,000, they might want to watch part of the program. But $200,000 should really stay tuned.

Mr. MCDERMOTT. Mr. Chairman, how much money would the gentleman say one would have to have to stay tuned for the estate taxes?

Mr. JEFFERSON. Mr. Chairman, for the estate taxes, if one's estate net is over $600,000 last year, of course one paid estate taxes. This is going to raise it about to $700,000 or so on their side; $750,000 I think it goes this year.

So I suppose that if one has net estates of over that amount of money, less than 1 percent of the people in the country, then those people want to stay tuned also. But for everybody else, if people are watching this thing on TV to see what is in it for them on estate taxes and capital gains taxes, they might want to turn the TV off and engage in something else more meaningful.

Mr. MCDERMOTT. Mr. Chairman, reclaiming my time, I think that goes to the whole question of fairness and it really says this whole thing is skewed to the people at the top.

Mr. Chairman, we were talking before about the issue of, let us take a family making $23,000, living in Georgia, a police officer. What is he going to get out of this tax bill?

Mrs. THURMAN. Mr. Chairman, will the gentleman yield?

Mr. MCDERMOTT. I yield to the gentlewoman from Florida.

Mrs. THURMAN. Mr. Chairman, he gets nothing out of this tax bill.

Mr. MCDERMOTT. Nothing? Wait a minute. The gentlewoman is telling me a police officer who makes $23,000 is going to get nothing out of this tax bill?

Mrs. THURMAN. Mr. Chairman, he certainly will not get the part that has been debated over the last couple of years, and it has been the last couple of years where we have begun to talk about this $500 child credit or family credit so that we could make sure that every child was given the same advantages.

Under this, it is my understanding, unless somebody can correct me, that somebody even under $30,000 would not be eligible or would not have the advantage of that $500 tax credit. So if one has two children, it is not there.

In fact, for those who read the article this morning, it actually goes through a situation about a police officer who might be being paid about $23,078 a year starting off, has two kids, he does get an earned income tax credit, and he gets the earned income tax credit not because he is staying home, but because he is out there working every day.

Mr. MCDERMOTT. Mr. Chairman, I would reclaim my time and inquire of the gentlewoman, we are talking always about working people here?

Mrs. THURMAN. Mr. Chairman, absolutely. Working, every day getting up, or they are not eligible for any of this.

That is something that goes back to the Reagan years when it started and everybody believed that for hard-working people this was important that this happened. So now they are going to get up and they are going to believe that next April, they have two children and they think, guess what? I am actually going to receive possibly $1,000 because I have two children. They are going to be sorely displeased with what happens in their tax next year.

Mr. Chairman, the other thing that is interesting to me, it is the only place in this bill at all that one is penalized for taking advantage of what is available to people in the Tax Code today. Let me just say this. If one gets the example of having an IRA, which is also in this piece of legislation, which most of us support is a good idea to invest and to do those kinds of things.

Mr. MCDERMOTT. Mr. Chairman, does the gentlewoman think the average policeman making $23,000 has the money to put into an IRA?

Mrs. THURMAN. Oh, no, no. Or probably they are trying to buy their first house, so they do not have anything to sell. I would love the gentleman from Louisiana [Mr. JEFFERSON] to talk about just what a capital gains is, because I think sometimes we get lost in words up here. What is a capital gains? Where does that capital gains come from? Generally, for these folks, it could have been the sale of a house.

Well, if one is just starting off and trying to buy a house, one is not going to have a capital gains in this. So here we go. We have an IRA issue in here that is being proposed, we have a capital gains issue in here, and then on top of that, we have an education savings account that we can do up to $10,000 a year.

Now, I do not know very many people at that $23,000 level that will have the advantage of any of those, but those folks that can take advantage of that part of the tax structure get no penalty at all. I mean they continue to get everything, plus the $500 child credit.

The only people that are getting penalized would be those below $30,000 that really would have no access to some of these other areas of the tax bill.

Mr. BECERRA. Mr. Chairman, will the gentleman yield?

Mr. MCDERMOTT. I yield to the gentleman from California.

Mr. BECERRA. Mr. Chairman, listening to all of this, for those of us in a place like Los Angeles, a State as big

as California is, to know that more than half of the children in California will not get a child tax credit through this bill.

Mr. MCDERMOTT. Mr. Chairman, reclaiming my time, the gentleman is talking now about families who are working, with children, working families?

Mr. BECERRA. Mr. Chairman, working families.

Mr. MCDERMOTT. Mr. Chairman, half the kids in California do not get the tax break.

Mr. BECERRA. Mr. Chairman, if the gentleman will continue to yield, more than half of the kids, from what we have been able to determine, in this tax bill, they will not have an opportunity to take advantage of this child tax credit, even though they work full time.

Mr. MCDERMOTT. And pay FICA taxes. They are paying Federal taxes.

Mr. BECERRA. Mr. Chairman, what is more interesting, I have a district in Los Angeles where it is mostly working class. The median income is somewhere around $25,000.

Mr. MCDERMOTT. Mr. Chairman, I would say to the gentleman, just like the policeman in Georgia.

Mr. BECERRA. Yes, Mr. Chairman, just like the policeman there.

Mr. Chairman, if the gentleman will yield further, to know that 70,000 or so families, working families in my district are probably at risk of not being able to participate in something that is being touted as something for all families with children is unconscionable, but that is where we are heading.

If we could put a name to some of those faces. This individual does not live in my district, she happens to live in Missouri. Her name is Robin Acree. She earns about $21,000. She is divorced, she has three kids, age 14, 17, and 19. Now, it is interesting, under the 1995 bill that this Republican House passed, Robin would have qualified for a $500 tax credit, child tax credit. Under this year's bill, she does not get a cent. Even though she pays somewhere over $2,100 in taxes, income taxes, payroll taxes, she will get zero out of this.

Now, Robin lives in Missouri, she is not in my district in California, but she works just as hard, I imagine, as any of the folks and the families in my district that are also to be left out. I do not understand why under one bill this House was willing to give her a $500 tax credit, but now this year she gets zero, even though she pays more than $2,200 in taxes.

Mr. MCDERMOTT. Mr. Chairman, reclaiming my time, maybe they needed the money that would have gone to this lady to give the tax breaks to the people who need the estate tax break up at the top.

Mr. BECERRA. Mr. Chairman, certainly we are going to do away with $135 billion worth of money.

Mr. MCDERMOTT. And she does not get a nickel.

Mr. BECERRA. Not a nickel of it, Mr. Chairman.

Mr. MCDERMOTT. And she is working.

Mr. BECERRA. Working full time.

Mr. MCDERMOTT. Paying taxes.

Mr. BECERRA. Paying taxes. Has one child in college.

Mr. MCDERMOTT. Mr. Chairman, how could that be fair?

Mr. BECERRA. Mr. Chairman, if the gentleman will continue to yield, I know it is not fair to Robin. I am fortunate, I got myself a good education, I am making a decent salary. She is working just as hard as any one of us, and there is no reason why she should not be able to take advantage of that.

Mr. MCDERMOTT. Mr. Chairman, reclaiming my time again, if I could inquire of the gentleman from Louisiana [Mr. JEFFERSON], we were talking before about the whole issue of what a really smart person would do with this tax bill if they wanted to make a lot of money. Tell us about how one could play the game with this bill.

Mr. JEFFERSON. Mr. Chairman, this is what we might call a back-to-the-future kind of an idea here in this tax bill that takes us back to the idea of tax loopholes and tax shelters.

Now, there are any number of ways this game could be played out, but any time one has a marginal tax rate on individual income that is 39 percent and a capital gains rate that is 20 percent, which is roughly 20 points in the differential, one is going to have a great incentive for people to find and cover ways to avoid paying taxes on salaries and to find a way to pay taxes on capital gains. So it is a natural incentive and it is made far greater under this bill.

There are any number of ways that people can take advantage of this. Let us just talk about a couple. If one has a high income, then one has a higher capability, ordinarily speaking, of borrowing money. And one probably has a home that is worth a lot more than somebody that does not have a high income. So right now to make a home loan, the interest on the home loan is deductible. If one wants to get involved in a big capital acquisition like a stock purchase, one could take a home loan with deductible interest and buy a big stock purchase with it and take advantage of this huge capital gains break we are going to give the folks who are dealing in stocks.

Mr. MCDERMOTT. Mr. Chairman, does the gentleman think that a policeman in Georgia could take a loan on his house and buy a big stock purchase?

Mr. JEFFERSON. Mr. Chairman, a policeman in Georgia probably has a smaller house, probably would take a loan to send his kids to college, is not going to be for some big differential like that, plus there is not going to be enough money to play that much in the stock market with. So it will not be available for that person. At the very top of that level, if a person has a big salary from a big company, he can take his salary in stocks rather than take it in ordinary income, and therefore avoid paying the tax on the stock.

Mr. MCDERMOTT. Mr. Chairman, it is not fair.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair will remind all Members engaging in dialog to yield and reclaim time each time that they yield or reclaim time.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume briefly to say that the bottom line of all of the colloquy that we just heard is that the Democrats want to take money away from families who are middle income with children, who pay taxes, pay income taxes, and they want to give it to people who do not pay any income taxes.

This bill should be a middle-income taxpayer relief bill that was promised by the President in 1992 and not be siphoning money away from them and giving it to people who pay no income tax.

Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. ENGLISH], a respected member of the Committee on Ways and Means.

Mr. ENGLISH of Pennsylvania. Mr. Chairman, I rise in very strong support of the Taxpayer Relief Act, legislation that will provide tax relief to people who pay taxes. Under this plan, 76 percent of the tax relief goes to people who make less than $75,000 a year, and over $100 billion of the tax relief out of $135 billion in our bill goes to the child tax credit and education tax relief.

Our tax cut plan makes the Tax Code a little fairer, not only by helping families, but also by encouraging economic growth and by creating and protecting good paying American jobs.

One of the ways we do this is by reforming the AMT. Now, the AMT is what is called the alternative minimum tax, but it should be called the anti-manufacturing tax. The AMT is one of the biggest tax barriers to the competitiveness of the American manufacturing sector. It penalizes companies that try to invest in jobs and improve their productivity. It directly penalizes companies that create the most desirable jobs in America by taxing companies when they buy equipment rather than taxing them on their profits. The AMT tax penalty directly encourages companies to create new jobs offshore. It is a job killer, stunting new job creation and imperiling existing good paying jobs right here in America.

The AMT even hurts the environment. It imposes what amounts to a 22 percent tax penalty on companies that invest in pollution control equipment. Because it does all of these things to companies in a down cycle, the AMT is really the ''kick-them-when-they-are-down'' tax, hitting basic industries and union workers when they are more vulnerable.

If we reform the AMT as proposed in this bill, studies have shown that it will increase the GDP growth by 1.6

percent and increase business investment by 7.9 percent. That will allow us to build a high-wage economy for the next century and restore the American dream for millions of working families.

If my colleagues care about these things, I urge you to vote for this bill.

□ 1230

Mr. ARCHER. Mr. Chairman, will the gentleman yield?

Mr. ENGLISH of Pennsylvania. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Chairman, I ask the gentleman, Is it not also true that as this negative impact on buying equipment occurs, does it not work against antipollution equipment also, and therefore make it more difficult to clean up the air and the water?

Mr. ENGLISH of Pennsylvania. That is exactly my point, Mr. Chairman. And this should be a good green vote, to vote for this tax act.

Mr. RANGEL. I yield myself 5 seconds, Mr. Chairman.

I would just like to point out that we can get all the statistics we want, but if we ask the Governors of the States, under the Republican bill almost half of the children will not get the credit that the President wants, and that is more than 1.6 million children.

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

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. BUNNING], a respected member of the Committee on Ways and Means.

(Mr. BUNNING asked and was given permission to revise and extend his remarks.)

Mr. BUNNING. Mr. Chairman, I rise in strong support of the Taxpayers Relief Act.

It has been 16 years since Americans got real tax relief. Now it is time we start letting them keep more of their own money instead of being forced to send it to Washington, D.C.

By giving families a child tax credit, by cutting the death tax that ruins small business and family-owned farms, by cutting capital gains taxes for families who sell their homes, by making education more affordable, we are saying that Washington needs to tax less so Americans can spend more.

Two specific parts of this package that I have been pushing really help illustrate this point. The first is the tax cut for withdrawals from State-run prepaid education plans. This bill lets families who save for their kids' college education to withdraw up to $40,000 tax-free with these plans. This means that in Kentucky, where the families of over 2,600 students are already saving in our plan, it is about to become a whole lot easier to educate their children with this plan.

Another exciting part of this tax package is the reform of the home office deduction. Fourteen million men and women, mostly women, are now making a living working at home. But because of the snafu in the tax law, they cannot deduct the expenses like other businesses.

At a time when companies are downsizing and workers are striking out on their own, this does not make any sense. We should not be penalizing these entrepreneurs. We ought to be encouraging them. This bill reforms the tax rules to do just that.

Last, both of these examples highlight the pivotal ideas behind this bill. We are getting Government off the backs of the people so they can do more on their own.

Mr. Chairman, it has been 16 years since the average American got some tax relief. It is time to do more. I support this bill and urge Members to do the same.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. CAMP], another respected member of the Committee on Ways and Means.

Mr. CAMP. Mr. Chairman, I thank the chairman of the committee for yielding time to me.

Mr. Chairman, I rise in strong support of the tax relief bill before us today. This bill, the first tax relief in 16 years, represents a significant first step in our efforts to allow middle-income taxpayers to keep more of what they earn.

Today the average American pays more in taxes than they do for food, clothing, and housing combined. This tax relief bill will help stem this tide. This bill provides a $500-per-child tax credit, which will help 41 million children. Some people want to stop the tax credit once a child reaches 13. Our bill realizes that the cost of raising a child does not get any cheaper; in fact, costs rise.

This bill also eases the death tax, so our Nation's farmers and small business owners can pass their legacy on to their children. More than 60 percent of the family-owned businesses fold before reaching the second generation, not because of poor management, but because the Government taxes them at up to 50 percent.

We also make it easier for children to realize the goal of a college education by including and improving the President's HOPE scholarship proposal. We are hearing a lot about distribution charts that show who benefits from tax relief, and by how much.

In order to cook the numbers, the administration calculates how much you could earn if you rented your house and then adds this amount to your income. This is how they make you seem richer than you really are. In addition, they include your pension fund, your health benefits, and your life insurance to your income. The result is that the number of families with incomes between $50,000 and $75,000 rises by 25 percent under that plan.

The nonpartisan Joint Committee on Taxation estimates that 76 percent of the tax relief in this bill goes to Americans earning under $75,000 a year. Lost in this debate is a fundamental idea that Washington has ignored for 16 years. It is the idea that it is your money. The Government is not entitled to it, you are. You earned it. You know how best to spend it, and you deserve to keep it.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes and 15 seconds to the gentleman from California [Mr. HERGER], another respected member of the Committee on Ways and Means.

Mr. HERGER. Mr. Chairman, this legislation provides tax relief to Americans who pay taxes. Under this plan, 76 percent of the tax relief goes to Americans who make less than $75,000. American families are struggling under the burden of increasing taxes and deserve relief.

The average American now pays almost 40 percent of their income to local, State, and Federal taxes, more than they spend on food, clothing, and shelter combined. Our tax plan provides needed relief by allowing families to keep more of their money through a $500 per child tax credit.

In my northern California congressional district alone, 89,000 children will benefit from the child tax credit, and more than 41 million children will benefit from it nationwide. A family with one child will get $500 taken off the top of their tax bill. A family with two children will get $1,000 taken off of their tax bill, and so on.

Mr. Chairman, voting against this tax plan is to look into the faces of 41 million children and say, sorry, we are not going to help you. Voting against this tax cut is saying no to giving Americans more freedom to spend their own money, and voting against this tax cut is saying no to helping struggling families that are just trying to get by.

Mr. Chairman, families have not had significant tax relief since 1981, 16 long years. Is it not about time we give them a break? They deserve it. I urge my colleagues to support this measure.

Mr. ARCHER. Mr. Chairman, will the gentleman yield?

Mr. HERGER. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Chairman, I ask the gentleman if he can point out for the Members here from these charts precisely where this tax relief goes. The first chart shows that 90 percent of the tax relief over 10 years goes to families and to education, with $23 billion as a small item that goes to the other areas of relief.

The second chart shows 76 percent of the tax relief goes to people with annual earnings under $75,000.

Mr. HERGER. I thank the chairman.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes and 50 seconds to the respected gentlewoman from Connecticut [Mrs. JOHNSON], a member of the Committee on Ways and Means and the chairman of the Subcommittee on Oversight.

Ms. JOHNSON of Connecticut. Mr. Chairman, I thank the chairman for yielding time to me.

Mr. Chairman, I am proud to rise in strong support of the first tax-cutting

bill in 16 years. Today we adopt tax relief for working, tax-paying families, and powerful incentives for economic growth and job creation.

How does the bill help women, children, and fathers? It delivers benefits sooner and provides more generous benefits than the Democrats' alternative. True, it does not help nontax-paying working families. That is because they were our first priority. That is because a few years ago we adopted legislation that wipes out the burden of payroll taxes for working families who do not earn enough to pay any income taxes.

Now we move to relieve the tax burden of families earning enough to pay income taxes. We do not wipe out their payroll tax benefit, as we have done for families receiving the EITC. We merely offer them a modest $500-per-child reduction in their income tax liability in recognition of the fact that they are hard-working, tax-paying families in America.

Second, this tax bill increases the maximum deduction for child care costs. While for families over $60,000 we gradually reduce half of this benefit, that is far less than the Democrats' draconian repeal of the $500-per-child tax credit for families over $60,000. Again, the Republican bill provides a more generous bill sooner than does the alternative.

Third, this bill helps families save for college, helps kids through HOPE scholarships, helps women who want to set up a business in their home through the home office deduction, and helps senior women, who are the biggest winners, through capital gains benefits.

Further, Mr. Chairman, there are many important provisions in this bill that will help our economy grow more rapidly and create high-paying jobs.

Mr. Chairman, the R&D tax credit helps businesses develop new products, the kind of products they need to compete in a global economy. Capital gains cuts will shift capital to job-creating growth industries and particularly help our seniors, who hold 80 percent of America's assets. It also makes the orphan drug tax credit permanent, which will truly explode the research projects focused on rare diseases.

It helps teachers exercise their current rights to increase their pension benefits by buying back service years at a time in their lives when they can afford it. Finally, it helps States collect their taxes so that can be controlled at the State level as well as the Federal level.

Mr. Speaker, this is a great tax bill, a great step forward. I am proud to support it. I call Members' attention to the charts.

Mr. ARCHER. Mr. Chairman, will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Chairman, I ask that the gentlewoman point out on the chart the part that supports the comments she has made, that the Republican plan gives more money to families with dependent care expenses, which is over in the right-hand chart, and that the Republican plan gives more money to families with children compared to the Democrat plan or to the Clinton plan.

Mrs. JOHNSON of Connecticut. Mr. Chairman, we are far more generous to families. We give them the benefits sooner, give them to more families, and we retain it longer.

I am proud to rise in strong support of the first tax cutting bill in 16 years. Today we adopt tax relief for working, tax-paying families, and powerful incentives for economic growth and job creation.

How does this bill help women, children, and fathers? It delivers benefits sooner and provides more generous benefits than the Democrats' alternative. True, it doesn't help nontax-paying working families. That's because they were our first priority. We adopted legislation to wipe out the burden of payroll taxes for those working families. Now we just relieve—modestly—just the income tax burden of those above the tax subsidy level who work and pay taxes. Unfortunately, the Democrats pay for additional benefits for working people who pay no income or payroll taxes by limiting to $300 the credit for tax-paying, working families until 2001.

Second, this tax bill increases the maximum deduction for child care costs. And while families over $60,000 will gradually lose half of this benefit that is far less than the Democrats' draconian repeal of the $500 child credit for all families over $60,000. Again the Republican bill provides more generous benefits sooner.

Third, this bill helps families save for college, helps kids through HOPE scholarships, helps women who want to set up a business in their home through the home office deduction, and helps senior women who are the biggest winners through capital gains reductions.

Further, Mr. Chairman, there are many important provisions in this bill that will help our economy grow more rapidly and create high-paying jobs. The research and development tax credit is an important incentive that encourages U.S. corporations to develop the products they need to compete globally. If the United States fails to provide some assistance to American companies, many—such as the aerospace, electronics, chemical, health technology, and telecommunications industries—will find it difficult to compete in an increasingly globalized marketplace. With Federal dollars in basic and applied research shrinking—and R&D a strong priority of our major foreign trade competitors—the extension of the R&D credit is critical. In fact, studies show that United States firms spend only about one-third as much as their German counterparts, and only two-thirds as much as Japan on research and product and development.

Capital gains reductions will shift capital to job creation, growth industries, and particularly help our seniors who hold 80 percent of the assets in our country. It is estimated that nearly $8 trillion of capital gains are locked in by people unwilling to sell their assets and be hit with a punitive tax. It is the sale and reinvestment of these very assets which creates the new capital needed to start up, modernize, or expand the businesses of the future. Many countries do not tax their long-term capital gains, giving foreign companies a competitive edge over their American counterparts. And this provision is particularly important to America's retirees, most of whom are women. Seniors hold 80 percent of our assets and 50 percent of those benefiting from capital gains have incomes under $50,000. So this capital gains relief will really help the retiree who needs to replace a roof and sell some stock to do it. Capital gains, the research and development credit, and reform of the alternative minimum tax will put Americans' capital where jobs can be created.

The bill also makes the orphan drug tax credit permanent, which will explode the research projects focused on cures for rare diseases. In the past, while the year-to-year extension of this widely-supported tax credit has helped encourage research on rare diseases, I believe the certainty of a permanent extension will cause an explosion in those critical projects. When Congress made the low-income-housing tax credit permanent several years ago, interest in the program skyrocketed, resulting in better quality housing and yielding 25 percent greater benefit for our tax dollars. The permanent extension of the orphan drug tax credit, in my view, will result in a similar explosion of new drugs to treat rare diseases.

Finally, I would like to mention two lesser-known but important provisions that are included in H.R. 2014. One helps teachers exercise their current rights to increase their pension benefits by buying back service years when they can afford it. For example, a teacher who worked for several years in New York but spent most of her career in Connecticut would receive a pension based on years of service in Connecticut. Under State law, she has the option to purchase the years worked in other States, however, her ability to do so is limited by annual contribution restrictions. This bill gives greater flexibility to teachers and other public employees to be able to buy back years of service, thereby raising their pension benefit.

And finally, this bill helps States collect their taxes so tax burdens can be held down on America's hard-working folks at the State as well as Federal level. Currently, 32 States already allow the Federal Government to participate in their State income tax refund offset programs. This provision reciprocates, providing a great benefit to States while actually saving the Federal Government a small amount of revenue.

Mr. Speaker, this tax bill takes many important steps forward to stimulate economic growth and high-paying jobs and to help working, tax-paying families. I urge my colleagues to support it.

Mr. RANGEL. Mr. Chairman, I yield myself 1 minute.

The President said he wanted working families, not welfare families, to get a tax break for their kids. So no matter how we cut it with charts, the bottom line is going to be how many kids are going to be denied because certain people thought they did not make enough money.

Almost half of the children in Connecticut, 44 percent, more than 430,000 children, will be denied because these working families are not entitled to the benefits under the Republican bill; and 56 percent in California, that is over 5 million children, will be denied. These are working families.

Half of the children in Michigan, 1.3 million children of working families, will be denied under the Republican plan; and 50 percent in the State of Kentucky, children of working families, will be denied the benefit that the President thought he had a promise made on when he went into a dialog with the Republicans.

For these reasons the President finds the unfairness, and for these reasons, he would veto.

Mr. Chairman, I yield 15 minutes to the gentleman from Michigan [Mr. BONIOR], the Democratic whip.

□ 1245

Mr. BONIOR. Mr. Chairman, I thank my colleague for yielding me this time and for the outstanding job that he has done on this piece of legislation, the Democratic alternative.

Let me point out, before I begin my remarks, that the charts that we have just seen on this side of the aisle, when they talked about the child tax credit, let me just reinforce the comments by the gentleman from New York [Mr. RANGEL]. The percentage of dependent children ineligible for this $500 child tax credit in the State of Texas, 54 percent; 54 percent of kids from families in the State of Texas do not get it. In Connecticut, 44 percent of the children would not be able to get it. So when they put up these charts, it is just for a select few. It is not for the hard-working, middle-income folks that really need it the most.

America's working families deserve a tax cut. The Democratic tax plan gives it to them. Under the Democratic plan, 71 percent of the tax cuts go to households earning less than $100,000. Under the Democratic plan, the $500 child care credit goes to lower- and middle-income families, the teachers, the police officers, the nurses, the people who are working harder than ever to achieve the American dream. Under the Democratic plan, the HOPE scholarship is fully funded, making it possible for people from working families to afford that 13th and 14th year of education. The Democratic plan helps America's working families.

The Republican bill we are debating does just the opposite. It punishes America's working families and rewards the wealthy and the biggest corporations. The New York Times said this bill, the Republican bill, showers tax cuts on the Nation's wealthiest families.

Conservative commentator Kevin Phillips said, this bill is a payback to big contributors. Speaker GINGRICH admitted this last month, when he spoke to hundreds of wealthy contributors at a black tie dinner given by the Republican Party. People paid as much as a quarter of a million dollars each to go to that dinner. He said, whatever you have given, this is the Speaker to these wealthy contributors, whatever you have given is a tiny token of what you have saved.

That is what he is paying them back with today, their bill, what they have saved.

Who is paying for this giveaway to the rich? America's working families. Under the Republican tax bill, the working parents of almost 1.4 million children in Michigan, in my State, will be excluded from the child care credit. That is almost half the children in Michigan. Under the Republican tax bill, the value of the HOPE scholarships is slashed, in direct violation of the budget agreement. The Republicans are taking money away from family credit, away from education credit, away from working Americans, so that the corporate interests, the corporate titans can avoid paying taxes at all.

According to the Treasury Department, the Republican tax bill gives more benefits to the richest 1 percent, listen to this figure, the richest 1 percent of Americans, than to the bottom 60 percent combined. Today's Wall Street Journal described the Republican plan as, and I quote, a bonanza for the affluent, crumbs for the working class.

If the Republicans were not writing this lopsided tax bill into law, we would call it robbery. This tax bill rolls back the corporate minimum tax which says to big corporations, you have got to pay something like the rest of us. We had in the 1980's corporations like Texaco and Boeing and AT&T that were not paying any Federal income taxes. The corporations in the early 1960's would pick up about 25 percent of the tax load in this country. That has decreased because these large corporations paid no income taxes to the point that they were down to about 7 percent of the load in the mid-1980's. Everybody was embarrassed so we passed a corporate minimum tax where they were required to pay something. Now under this bill, the Republicans want to give them a $22 billion tax break to get that percentage back down to the low disgraceful numbers.

Mr. RANGEL. Mr. Chairman, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from New York.

Mr. RANGEL. Mr. Chairman, the gentleman is saying that successful corporations enjoying tax welfare benefits that now are forced by laws of the Congress to pay taxes, that in the Republican bill is just wiped out.

Mr. BONIOR. They move away from responsibility on the part of the corporations in paying any taxes at all in this country at the Federal level.

Mr. RANGEL. Mr. Chairman, if the gentleman will continue to yield, and for years all we have said is that they have a responsibility to pay something.

Mr. BONIOR. Mr. Chairman, they need to be part of the community of people who support our economy, our country and share the load. If they are not paying it, working people are going to pick up the difference. That is the problem here. Their bill is top-heavy in terms of benefits to those at the top; crumbs, as the Wall Street Journal and the New York Times and others have scribbled it, for working people.

There is no equity in their bill. That is why the poll that came out this morning said the American people support the Democratic bill over the Republican bill by a 2-to-1 margin, 60 to 30 percent. On top of all of this, their bill, this tax bill that the Republicans are offering actually raises taxes on the bottom 40 percent of Americans. Raises taxes.

This Republican bill also includes and encourages big corporations to redefine their employees as contract workers. What does that mean? That means you can define your people who work for you as contract workers and you do not have to worry about paying them the minimum wage. You do not have to worry about paying them health benefits or pension benefits. Under the Republican plan, the rich get richer, America's middle-income families have to work twice as hard just to stay even.

The Republicans tout their $500 child care credit. It is a good idea, but only if you actually give it to the families who need it. Today's Wall Street Journal notes that in Speaker GINGRICH's suburban district, a newly-hired police officer earning $23,000 a year, married with two kids, would not qualify for the child care credit under the Republican plan. Why? Well, the Republicans say that is because this police officer already receives the earned income tax credit. The child care credit would constitute welfare, they say. That is right. The Republicans are saying that a young police officer who is trying to raise a family, who puts his life on the line every day for $23,000 a year and pays thousands of dollars in taxes, payroll taxes, excise taxes, does not deserve a tax credit to help his family. None, zip, nothing, zero.

The richest 1 percent of Americans get a tax break that is worth more than that police officer makes all year under their bill. The richest 1 percent get more than the police officer makes all year. That is an absolute outrage. It is not right. It is not what this country is all about. It is America's working families who need this tax cut. According to a poll, as I said today, the American people agree with our position. Let us give them a tax cut that they can use and be proud of and we can help working families with.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. GREEN. Mr. Chairman, I have sat here on the floor and listened this morning, and time and time again we have had folks come up and say, we are going to help the struggling families with the first tax cut in 16 years. The gentleman said, and I know we have had Members come up on the floor, for example, the $500 child tax credit in Kentucky, over 50 percent, over 50 percent of the children will not be eligible for it. In my State of Texas, 54 percent of the children will not be able to enjoy that child care credit. And I know that is correct.

The other thing that I wanted to ask about is, a lot of us support a capital gains tax cut. But in the Democratic alternative, we have a solution in there. The small investor, the person who is not making a living investing but is really the person who is investing in it and we set a cap of $600,000 as a lifetime on capital gains tax cuts. So if somebody is making a living investing, if they are playing the stock market and that is their living, they are not getting a benefit from the person maybe working in a factory in Michigan or working in on a ship channel in Houston. We are encouraging people who are the workers to also invest and they get that capital gains tax cut. That is what I hear.

When I talk to people who say we want a capital gains tax cut and I say, what if you make your living as a stockbroker; no, they ought to pay regular income. Well, that is what the Democratic alternative is doing. It is making sure that that individual who is investing in part of this great country and this great free enterprise system will be able to take a tax cut. That is why the Democratic alternative is so important.

Mr. BONIOR. The gentleman has aptly described the difference between the capital gains provisions in our bill and their bill. In addition to that, of course, the problem with their capital gains provision is that it is indexed and it explodes in the outyears and creates these humongous deficits, $650 billion drained in the outyears, which will put us right back to where we were when this Congress unfortunately did the 1982 tax and spending bills that put us into debt for so many years. The gentleman is absolutely right. Ours is targeted to working families, to people who invest for a decent length of time and who are interested in the future of their families and their communities and who are not there to make it on a rollover basis, on a daily basis.

Mr. WISE. Mr. Chairman, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from West Virginia, who under the Republican plan would have 56 percent of his children ineligible for the child credit.

Mr. WISE. Mr. Chairman, I support tax cuts for rewarding work, particularly to those people who are getting up every morning, getting their kids off to school, driving to work, putting in a full day, playing by the rules. And at the end of the day they are going to find out, 56 percent of them are going to find out at least that their children did not qualify for the guts of this bill, which is a child care tax credit.

In West Virginia, where two-thirds of our working families, working families make $30,000 or less and we know that those making $25,000 or less, if they have two children, most likely will not see one dime of the child care credit. This thing is just a figment. This is illusory; it is a hoax. What do I tell the coal miner, the steel worker? What do I tell the State troopers, computer technicians, the chemical worker, the school teachers, all of those who think that there is something for them under this bill?

Yet if they are under $57,000 a year, according to the Treasury Department, they are only receiving 22 percent of the benefits in that package, while those over $100,000 a year get over 60 percent of the benefits of this package. It is simply not appropriate.

So that is why I support, and I have to ask, how can we say that this bill is about giving children tax relief when most of our States and in West Virginia, it is 56 percent, 56 percent of the children get no tax relief under the child care credit?

So this is why this is a bad bill, why I am voting today for the Democratic alternative which does give tax relief to the working people who need it most. But I am not voting for a bill that denies 56 percent of children of working parents a child care tax credit.

Mr. BONIOR. Mr. Chairman, I thank the gentleman. I might remind Members today that originally those 56 percent of the kids under the original Contract for America were going to get some of those dollars. But all of a sudden, all the big boys came in and they said, wait a minute, we want to make sure we get our capital gains index. We want to make sure we get this taken care of and that taken care of.

Of course, in the New York Times today there was an article that I do not believe I have with me right here, but they point out a special rifle-shot provision which will provide huge amounts of money. Right here, a break for a rich few snuck into the bill. They talk about $9 million a year in lost revenue and giving a bonanza worth thousands of dollars to about 1,000 wealthy taxpayers. That is what was snuck into this bill overnight and that is why kids in huge percentages, 56 percent from West Virginia, 50 percent from Michigan, New Jersey, my friend from New Jersey is standing up today, 48 percent of the kids will not be eligible for a child tax credit in his State. That is who is getting short cut today to take care of the fat cats and the big boys.

Mr. MENENDEZ. Mr. Chairman, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from New Jersey.

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

No wonder 60 percent of the American public said the Democratic tax cutting plan is the plan that they want, because we address working and tax-paying families in our plan.

What we do in that respect is try to provide greater tax relief for lower- and middle-income families, immediate estate tax relief for farms and small family owned businesses, a capital gains tax cut for small businesses and also for being able to sell your home. To the extent that over 1.1 million New Jerseyans, children, get absolutely no relief under this bill and to the extent that there are real families like Anna Gonzalez, who just sent me a fax and said, I am employed as a medical office technologist for the Bayonne Dental Group. I have been working there for a year, making over $20,000 in 1997. I have three kids. I pay for child care. Unfortunately, the Republican child tax credit gives me no benefit at all.

That is a real person, a real family struggling to stay off welfare, to be working, to produce for this country. This is the family-friendly Congress supposedly. Yet the Republican tax plan works against working families, tax-paying families, families who we should be preserving in this tax cutting bill. That is why Democrats stand up for tax cutting for working families.

Mr. Chairman, I include for the RECORD the letter to which I referred:

ANNA L. GONZALEZ,
Bayonne, NJ, June 23, 1997.

Due to my job responsibilities, I am unable to appear in person for this News Conference. I would like to show my concern in regard to the guidelines for receiving the proposed Child Tax Credit. As a single mother of three children, living on a single income, I would like to stress the importance of how a Child Tax Credit would help to alleviate some of the financial burdens that come with raising a family on a single income.

I am employed as a Medical Office Technologist for the Bayonne Group of Bayonne, New Jersey. I've been working there for 1 year, and will earn $20,202 in 1997. I pay $93 per week for child care which totals to $4,836 per year. I pay for the child care in order to be able to work.

Unfortunately, the Republican Child Tax Credit proposal is targeted against those who need it most, those who are an inch away from going into the welfare system. We are the working poor, who work to pay for child care, food, and a roof over our family's heads and not much more. The Child Tax Credit should be given to financially benefit the children, and I think the children from a low-income family would benefit greatly by receiving this Credit. However, my family would receive NO BENEFIT AT ALL from the proposed Child Tax Credit.

I am eligible for a Dependent Care Tax Credit that reduces my income tax liability to zero. Therefore, I would receive no benefit from the Child Tax Credit passed by the Ways and Means Committee.

Sincerely,

ANNA L. GONZALEZ.

Mr. Chairman, Democrats want greater tax relief for lower- and middle-income families, immediate estate tax relief for farms and small family-owned businesses, a capital gains tax cut for small businesses, and help for postsecondary education.

The Republican tax bill is like the deal to divide the gold mine. The rich Republicans get the gold and the American people get the shaft.

More than half of the benefits of the Republican tax plan go to the wealthiest 5 percent—people making an average of $250,000 a year.

Under the Democratic plan 71 percent of the tax benefits go to families earning less than $100,000.

The Republican plan would cover only half of tuition costs for the first 2 years of college. The only tax relief for the third and fourth years comes from savings plans that only wealthier families can afford to join.

Under the Democratic plan, HOPE Scholarship credits would be available for all 4 years of post-secondary-education. After the first 2 years, a scholarship credit of 20 percent of tuition costs is available. These HOPE scholarship credits are available to all students who live in families with incomes under $80,000. The HOPE scholarship credits are not reduced by a student's Pell Grant and other nontaxable Federal scholarships. The Democratic plan makes permanent the tax-free treatment of employer-provided education assistance.

The Republican bill denies the $500 per child tax credit to 15 million families, by refusing to extend the credit to many working parents who qualify for an earned income tax credit, or to families who only pay payroll taxes. More than one-half of the children in New Jersey would be completely ineligible.

The Democratic plan allows families to offset payroll and income taxes and would continue the existing day care credit.

The Republican plan grants massive tax breaks to wealthy people who make money by selling their stocks, bonds, art works and antiques. Republicans also have designed their proposal so that it explodes over time and could wreck the balanced budget.

The Democratic Plan targets capital gains relief to homeowners, not mansion owners.

The Republican plan provides large estate tax breaks to very wealthy families. Only 1.5 percent of families currently pay any estate taxes.

The Democratic plan gives relief for those who dedicated their lives to building the family farm or small business.

The Democratic tax package is a better deal for more people. It gives the most tax relief to lower and middle-income families: immediate estate tax relief for farms and mom-and-pop businesses, a capital gains tax cut for small businesses, and provides $40 billion in for kids to get a college education.

Remember who is making the greatest contribution to reducing the deficit, it is the vast majority of Americans. I can only speak for my district. Most of my people are honest, hard working people who don't have capital gains on their art collectibles. They don't have lavish deductions for business expenses. They will never make enough money to ever worry about estate taxes. They would love the opportunity to pay a minimum alternative tax.

The Republican tax bill abandons 60 percent of all families, giving them a miserly 12 percent of the tax cuts. The Democratic tax cut substitute looks out for my people and their families. That is why the American people favored the Democratic tax plan by more than 2 to 1 when asked by the Wall Street Journal/NBC new poll. Support the Democratic substitute.

Ms. KILPATRICK. Mr. Chairman, will the gentleman yield?

Mr. BONIOR. I yield to the gentlewoman from Michigan.

Ms. KILPATRICK. Mr. Chairman, did I understand the gentleman to say that over 1.3 million children in Michigan will not be able to take advantage of this child credit?

Mr. BONIOR. Mr. Chairman, the gentlewoman is absolutely correct.

Ms. KILPATRICK. Mr. Chairman, did I further understand the gentleman to say that only 1 percent of Americans, the wealthy Americans, will be able to take advantage, and that 60 percent of the bottom rung of Americans will not take advantage of this?

Mr. BONIOR. The benefits in this tax bill for the top 1 percent equal that for the bottom 60 percent, so that 1 percent of the taxpayers in this country are getting as much as the 60 percent at the bottom in this country.

Ms. KILPATRICK. Mr. Chairman, the Republican tax bill would deny tax credits for another 4 million lower middle-income children. Forty percent—two out of every five children—would be ineligible for the credit because their family's incomes are not high enough. The total number of children denied this credit because their families do not make enough money would be 28 million. The Republican's highly touted $500 tax credit that is nonrefundable allegedly gives tax relief to families. While corporations will reap a $22 billion windfall in this bill, 28 million children would get nothing.

The Republican tax bill denies tax credits to working families. For example, a family of four with two children with no child care expenses would not receive any credit unless its income exceeded $24,385. Moreover, if the family had child care expenses, it could earn as much as $27,180 and fail to qualify for the credit. Also, families that have more than two children, or have high mortgage or health care costs and itemize their deductions, could make close to $30,000 and still not qualify for the credit.

The Democratic tax bill has real child care tax credits. The Democratic bill does not compute a family's child care tax credit after the earned income tax credit [EITC] is figured. This is a significant difference—millions of lower- to middle-income families owe income tax before EITC is calculated, but have little or no income tax obligation remaining after EITC is calculated. Under the Democratic bill, these families would be covered.

The Republican tax bill's largest tax cuts—capital gains, individual retirement accounts, estate, and corporate taxes—provide most of their benefits to the rich. The richest 1 percent get more of the overall tax break than the bottom 60 percent combined. According to the Center on Budget and Policy Priorities, the Joint Tax Committee's distribution tables do not reflect any of the benefits that taxpayers would receive from these four provisions.

The Democratic tax bill makes the benefits in these four areas, especially for working people, fair. It provides 71 percent of the tax breaks to families earning $100,000 or less. It provides a capital gains tax cut, an estate tax cut, and tax cuts for small businesses, family farms, and homeowners. The only way that you are eligible for these tax breaks is if you work and pay taxes.

Mr. RANGEL. Mr. Chairman, the official count of Democratic and Republican votes, how many Republicans voted for the Clinton budget that created the atmosphere so that we can even think about tax cuts?

Mr. BONIOR. Mr. Chairman, let me see here. I have my old 1993 count here, and there was not one Republican who voted for the 1993 budget that got us down from $300 billion.

Mr. RANGEL. Mr. Chairman, we really cannot cut taxes when we have a deficit, can we?

Mr. BONIOR. Mr. Chairman, the gentleman is right.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The gentleman from Michigan [Mr. BONIOR] has the time and should indicate each time he yields or reclaims the time.

□ 1300

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Mississippi [Mr. PARKER].

(Mr. PARKER asked and was given permission to revise and extend his remarks.)

Mr. PARKER. Mr. Chairman, I thank the gentleman from Texas [Mr. ARCHER], the chairman, for yielding me the time.

Mr. Chairman, I was very interested in the comments made by the minority whip and by the ranking member talking about one particular aspect of the committee's bill dealing with AMT. I think a very wise part of this bill has been the removal of the depreciation penalty from AMT.

It is fascinating to me that people always come to the floor of this House and they scream and yell about jobs going overseas, about companies leaving our Nation and us losing jobs. It is fascinating to me that people talk about that and at the same time they scream about the companies in this country that are not investing in their own companies and staying up, being modern, being able to produce, increase their productivity. Let me tell my colleagues what the most burdensome part of AMT is and how it has been removed from this bill.

In order for any company to modernize and be able to create new jobs and increase productivity, they must put money into the company. You do that by using depreciation, because equipment is just like people: It gets old, it wears out, and it eventually dies.

Depreciation is not a gift, it is an allowance to a company to modernize and to buy new equipment and to be state of the art. But what we did when we implemented AMT, and it was a terrible mistake, is we told companies we are going to allow to have depreciation, ''But, by the way, if you invest in your company, what we are going to do is we are going to say that does not count.''

So what we say to these companies is, ''We are going to penalize you, take away your depreciation, and force you to pay money to the Government in taxes,'' and companies are penalized for investing. That is a fascinating situation in which we put companies on a day-to-day basis in this Nation. As a matter of fact, they are rewarded for not investing.

Every union member in this Nation should rise up in revolt when leaders in this country say we should have a penalty on depreciation. It keeps them from having more productivity. It prevents them from losing jobs overseas. It prevents their salaries from raising. It is the most ridiculous, asinine piece of any tax legislation I have ever seen.

It needs to be changed. And the gentleman from Texas [Mr. ARCHER], the

chairman, in this bill has changed it. It will mean more jobs in this country than anything else in this bill.

Mr. RANGEL. Mr. Chairman, I yield myself 30 seconds to tell the gentleman from Mississippi [Mr. PARKER] that Democrats apologize to him that the corporations, because we are asking them to pay some minimum tax and they wipe that out, but the reason we do it is because two-thirds of the children in Mississippi will not get the child credit under the Republican bill, and that is over a half million children. That is why we cannot be that generous in excluding corporations from paying taxes.

Mr. ARCHER. Mr. Chairman, I yield myself 1½ minutes simply to respond to some of the information that has been misrepresented to this House.

The gentleman from Michigan [Mr. BONIOR] said, and it is a broken record, he has used it for so many years, it does not matter what the tax bill is before the Congress, it is always the rich get richer and all of these breaks go to the rich.

It is unfortunate we have to deal with this economic class warfare rhetoric over and over again. Frankly, I am offended by it at a time when this President and all of us should be pulling all Americans together instead of dividing them. But the Joint Committee evaluation of this bill, and bear in mind they are the official estimator, bear in mind they are nonpartisan, they advise Democrats and Republicans, House and Senate, shows that in the top 1 percent of income category, they will pay more under this bill. Their effective rate will go up from 29.9 to 30.5 percent. I do not know where these numbers come from that say the rich get richer.

The article in the New York Times which said that there would be 1,000 taxpayers who would get some kind of relief is a proposal made by the administration for simplification of the Tax Code. We put it in the bill because it was sent to us by the administration asking us to simplify the code. If they do not like it, we will take it out. But it is ridiculous for this sort of an allegation to be made against a bill when we are simply trying to simplify the code.

So Americans should understand that the rhetoric of class warfare, based on inaccurate figures in the first place, is not what this should be all about.

Mr. Chairman, I yield 2½ minutes to the gentleman from Illinois [Mr. WELLER], a respected member of the Committee.

(Mr. WELLER asked and was given permission to revise and extend his remarks.)

Mr. WELLER. Mr. Chairman, I rise in support of this very important piece of legislation. I am so proud that this House overwhelmingly passed with bipartisan support yesterday legislation to implement a bipartisan balanced budget agreement.

Today a key part of the balanced budget agreement, which is lower taxes for working families, will be passed by the House as well and deserves bipartisan support. I think it is important to note that this is the first real tax relief bill for working families in Illinois, in the land of Lincoln, in 16 years.

I also feel it is very important to note who receives the vast majority of this tax relief. Now the Joint Committee on Taxation, which is a bipartisan committee made up of Democrats and Republicans, it is respected and trusted by both sides and it is nonpolitical, they have honest numbers. If you look at the chart that they provided when analyzing this tax bill, they note that over three-fourths of the tax relief which is provided in this tax bill that we are going to be voting on today goes to families with incomes between $20,000 and $75,000, a group of people that most of us would call working middle-class families. Seventy-five percent of the tax relief goes to families with incomes of between $20,000 and $75,000.

Let me point this out again. In this bill, 75 percent, actually 76 percent of the tax relief goes to families with incomes between $20,000 and $75,000. That is real tax relief for people in my home State, the working families that I represent. In fact, a family in Illinois with a median income of $44,000 will see tax relief of over $10,000 over the lifetime of this bill, $3,000 more than the President proposed with his proposal earlier this year.

Clearly, this is a better deal for those who pay taxes and work hard back in Illinois. We include tax relief for families with children, $500-per-child tax credit. In the 11th District of Illinois that I represent, 110,000 children will benefit, 33,000 more than the President proposes.

Education incentives help send kids to college, capital gains tax deductions create jobs, individual retirement accounts encourage savings, death tax relief helps small business and agriculture pass on someone's fruit of their labors to the next generation, and welfare-to-work tax incentives.

This legislation deserves bipartisan support. Again, the bulk of the tax relief, 75 percent, goes to families with incomes between $20,000 and $75,000. Working and middle-class families are the beneficiaries of this tax bill, which deserves bipartisan support.

Mr. ARCHER. Mr. Chairman, I yield 4 minutes to the gentlewoman from Washington [Ms. DUNN], a respected member of the Committee on Ways and Means.

Ms. DUNN. Mr. Chairman, for the first time in 16 years, women across America are getting a tax cut. The truth is our tax bill helps women throughout their lives, at home and in the workplace. The only people who think that tax relief in this bill is not good for women are those who do not believe we women can manage our own money. That kind of thinking is passe.

What does this tax relief package really do for us? First of all, the mothers of 41 million American children will be able to keep more of their money. The child tax credit is money that desperately is needed to make ends meet. The child tax credit is money that can be used to pay for school, for clothes, for groceries, or for those often unexpected expenses that come with raising children.

Women and their families will also get a lot of help in sending their children to college. The cost of higher education these days is overwhelming. I just had two kids in college. I know.

Finally, women are provided additional options through our bill to save for their retirement through expanded IRA's that they can get involved. The fact is that women live longer than men, yet we also often have less savings. We should not force women these days into choosing whether to buy shoes for their 8-year-old daughter today or being able to put money aside for their own retirement later.

Let me talk about the workplace. Today women are starting businesses at twice the rate of men. Our lower capital gains tax leaves more vital capital in the hands of women-owned businesses, in the hands of women investors and women entrepreneurs.

Why is this so important to women? The reason is that in a very late survey, 1995, it was discovered that 84 percent of women-owned businesses used their personal savings to get their businesses started. We need to be able to give them this choice.

Here is another example. After death of a spouse where a woman is left with the family home as her only major asset, when she sells that home a reduction in the estate tax, relief which we offer her, is terribly significant to her. These are dollars that will make her life a little easier. It will help her make ends meet a little bit better during a tough time.

The American dream is for everyone, I say to my colleagues, including women. It is a little bit better place for our kids if we did right, little bit better place for our loved ones. But the current death tax is so onerous that the owner of a family farm or a family business who dies and leaves a home or business to his children, these kids often have to sell their business or their home simply to pay the debt of inheritance taxes, and all of this at a very, very tough time, sensitive time in the lives of those family people.

Let me give you an example of a woman who lives in my district in North Bend, WA. She lives on 50 acres of timber her parents bought when she was a little girl of four.

When her folks died, they left her the timber farm at a value of 155 percent in estate taxation, so she had to log 20 acres of prime timber. That meant cutting trees that were 60 years old.

Helen did not want to cut those mature trees, but she had to to get the money. She was paid $565,000 for the timber. Immediately she paid 21 percent to the forester, and then she paid

Federal estate taxes, State taxes, and her lawyers. Not a penny was left, and neither was the beautiful timber that had been enjoyed in that neighborhood by folks who hiked through it and by animals that lived there.

Finally, Mr. Chairman, this bill helps provide women the flexibility to start home-based businesses while at the same time staying home to take care of their children. No longer will women be forced to go to a job and leave their kids at home in order to pay the family's tax bill. I urge my colleagues to support this woman-friendly tax relief bill.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. CHRISTENSEN], another respected member of the Committee on Ways and Means.

Mr. CHRISTENSEN. Mr. Chairman, this bill is perhaps the best piece of small business legislation to come down the pike in over 40 years. Think about it: Capital gains reductions, death tax reforms, helping the independent contractor, the small business owner. The No. 1 piece of legislation, according to small business. Last year the White House Conference on Small Business said it was their No. 1 issue. Sixteen hundred delegates from all across the country, they came and thought about it and talked about it, and then took a number of sampling policies, talked with their members and said the No. 1 issue for small business in this country was reforming the independent contractor legislation, getting simplifications so that the IRS could help decide who is and who is not an independent contractor, who is and who is not an employee, bringing some clarification to this needed area.

□ 1315

For 26 years the gentleman from Texas [Mr. ARCHER] has been here fighting for capital gains, fighting for small business owners. This is a historic day, that the Democrat, the minority side, is talking about tax cuts, that they are talking about we want tax cuts, too, we just do not want quite as much, that it has gone so far, that this debate has come this far. The American people owe the gentleman from Texas [Mr. ARCHER] a debt of gratitude for the fact that he has been here, he has been fighting in the vineyards, he has been a lonely voice for a very long time, but now the President is on his side. We are going to pick up 40, 50, maybe 100 Democrats on this vote. The small business community thanks him, the American people thank him. This is a great tax package for small business America.

Mr. RANGEL. Mr. Chairman, I yield 3½ minutes to the gentlewoman from Connecticut [Mrs. KENNELLY], a senior member of the Committee on Ways and Means.

Mrs. KENNELLY of Connecticut. I thank the gentleman from New York [Mr. RANGEL] for yielding me this time.

Mr. Chairman, I would like to note that the gentleman who just spoke is from Nebraska. In Nebraska almost half the children there will not get the child credit under the Republican bill on the floor today.

Mr. Chairman, I was on the way to speak here just a little while ago. I had my statement in my hand. I was going to talk as I have talked for years, 10 years I have been on the Committee on Ways and Means, about the earned income tax credit. Then I said, why should I talk about that today? Everybody is talking about it. And I should be happy but I am not because of the way the earned income tax credit is being used in relation to the child credit. And so I thought I would give the genesis of the earned income tax credit.

I got involved in 1986 in tax reform and began to look at this legislation and put forth some proposals in that statute. I looked up the history, and it became law, the earned income tax credit, in 1975. The Senator from Louisiana, Senator Long, who was head of the Finance Committee, our tax counterpart in the Senate, understood something. He understood that because of the payroll tax and inflation and the way we did our taxes in this country, for some people who worked hard, it was not worth working when you took out the payroll tax. He introduced the earned income tax credit so those people could keep the fruit of their labor. That tax was little then, but it grew.

In 1986 when I got involved, it was bigger. But it was complicated to apply for it and a lot of people did not. In 1990, President Bush was President. He was looking at his budget. He had a chief of staff named John Sununu. He latched on to a piece of legislation I had introduced, the Kennelly bill, about the earned income tax credit, and he put it in President Bush's budget. I was so delighted. But then it went over to the Senate side and Senator Bentsen got involved and he took a piece of it, he had it, for a good reason, for health insurance for children. Then there was another piece taken, I believe John Sununu did it, for the President, he put it in and that was a tiny tot credit. If you stayed home with your child, with your baby under 1, you got some of this earned income tax credit. Lo and behold, it got so complicated, it had more money and people were not using it.

But then in 1993, something happened. Our President, Mr. Clinton, understood the earned income tax credit like Senator Long did. So what he did was infuse a very large amount of money into it, $23 billion. He understood you could not have it complicated because people would not apply for it. So there we were with the earned income tax credit finally working. You used it against Federal income tax, payroll tax, or the other income tax. Your income tax. I thought that I could relax, and I was very pleased. Then lo and behold we came to this year.

But wait, I forgot one year. 1994. How could I forget 1994? We got a new majority, they had a contract for America, and they had the earned income tax credit in, and yes, they did it the right way. You could play off your earned income tax credit against payroll tax or your income tax and everything was OK. But now we have got this bill before us today. We have got a child credit, a good child credit, except I look down and I see the child credit is played off against the earned income tax credit. That means if you have the earned income tax credit and you put that against your Federal income tax and then you do not have any more credit to go against your payroll tax.

What that means, Mr. Chairman, is the Republican plan would provide a $500 child credit for 39 million people, a lot, but the Democratic plan before us, 60 million children get it. Please, I have worked on this a long time. Let us do it the right way again.

Mr. ARCHER. Mr. Chairman, I yield myself 15 seconds to respond to the gentlewoman. Obviously she has not noted the changes in this bill that were accomplished by the rule that was passed, because under the rule, any taxpayer with adjusted gross income of under $60,000 will not lose the dependent care credit under the bill now before the House.

Mr. Chairman, I yield 3 minutes to the gentleman from Georgia [Mr. COLLINS], a respected member of the Committee on Ways and Means.

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

Mr. Chairman, a lot of comments have been made here today by different Members in reference to the President and his willingness to reach out and the Members of this side of the aisle and their willingness to reach back and also to reach out with ideas. I want to relate a conversation, a personal conversation that I had with President Bill Clinton in April of 1995, standing in the little White House in Warm Springs, GA, the Georgia home of F.D.R., F.D.R., who was considered the working man and the little man's friend. As we were departing that day, I looked at the President, and I said, ''You know, sir, we have to look after the little man because the big man can take care of himself. But every now and then you have to give just a little something to the big man so he'll help the little guy.''

And the President was nodding in agreement. And I said, ''Mr. President, that's our tax bill, the tax bill of the 104th Congress.'' Little known to each of us that day, we would not be back with that tax bill but one time, just one opportunity to pass and accept it. But we are back again in the 105th Congress. We are back with a lot of the good ideas that he says, ''Yes, there are a lot of good things in this tax bill that we will eventually agree on.'' But there is the old saying, ''Opportunity only knocks once, temptation will beat the door down.''

We missed that opportunity in the 104th Congress, but we are back with

those good ideas, not only our good ideas but some ideas of the President's, in the area of education, AMT relief that the President has proposed, capital gains relief that the President has proposed. This debate is good, it is real good. It is pointing out some differences yet that we still have in this bill. But we have an opportunity here today to move this bill forward, pass it, move it into conference, work on those additional ideas and differences that we have.

Let us not miss this opportunity. Let us work on the good points and the good parts that we have put in, that the President has put in, and let us work on those differences to improve this bill over the next 2 to 3 weeks, and let us give tax relief to the little man, the working people of this country, and let us also give some assistance to those who can help those working people by providing them jobs.

A lot has been said about the AMT. Business people understand that. They understand oftentimes under the AMT provisions you can actually lose money and still have a tax liability, and it drives behavior of business that also deletes a lot of jobs. A lot has been mentioned about the type of equipment that is purchased that comes under the AMT. Most of those jobs are assembly line jobs, union jobs.

This is a good bill and by the time we get through with it in 2 to 3 weeks, I know it is going to be a lot better. Let us take advantage of opportunity and let us move this piece of legislation forward.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. MCCRERY], another respected member of the Committee on Ways and Means.

(Mr. MCCRERY asked and was given permission to revise and extend his remarks.)

Mr. MCCRERY. Mr. Chairman, my colleagues have heard and will continue to hear criticism from some telling them that the Republicans have written a tax cut that benefits big corporations. I am here to plead guilty, sort of. I say ''sort of'' because there is much in this bill which directly benefits middle-class families, the $500 per child tax credit, education assistance, and exclusions for capital gains on home sales. In fact, most of the tax relief in this bill goes to middle-income families. But our tax cut will benefit corporations, and those who criticize that just do not get it. They cannot see that benefiting those who create jobs ultimately benefits workers as well.

Let us look at just one industry in my home State of Louisiana, forest products. Forestry in my State employs some 8,000 in harvesting and transplanting trees and another 26,000 in forest products manufacturing jobs and some 113,000 Louisianans own forestland. Tree farmers in Louisiana plant seedlings, then they wait, 20, 25, 30 years. They endure the threats of flood, fire and infestation. All the while they incur expenses caring for their crop and all the while inflation ticks along. After a couple of decades, if the trees are still standing, they are cut and sold. The capital gains tax reductions in this bill will reward those landowners who risk their capital to grow those trees, and because of the potential for greater rewards, more landowners will decide to risk their capital to grow trees, which will in turn provide our forest products industries with a ready, affordable source of raw material for their factories, which in turn will provide good-paying jobs for a great many people in Louisiana and across our country.

But for those jobs to stay here in the United States, our factories must be competitive in the world marketplace. For our industries to be competitive, they must continue to increase their productivity. To increase their productivity, they must continually invest in new equipment for their operations. The alternative minimum tax makes it much more difficult for forest products companies to invest in plant and equipment when they need to.

This bill gives some relief from the perverse consequences of the AMT, which will allow more timely investment by forest products industries, giving them a better chance to compete worldwide while continuing to pay high wages and benefits to their employees. The forest products industry and those who work in it will benefit from the tax relief in this bill. That is helpful to an industry that is very important to my State. But there are other industries, ones important to other States around this country, which will also benefit.

I urge my colleagues not to attempt to defeat this bill by demagoging it as a tax cut to big, faceless corporations. Corporations are not faceless. They are the faces of all those who work for them and the faces of all those whose retirement funds are invested in them. Let us quit trying to win political points by dividing Americans by income. Let us work together to provide an economic climate that will create jobs for everybody and make everybody richer.

Mr. RANGEL. Mr. Chairman, I yield 10 seconds to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY of Connecticut. Mr. Chairman, I would like to respectfully say to the gentleman from Texas [Mr. ARCHER] that he misunderstood me. I did thank him on the floor the other day for the dependent credit under $60,000. What I was talking about is something else he could do in conference and that is to fix those under $30,000 who cannot get the child care credit.

Mr. RANGEL. Mr. Chairman, I yield myself 15 seconds to point out that we wish we could afford the luxury of having corporations that make money not to pay taxes, but again it is just not fair because we would rather see whether we can change the Republican bill and maybe we can in conference. In its present form, 58 percent of the children of Louisiana would not be eligible and that is 3 out of 5; two-thirds of the kids in Mississippi will not receive it; 52 percent of the kids in Georgia will not receive it; 41 percent in the State of Washington will not receive it; half of those in Illinois will not receive it.

Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, when the gentleman from Texas [Mr. ARCHER] started out the debate, he indicated that he is going to dedicate this tax bill to Debbie and Bill from Manassas. But what the Republicans are not telling Debbie and Bill and other Americans is about a provision in this bill which will have a devastating impact on workers, men and women alike, and their benefits.

☐ 1330

The provision I am about to talk to is disguised in this legislation as tax bill clarification. What I am talking about is the independent contractor language inserted by the Republicans on the committee, and let us use Bill from Manassas as the example.

Let us say Bill is a plumber. If this provision passes into law, Bill could go to his company on Monday of next week, ABC Plumbing Company, and the employer is going to say, ''Under a provision passed by the Republicans I don't have to call you, and I don't have to treat you as an employee anymore. I'm going to call you and treat you as an independent person, an independent contractor.'' Bill is going to say:

''Well, why?''

He says, ''Well, you have your education for being a plumber, you have your own tools, for the most part you work off the employer's premises; that's a definition of independent. So, Bill, you're not my employee anymore; we're going to pay you by the job, and if you go to Christine Place to replace a hot water heater on Monday or Tuesday, I'll give you a hundred bucks, you do the job, you keep the money.''

But what happens to Bill and what happens to Debbie and their family and their kids is that under this provision Bill has no retirement plan. For years he has been paying part of it, the employer has been paying part of it. ''Being independent now, Bill, I, the employer, don't have to offer you a retirement.''

''Well, how about health insurance?''

''It's a split. I pay 20 percent, you pay a portion. I have family health coverage. Sorry, Debbie and Bill. As an independent, get your own. Take that hundred bucks I gave you to replace the water heater, get your own coverage.''

Well, let us say Bill is injured seriously on the job, loses an arm. Under the current practice and under Bill's current condition, he gets workers compensation, which will take care of him should something like that occur.

''Under this provision, Bill, you're independent. You don't get workers' comp from us, get it yourself if you can.''

And how about the slow period in the fall? Bill is off for a couple of weeks. Right now the employer gives him unemployment compensation, and it helps feed the family. Under this provision Bill does not get any workers' compensation or unemployment compensation.

Also, currently under the current situation, Bill pays one-half of his Social Security and Medicare hospital tax, 7.65, the employer pays the other half. Under this provision, ''Bill, you pay the entire 15 percent. I, the employer, pay nothing.''

That is what is in this bill. That is the beginning of the end for employee benefits and protections as we know them today.

And know full well I view this as the biggest gift to employers, and if I were dedicating this bill to anyone, Bill and Debbie from Manassas, I would not dedicate it to them because they are going to lose, they are going to lose under this provision. I will dedicate it to the ABC Plumbing Companies of the world and other people who are going to treat their employees in this manner.

And know full well it is not only plumbers that are covered. Under this provision it could be the airline pilots, it could be teachers, it could be police officers, plumbers, electricians.

This is a new way to do business. This is a gift, a dangerous gift to employers who choose to treat their employees this way. And I am saying, and I have talked to the administration, they will not sign this bill with that provision in it.

But I challenge the Republicans, if they are going to dedicate this bill to working families, talk about this provision, talk about how this is going to harm them, how dangerous this is. And I ask my colleagues to vote against this bill if for no other reason than this provision.

I can put up with the harassment on union dues because unions happened to help Democrats in the last election. So it is a provision. Go and stick it to the unions. But this one is the harmful one. This is the one that forces me to vote against this legislation, and I ask my colleagues on behalf of Debbie and Bill and all other Americans to oppose this particular legislation.

Mr. CHRISTENSEN. Mr. Chairman, I yield myself 30 seconds to respond to the gentleman from Wisconsin's accusations.

First of all, it is a mutual agreement. There must be a signed agreement from the individual involved and also the person that we are contracting with. There is an independence and an investment component of this independent contractor legislation, so it is not a unilateral decision by one person to make that decision.

Second of all, it is the No. 1 area in small-business America that needs to be fixed under the code, and the White House Conference on Small Business decided this. So it is not something that is just being unilaterally decided by Republicans. It was a joint decision by also the administration with the White House Conference on Small Business.

With that, Mr. Chairman, I yield 2 minutes to the gentleman from Dallas, TX, Mr. SAM JOHNSON.

Mr. SAM JOHNSON of Texas. Mr. Chairman, as my colleagues know, this tax relief bill gives part of America back to Americans who pay too much in taxes. There is not a Member here who can deny that this bill provides relief to families through the $500 per child tax credit. Gives entrepreneurs and companies the opportunity to create more job opportunities in America by lowering the capital gains tax rate than the alternative minimum tax, allows families to keep their farms or small businesses by providing death tax relief and gives more Americans a way to send their kids to college and buy a first home by expanding IRAs.

During this debate there are going to be two different arguments about what tax cuts mean. By the time we finish, I think our differences will be clear. To Democrats tax cuts mean less money here in Washington for this Government to spend. To us Americans tax cuts means people will keep more of the money that they work so hard to earn. In America we ought not to discriminate on the basis of race or gender, and we also should not discriminate on the basis of income.

We in Congress have a responsibility to bring Americans together for everyone's benefit, not divide them with class warfare rhetoric. Seventy-six percent of the tax cuts in this bill go to people making under $75,000, and a hundred percent of these tax cuts go to all Americans, who are overtaxed. Neither the President nor Democrats in Congress should stand in the way of hard-working Americans getting a break from high taxes.

As my colleagues know, Americans want, need, and deserve their tax relief now.

Mr. CHRISTENSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Chairman, America has enjoyed many months of uninterrupted economic recovery. But the recovery is not enough. If we are to prevail in the long run, we must expand the long won strength of our economy. To achieve these greater gains, one step above all is essential, the enactment this year of a substantial reduction and revision in Federal income taxes. This will increase the purchasing power of American families and businesses in every tax bracket with the greatest increase going to our low income consumers. It will encourage the initiative and risk taking on which our free system depends and reinforce the American principle of additional reward for additional efforts.

The enactment this year of tax relief overshadows all other domestic problems in this Congress, for we cannot leave the cause of peace and freedom if we cease to set the pace here at home.

Mr. Chairman, these are not my words. These words were spoken three decades ago in 1963 during the State of the Union Address by our President at that time, John F. Kennedy. President Kennedy made this statement as a man ahead of his time with a bold vision for America's future. He showed the courage to look past the skeptics, to look past the pessimists and call Americans to action in defense of their freedom.

Today we find ourselves at a similar crossroads, on the edge of a new century with new challenges to the freedoms of Americans and their families. Bold action again is needed to unshackle the American spirit. The question is whether our President will seek inspiration from his hero, John Kennedy, and join us in restoring freedom to overtaxed, overburdened and overwhelmed American families.

Mr. Chairman, today's vote is really about that. It is about freedom, freedom for Americans to save, to spend, to invest and to contribute to their own communities instead of handing an ever increasing amount to our government, their hopes and dreams along with it.

Passing this bill today, Washington takes a small step in the right direction.

Mr. RANGEL. Mr. Chairman, I yield 30 seconds to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, let me respond to the gentleman from Nebraska on the independent contractor, the provision that employees lose their benefits.

First of all, the White House conference did meet made up of small business people. As part of that group there were no working men and women who could object to this provision, and the question of whether or not it is voluntary. If someone's employer calls them on Monday and says, ''Sign on the dotted line or you have no job, you have no income,'' they are going to sign. And that is exactly what happened at Microsoft, where the employees were forced to sign the statement that they are independent contractors. So do not tell me this was voluntary; this was forced, and any employee who does not sign on the dotted line goes home with no pay.

Mr. RANGEL. Mr. Chairman, I yield myself 30 seconds.

When the bottom line is there, we will find that over half of the kids from working families in the State of Texas, in the State of Ohio will not benefit under the Republican bill.

Mr. Chairman, I yield 10 minutes to the gentleman from California [Mr. MATSUI], a senior member of the Committee on Ways and Means.

Mr. MATSUI. Mr. Chairman, I thank the gentleman from New York, the ranking member of the Committee on

Ways and Means, for yielding this time to me.

Mr. Chairman, we have been hearing from the Republicans capital gains tax cuts, estate tax cuts. They want to eliminate the alternative minimum tax on corporations in America. They want to have back ended IRA's.

We must have amnesia in this room here today because just 24 hours ago we were saying how wonderful the agreement was with the President on balancing the Federal budget. And now all of a sudden we are talking about these enormous tax cuts.

I added up all the tax cuts that the Republicans have been taking about. Over a 10-year period these tax cuts come to $600 billion or about $60 billion a year. That is why the President in the budget agreement said over 10 years it can be no more than a net of $250 billion, less than half of the total tax cuts as they add up.

We thought the Republicans were going to be moderate, that they were going to try to compromise, they were going to pick and choose and prioritize what tax cuts they wanted to give the American public. What they did instead was committed a little duplicity. What they did was they phased these tax cuts in. They phased them in over a 10-, 12-, 15-year period.

For example, the capital gains tax cut does not come into effect until the year 2001, and as a result of that what we are going to see is, yes, the net tax cuts for the first 10 years will be $250 billion. Revenue loss of $250 billion.

But then if we look at this chart, we will find that in the year 2007, 2007 alone, it will be $41 billion just in that 1 year alone. Then by the year 2017 it will be $90 billion of revenue loss in that 1 year alone. It will make the deficits we had over the last 15 years look like chicken feed compared to the deficits that will occur when the children and the grandchildren are becoming the age when they want to buy a home or employment.

We are a great competitive Nation. We had growth over the last 6 years. We have been the strongest economy in the world. And the Republicans, if this bill passes and becomes law, will drag this economy down so that we will be a banana republic. We cannot afford this tax bill, which is going to explode the deficit, and the American public has to know that.

Mr. CARDIN. Mr. Chairman, will the gentleman yield?

Mr. MATSUI. I yield to the gentleman from Maryland.

Mr. CARDIN. Mr. Chairman, the gentleman is right. Yesterday we were talking about trying to balance the Federal budget and keep it balanced. We should learn from what happened in 1981 when we created the climate for exploding deficits. This bill should be known, since we are going on the Fourth of July break at the end of today, as the Fireworks Tax Act of 1997. We are going to have exploding deficits if this bill is passed in a way that it has been presented.

The gentleman points out in that chart very clearly the difference between the Democratic bill and the Republican bill. The Democrat bill has a capital gains tax cut in it, but it is mindful of how much we can afford in its target. The Republicans not only put in a differential rate for capital gains, but also indexing, and another chart that the gentleman has there really points out the fact of how we are going to have exploding deficits if this bill passes and is enacted the way that it has been presented.

It is convenient in the year 2002, the year that we have advertised that we are going to have a balanced budget, that the capital gains tax actually produces more revenue for the Treasury, and why? Because in that year the Republican bill allows people to sell and buy back their assets to get a lower capital gains rate and then to be able to take advantage of indexing. They get it twice.

To make matters worse, the indexing requires a 3-year holding period so the revenue losses will not be felt until we are well past the budget window.

□ 1345

We want to make sure that we do the right thing as far as the deficit of this country is concerned, that we actually have a balanced budget. We have all been arguing in this budget that we want to balance the Federal budget and keep it balanced. We should learn from history in 1981. This is just one of about five or six provisions in the Republican bill that advertises very little revenue loss in the first 5 years, but they explode in the outyears and we will have huge deficits.

The point that my colleague is making, the chart that he is showing, I hope that the American people will understand that if we vote for this tax bill that is on the floor today, we are voting for large deficits in the future.

Mr. TANNER. Mr. Chairman, will the gentleman yield?

Mr. MATSUI. I yield to the gentleman from Tennessee.

Mr. TANNER. Mr. Chairman, I want to follow up, if I could. I come from the wing of the Democratic Party here in the Congress that thinks that it is important that we get our Nation's books in balance. As a matter of fact, a group called The Coalition had a budget proposal that had entitlement reform and no tax cuts in the belief that more people in this country would benefit if we could get our Nation's books in order and get the Government out of the credit market as fast as possible, borrowing the least amount possible, as soon as possible. We did not prevail on that.

So there was an agreement reached between the President and the leadership of the Congress that we would have a tax bill now.

Well, we, in an effort to try to be constructive in the process, think that any tax bill ought to be responsible from the standpoint of the outyears. This one, I think, falls short on that score.

I do not see how we, as stewards of this land in our time in public office here, can think about leaving a country to our children and grandchildren that is as financially weak as this one will surely be if all we do is a touch and go in the year 2002, and then climb aboard the space shuttle and take back off on a rocket ship to oblivion and debt. I am afraid that is exactly what is going to happen in these outyears.

This bill was cleverly scored in the first 5 years. Some of us agree with the prospect of estate tax relief and capital gains tax relief because we think that tax relief, if we are going to have a tax bill now, makes sense from a standpoint of economic activity and generational transfer of property. But these outyears, this is something that the American people really ought to worry about, because it is going to affect every family.

There are a lot of statistics being bantered about; people read them different ways. This affects us all, no matter who we are.

Mr. MATSUI. Mr. Chairman, reclaiming my time, I thank the gentleman from Tennessee. The gentleman indicates that this is really going to affect our children and grandchildren.

Mr. LEVIN. Mr. Chairman, will the gentleman yield?

Mr. MATSUI. I yield to the gentleman from Michigan.

Mr. LEVIN. Mr. Chairman, if the gentleman from California [Mr. MATSUI] would trade places with me for a moment, I want the American public to see these two charts. This is based on material from the Treasury Department. The Democratic tax cut plan, 71 percent of Democratic tax cuts go to low- and middle-income families. Two-thirds of the Republican tax cuts go to the wealthy based on Treasury material.

Here is the 10-year analysis by the Republicans of their plan. It is right here. This is it. There is nothing. There is nothing. The Joint Tax Committee will not supply a 10-year distribution analysis. I will tell my colleagues why.

First of all, it puts to a lie, to a falsehood the notion that my colleagues have said 76-percent of the tax relief goes to people making below $75,000. Those are 5-year figures. The other chart, about 90 percent goes to families and education has 10 years on it, but not the 76 percent figure. It is based on 5 years because most of the tax cuts, the second 5 years, go to wealthy families, and my Republican colleagues are trying to hide it.

Second, those second 5-year tax cuts explode the deficit, and my Republican colleagues do not want to admit it. They do not want to admit what the effect is. That is it purely and simply. We have begged our Republican colleagues, come forth with a 10-year distribution analysis, and they will not do it.

My Republican colleagues challenge the Treasury figures, but they are the

same methodology used by Reagan and Bush Treasury Departments, and they come up and nitpick about imputing this or imputing that. The fact of the matter remains that the analysis by Treasury is this: 71 percent of the Democratic plan goes to low-income families, and here it is. Your plan: Treasury Department analysis, two-thirds of the Republicans' plan go to the wealthy.

If my Republican colleagues do not like the Treasury Department figures, come up with something better than this. The American public will never believe my Republican colleagues' blank slate. They explode the deficit and they benefit the very wealthy to the detriment of middle-income families.

We can do much better than this, and we are going to do that in conference. Americans need a fair tax cut.

Mr. ARCHER. Mr. Chairman, I yield myself 30 seconds simply to respond and say to the gentleman that it is not just minuscule as to the Treasury imputing rental value as income to someone that owns their own home and lives in it and it makes them wealthy. The joint committee, while it was still being run by the Democrat Congress, dropped that from their analysis because they knew it was wrong. The Treasury is still using it. Yes, it was used under Bush, and yes, it was used under Reagan. It was wrong, and it is wrong today. The American people understand that.

Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

(Mr. TRAFICANT asked and was given permission to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Chairman, I am going to vote for the bill. There are tax cuts for working families, a $500-per-child tax credit, reduction in capital gains, and other elements I like. It will encourage savings, investments, and jobs.

There are elements of the bill I do not support, such as independent contractor matters and teacher retirement situations, but I am convinced they can be removed in conference and should not stop this bill.

But as far as this alternative minimum tax, very simple. This AMT eliminates depreciation benefits; thus, it discourages investment; thus, it kills jobs. In 1995 President Clinton agreed with the gentleman from Texas [Mr. ARCHER], and I believe he was on target then and should support the chairman now.

In addition, when companies consider opening a new plant in America, they shudder and open a plant overseas. In addition, companies must often decide under this law whether they are going to pay workers' wages or taxes.

This is a nonissue.

But I want to talk about the political spin here. Unfortunately, to win the spin we have all played to class warfare: rich, poor; workers, companies; politics and partisanship; politics of division; politics of confusion; politics of fear. I think it is wrong; I think it is bad. I think our country is overregulated, overtaxed.

Mr. Chairman, my dad was a lifelong Democrat, I say to my colleagues, and my dad never worked for a poor guy. I want to today as a Democrat thank every man and woman in America, every entrepreneur that made an investment, that thought enough of my dad and our family to give us a job. They hired my dad. I want to thank them for that.

I would also like to say that it is very simple today, I say to my colleagues. Our Tax Code penalizes achievement, it promotes dependence, it kills investment, it ships jobs overseas, it discourages savings. It has destroyed families, it has destroyed the families in many cases that the Democrats stand for. I hope we come to realize that.

The bottom line: This bill is better than the current law. I am a Democrat, and I want tax cuts. There are a lot of Democrats in America that want tax cuts. I am going to vote for it, and I am going to ask the chairman to give us fairness on the independent contractor issue and on that teacher retirement issue.

But there is one last thing. I think this Tax Code must be incentivized to recycle the money of the risk-taking entrepreneurs throughout America. We should not demean them, we should not punish them with our talk, and we certainly should not scare their money overseas. There is too much of that.

Quite frankly, anyone over there that can jump up and say, TRAFICANT, this vote hurts you politically; I think it does. But I think this vote of mine will help America. That is the bottom line.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. PAXON].

Mr. PAXON. Mr. Chairman, I find it appropriate that as the Nation prepares to celebrate Independence Day, this House is cutting taxes for our hard-working families back home. For too long liberals have treated the middle class as their personal ATM machine, a cash cow to pay for their big government schemes. They taxed your income, they taxed your gas, your cable, your electricity, your house, and they even taxed you when you died.

Liberals have come up with all kinds of clever new taxes, never giving a thought for a second to the people that have to pay those taxes, people like the truck driver who cannot afford to send his daughter to college, or the nurse and police officer who cannot give their twin sons some new school clothes.

Well, today, for those folks and millions more, we declare independence from big government and high taxes. In fact, 76 percent of our tax cuts go to those families who earn less than $75,000 a year.

Our plan includes education and per-child tax credits to make it a little easier for families to raise their kids.

Mr. Chairman, for the American taxpayers, the Fourth of July comes early this year, and for once, it is not the taxpayers who are getting barbecued.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DREIER].

(Mr. DREIER asked and was given permission to revise and extend his remarks.)

Mr. DREIER. Mr. Chairman, this capital gains issue is one that I believe is very important, and it is unfortunate that we see this class warfare thing going on over and over and over again.

When we testified on H.R. 14, the capital gains reduction package to take it from 28 to 14 percent before the Committee on Ways and Means, we had the gentleman from Florida [Mr. DEUTSCH] join us. He has stood in this well time and time again, talking about the fact that 63 million American families own mutual funds today.

It seems to me that we should look at the fact that 85 percent of the returns that are filed are among people who have less than $100,000 a year in income. That is very apparent; it cannot be forgotten, and class warfare is unfortunate. The late Paul Tsongas was right when he said, the problem with my Democratic Party is that they love employees, but they hate employers.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Alabama [Mr. RILEY].

Mr. RILEY. Mr. Chairman, here we go again. The liberal crowd is absolutely dismayed that this tax bill today does not contain tax relief for individuals who do not work and do not pay taxes. The other side of the aisle just does not get it.

Mr. Chairman, we believe that in order to qualify for tax relief that one ought to at least work and at least pay taxes. Seventy-six percent of the tax relief included in this legislation will benefit working families who earn less than $75,000 a year.

So let us stop the rhetoric and the scare tactics and talk about the truth. The truth is the big spenders on the other side of the aisle will now have less money to squander on wasteful Government spending. The American taxpayer works until May 9 to earn enough income to pay an entire year's worth of taxes. And the cost of Government regulations, the average American's debt to the government will not be satisfied until July 3. That is right. Americans this year will spend more than 6 months working for the government.

Let us stop this insanity and vote for H.R. 2014.

□ 1400

Mr. RANGEL. Mr. Chairman, I yield myself 10 seconds to respond that there is nobody on this side that is saying that, if you do not work, you should get the child credit. Let us not talk

about class war. The only class of people that we are talking about benefiting and the President wants benefited by this legislation are hard-working Americans. If you do not work, you do not get it.

Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. BLUMENAUER].

Mr. BLUMENAUER. Mr. Chairman, I personally am disappointed and saddened with the turn of this debate on a tax cut proposal. In the rush to pass the Republican tax program, we are leaving behind the vast majority of Americans. It shortchanges working families, some of whom will end up paying more to concentrate the relief to the top 1 percent, who have already received the bulk of Congress' generosity over the last 20 years. Instead, we should be concentrating on provisions that would give all working families more equitable treatment.

The most burdensome tax for working families is the Social Security payroll tax, which takes a bite out of everyone, but falls most heavily on those who make lower incomes and on small business people. The simple remedy of a credit against the Social Security tax would help those who need it most, still give the richest Americans a reduction, as well as, most important, create jobs, because employing Americans would be more economically advantageous.

Another adjustment that would be simple, low cost, and make a huge difference would be exempting the profit from the sale of residential property from capital gains. This is the capital gains cut that would reach most Americans. It would cost the Treasury almost nothing, because most people do not pay that tax now. They simply hold onto their property or roll it over to buy more expensive property. Nobody pays it but the dumb, the distressed, and the divorced.

This would enable families to make wiser decisions about homes that best serve their family circumstances, not the Tax Code, while it reverses a perverse tax incentive that promotes urban sprawl. Sadly, we are missing this opportunity to make America competitive and to help working families, while we read of the special interest provisions that are stuffed into this bill. How quickly the Republican Committee on Ways and Means have forgotten all the talk last year about tax simplification and fairness.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma [Mr. WATKINS], another respected member of the Committee on Ways and Means.

(Mr. WATKINS asked and was given permission to revise and extend his remarks.)

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

Mr. Chairman, I returned to Congress because I wanted my time to be effective. I wanted a balanced budget for the future of our children and our grandchildren. A future that would allow them to compete and succeed in a 21st century global economy.

Mr. Chairman, I want to thank you so much for offering us to shape that economy. An economy that will allow us to be more competitive. I did not want my children or the children or grandchildren in this country to end up having a Shanghai address. The great economic competition of Southeast Asia and China will place us in the situation where many of our children will have to be looking overseas for jobs if we do not reduce taxation, reduce taxation and reduce litigation.

Mr. Chairman, this particular bill allows us to have a better economy for the 21st century. Yes, it helps the children of middle class America by having a child tax credit, also an education tax credit, but the capital gains tax reductions and relief on the alternative minimum tax will allow us to maintain and sustain economic growth. That is a key economic variable. That is the card that my friends on the other side of the aisle keep overlooking.

If we sustain this kind of economic growth, Mr. Chairman, we will be able to look at having another tax cut next year, and reducing our deficit a great deal more to personally reach a balanced budget a lot quicker than the year 2002.

The budget we passed yesterday was based on an economic growth of 2.1 percent, very conservative numbers. Our growth is presently at 5.5 percent plus. If we could sustain and maintain that growth, yes we will have the kind of economic growth where we can give a tax cut again next year, and where we will be able to balance the budget a lot quicker. What a gift to give the American families.

Let me say, Mr. Chairman, this is not only an immediate help to American families, but the key element of a historic budget that will allow us to have the economic growth for the future. We must shape and craft an economy with less taxes, less regulations, and less litigation, so we can compete in the most competitive global economy that has existed in the history of our country. This is truly a victory for the American families.

Mr. RANGEL. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I would just point out that we want all of the kids of working families to receive this benefit. Over half of the kids in Oklahoma will not receive it under the Republican plan. Over half of the kids in Alabama will not receive it. Fifty-six percent of the kids in New York will not receive it. Almost half of the kids in Ohio will not receive it.

Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Georgia [Mr. LEWIS], a civil rights leader, a member of the Democratic leadership.

Mr. HEFNER. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of Georgia. I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Chairman, they say what goes around comes around. In 1981 we heard the same arguments. We passed a package that was unfair in 1981, and we have a package today that repeats it. It is not fair.

If the people want to complain about us engaging in warfare and passing a tax package that benefits the wealthy, quit offering the packages that do not help the working people. But if Members want another package like they had in 1981, this is their baby.

Mr. LEWIS of Georgia. Mr. Chairman, it is time to be frank and honest about this tax bill. Republicans used budget gimmicks, smoke and mirrors, to hide the true effect of their plan. Why? Because the American people know the Republicans are looking out for Wall Street and wealthy Republican supporters.

This debate is not about whether to have a tax cut. Democrats support a tax cut. This debate is about who will get the tax cut, Wall Street or Main Street. Democrats support a child tax credit for all working families. We support a HOPE scholarship to help our children, all of our children, go to college. We support allowing middle class American families to sell their homes without paying taxes.

But this is not what the Republicans want. The Republicans deny more than 10 million working parents a child tax credit, parents who pay billions of dollars in Federal taxes. Republicans cut in half President Clinton's HOPE scholarship for millions of middle class students. Why? So they can give a huge tax break to the rich.

Republicans may tell us a different story, but do not be fooled. The Republican tax bill is not the Good Samaritan on the Jericho road. Do not be misled. What do the Republicans give a family of four making $24,000 a year? Nothing. What do Republicans give the mother who has left welfare to work at a minimum wage job? Nothing.

Yesterday Republicans raised the Medicare premium on the elderly. Today the Republicans will give the elderly middle class nothing. What do the Republicans give millions of working families? Nothing, nothing, nothing.

Empty Republican promises will not help hard-working families live the American dream. Republicans give a $22 billion tax break to America's largest corporations. They give 20 percent of that tax break to people with an average income of half a million dollars. At the same time, the Republicans raise taxes on people earning less than $10,000 a year.

Republicans will steal from the poor and give to the rich. When fully phased in, Republicans give 60 percent of their tax cut to the wealthiest 10 percent of Americans. That does not leave much for America's middle class.

I would say to the gentleman from New York [Mr. RANGEL], Mr. Chairman,

I was not here for voodoo economics. I did not vote for trickle-down economics that did not trickle down. We must not make the mistakes of the past. We must not travel down that road again. We must not let the Republicans hide a huge tax cut for the rich behind empty promises for the middle class.

Mr. Speaker, let us give a real tax cut to hard-working American families. I urge all of my colleagues to reject, to vote against, this Republican tax scheme for the rich and support the Democrat middle class tax cut for all Americans.

Mr. ARCHER. Mr. Chairman, I yield myself 2½ minutes.

Mr. Chairman, I would simply say that my friend, the gentleman from Georgia [Mr. LEWIS], makes a very excellent and emotional presentation. And he is right in some regards; he is right, we do not give income tax relief to people who do not pay income taxes, absolutely right. Those people in the middle-income category who pay income taxes, who bear the burden, who have received nothing in the last 16 years, do get the majority of the relief under this bill.

As for Wall Street and Main Street, I do not know how Wall Street benefits from the child credit. I do not know how Wall Street benefits from the education credit. But over a 10-year period, and if this is not true let it be refuted on the other side, $250 billion is the net tax relief. It is $225 billion over 10 years that goes to the child credit, which cannot be given to anybody who has over $100,000 in income, and to the educational tax relief. How does that help Wall Street?

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. ARCHER. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, I also want to say what confuses me is I was in this Congress for over a decade listening to people talk about all these big giveaways to the rich, powerful special interests. Yet, the then-majority did not have the guts to take any of those special benefits away by closing loopholes.

It was finally when the gentleman from Texas [Mr. BILL ARCHER] became chairman of the Committee on Ways and Means that we decided to deny special benefits to companies in Puerto Rico that were not living up to the spirit of the deal, to help people in Puerto Rico, and as the chairman of the Committee on Ways and Means that has closed a whole lot of loopholes and denied these loopholes to special interest groups so people who are normal, average working families can get tax relief, we ought to be given credit about that by everybody, on both sides of the aisle.

Mr. ARCHER. Mr. Chairman, this has been distorted also, and I would further add into the debate that over a 10-year period, and normally the House works only on 5 years, those are our rules, but because this is a special deal with the Senate, and the Senate works off of 10 years, we are now looking at both, over 10 years with this tax relief the budget is still balanced at the end of 10 years.

Mr. RANGEL. Mr. Chairman, I yield myself 1 minute and 10 seconds.

Mr. Chairman, it is just how we are designating these working people who are working every day, who will not receive the benefit, that is almost half of the families. We keep saying they do not pay taxes.

Mr. ARCHER. Mr. Chairman, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Chairman, they do not pay income taxes, I would say to my friend, the gentleman from New York.

Mr. RANGEL. Mr. Chairman, they cannot do this to the working people. It is just not fair to do it. If they are going out and paying taxes for clothes, for food, they do not care whether it is the city tax, the State tax, the Federal tax. These are working, proud people who do not want welfare.

The President said, the bipartisan committee said, if you are working and you have kids, we want to help you. But now we are saying, we really did not mean you people who do not have the Federal liability; we cannot help you.

Mr. ARCHER. The gentleman is absolutely right. If you pay in any income tax, you get relief under this bill. If you do not pay any income tax, you do not get relief. The gentleman is correct.

Mr. RANGEL. Taxes they can pay, and if it is not Federal income taxes and they are working hard, they do not count.

Mr. ARCHER. This is an income tax relief bill. That is correct. Those people who pay income tax get income tax relief.

Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. SHAW], another respected member of the Committee on Ways and Means, and the chairman of the Subcommittee on Human Resources.

Mr. SHAW. Mr. Chairman, I thank the chairman for yielding me this time.

Mr. Chairman, I think people who are watching this debate have to be just totally confused at this time. I think the gentleman from Texas [Mr. ARCHER], the chairman, has made a point very, very clearly. If you do not pay income taxes, you do not get income tax relief. Yet, when we hear the speeches going on in the well, as they are talking about all these people are rich, I am sorry, I do not think somebody who makes $20,000 a year is rich. Those are the people, between $20,000 and $70,000, they are the ones who are getting the major part of the relief in this bill, up to 76 percent.

□ 1415

That is the bulk of where this relief is coming from. Look at the child credit, the tax credit for people who have kids, this is a huge part of this bill, a huge part, and this does not go to the very wealthy, as I would define very wealthy. It goes to middle-income America.

I think when you look at the bill and you try to put it on balance, there are some Members in this House who just cannot stand the idea of giving the American people some tax relief. It has been 16 years. Republicans tried to do it last year. We were in the last Congress, it was vetoed. We have now come together working with the administration in trying to give America a very much-needed tax bill and give them the first tax cut in the last 16 years. That is what we need to talk about.

All the rhetoric and all the voice raising and all the yelling and screaming in the well of the House or at any of the microphones around the House is not going to change that. The figures do not lie. That is where the bulk of the tax break is going and that is where it is going to be.

One thing that I think all of us need to talk about and need to be concerned about, that is job creation. When we encourage corporate America, encourage small businesses, encourage the American people to invest in jobs, machinery and equipment, we become more competitive. When we talk about our jobs going overseas, we are trying to bring them home. We want people that have invested in machinery and equipment, that creates jobs. We want them to be able to get the tax write-offs that they deserve through the depreciation process. The depreciation process is just simply being able to subtract from your income a small portion every year of your investment so that at the end of the time, you just have not poured money down the drain. The same Members that are complaining about this are the same Members that complain about our jobs going overseas. You cannot have it both ways. We need economic development, economic growth in this country. We have had good economic growth but the jobs have not kept up. Wages have not kept up.

This is what this bill is going to do. Let us get away from the rhetoric. Let us stick with the facts and let us support the bill.

Mr. ARCHER. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. THOMAS] another very respected member of the Committee on Ways and Means, who is also chairman of the Subcommittee on Health.

(Mr. THOMAS asked and was given permission to revise and extend his remarks.)

Mr. THOMAS. Mr. Chairman, first of all I want to thank the chairman of the Committee on Ways and Means for yielding me the time, but more importantly, for working cooperatively to produce a bill of which all of us can be proud.

I have listened to this debate carefully, and frankly there are two themes

that just baffle me. But that is okay. You folks baffle me often. One of them is that you have come to the floor and you have presented a number of charts which explain by graph lines that if you give more of the American people's money back to them, that is, leave it in their pocket, that somehow the Government is going to go into deficit. It is a very simple and fundamental question. What is the economic engine of this economy? Where are jobs created?

We believe the economic engine is the individual, not the Government. It is quite clear when you make the argument that if you leave money in the pocket of citizens to invest, to grow, to create jobs, you are threatening the deficit of the Government. You are wrong. What that does is grow the economic pie. It means they are going to have a better life and there will be more revenue available to the Government.

I know you do not believe that because you do not believe in leaving more money in the pockets of the citizens.

The other thing that I have marveled about in terms of the presentation today is that there is one myth that you absolutely have to perpetuate. I was pleased yesterday on the front page of the Washington Post that the myth that there were aliens who visited the Roswell, NM, area 51, I apologize if some of you do not believe that it is a myth; if you believe it is reality, then it just proves my point even more, but I think we are beginning to realize that it is a myth. We have just recently realized that spicy foods do not cause ulcers. That is an old wives' tale. That is a myth, it is Bacteria.

There is another other myth that is trying to be perpetuated on the floor of the House today. And that is if Republicans put together a tax cut, it must be for the rich. It cannot be any other way. They say aliens landed in Roswell, spicy foods cause you ulcers, Republicans' tax packages are for the rich.

Let me give you an example of how far the Democrats have had to go to maintain the myth that this tax package is for the rich.

Let us take a family that really has not had a very good year this year. It is the Smith family. There are three of them, Mr. and Mrs. Smith and their son, Tom, who is 16 years old. Mr. Smith worked in a foundry but because a lot of the work they are doing is being supplanted by imports, the job really has been threatened for some time. Mr. Smith was worried. He had an accident on the job and, as a matter of fact, the foundry closed down. He is getting workmen's comp because of his accident and he did get some severance pay from the company. They are fortunate, though, because over the years they have been able to save their money and they bought a modest home. They are living in the home. He has an insurance policy that is slowly getting bigger, like most of you have. And son, Tom, feeling pretty proud for a 16-year-old, works at a fast-food store to give himself some pocket change and help out around the house sometimes. He feels very good about it.

In real life, that family profile produces no tax paid. As a matter of fact, they could earn another $10,000 under current law and there would be no tax paid.

Look what the Democrats can do to this family, using their economic income profile. Do not look at the $70,000-a-year people. That is even worse. Look at the Smith family.

All of a sudden in their family income profile, Mr. Smith must count his $5,000 of separation pay. Tom Smith's fast food money goes onto the ledger, $3,000, the $5,000 for workmen's comp, that is added to their income, and guess what, that modest home they live in that would after expenses rent for $500 a month, requires that you slap another $6,000 on their income. Under the Democrats' arguments about who is getting the benefits in this tax cut, the Smiths would have made $20,000 last year. And if you then take the current tax structure and impose it upon what they say the Smith family earned, under their economic income test, these poor folks, the fellow on workmen's comp who lost his job, whose kid felt pretty good about working, winds up owing $772 in taxes.

That is what they do to reality to keep the myth alive that the Republicans have tax cuts for the rich.

REAL LIFE

Gross income for Mr. and Mrs. Smith, $5,000 (separation pay).
Standard deduction, ($6,000).
Personal exemptions (for Mr. and Mrs. Smith and son Tom), ($7,950).
Taxable income, ($9,850).
In real life, the Smiths owe no tax.

DEMOCRATS' FAMILY INCOME COMPENSATION

Mr. Smith (separation pay), $5,000 (separation pay).
Mrs. Smith, none.
Tom Smith (fast food res. salary), $3,000.
Mr. Smith's workman's compensation, $5,000.
Increase in value of life insurance policy, $1,000.
Imputed rental value of home, $6,000.
Total, $20,000.
Standard deduction, ($6,900).
Personal exemptions (for all three family members), ($7,950).
Taxable income, $5,150.
Taxable income, $5,150.
If Democrats' family income was law, Smiths would owe $772.50 in taxes.

Mr. RANGEL. Mr. Chairman, I yield myself 10 seconds.

The real myth is that this is a bipartisan bill. The person who reached out to make it bipartisan is the President of the United States. He will evaluate it and he will find out that it has to be vetoed.

Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. MARKEY], an outstanding Member of this Congress.

Mr. MARKEY. Mr. Chairman, first of all, this budget is a house of cards. There are so many assumptions built into the Republican budget and tax bill that it is important for them to keep them separate. Yesterday, the budget. Then after a respectful overnight wait, we bring the tax breaks out here onto the floor. Today they give the tax breaks to the people who do not need them. Do they give them to the people who they hurt yesterday? Well, they say, with bleeding palms yesterday on the floor, look how much we would like to help those uninsured children. We have no money. Look how much it hurts us to cut the Medicare for the elderly. We have no money. And then after a respectful overnight wait, the tax break fairy shows up on the floor on the Republican side, sprinkling tax breaks across America. And who do they give them to? Do they give them to the families with uninsured children? No. Do they give them to the elderly on Medicare? No. They give them disproportionately, overwhelmingly to those that come from families of $100,000 or more.

Now, Mr. Chairman, these are the same Members who said that the Democrats in 1993, when they voted to reduce the deficit from $300 billion down to $50 billion today, were going to ruin the American economy. What do they do? They bring out a proposal here that increases the deficit next year and the year after and the year after and the year after and in the year 2001 magically it is going to balance itself. And how are they going to do it? Auction off spectrum. Auction off spectrum, like Rumpelstiltskin forcing the young maiden to spin gold.

Mr. ARCHER. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Chairman, the gentleman just said that the benefits in the child credit went to families over $100,000. I am sure he did not mean to say that.

Mr. MARKEY. Mr. Chairman, I absolutely did. And it is an incontrovertible truth. That is how the tax benefit breaks, if you look at it over the 10-year period, as we should have done with the Reagan tax break in 1981, which ultimately turned out to be that kind of pinata of goodies for the rich.

Mr. ARCHER. Mr. Chairman, I yield myself 15 seconds to say that the tax benefits for families with children go almost totally to people under $100,000 in annual income. The gentleman knows that. He did not mean to distort it and say they all went to people over $100,000.

Mr. Chairman, I yield 2 minutes and 30 seconds to the gentleman from Arizona [Mr. HAYWORTH], respected member of the Committee on Ways and Means.

Mr. HAYWORTH. Mr. Chairman, I thank the chairman of the Committee on Ways and Means. I believe it was Art Linkletter in a joking vein who reminded us all that kids say the darndest things. I must tell you today,

Mr. Chairman, that listening to the gentleman from Massachusetts, I am reminded that liberals say the darndest things.

Let us say it as it really has been. The gentleman from Massachusetts talks about a house of cards. Here is the problem, Mr. Chairman. It is that the liberals on this side have built a house on credit cards, going to the American people time and time again to take more money out of their pockets, and the gentleman from Massachusetts speaks of a tax break fairy. No indeed, Mr. Chairman, a tax break reality is what the American people deserve. And that is what they receive under the majority's plan.

The gentleman from Massachusetts, indeed our friends on this side of the aisle, all know that this tax bill provides tax relief to working Americans. Indeed, well over 70 percent of the tax breaks here go to families earning between $20,000 and $75,000 a year. In my State of Arizona, 570,000 children will be eligible for the $500-per-child tax credit—$438 million in education tax benefits will go to Arizona families. And all Arizona small businessmen and ranch owners and farmers will benefit from an increase in the death tax exemption.

No, the fact is, Mr. Chairman, this plan makes imminent sense. Again, to echo the curious findings of my friend from Massachusetts who spoke about Rumpelstiltskin, the sad fact is that while this Government has not demanded the firstborn child of every family, it has asked for more and more and more of the average family's income until the tax-and-spenders who dominated Washington for so long asked for more and more and more to the point where, Mr. Chairman, the average family in this country pays more in taxes than on food, shelter, and clothing combined.

In the name of fairness, we ask the American people to join with us and let us make sure the American people hang onto more of their own money, send less of it here to Washington. That is the key to our future success. That is the true bridge to the 21st century.

Mr. RANGEL. Mr. Chairman, I yield myself 10 seconds to point out to the gentleman from Arizona that as a result of the Republican bill, working Arizonan families that do not pay the Federal income tax but pay taxes on everything that they eat and drink in Arizona will be denied the benefits under the Clinton bill.

Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from California [Ms. WATERS], chairperson of the Congressional Black Caucus.

□ 1430

Ms. WATERS. Mr. Chairman, I rise today in strong opposition to the Republican reconciliation tax bill. Their $85 billion tax cut package gives the wealthiest huge tax benefits while ignoring the plight of the working and poor families who struggle every day to get by.

The combined effect of their spending and tax bill also gives the wealthiest 20 percent of the U.S. population a whopping 87 percent of the net benefits, while the bottom 60 percent would share only 4 percent of the net benefits.

In fact, under the Republican tax bill, the average savings for the 20.7 percent of families with incomes between $30,000 and $50,000 would be a measly $38. At the same time, the wealthiest 1.4 percent of households would get a tax break of over $21,000.

These tax cuts that benefit upper-income people include open-ended estate tax cuts that benefit only the richest 1.5 percent of families and include the deficit-busting capital gains tax breaks. At the same time, the Republicans' proposal denies the working poor the tax relief they guarantee the rich.

The Republicans took the President's education tax package, including the HOPE scholarship, and undermined its goal of reaching the neediest students.

The bill undercuts the wages and benefits of millions of workers by enabling employers to consider them independent contractors and not employees.

The bill also denies the $500-per-child tax credit to over 15 million families. Let me give my colleagues an example of what this means. In the State of California, 56 percent of the children do not get the child credit under the Republican bill. That is more than 5.5 million.

The Republican tax bill is an outrage. They do not want us to say it, but we are going to say it over and over again; it benefits the wealthiest in this Nation. I urge a ''no'' vote.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. MANZULLO].

Mr. MANZULLO. Mr. Chairman, the people of the district I represent earn between $30,000 and $40,000 a year. What does that mean to them? It means that 113,600 children in my congressional district are eligible for the $500-per-child tax credit.

That means that people in the district I represent will have an additional $48 million in money that they otherwise would have paid to the Federal Government. It means to those people that they will be able to keep an additional $1,500 in money they would have paid for Federal income tax in their own pockets to give to their kids who are going to college.

Who is the beneficiary of this? It is the people that I represent, the hard-working Americans, the ones earning between $30,000 and $40,000 a year. It is 113,000 children in the district that I represent. A good tax cut bill for the hard-working, middle-income American families.

Mr. RANGEL. Mr. Chairman, I yield myself 10 seconds.

Mr. Chairman, we are very pleased about the number of children that get the benefit. That is what the President wants. We are very disturbed that 1.8 million, that is half the kids in Illinois, will not get it.

Mr. Chairman, I yield 3 minutes to the gentleman from South Carolina [Mr. SPRATT], the Democratic leader of the Committee on the Budget, and publicly thank him for the bipartisan effort that he made on behalf of the President and the country.

(Mr. Spratt asked and was given permission to revise and extend his remarks.)

Mr. SPRATT. Mr. Chairman, I thank the gentleman from New York [Mr. RANGEL] for yielding me the time.

Mr. Chairman, I have been in this House for 15 years, and it has taken all of those years for us to get to this point, a day when we can honestly say a balanced budget is within our reach.

Over the last 5 years, we have lowered the deficit by 65 percent, brought it from a projected $332 billion in fiscal 1993 to $10 billion last year. This year, it is projected to be $65 billion, the lowest level in 20 years. We have succeeded, in part, because we finally restored the revenue base of the Federal Government, due in part, large part, to the tax bill that we Democrats passed in 1993.

Corporate income tax revenues this year are up by $72 billion, more than 70 percent over 1992. And, indeed, the only reason we are standing here debating a tax bill, or debating a balanced budget bill yesterday, is that CBO came up with $225 billion in additional revenues.

Now having come this far, our object is clear. We want to balance the budget, we want to finish the job, we want to get there by 2002. But we do not want to blow this opportunity, having come so close to the target. To move a 5-year budget in a divided government, we have got to have bipartisan consensus; and to have that consensus, we had to agree to tax cuts. Both sides, in truth, want them.

But since the overriding objective is a balanced budget, we had to agree that the tax cuts stay within strict limits: $85 billion in net revenue losses over the first 5 years, $250 billion over the full 10. We fixed those limits, once again, because we have come so far and we did not want to lose the ground we gained, to put our objective back any further or risk the objective. But it is so far out that it would be beyond resolution.

The first fault I have with their tax bill is it does not meet our objective. Specifically, it goes beyond limits laid down by our budget agreement. It breaks the letter of the agreement because the revenue losses in it add up to $4 billion too much over 10 years in the amount we specified. That is because the Committee on Rules yesterday removed the cutbacks in ethanol tax preferences without replacing them with anything.

This is not my back-of-the-envelope estimate, it is a ruling rendered yesterday by our official scorekeeper, the

Congressional Budget Office. The CBO refused the attempt to score this bill as though the ethanol bill will expire in time. Four billion dollars is not a lot of money in a budget that runs into the trillions, but it is the spirit. It is sort of a manipulative spirit that gives me the most problem, and it runs throughout this particular tax bill.

Look what happens to capital gains. Let me say something: I am for capital gains tax cuts, and I am one of the Members who are in this House that will benefit from tax cuts, I should be frank to say, that we are going to get. But let me say I do not want a double-barreled tax cut, low preferential rate coupled with indexation, if it has to come at the expense of millions of children who will not get the tax credit, if it has to come at the expense of families on the EITC. This is a bill that should be rejected because it did not keep the budget agreement, it is not fair, and it included the extraneous provisions in the first place.

Vote against this bill. Vote for the Democratic substitute.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. GILCHREST] for a colloquy.

Mr. GILCHREST. Mr. Chairman, I thank the gentleman from Texas [Mr. ARCHER] for yielding me the time, and I thank him for the opportunity to have this colloquy with him.

In the State of Maryland, as in many other States, it is common practice for school boards to contract out school busing services to independent contractor schoolbus drivers. Nearly every school district on the Eastern Shore has operated under such a contractual arrangement for decades.

Recently, however, the Internal Revenue Service made a determination that under the 20-factor common law test used to classify workers for Federal tax purposes, the Maryland school boards are required to treat these schoolbus drivers as employees of the school districts. These school districts are faced with a closing agreement that takes effect September 1 under which the school districts would be forced to purchase the buses from the independent contractor owner-operators and make them employees of the school district.

The IRS determination will disrupt longstanding contractual relationships that are beneficial to both the school districts and the self-employed schoolbus drivers who provide this vital service.

My understanding is that the safe harbor for independent contractors in section 934 of the bill will cover the longstanding contractual relationships between Maryland school boards and their independent contractor schoolbus drivers.

Mr. ARCHER. Mr. Chairman, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Chairman, based on the facts that the gentleman has outlined, the Maryland school boards' existing contractual arrangements would be covered by the safe harbor, and that is the intent of the committee.

Mr. GILCHREST. Mr. Chairman, I thank the gentleman for that clarification. However, I do have a lingering concern about the Maryland school districts' problem. Under the December 31 effective date of the independent contractor safe harbor contained in the bill, many school districts will be forced, since they have this contract beginning in September, the school districts will be forced to sign the contract and potentially lose their buses and their independent status.

Mr. ARCHER. Mr. Chairman, the committee intends that section 934 would address the Maryland situation, among many others. However, we now understand that the provision's effective date may be too late to thoroughly address the problem in the Maryland counties.

I assure the gentleman I will seek to correct this problem during the conference.

Mr. RANGEL. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from North Carolina [Mr. PRICE].

(Mr. PRICE of North Carolina asked and was given permission to revise and extend his remarks.)

Mr. PRICE of North Carolina. Mr. Speaker, I rise today in opposition to the Republican tax bill and in favor of the Democratic tax relief plan. The Republican plan distorts our priorities as a nation and, in particular, does not do enough for one of the most important resources our country has, our students.

First of all, the Republican bill cuts the value of the President's HOPE scholarship in half, severely limiting tuition relief for the neediest students and students attending community colleges. In addition, while the Democratic alternative would permanently extend the tax credit for employer-provided education assistance, the Republican bill offers only a short and temporary 6-month extension.

Perhaps the worst offenses in this bill concern graduate students. Graduate students are barely scraping by on small stipends to finance huge tuition costs. But the Republican bill creates a tax on these graduate students who work part time as teaching assistants and research assistants and receive, in return, a reduction in their tuition. Under the Republican bill, graduate students would be taxed on this tuition reduction, increasing their tax burden in many cases by as much as $3,000 or $4,000 a year.

The Durham Herald Sun recently reported that the Committee on Ways and Means spokesman commented that graduate students may not make much money while they are in school, but many—and he seems to think they are all going to be doctors or lawyers—will be earning very high salaries shortly after graduation. He went on to call graduate students ''privileged,'' the sort of group that quote, ''ought to be the first to pay.''

Well, if you are a graduate student, you certainly are going to pay. And if you want to use the HOPE scholarship to finance your tuition cost, forget it. Under the Republican bill you cannot because graduate students are totally ineligible.

Many Members today are expressing their support for tax cuts for hard-working Americans. But the competing bills before us differ greatly in the benefits they offer to working and middle-class Americans. And as Mr. SPRATT has just stressed, they also differ in their fiscal responsibility, in the extent to which they keep the lid on the deficit in future years. The Republican bill cuts taxes for corporations and for the wealthiest Americans. But it increases taxes on graduate students and does little to help students struggling to attend college. We can and should do better, and the Democratic alternative shows us the way.

Vote for the Democratic alternative that does justice to this country's priorities and values.

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

I strongly support the tax package that came out of our Committee on Ways and Means. I am privileged to serve on that committee.

When I go back home, Mr. Speaker, I am inevitably asked the question, usually by high school students, ''What is the difference between Republicans and Democrats?'' And I try to tell them, Mr. Chairman:

I believe both parties, of course, believe in democracy. I believe both on either side of this aisle believe in a better America. But I think our vision of how to get to a better America is where we find other differences.

I know, certainly, that those of us on our side of the aisle believe that America is an overtaxed nation. We believe it is a matter of principle that hard-working men and women in this country stop working so hard for the Government.

As a newly elected Member, I have got to tell my colleagues that I am a little bit incredulous. Why is it that when we talk about letting people keep more of their money, that that is such a novel, radical idea? Why is it that when we talk about making Washington spend less, that somehow we are talking about blowing up the deficit?

I believe, as a fundamental principle, in letting the hard-working people in this country keep more of what they earn. It is their money. It is not the Government's money.

Mr. Chairman, I go back home, hopefully, after today and after a hard week, and I am going to get a chance to sit on our front porch with my wife and visit with our neighbors. I think it is best to let the decisions about how their tax money should be spent, that they are better to make that decision, better than I am.

For those that continue to talk about these capital gains cuts, since

when did fighting and working for the American dream, when did it become a scarlet letter? When did it become appropriate for us to scold and even punish or penalize those that have tried to get ahead?

□ 1445

Mr. Chairman, this tax package helps the economy, it helps all Americans. For those that are trying to achieve the American dream. We encourage every business owner, every investor, every inventor, every farmer, every business man, every woman, every stockholder, every homeowner to invest in America's neighborhoods and workplaces by significantly reducing this tax on savings and investment, otherwise known as capital gains. But we continue to resort to this old style politics of class warfare. I had hoped as a newly elected Member that we were beyond that. Instead of dividing America, instead of pitting one group against another, why are we not working together? Why are we not trying to forge a consensus? Why are we not celebrating this day?

Next week when we are home, Mr. Chairman, we have a chance, of course, to celebrate our Nation's independence, July 4. I believe that if we support this Republican tax package, that we will be providing a symbolic victory for those folks who truly want to celebrate their independence.

Mr. Chairman, I yield 1 minute to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Chairman, I rise to support this bill even though it does not go as far as I would like it to. I think our goal should be to get rid of the capital gains tax, to get rid of the death tax. But I look at this package and see what it means to the folks in my home State of Colorado. It means that the hardworking high school student from central Denver who cannot go to college right now will be able to get some help with books and tuition. It means that the middle-class family in Colorado Springs struggling on a two-family income may be able to take the vacation they have not been able to take because they can keep more of the money they have earned.

It means that the family farm in LaJunta, the one that has been in the same family for generations, may be able to stay in that family, and that the mom and pop store in Greeley may be able to stay in the family and the kids will not be saddled with unbearable inheritance taxes.

Yes, I support this bill because it will create jobs across the State of Colorado and those who have had trouble getting jobs will have a bigger job market and be able maybe to become productive again.

Mr. Chairman, that is what this tax bill and this tax cut does to the people of Colorado and for all Americans. I urge my colleagues to support this legislation. America needs a tax break.

Mr. RANGEL. Mr. Chairman, I yield 1 minute to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Chairman, I think everybody knows what is going on in America economically. The people on the top have never had it so good. The middle class is shrinking, and most working people are struggling hard to make a living.

Given that reality, look at the absurdity of this Republican tax proposal. Instead of helping working people and the middle class, 58 percent of the benefits go to the upper 5 percent. After giving out all of those tax breaks, they necessitate $115 billion cuts in Medicare, which in my State of Vermont will be a $75 million cut over a 5-year period, which will mean deteriorating health care services for our senior citizens. Huge tax breaks for the rich, significant cuts in health care for our senior citizens.

The bottom 40 percent of wage earners get no cuts at all. What an absurd proposal. Let us defeat it.

Mr. CHRISTENSEN. Mr. Chairman, I yield 1 minute to the gentleman from Colorado, [Mr. BOB SCHAFFER].

Mr. BOB SCHAFFER of Colorado. Mr. Chairman, this is a picture of my grandmother. Here she is, a small little child. This is her in Ukraine when she was a little baby. This is her soon-to-be husband, this is my grandfather in Ukraine before they both immigrated, or when they immigrated to the United States. Three percent of their income was taxed by the Federal Government.

How far we have come. Here is their great grandchildren, my children. They were born into a world where they owe $20,000 as their share of the national debt. This is their share. The party that has been in charge for 40 years has taken our country from this to this. The land that my grandparents immigrated to in search of freedom and liberty and low taxes and opportunity has become a country where nearly 50 percent of the average family income is taken away, confiscated through taxation at the Federal, State, and local level.

Here is a farmer from Colorado standing next to me. Democrats suggest he is rich. He is an average American. He deserves a tax break.

Mr. RANGEL. Mr. Chairman, I yield 1½ minutes to the gentleman from Arkansas [Mr. SNYDER].

Mr. SNYDER. Mr. Chairman, today we are considering the first tax cut bill in 16 years. Let us choose the right tax cut bill for working and middle-class families. This is one of my constituents, Ingrid, and her two lovely children. She makes $7.50 an hour, which comes out to approximately $15,000 a year. Every week or every month, like everybody in America, she gets a paycheck. This is a copy of her check stub. On it it shows what kind of State, Federal, and payroll taxes she pays, and I circled the payroll tax. The right tax bill for her is the Democratic bill because the Republican bill pretends that she does not really pay these Federal taxes.

That is just wrong, Mr. Chairman. It is the wrong bill for millions of families like her.

This is another set of my constituents. This is Judy and her two daughters. They are older, they are teenagers. She needs to be thinking about college. Under the Democratic bill she will get the full $1,500 tax credit per year for the first 2 years of college. Why is that important? Because college tuition at our 2-year colleges can vary from $800 to $1,500 a year. Under the Republican bill she would only get 50 percent credit for that. It is not fair that she is forced and her children are forced to consider going to more expensive schools just to take advantage of a full tax credit for college.

Mr. Chairman, the Republican bill is the wrong bill for working middle-class families. I am going to vote for the Democratic alternative.

Mr. CHRISTENSEN. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from Nevada [Mr. ENSIGN].

(Mr. ENSIGN asked and was given permission to revise and extend his remarks.)

Mr. ENSIGN. Mr. Chairman, I rise in support of the Republican tax bill today because it is truly time for us to give tax relief to all Americans but especially to those in the middle income categories. I want to talk about two couples, very close friends of mine. One of the couples, they both work at Hertz Rent A Car. One works at the counter, the other one works actually in the parking lot. Between the two salaries, they make about $70,000 a year, not including benefits.

According to the Democrats and how they would calculate their salary on imputed income and the like, they would probably make about $120,000 a year. But let us take what they say on their tax returns. It is around $70,000, two average middle income-type people. They have two kids. What the Republican tax bill will do is give this middle-income family $1,000 per year in a child tax credit. It will also give them the opportunity to send their kids to college. But it also gives them, because of the capital gains tax reduction, the incentive to save and invest for the future.

Another couple, he is a police officer, a sergeant who actually has been in Las Vegas for years working for the police department; she is a receptionist. They make somewhere around $75,000 a year. This chart here clearly shows that both of these couples will get 76 percent of this tax break. According to what all Americans look at, and that is what does their tax return show how much income they make.

The Democrats have been cooking the books this entire time. When people ask you how much money do you make, you do not think about the numbers the Democrats are using. You think about what the numbers show on your tax return. Those are the real numbers, not the cooking the books number.

Mr. Chairman, this tax bill is truly for working class American citizens. Does it also go to some of the wealthy? Yes. But the vast majority of this bill by any common sense figures goes to people in the middle income categories in America.

Mr. Chairman, I urge a strong yes vote to allow working Americans to keep more of the money that they earned, not the money sent to the Government.

Mr. RANGEL. Mr. Chairman, I yield 1½ minutes to the gentleman from North Dakota [Mr. POMEROY].

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

Mr. Chairman, this is not a balanced bill. A look at what it does to help folks save for retirement tells the whole story.

First, the bill will actually force the retirement benefits of many retired college professors to be reduced, cut benefits 3 to 5 percent. Then the bill does absolutely nothing to help middle income Americans save for retirement by expanding individual retirement accounts to make it a little easier for them to put money away. No, it does not do anything there at all.

Rather, it creates a brand new tax break that benefits the most affluent seniors. The great majority of this new tax break, called backloaded IRA's, goes to the wealthiest 5 percent in this country. And so as it is with retirement savings, it is throughout this bill. Most of us get nothing. And the wealthiest get the most.

With retirement savings, it is so unfortunate this decision has been made. Folks need help putting money away for retirement. But rather than extend help to those who need it the most, middle income and working income families, the bill does nothing. Rather, it creates all of the benefit for those who already have the money saved for retirement, the country's most affluent.

Mr. Chairman, reject this bill. We can make it much better.

Mr. CHRISTENSEN. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Chairman, I keep hearing from that side of the aisle, they talk about fairness and equality. Let me ask them to listen carefully to an example of a classroom of students about to take a final exam.

Some students worked hard all year, were well prepared for the exam, while other students routinely chose to blow off homework assignments and skip most of the reading. I think most school teachers today recognize that scenario. The students who worked hard all year, surprise, surprise, almost always do better on the final exam than those who goofed off. But what if the exam results were tallied and then the equality police, on this side of the aisle, came in and said ''That's not fair. That's not equal. We need to have equality''? So they go in, the equality police come in and take a few points from those that scored the highest and give it to those that scored at the bottom. Suddenly they declare, ''Then, that is fair.''

My question is, ''Fair to whom?''

Mr. RANGEL. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Chairman, today we are debating alternative bills which provide identical tax cuts over 5 years.

Now, Americans expect Republicans to be for the wealthy, but they are shocked when they come to realize how much the Republicans have helped the wealthiest Americans.

The Republican Taxpayer Relief Act is class warfare—the Republican bill when fully implemented gives the one of every six American families whose earnings are more than $100,000 a year almost two-thirds of the tax cut. The other five out of six families get just over one-third of the tax benefits.

By contrast, our Democratic alternative gives over 70 percent of the total tax cuts to those five of six families whose earnings are less than $100,000 a year.

The Republican bill actually gives no net tax relief to working families whose incomes are below $27,000 a year. That happens to be the group of Americans who pay the largest percentage of their income in taxes of every kind in this country.

By contrast, our Democratic alternative gives those working families the benefits of the child tax credit and education tax credit that the Republicans give only to higher income families.

So Republicans give nothing to the 40 million families whose earnings are less than $27,000 per year. They give one-third of their tax cut to the half of American families who earn between $27,000 and $100,000 per year, and they give two-thirds of their tax cuts to the one of six families who earn more than $100,000 per year.

Americans are pretty smart. They have learned to expect that Republicans help the wealthiest. Under the Republican bill, the rich get very much richer, middle income America gets the leftovers at the banquet and the poor lose their shirts.

That is truly class warfare.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. BUYER].

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

I had to come to the House floor. I had to come here because it is obvious that there are truths, there are nontruths. I believe there are unequivocal statements of fact and there are truths that are self-evident.

I now understand that the creators of this institution here put ''in God we trust'' because we are going to have to trust God here because the facts are getting spun out so far. America watching this debate says, ''My gosh, I don't even know who to believe or what to believe. Listen to all these numbers.''

Mr. Chairman, it is an attempt here by this side to somehow frame that they are the only ones who care about children and seniors, that they are the only ones who care about the poor. That is false, but that is politics.

Let me tell my colleagues what the administration did. Confused by all these numbers? Treasury, in order to calculate these numbers that this side of the aisle is using, calculated family income not the way one calculates their family income when they work. They went in and did a family income economic assessment. And what Treasury did was, they took the adjusted gross income and added to it what the administration's guess is about other forms of income.

So believe me, what they did was something as bizarre as saying, ''If you own your own home, and if that family lived in the house and had you been renting that house, if you paid yourself rent, $800 a month, the Treasury then would add $9,600 to your family's income.'' What that is, is Alice in Wonderland calculations that show that the tax benefits are going to wealthier people.

This is a complete distortion, and I want America to wake up that there is a complete distortion here. If I have an axiom for the moment, it is that in Washington, DC, facts and truth may be interesting things but often irrelevant.

Mr. RANGEL. Mr. Chairman, I would just like to thank the gentleman for clarifying the tax bill.

Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Texas [Mr. STENHOLM] who has been so helpful in drafting the Democratic alternative.

(Mr. STENHOLM asked and was given permission to revise and extend his remarks.)

Mr. STENHOLM. Mr. Chairman, I rise in opposition to the committee bill. I do not come to this point lightly because there are many things in this bill that I support. However, this bill has two serious shortcomings that compel me to vote against it.

First, this bill is fiscally irresponsible and will ultimately undo the benefit of our work yesterday to balance the budget. Second, this bill does not sufficiently target tax relief to small businesses, farmers, and working men and women.

In our current budget environment we cannot approve every worthwhile tax cut, just as we cannot fund every worthwhile spending program. Given this reality, we must set priorities in deciding how to target tax cuts.

This bill has its priorities backward. The capital gains reduction does not distinguish between Wall Street speculators and individuals who make investments that create jobs. This bill terribly shortchanges family farmers

and small businesses in the area of estate tax relief in order to provide tax breaks that are good but much less critical. The House will have an opportunity, though, to provide meaningful estate tax relief and targeted capital gains reduction by voting for the Blue Dog motion to recommit later today.

Finally, I am extremely concerned about the impact that this bill will have on our efforts to balance the budget. The cost of this bill will explode in the next century, sending the deficit back up again. The harm to our economic future that will result from an exploding deficit will overwhelm any benefit that this tax bill will have in the short run. It would be morally irresponsible for this generation to enjoy the benefits of a short-term tax cut and leave our children and grandchildren with increased debt and a weak economy.

Mr. ARCHER. Mr. Chairman, I yield myself 15 seconds simply to respond.

The gentleman knows that this is a 10-year budget as demanded by the White House and that it is in balance by the end of 10 years, and that is way into the next century. It is not a exploding deficit, but of course rhetoric seems to command this debate.

Mr. Chairman, I yield 1½ minutes to the gentleman from Ohio [Mr. GILLMOR] for the purpose of a colloquy.

Mr. GILLMOR. Mr. Chairman, I appreciate the chairman giving me the opportunity to engage in a colloquy in respect to a particular problem affecting my congressional district. One section of the Taxpayer Relief Act provides a $15.50 tax to be placed on the arrival of international airline passengers from destinations outside the United States. While this tax may make sense for passengers flying from London to Washington, it does not make sense when the distance is negligible, and I seek to have this section adjusted.

Here is the problem. Griffing Flying Service from Sandusky, Ohio flies charter aircraft from Sandusky to Pelee Island in Lake Erie and back. Pelee Island is only 25 miles from Sandusky, but it nonetheless lies in the territorial waters of Canada. Under certain circumstances flights from Pelee Island could be subject to the $15.50 international arrival tax proposed in the House bill. That means that a $20 plane ride now would cost $35.50, which would effectively terminate Griffing's service to Pelee and give the business to a competing Canadian-owned ferryboat service.

As a matter of simple fairness and common sense we should not have this tax apply in such a situation. I seek to have the chairman's assurances that Griffing Air Service and other short distance aircraft operations on the United States-Canadian border should not be subject to this onerous tax.

Mr. ARCHER. Mr. Chairman, will the gentleman yield?

Mr. GILLMOR. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Chairman, I assure the gentleman from Ohio that during the House-Senate conference we will address this matter so that U.S. air charter operations such as these will not be unfairly penalized by modifications affecting international travel.

Mr. GILLMOR. Mr. Chairman, I thank the gentleman.

Mr. RANGEL. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Chairman, what kind of America do we envision for the future? What kind of America do our constituents expect? I think all of us know, whether it be the Democratic plan or Republican plan, we are going to have some kind of tax relief this year. We have been fighting for it for a long time and it is going to come.

But what about it?

Americans want greater accessibility and affordability to education, Americans want tax exclusions on home sales, Americans want a child tax credit, Americans want greater exemptions for estate planning.

More than ever before, America's prosperity hinges on how we educate and train our people. Every day more Americans find an education out of reach of their pocketbooks. HOPE scholarships are a sensible way to address this problem; so are tax deductions. We must understand that every investment we make today enhances the dividends we receive tomorrow.

Yes, let us support the Democratic plan. It offers courage for the future. The American people want nothing less.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentlewoman from Florida [Mrs. FOWLER].

(Mrs. FOWLER asked and was given permission to revise and extend her remarks.)

Mrs. FOWLER. Mr. Chairman, today is truly a historic day. For the first time in 16 years millions of American taxpayers are headed toward receiving real tax relief from the Federal Government. Among the key items of the Taxpayer Relief Act are a $500-per-child tax credit and dependent care credits, substantial tax breaks to offset college expenses, estate tax relief and capital gains relief. These and other measures in this bill will yield significant relief to middle class Americans.

According to one nationally recognized Big Six accounting firm, a married couple with two children and a household income of $35,000 a year could see its tax liability cut by over $1,000 a year under this package. Now if one of those children were in college, that relief would nearly double.

Mr. Chairman this legislation represents a strong, balanced package of tax relief for our constituents. I urge its adoption.

Mr. RANGEL. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. FORD].

Mr. FORD. Mr. Chairman, today as we debate this tax relief package I think what we clearly see is Democrats and Republicans both want tax relief, but the issue boils down to those who work, play by the rules here in America and believe in the American dream, that they too deserve a tax break. They too have the right and should have the privilege to know that their children will go to schools with roofs over their heads, with air-conditioning in their schools, and will have the opportunity to go to college if indeed they work hard and play by the rules.

Mr. Chairman, I salute the hard work that the President, the Republicans, and the Democrats put forth on this bill, but I say to my colleagues as a new Member, we have heard the debate about middle class and rich Americans and poor Americans, but let us give a tax break to those who get up and go to work every day. Let us not put a value on work. Who are we to decide what workers and what Americans will get a tax break because we do not feel they earn enough or contribute enough to the American economy?

I say to my friends in this Chamber, Democrats and Republicans alike, do it for the next generation. Give tax relief to those American who get up every day, work hard and play by the rules.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina [Mr. GRAHAM].

Mr. GRAHAM. Mr. Chairman, congratulations on a super effort to give a little money and power back to the American people.

One thing I want to say: I was outside listening to the debate. If my colleagues have got kids at home, go and mark down on the calendar that the Democratic and Republican parties on the same day put a bill in to cut taxes.

I am not going to say a bad thing about my friends on the other side of the aisle. I appreciate them trying to cut taxes and send some money and power back home. I just wish they would stop distorting what we are trying to do. They are making everybody in America rich to get the numbers up. But that is OK. This is a good day. Both parties are trying to send back some of their money. Unfortunately, one party cannot let go of the past by demagoging everything we do. We will get over that one day.

Two and a half years we have been in charge, and the best results I can show the American people what it means to have us in charge is we got both parties wanting to cut taxes. Quit trying to defend stuff, Mr. Chairman. Be happy. This is a good day the Lord hath made and let us rejoice in it.

Mr. RANGEL. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, when people ask me what are the three most important issues facing the Congress, I always say: the children, the children, the children. But a close look at the Republican tax break bill shows that the rich are the winners in this bill and the losers, the losers are the children, the children, the children.

The children are losers because 40 million children are not eligible for the tax credit. The children are losers because the HOPE scholarships will be cut in half in the Republican tax bill. The children are losers because the economic security of their families is threatened by the concentrated and reckless assault on the American family, the American worker and the American dream.

Do not let children be losers, Mr. Chairman. We should all vote for the Democratic tax cut which is a vote for fairness, for opportunity and for work. Children can tell us, looking at this:

''Mirror, mirror, on the wall, who is the fairest of them all?''

Clearly the fairest of them all is the Democratic tax cut for working, low and moderate income families in America. I urge my colleagues to oppose the Republican tax break for the wealthy and support the Democratic tax plan for fairness.

Mr. ARCHER. Mr. Chairman, I yield myself 1 minute.

The gentleman from South Carolina was correct. This is a bipartisan effort, finally, to give back money to people that they have earned, finally let them keep more of their money, and I am happy that my friends on the Democrat side of the aisle are joining with us in this. I know it is difficult for them because their book on tax reductions is about one-sixteenth of an inch thick, but they are trying very hard to follow our lead and to give tax reductions to the American people, and that is something the American people I hope will appreciate, that this effort now is bipartisan.

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

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

Mr. Chairman, I guess bipartisan means liberal Republicans and conservative Republicans but did not include many Democrats, but anyway let us move on.

Mr. Chairman, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE].

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the ranking member very much for his leadership and I thank my friend from Texas for his concern and initiative.

I do think that I will certainly adhere to those on the other side of the aisle, trust God and thank God, but I will thank God that the Democrats have offered a rebuttal to this tax plan offered by the Republicans that will show a large number, 54 percent of the children in Texas, who will not get the child credit plan under the Republican bill. That is more than 3.3 million children.

□ 1515

Then there are those in my district that are only making $31,000. They will not get the tax plan.

The real issue is, we are rushing this. The question is, who benefits? None of those who are making under $100,000 a year. It is important that we come together and deliberate. Why are we rushing this? This is not a fair tax bill, and it is not coming from just those of us on this side of the aisle.

The Wall Street Journal on Thursday, June 26, has indicated that the numbers that the Republicans have are distorted, and in fact, that the numbers do not suggest that those individuals who need it most will get the tax plan. I would hope that we vote for the Democratic alternative.

Mr. Speaker, I rise today to speak out in vigorous opposition to this outrageous short-changing of American working families. This bill clearly helps those Americans who do not need help. This bill is steak and cake for the wealthy and the crumbs for working families.

Mr. Speaker, Americans want us to help them in sending their children to college. But, look at the educational provisions of this bill. The budget agreement called for $37 billion for helping those families who need help in sending their children to college. But, the Republicans only have $22 billion in their version of the budget agreement and look how they want to use tax relief for education.

The Republican plan allows the deduction of up to $10,000 a year for college costs. These deductions were originally aimed at lower and middle class families who need the help. But, now there are no income limits on the deductions which means that it is worth twice as much to families in the top tax brackets-to families that do not need Government subsidies to send their children to college.

The HOPE scholarship has been changed to give less to students from lower-income and middle-income families who are more likely to attend community colleges. Students attending the more expensive schools are getting the biggest benefit. Is this a fair plan? Is this the greatest good for the greatest number of Americans who are trying to put their children through college? Certainly not. But that's what the Republicans want.

In the area of capital gains, the benefits for the wealthy is even more astounding. Under the Republican plan, a wealthy investor could pay a lower effective rate of taxes on a profit from the sale of stocks than moderate-income families pay on their wages and on interest they get on their savings accounts.

I ask you, Is this fair? Is it fair that the selling of a piece of paper should be taxed at a lower rate than the hard earned wages of working class families? Clearly not. But that's what the Republicans want.

Mr. Speaker, we are all trying to end the deficits that are building our national debt and strangling our ability to invest in the future of America. But, look what this tax bill does to the deficits in the long run. Look what this bill will cost our children.

The deficits explode after the initial 5- and 10-year phase-ins, $650 billion deficits in the out years as the effects of the cuts for the rich really begin to be felt. These are the years when the baby-boomers will begin to retire and when we can least afford this kind of fiscal explosion.

Mr. Speaker, this bill is rotten for working American families and kills Government investment for our children. I urge Members to vote against this patently unfair bill.

Thank you.

Mr. RANGEL. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. ETHERIDGE].

Mr. ETHERIDGE. Mr. Chairman, I rise to oppose this Republican bill. Let me tell my colleagues why. Fifty-one percent of the children in North Carolina will not be eligible for benefits under this plan. That is 1.1 million children. Hard-working families in my district and across America deserve a break from the burden of Federal taxes, but it should be fair. Unfortunately, this bill neglects the needs of our North Carolina families and provides an unfair windfall for the wealthiest of Americans.

I strongly support a balanced budget. I voted yesterday for spending cuts that will make that happen. I strongly support helping our middle class families, and I have written legislation to provide estate tax relief for our farmers and small businesses, and I strongly support education tax relief under the Rangel substitute to help families put their children through college.

I am a Democrat, and I am for tax cuts, but I am for tax cuts that are fair to all the people in this country, and this bill is absolutely not fair to the children in America.

Mr. RANGEL. Mr. Chairman, I yield 1 minute to the gentlewoman from Colorado [Ms. DEGETTE].

Ms. DEGETTE. Mr. Chairman, I support tax relief for working families in America. It is not right that so many hard-working parents are struggling to make ends meet. Yet, instead of helping these families today, we are slamming the door on them. We are telling school teachers, law enforcement officers, factory workers and nurses and every other hard-working American that we just do not care about their economic struggles. We are telling the next generation that we prefer tax giveaways to America's wealthy at the expense of real deficit reduction.

Let me tell my colleagues what is really happening in my home State of Colorado. Forty percent of the kids under this proposal will be left behind, kids from moderate and low-income families. Nearly 96 percent of the 23 million children whose parents earn less than $23,000 would be denied any child care credit under this bill. This is inexcusable.

I urge my colleagues to pause for a moment and think about what this means to their constituents back home, think about the struggling families they are leaving behind with this bill, think about the next generation. Let us pave a straight path, not a U-turn.

Mr. RANGEL. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. DOYLE].

(Mr. DOYLE asked and was given permission to revise and extend his remarks.)

Mr. DOYLE. Mr. Chairman, I rise in strong support of the Democratic tax cut plan. I came to Congress in 1995

committed to balancing the budget, and in an effort to move the budget process forward, I was one of the 51 Democrats who voted for the reconciliation spending bill yesterday.

I subscribe to the view that we should balance the budget first and then consider tax cuts. However, this bipartisan budget agreement demands that tax cuts be enacted this year. I recognize we must work within these given parameters, so I will support equitable, responsible tax relief that adheres to the budget agreement.

The Democratic alternative will provide tax relief for middle class families that can really use it and is still compatible with real long-term deficit reduction. It is a stronger measure than the Republican plan because it goes further in helping middle class families cope with the cost of owning a home and paying for their kids' college education.

However, the biggest difference is the fact that the alternative is more economically responsible and fair. It does not lay the groundwork for decades of mounting debt.

Mr. Chairman, I ask that Members support the Democratic plan.

Mr. RANGEL. Mr. Chairman I yield myself the balance of my time.

I really think that this President of the United States has singled out one of the most important issues that we as Americans face, and that is whether or not we are paying attention to hard-working Americans as relates to the burden of taxes that we placed on them. Our President saw fit to reach out and to recognize that in the House and Senate, Democrats did not win, but he won, and the Republicans won.

To that extent, he thought he was pulling together a group to present to the American people a bipartisan agreement as to spending in the budget and in reducing taxes, and in providing assistance for American education. Somewhere along the line, when it got to taxes, our Republican colleagues forgot the bipartisanship, because to my knowledge, the Secretary Treasurer, representing the President, did not know what was in that package until the chairman released it. Notwithstanding that, there was great hope that during the process of amendment, that we might work out a bill that would lend itself for the President of the United States to say, it is not all that I wanted, it is not all the Democrats wanted, but it is the basis for us to move forward in a bipartisan way. Notwithstanding my feelings about it, I knew one thing was abundantly clear, that the American people did want and did deserve a bipartisan effort.

Now when we get to what do we have left here, the President of the United States looked at the package and said, but where is the Democratic part of this? Why did Congress elect to put something in the bill that would be so costly, no matter how much we would want to do it, and I am talking about capital gains indexing, when the President has made it known, at least informally, that he did not think that the budget agreement could afford that luxury. And where would Congress go to get the money to pay for this type of thing?

A lot of debate is being had today by my Republican friends in saying, if one does not pay Federal income taxes, one does not get Federal relief. Well, let me congratulate them, because up until yesterday, they were actually calling these people that work every day receiving welfare, and I am glad to see that has stopped, because as mean-spirited as it sounds to other people who work and the people that the President had included, it is so important that when we say tax relief, that my colleagues on the other side do not start a class system.

There is one group of people that we should talk about, and that is the working class. I promise that there is no reason for us to call people by class, except my Republican colleagues are saying that if these people do not make enough money to pay Federal taxes, then the taxes they pay for food for their children, the taxes they pay for clothes, the excise taxes, and these are Federal taxes that are put on airplane flights, these are taxes. Why should they be so sophisticated because they do not make that much money that they should understand now that they belong to a different class?

The President and the Congress allowed people to believe that when we say $500 for a child tax credit, that we really mean it. And if we can find a way to give to the working people, the people that find that inflation has eaten them up, the people that every time they see an excise tax, it means more to them than it means to people that get the salary we get. We do not care how much a bottle of milk goes up or a loaf of bread, but to many families, these changes in supermarket costs mean how much money they would have for other things.

So let me join with the Republicans in saying, let us stop this class war and let us start talking about the people who work and do not put them in different categories. If one is a working American, they deserve the relief that the President wants.

I do not know how long we will be able to stick with this bipartisanship. The President is looking for the principles of fairness. The President is looking for his HOPE scholarship that somehow was promised around $35 billion. Somewhere along the line the President thinks that he lost several billions, and that he did not see anything close to what he thought was an agreement.

Mr. Chairman, we Democrats, we have stuck together. We have gone to the President, we have provided an alternative, we have stuck with his principles, and one of the most important things is we expand on the education package. So, Mr. Chairman, I think it is safe to say, without getting involved in the class war, that there is a difference philosophically between the Democratic program and the Republican program.

We are asking that my colleagues join with the President of the United States. We can reject this package today by the Republicans. We can do better with an alternative that we are working with, and maybe if we allow this to go into conference that we will be able to pick out the best from both of the bills and allow us to come forward once again in an effort to be bipartisan.

Mr. Chairman, I yield back the balance of my time.

Mr. ARCHER. Mr. Chairman, I yield the balance of my time to the gentleman from Texas [Mr. ARMEY], the respected majority leader of the House of Representatives.

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, let me first pay my regards to the committee for the fine work that they have done on writing this bill. It is such a privilege for me to be here today and to stand here in support of this legislation and to stand here, quite frankly, in appreciation for this legislation.

This legislation is tax reduction for American families. It is legislation that realizes that American families come in all shapes and sizes and all configurations of income-earners, and with all configurations of problems, but all American families are tied together today by some common understandings and some common hopes and dreams, and that it is our job in Congress to reflect our understanding of these things faced by the American family and to represent the best of their hopes and dreams.

I think of mom and dad sitting around the kitchen table looking at the little ones and thinking about all of the things they want to do for them. We have all done that while we are doing our bills at the first of the month, scared half to death we will run out of paycheck before we run out of bills. And every time we do that we start with the realization that at the beginning of that month, our taxes are too high and if they were lower, we could do more for the kids.

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Mr. Chairman, I realize that mom and dad struggled on that, and yet they accept their responsibility and they say, to the best of our ability to understand it, we will do our duty to support the programs for this country, and yes, especially those programs that touch our heart, because they are programs that help those who are more needy than ourselves. So while we struggle with our taxes, we appreciate the fact that for the low-income, the working poor, there is an earned income tax credit that allows them to offset those terribly burdensome payroll taxes; that somebody has understood and cared about that.

I am willing to pay my share of the taxes, and I am willing to do that in appreciation that someone with a lesser job than mine, a smaller income, the same hopes and dreams for their children, have a little relief for that burden.

Yet I know, we all know, if we could have that $500 for a tax credit, we could do so much for each and every one of these children every year; if we both work, mom and dad both work, and we get that child care tax credit, we do not need the $500 per child tax credit as much as a family that has only one income earner. Because we have the second paycheck and we get some compensation with the child tax credit, we are willing to accept the trade offer, my $500 a year for this child credit, over and against the tax credit. That is fair.

I look at my neighbor and I look at me and I see the difference in the way we construct our families, they are configured, and I say that is fair. We all accept that.

We all need tax reductions, but we need to reduce the taxes on those people who are paying the taxes. If we think in terms of giving tax breaks to people who have no tax liability, the $500 child tax deduction means, when you finish filing your taxes and you know what you have to pay, you take the $500 away from that tax liability. If I do not have anything to pay, I have nothing from which to make the subtraction.

Mr. Chairman, then we dream about children and their education. We want to save. We know the importance of savings. We want children to see that. There is the idea of the education savings account, so we can have a hand in determining where our children will go to school. The tuition tax deduction is so important.

I just finished with five children going through school. I remember when I was a grad student raising my own baby girl, Kathy. That money we paid out for tuition, we thought then and think now, there ought to be a deduction on that in your taxes. It is fair.

We put that in there, because we understand how we struggled in order to pay that tuition and those fees so that education can be obtained. That is the best of our dream for our children, that they will have that education, and we can afford for us to do that, for us to work with them and for them to do that.

Parents begin a married life, and I look at my son David and his beautiful wife, Laurie, with my gorgeous grandbaby with his grandpa's eyes, and they say, we want to own our own home. They struggled hard to save money for a down payment. They want to own their own home. They do not want somebody to credit the hypothetical rent they would pay themselves if they were renting it out instead of living in it as a double increase in their tax, in their income, some hypothetical way to say you do not deserve a tax break.

They need the tax break. They need the American dream savings account so they can again save for their children, so they can save for emergencies. They work so hard and they try so hard, and they do not begrudge other people the help we give.

I laugh at that because, when the little ones are little, of course you know they cost money and the $500 is very important, but they do not stop costing money at the age of 13. We know by fact from the Department of Agriculture that at the age of 12 they jump up to $1,000 more. Mom and dad know that. Why do the people on the other side of the aisle not understand that: the prom dresses, braces, all the things that come?

Are we going to cut it off at age 13? No, we say. Let us keep it in effect until the child is 17, before his 18th birthday. Then, as long as we can, let us give this relief to moms and dads. We do that.

Now, about the time the child is 13 or 14, mom and dad begin to have a different realization in their life. They begin to understand that the best of the American dream is not to have our own home for the children, but the best of the American dream is to get them out of it. So we know that saving for that education is going to pay off someday when that youngster will have a chance for a job.

When will we get the best job opportunities for our children? When the economy is growing more, when people are willing to make investments. I was talking to a machinist just a few months ago in Dallas, TX. He was looking at the machine on which he worked.

He said: Congressman, I can get better levels of tolerance, I can do better quality work, I have more productivity with this than I had before. I can work all my life and I could not afford to buy a machine for myself like this machine. I thank those folks that saved, I thank those folks that invested, for putting that machine in place so that I can have a better job, and I can make a higher rate of pay and I can do more for my children.

Working men and women know better than anyone else, if you are a truck driver, if you do not have the truck, you do not have a job. Investment is what gives you the capital with which to work. The capital gains tax reduction is about jobs.

How about that family that decides, let us get together and build our own business? Mom and dad and the kids pitch in. They build their own business, they want and need to be able to make the investments, to make it safe. The alternative minimum tax should not come down on them. The alternative minimum tax says, if you are investing in your business and if you are building your business and you are taking depreciation under the Tax Code, and it comes to the point where you do not have any net earnings that are taxable, you have to pay taxes on earnings you did not have.

Mr. Chairman, my colleagues are saying on the $500 per child tax credit, let us give it to somebody who has no tax liability, and on the alternative minimum tax, let us put taxes on people who have no earnings. They have it exactly backwards.

What does that mean? It means mom and dad are going to build a business. You build a business so you can provide a living for your family. You hope it is a success and you hope it is something the kids can be proud of. They look at the youngsters, and my dad when I was young was a grain dealer and built his own business, he looked at us and said, one of these boys should take over that business. It is my creation, my life's work.

That did not happen. He could not pass it on. When he died, half of it went to government. Do you think your dad works all his life, mom pitches in, as my mom did, as partners, so that at the time of their death the government can come and take half of their life's work away from their children? This is not fair. This is not fair. We try to give the family some relief for that. If you have just some kind of accomplishment, some kind of a legacy that you can hold, the family farm has been in the family for three generations and it has to be sold for taxes, that is not right.

We hear about this being an unfair tax bill. This is a fair tax bill. It is a tax bill that knows the goodness of the American people and respects the goodness of the American people. It is a tax bill that says, Mr. and Mrs. America, we know your dreams, we know how hard you work, we know how much you share your caring and your good fortune with other people and how little you begrudge somebody else a break and a reduction of taxes.

Mr. and Mrs. America, we want to give you, at this time that we are marching towards a balanced budget, at this time when we can afford to do so, we want to give you a reduction in your taxes that reflects our understanding of your goodness, where you can look at us, look at the bill, and hear us say through this legislation, Mr. and Mrs. America, we are on your side. We agree with you. This tax should be a tax that allows you to do the things you dream about getting to do. It should not be a tax that tells you you must do those things that people in Washington think you should do.

It should not only know the goodness of the American people, but it should respect that goodness and it should reward that goodness. It should say, you are Americans. You deserve to be free because you accept your responsibilities, and we endorse that and we reward it by letting you keep more of your own hard-earned dollars.

Mr. Chairman, this is good legislation for America. I am proud to be associated with it. I am proud to tell my son and my daughter, build your business, save for the kids' education, have success in your life, and when your

days are over whatever it is that you have done in your life for your children will be your source of joy and happiness, and can probably be manifest in their life as you leave what you have to them, instead of to the government.

How can we do better to respect the children of this great Nation?

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. LATOURETTE). The Chair would remind all Members that comments by Members should be directed towards the Chair and no other party.

Mr. PORTMAN. Mr. Chairman, the alternative minimum tax [AMT] is recognized on a bipartisan basis as one of the most punitive provisions in the Tax Code. Simply put, it's a job killer. It also is one of the most complicated provisions in the Tax Code—accounting for as much as 26 percent of tax compliance costs. Anyone concerned about tax simplification and the integrity of the Tax Code has to be alarmed about the AMT.

The current AMT was enacted in 1986 to ensure that no individual or business taxpayer with substantial economic income can avoid significant tax liability by using exclusions, deductions, and credits. While the drafters of the AMT might have been well-intentioned, in reality there is no longer a sound policy justification for this onerous and complicated provision.

H.R. 2014, the tax cut package being considered today, doesn't repeal the AMT but it does provide some important AMT relief and that's good news for American workers. AMT relief will help put U.S. firms on more equal footing with our international competitors by eliminating the tax penalty on investments in new plant and equipment in the United States. The bill also averts an AMT trainwreck for individuals by indexing the annual exemption for the AMT. Without this change, there will be a ten-fold increase over the next 10 years in the number of individuals who will be subject to the AMT.

Mr. Chairman, I think the AMT provisions are an important job creating component of this bill and I hope it can be enacted soon.

Mr. STARK. Mr. Chairman, I cannot support H.R. 2014, a bill to provide $85 billion in tax cuts because I believe the provisions of this bill are unfair and unwise.

Our country would be far better off to delay tax cuts for a few years until we have a balanced budget. After almost two decades of trying to recover from the Reagan cuts of 1981, we should have learned that large tax cuts given when a budget is not yet balanced can create havoc for decades. We have not learned our lesson; this majority persists in pushing tax cuts with abandon.

If we had the surplus, I would prefer to invest $85 billion to preserve the Medicare system—$85 billion would guarantee solvency past the year 2020, providing assurance of health security for millions of seniors. The majority party rejects that option.

If the Nation had a balanced budget, I could support tax cuts but they would have to benefit all workers, not just the upper brackets. I could support education benefits, if they went to all young people, not just those whose parents have $10,000 a year to stuff in an education fund.

If the Nation had a balanced budget, I could support a child credit to help the hard working families with the costs of raising children. I could never support the illusion of a family credit which is held out to all families but, in reality, available only to more affluent families.

If the Nation had a balanced budget, I could support rate reduction for all taxpayers not just those who make their money from Wall Street investments.

We don't have a balanced budget today. Until this bill got the House floor, the Nation was on the path to a balanced budget but we are not quite there. Perversely, in a bill designed to balance the budget, we are today considering measures which will have devastating budget results that go well into the next century.

We owe it to our constituents, our children and ourselves to vote ''no'' on this bill.

Mr. CUNNINGHAM. Mr. Chairman, I rise in enthusiastic support of the Taxpayer Relief Act.

After a 17-year wait, the American people finally receive tax relief under this measure. Families with children get a $500-per-child tax credit. There's tax relief to help with college. There's relief from the capital gains tax, which will help spur investment and grow the economy. And there's relief from the onerous death tax, so Americans who have built their businesses with their own hard work will be more able to pass their businesses on to their children.

It is remarkable to contrast this product of a Republican Congress with the product adopted in 1993 by a Democratic Congress. President Clinton was elected in 1992, with a Democratic Congress, and enacted the largest tax increase in history without a single Republican vote in the House or the other body. President Clinton was re-elected in 1996, with a Republican Congress, and now we are working together to provide Americans the middle-class tax relief that he promised 5 years ago, but has thus far failed to deliver—until now.

Together with the bill we adopted yesterday cutting spending and preserving Medicare, this tax relief contributes to a balanced Federal budget, and ends the tide of red ink and deficits that threaten our future.

Other Members have discussed in detail the many excellent provisions of this bill. I would like to focus on just one. I would like to talk about how this legislation includes my provision to encourage companies to invest their computers and technology to upgrade our children's classrooms.

THE NEED FOR THE 21ST CENTURY CLASSROOM ACT

The General Accounting Office reported in 1995 that ''America's schools are not designed or equipped for the 21st century.'' Yet, we all know that an excellent education that provides American children with a fighting chance at the American Dream includes rigorous academic basic instruction—plus the new requirement for technological literacy and proficiency in working with computers. The need for technological literacy is immediate. By the year 2000, just 3 years way, 60 percent of American jobs will require high technology skills. Thus, without early training in technological literacy, many of our future leaders will start their adult lives at a severe economic disadvantage.

While America's classrooms are supported by dedicated teachers, involved families, and bright young children, many of our Nation's classrooms lack the important technological resources that they need to prepare both teachers and students for a technologically advanced present and future. While we are daily amazed at the ways that advanced technology has improved America's economic competitiveness, transformed commerce and communications, and improved the quality of life of millions of Americans, that same advanced technology has not yet made as transforming an impact on the way schools educate children. The Internet and the World Wide Web are revolutionizing the way individuals and organizations share and find information. Yet only 14 percent of our classrooms have a telephone jack, and about 1 in 50 are connected to the Internet. Furthermore, the most common computer in our Nation's schools is the Apple 2c, introduced over a decade ago and now on display at the Smithsonian Institution; and while 50 percent of schools have local area computer networks [LAN's], less than 10 percent of those networks connect with computers in classrooms.

Therefore, bringing America's classrooms into the 21st century requires a major national investment in technology, including computers, software, and interactive interconnectivity.

How can we accomplish this task?

We have three choices. We can do nothing, which appears inexpensive but bears an immense cost in lost opportunity and foregone economic growth. We can create and expand Federal Government programs which invest in education technology. However, because of the immense scale of the need, and because primary and secondary education are primarily a local and State responsibility, bringing our classrooms into the 21st century is best done in a manner that does not increase Federal Government expenditures or bureaucracy. Or we can encourage and maximize private investment for this purpose, keeping control as close as possible to the children, parents, and teachers who will benefit. This last choice is the option taken by the 21st Century Classrooms Act.

We are fortunate that many businesses invest their time and resources into classrooms. But we must do more, and we can do better.

The tremendous need for additional computer equipment and software in our classrooms, plus the wave of computer upgrades taking place among businesses in the United States, argue persuasively for an additional financial incentive to encourage businesses to invest their equipment into 21st century classrooms.

The bipartisan balanced budget agreement offers Congress an opportunity to expand technological investment in our schools through specialized tax incentives. The budget agreement includes tax relief for American families. And it also includes tax cuts related to education—but only for higher education. With so many students entering universities, community colleges and other higher education needing remedial coursework, it is right and wise for Congress to use this opportunity to spur private investment into technology upgrades for K–12 education.

PROVISIONS OF THE 21ST CENTURY CLASSROOMS ACT

The 21st Century Classrooms Act (Cunningham—H.R. 1153), included in the Taxpayer Relief Act as title II, subtitle C, sec. 223, is designed to spur private investment for technological upgrades to create and sustain a greater number of 21st century classrooms. Enactment of the 21st Century Classrooms

Act will help provide schools the tools they need to offer a better education to our young people, increase local private investment in our schools, and ensure a better future for our country.

This provision expands the tax deduction currently available to computer manufacturers making donations of high-tech equipment to university research institutions. It expands the class of donors to include any corporation, not just computer manufacturers. And it expands the class of recipients to include K–12 schools, certain private foundations, and certain other recipients whose primary purpose is to support K–12 education.

The measure is intended to provide corporations a greater incentive to donate the right kind of quality computer equipment and technology toward K–12 education. It takes advantage of the many ways such donations may be accomplished, including donations to computer recycling programs whose primary purpose is supporting K–12 education. It limits the expanded tax deduction to donations of relatively new equipment of 2 years age or less. It also limits the expanded tax deduction to donations which will expressly fit productively into the recipient's education plan.

PRACTICAL EXAMPLES OF HOW THE 21ST CENTURY CLASSROOMS ACT WORKS

Let me describe how this tax incentive works. For example, if a corporation buys a computer as an asset, it pays $1,000, which is the basis. If it sells the computer a year later, it may receive $400 in cash. If the company donates the computer to a nonprofit or school under current law, it may take a charitable tax deduction of the lower of fair market value—$400—or the amount that has not been depreciated. If the company donates the computer to an eligible K–12 education recipient under this act, however, it may take a charitable tax deduction of $1,000, which is the basis of $1,000, plus one-half of the asset's appreciation, which is zero.

If a corporation buys a computer as inventory, for example, it pays $500 to build it. If it sells the computer on the open market, it receives $1,000 in cash. If instead of selling the computer, the company donates it to a nonprofit or school—not to a scientific research institution—it may take a charitable tax deduction of $500, which is the lower of fair market value—$1,000—or the amount that has not depreciated, an amount equal to or less than the basis of $500. If instead of selling the computer, the company donates it to a qualified scientific research institution under current law, it may take a charitable tax deduction of $750, which is the $500 basis, plus one half of the $500 appreciation, totaling no more than twice the basis. And, finally, if instead of selling the computer, the company donates it to a qualified K–12 education recipient under the 21st Century Classrooms Act, it may take the charitable tax deduction of $750, which is now only available to donations to certain scientific research institutions.

This measure is designed to work hand-in-hand with the educational connectivity provisions of the Telecommunications Act. As the Federal Communications Commission develops regulations to insure that schools have affordable high-technology telecommunications connectivity available to them, the 21st Century Classrooms Act accelerates the availability of high-tech equipment in our schools and our classrooms.

SUPPORTED BY EDUCATORS AND CORPORATIONS

The 21st Century Classrooms Act has gained the support of over 30 members of the House, both Republicans and Democrats, including the chairman of the House Education and Workforce Committee, Mr. GOODLING. And obviously it was included in the Taxpayer Relief Act by the Ways and Means Committee Chairman, Mr. ARCHER.

Let me summarize just a few of the letters I have received in support of this measure:

Dr. Bertha Pendleton, superintendent of San Diego City Schools, says ''The 21st Century Classroom Act will provide additional incentives for private enterprise to involve themselves in preparing students for future employment by giving tax (deductions) to corporations who donate used computer equipment to schools. We applaud this effort and fully support this measure to help further education technology.''

Michael Casserly, executive director of the Council of the Great City Schools, says ''the Council is supportive of incentives to attract contemporary technology into our schools, particularly the neediest schools. As such, the Council is also supportive of H.R. 1153.* * * Congratulations on your success.* * *''

Thomas Tauke, executive vice president of government affairs for Nynex, says, ''Nynex fully supports your efforts to encourage businesses to invest in our children. Your new legislative proposal, the 21st Century Classrooms Act for Private Technology Investment, through its expanded tax incentives, will enable schools to immerse students into the new technological environment that they will live and work in!''

There are many more letters of support. But these excerpts summarize the enthusiasm which greets this initiative to technologically upgrade our K–12 classrooms.

IN APPRECIATION

There are many men and women who deserve credit for helping me to develop this measure, and include it into our bipartisan Taxpayer Relief Act.

In San Diego County, I want to specifically recognize Scott Himelstein and Bill Lynch at the Lynch Foundation for Children, John and Diana Detwiler at the Detwiler Foundation Computers for Schools Program in San Diego, and the students, teachers and principals at all of the San Diego County schools that showed me their education technology and their need for more. I also want to express my appreciation to the House Republican Leadership and to Chairman ARCHER for including this provision into the Taxpayer Relief Act.

Mr. Chairman, a vote today for the Taxpayer Relief Act provides Americans long overdue tax cuts. It also spurs private investment into technology upgrades for our schools and for our children, through inclusion of the 21st Century Classrooms Act.

I encourage adoption and enactment of this bill.

Mr. CONYERS. Mr. Chairman, I rise in opposition to the so-called Taxpayer Relief Act. Yet again, the majority has demonstrated that their first priority is to line the pockets of the richest Americans at the expense of working, taxpaying families.

I urge you not to be fooled by the majority's effort to pull the wool over the American taxpayers' eyes. Despite claims to the contrary, this tax bill will devastate both middle- and working-class families in order to pay for tax breaks for the rich. The majority has done everything possible to ensure that the wealthiest families will get the bulk of the benefits. A recent study by the Center for Budget and Policy Priorities found that the effect of the combined budget and tax bills will give a $27,000 annual boost to the top 1 percent of Americans while raising taxes for the bottom 20 percent of families.

Not only does this bill work against families, it is fiscally unsound and irresponsible. Paying for these tax breaks will cost us $85 billion over the next 5 years. In the next 10 years, that amount jumps up to $250 billion. And 10 years after that we will be spending $700 billion on these tax cuts. If you support this bill, you will be giving away $700 billion in tax breaks to the wealthiest Americans. All of America's taxpaying families should share fairly in any tax cuts that we propose, not just the select few who will profit under this bill.

With these facts in mind, I hope that you will join me in asking a few questions of the bill's supporters. We should ask why they constructed a bill where the bottom 60 percent of our population shares only 4 percent of the benefits and the top 20 percent of the U.S. population receives 87 percent of the benefits from this tax cut. We should ask why they support a bill that adds to the assault on our already fragile social safety net. We should ask them why they're giving a capital gains break to the 5 percent of Americans who earn $100,000 a year and will reap 75 percent of the benefits.

But don't expect an answer to any of these questions. With their underhanded approach, the majority has abandoned millions of hardworking, taxpaying Americans. If the supporters of these tax breaks on both sides of the aisle wanted to be honest about this bill's effects, they should stand up and tell the American people: ''We don't care if you can't afford day care for your children. We don't care if you can't afford to send your sons and daughters to college. We don't care that our tax and budget plans will assure that the rich get richer at your expense.''

But don't expect this kind of honesty from a group that has constructed a child tax credit that is more restrictive than the one proposed in the contract on America. Passing this bill will mean that virtually all families with incomes under $20,000 a year would not be eligible for this child tax credit. If you support this bill, 28 million of our neediest children and their families will receive no tax credit because their incomes are too low to qualify. We cannot allow such an attack on the American family to continue unchecked.

I urge my colleagues to oppose this inequitable tax cut. Unlike Mr. GINGRICH, who labels any proposal that gives lower and middle class families their proper share of these tax cuts welfare, I believe that hardworking Americans should be treated fairly under any tax cut proposal. I hope that you will demand answers to the questions I have raised and join me in exposing this bill for what it really is—a thinly veiled scheme to provide welfare for the rich.

Mr. STEARNS. Mr. Chairman, I would like to talk to you about an amendment I offered at the Rules Committee to the Budget Reconciliation Act. This amendment would have established a national fund for health research. I offered this amendment because I believe one of the best ways to bring health care costs down is to fund health care research. Did you know that nearly four to five

peer reviewed projects deemed worthy of funding by the National Institutes of Health [NIH] are not funded?

The purpose of my amendment was to provide additional funds for biomedical research by investing 1 percent of the Medicare savings included in the bill in critical projects at NIH. This would accomplished by transferring to this account each year an amount equal to 1 percent of the savings which are achieved in that year from the Medicare amendment included in the 1997 Budget Reconciliation Act. It is estimated that this would provide approximately $1.2 billion over 5 years.

This amendment provides that funds deposited in the research fund shall be distributed among NIH centers in the same proportion as provided in the regular appropriations bill. It is estimated that an additional 1,000 or more research grants could be funded over 5 years in such critical areas as Alzheimer's, Parkinson's disease, diabetes, breast cancer, etc.

It also ensures that the full $155 billion of savings required are still achieved by providing that no funds will be transferred to the NIH unless net savings to Medicare are estimated by CBO to reach the $115 billion level. Thus, no transfer would occur until gross savings exceed $116.5 billion. It does not impose any new taxes.

Less than 3 percent of the nearly $1 trillion our Nation spends on health care is devoted to health research, while the defense industry spends 15 percent of its budget on research and development.

Public opinion surveys have shown that Americans want more Federal resources put into health research and are willing to pay for it. That is why I support the initiative to double the NIH budget over the next 5 years.

The Alliance for Aging has recently conducted a study that supports the savings for health care costs for the elderly and permanently disabled who are Medicare eligible by investing in biomedical research efforts as proposed under my amendment.

In 1995, NIH issued a report that found the economic burden of several diseases was estimated to be of tremendous proportions. For instance: The costs involved with heart disease was $128 billion; cancer, $104 billion; Alzheimer's, $100 billion; diabetes, $138 billion; mental disorders, $148 billion; arthritis, $65 billion, stroke, $30 billion, and osteoporosis, $10 billion.

It is apparent to me that we must do all that we can to either prevent or least slow down the onset of these diseases. And we know that many of these diseases do not strike until we are in our golden years. These years would, in fact, be golden if we could prevent or least find a way to treat diseases such as Alzheimer's.

Current data tells us that one-third of the $1 trillion spent on health care today goes to people 65 and older. In a scant 15 years, the baby boom generation will begin qualifying for Social Security and Medicare and so, too, will their susceptibility to age-related diseases.

That is why it is incumbent upon us to find better ways to treat, prevent, or slow down these diseases and we can and must do this through research funded by the National Institutes of Health because the future costs of health care will increase dramatically as the boomers begin to experience these age-related maladies.

In these days of trying to balance the budget, we must not lose sight of the fact that by delaying the onset of diseases such as Alzheimer's, stroke, and cardiovascular disease we would save an estimated $35 billion through a reduction in the need for nursing home care. Now, to my way of thinking that's not chump change.

Ample evidence exists to demonstrate that health research has improved the quality of health care in the United States. Advances such as the development of vaccines, the cure of many childhood cancers, drugs that effectively treat a host of diseases and disorders, a process to protect our Nation's blood supply from HIV virus, progress against cardiovascular disease including heart attack and stroke, and new strategies for the early detection and treatment of diseases such as colon, breast, and prostate cancer clearly demonstrates the benefits of health research.

Expanded Medicare research is critical to holding down the long-term costs of the Medicare Program under title XVIII of the Social Security Act. For example, recent research had demonstrated that delaying the onset of debilitating and costly conditions like Alzheimer's disease could reduce general health care and Medicare costs by billions of dollars annually. I am hopeful that such a proposal will be enacted by Congress in the future.

Mr. KOLBE. Mr. Chairman, this is a great day for this House and for the citizens of the United States. Today we take a giant step in providing the tax relief that Americans so desperately need and deserve.

Today we are about to let people keep more of their income to spend as they want—not as the Federal Government wants. This is the right thing to do. Taxpayers deserve to enjoy more of the fruits of their labors. The Federal Government has become too greedy, continually increasing the burden on our citizens so Washington can distribute taxpayer earnings to other groups in society. Today we begin to reverse that condition. Even so, we still have a long way to go.

Mr. Chairman, I am pleased with many provisions of this bill. But two stand out as especially important for working Americans. The child tax credit and the education incentives. These provisions actually put money back in the pockets of ordinary, middle income people and help them provide for their children's education.

Taxpayers with children get to take $500 per child off their total tax liability. Think of what that means to a young family struggling to get ahead and give their children opportunities.

This bill gives families who send their children to college or other post secondary institutions a chance to keep more of their earnings to help with those higher education expenses. It provides a tax credit, up to $1,500 for each student, for half of the tuition and related expenses during the first 2 years of college or vocational training. It provides a $10,000 deduction per student per year for expenses through State prepaid tuition plans or education investment accounts. Further, it allows families to make penalty-free withdrawals from any IRA to cover the cost of education after high school Think what a relief this will be for hardworking families struggling to make sure their kids get an education.

Mr. Chairman, I wish we could be voting on bigger tax cuts. I wish the capital gains tax had been cut more. I wish we had abolished the estate tax. I wish we had given more relief in many areas. But I am very happy with this major step forward. I am going to consider it a substantial down payment on a commitment we made to the American people 4 years ago when we promised to downsize Government, balance the budget, and cut taxes.

We must continue to work in this House and in this Congress to totally deliver that promise in the next few years.

Mr. CRANE. Mr. Chairman, I rise in enthusiastic support of this bill to provide long-overdue tax relief to the American people.

I have heard criticisms of this bill primarily from liberals who are playing the old tired game of class warfare. I find their arguments—that this tax relief is unfairly targeted to the rich—rather ridiculous. These class warfare antagonists are from the same crowd who in 1993 rammed through the largest tax increase in the history of our Republic. It is no wonder that they are resisting the attempt by House Republicans to allow Americans to keep more of their own money, rather than sending it to Washington's bureaucrats.

The liberal misinformation campaign about this tax package is so out of touch with reality that they are alienating their overtaxed rank and file constituents. The fact of the matter is that the vast majority of the tax relief in this bill is provided for individuals, not corporations. More specifically, over 71 percent of the tax relief in this bill will go to those who earn between $20,000 and $75,000 a year. I do not know what some of my liberal colleagues consider the rich, but a family earning $40,000 a year with two children living in Palatine, IL, a city in my district, is far from rich.

Let me put this in another perspective. It has been 16 years since American taxpayers have had a significant tax cut from Washington. President Clinton signed the largest tax increase in history in 1993 and when vetoed a major tax cut bill, the Balanced Budget Act, in 1995. All the while, middle-income families have shouldered the largest tax burden than at any other time in our history. A family at the median income level budgets over half of their annual income to pay for government at all levels. Tax relief for them is long overdue.

I am pleased to see a number of items in this bill that I have been working on for some time. For example, I have promoted legislation to increase the value of the tax exemption for children and other dependents. The $500-per-child tax credit will give parents this tax relief I have sought for so long. In addition, I have pushed for capital gains tax relief, provided in this bill, which is so valuable to home and small business owners. I also support the relief in this bill from the estate or death tax which has been particularly devastating on family farms and small businesses. I would rather abolish the capital gains and death taxes, but I believe this bill makes significant improvements in both areas.

While the bulk of this bill provides tax cuts to individuals, employers also receive some much-needed tax relief. And let me make it clear that tax relief for businesses is about job creation, competitiveness in world markets, and more money in the pockets of American workers. Although the Constitution protects its citizens from double jeopardy in criminal cases, the Tax Code offers no similar protection. The alternative-minimum-tax [AMT] forces businesses into double jeopardy with two different sets of tax rules, the regular corporate schedule and the AMT schedule. If, after following the complex rules and regulations in

the corporate tax code, the company does not owe enough taxes, they must start all over with the AMT code, with its own rules and regulations. The compliance costs, in addition to the tax burden, has hurt the competitiveness of U.S. businesses against foreign businesses. This translates into lost jobs and lower wages for American workers. H.R. 2014 provides some much-needed relief from the burdens of the AMT.

If I had any criticism of this bill, it is that it does not provide as much tax relief as the American people deserve. I also appreciate the view of those who suggest that this bill does not provide for Tax Code simplification. I, too, am disappointed on both of these counts, but given the current political situation in Washington, we must deal with a President who, despite his rhetoric, is not interested in providing large-scale tax relief or reform to our country. Given these constraints, I believe that Chairman BILL ARCHER of our Committee on Ways and Means did an admirable job in constructing this tax bill.

I urge my colleagues to support H.R. 2014 and I look forward to moving ahead and meeting with members of the other body to put the finishing touches on tax relief for Americans. I only hope that the President will see fit to sign this bill into law.

Mr. KLECZKA. Mr. Chairman, I rise today to voice two major concerns regarding H.R. 2014, the reconciliation tax legislation before the House today. I understand that section 1053 of this bill is Republican payback against the unions who mainly supported Democrats in the last election. I object to use of the Tax Code to punish political adversaries, but that is not even among the two main reasons I will cast my vote against this bill today.

To begin with, I believe we should give the American people capital gains tax relief, but this bill clearly provides more than is reasonable. It both cuts the capital gains rates as well as indexes the values of assets for inflation. I am all for providing relief, but considering the huge potential revenue loss of these combined provisions 10, 15, or 20 years from now, we should pare down the capital gains cuts to a more reasonable size. After all, as the bill stands today, the capital gains cuts lead to a loss of $36 billion in 2003 through 2007 alone. This bill should either cut the capital gains rate or index assets, but not both.

But, Mr. Chairman, I rise today mainly to express my concerns about another provision in the tax bill before us today that could have a devastating impact on workers and their benefits. The measure is not only bad policy, but it does not belong in this bill in the first place. It is an attack on working men and women disguised as a Tax Code clarification. It could lead to the end of employee benefits and workplace protections as we know it.

The provision, innocently labeled as a safe harbor for independent contractors, would permit many employers to reclassify their workers as independent contractors and thus deny those workers employee benefits and worker protections.

Much of the social safety net enjoyed by workers in this country depends on employment status. Workers classified as independent contractors are not eligible for employer-provided health insurance or pensions. Independent contractors are not eligible for unemployment compensation. Independent contractors also have to pay the employer side of the Social Security and Medicare payroll taxes, an additional 7.65 percent.

In addition, although this provision purports to be limited to classification for tax purposes, it is likely that employers will also treat workers as independent contractors for other purposes. Worker compensation laws, minimum wage and hour laws, occupational safety laws, and age discrimination laws do not apply in the case of workers classified as independent contractors.

Reclassification is already being used against workers and this bill would make it even easier for employers to drop worker wages, benefits, and protections. The potential for abuse of this provision is real. Last year the Department of Labor found that 134 workers in Ohio were improperly classified as independent contractors and were receiving as little as $1.50 per hour. In October of last year, the Ninth Circuit Court of Appeals found that Microsoft must pay benefits to a group of workers that the company had intentionally misclassified as independent contractors. Reclassification has been regularly employed by some in the construction industry with respect to laborers and other workers such as supervised carpenters, masons, plumbers, and electricians. This practice is being carried out across this country by both large and small employers.

This provision—identical to H.R. 1972 of last Congress—too easily allows an employee to be reclassified as an independent contractor. The measure establishes a test which is too easy to meet, and therefore many workers could be reclassified if it were to become law. First, the worker must sign a written agreement providing that he or she will not be treated as an employee. This is not voluntary in any sense of the word: if a worker wants the job, he is going to have to sign that agreement or he returns home without work. Under the measure, once the written agreement has been signed, a worker can be classified as an independent contractor if the worker meets one criteria in test 1 and one criteria in test 2.

Test 1: The worker—has a significant investment in assets or training; or incurs significant unreimbursed expenses; or agrees to perform services for a particular time or to complete a specific result; or is paid primarily on a commission basis; or purchases products for resale.

Test 2: The worker—has a principal place of business; or does not primarily provide the service at the employer's place of business; or pays fair market rent for use of the employer's place of business; or is not required to perform services exclusively for the employer, and in the current, preceding, or subsequent year has: performed a significant amount of services for others, or offered to perform services for others through advertising, solicitations, or listing with referral agencies, or provided services under a registered business name.

Let me give an example to illustrate my point. Bill is a plumber who is an employee for a plumbing construction and repair company. If this provision were to pass into law, Bill would meet the criteria under this provision because he has his own tools and has paid for his own training and performs his work on-site at residences and businesses throughout the metropolitan area. Therefore he could be reclassified as an independent contractor. He would now have to pay double—about 15 percent—his previous payroll tax for Social Security and Medicare while his former employer would pay nothing. He could lose the ability to participate in the company pension plan. If either Bill or his wife, Debbie, needed to see a doctor, they might be surprised to find that they no longer had employer health coverage through Bill's work. If Bill was badly injured on the job, he might be disappointed to find that he could no longer collect workers compensation to help put food on the table and pay the mortgage while laid up. If he was laid off during a slow period, he might show up at his State labor office to collect unemployment, but would no longer qualify for unemployment insurance through his employer.

Similar reclassifications could occur not just for other tradespeople like electricians and carpenters, but also delivery people, policemen, reporters, and others.

It is not only workers who are concerned about this provision, but conscientious firms who are wary of unfair competition by unscrupulous employers. A group of construction industry employers testified before the Senate Finance Committee on June 5 of this year opposing a similar proposal. The Mechanical/Electrical/Sheet Metal Alliance consists of the Mechanical Contractors Association, the National Electrical Contractors Association, and the Sheet Metal and Air Conditioning Contractors National Association. They testified that: ''the Alliance does not support the proposals under consideration today because we are gravely concerned that the proposed classification criteria—when applied to the skilled construction workforce—would jeopardize the entire structure of training, health and welfare, pension and other workforce development and retention benefits.'' Citing a Bureau of Labor Statistics study showing independent contractors disproportionately represented in construction, the construction industry alliance witness alleged that: ''The rise of worker misclassification in construction has nothing to do with career enhancement and everything to do with unfair low-wage competition.''

The alliance alleged that this provision represents a threat to those conscientious construction businesses that undertake to pay, at the very least, the legally obligated minimum employer overhead taxes that are a legitimate cost of doing business. He concluded by stating that ''businesses that cannot afford to pay for the social policy objectives of unemployment insurance, social security and workers compensation should not per permitted greater leeway to avoid paying for these established social responsibility programs and shifting even greater costs on their employees, fair employers and the government, as well.''

This is a dangerous provision that will result in a race to the bottom where working men and women will lose workplace benefits and protections as we know them while legitimate employers will be forced to reduce benefits and worker protections to compete with unscrupulous employers taking advantage of the Republican independent contractor provision.

Mr. Chairman, because of the presence of this ill-conceived provision and the combination of both a capital gains rate cut in addition to capital gains indexing, I must vote against the bill before us today. I am hopeful that during conference my concerns will be addressed and I will be able to support the final version of this legislation.

Mr. DINGELL. Mr. Chairman, a few weeks ago. I cast my vote in favor of the budget resolution with the hope that it would yield a well-reasoned reconciliation package which I could support. Clearly, the majority has failed to assembled such a package.

I have heard the quote, ''Here we go again,'' used by some of my Republican colleagues. While I applaud the rhetorical effulgence and I agree that it is appropriate in this instance, I question the context in which it is being used. The legacy of that former President—who so eloquently spoke those words—is the massive Federal debt we are confronting today. So, after a careful review of this tax package, the only proper conclusion is, ''Here we go again.''

We have yet to learn the lesson of 1981. Yesterday, I spoke of how the proposed $20.3 billion savings from the broadcast spectrum auctions are an illusion. It isn't surprising that those very savings account for nearly one quarter of the offset for the tax package.

The budget gimmickry used for the capital gains tax cut will explode the deficit after 2002. Because wealthy Americans can pay their accrued capital gains in 2002 to receive the benefit of indexation, the end result is a one time $6 billion golden egg paid to the U.S. Treasury. It is a Ponzi scheme which benefits the wealthiest Americans, a throwback to the ''voodoo economics'' another Republican President warned us against.

In 1948, my father argued against a Republican plan to allow employers to skip out on Social Security taxes. It is ironic that I am here nearly 50 years later to argue the same position. This bill allows employers to easily reclassify employees as independent contractors and to deny employees health care coverage as well as their Social Security contribution. Republicans speak of class warfare; it is obvious who is on the offensive. This is a blatant assault on hard-working Americans.

It is clear that we are not talking about granting tax relief for those who need it most. A majority of the benefits in this package go to the wealthiest Americans and it squeezes those who need relief most, the working poor. Why will millionaires be able to sell off stock portfolios and pay less in taxes than middle-class Americans currently pay on income tax? It is shameful.

The Democratic substitute would correct these flaws. Our tax relief plan would allow the parents of 24 million more children to benefit from the $500-per-child tax credit. Capital gains and estate tax relief are targeted towards small businesses and families. It permits homeowners to who sell their homes at a loss to take a tax deduction. Most importantly, two-thirds of the benefit go to those making less than $75,000.

I urge all of my colleagues to oppose this shameful Republican tax scheme and vote for the Democratic substitute.

Mr. COYNE. Mr. Chairman, I rise today in opposition to the tax provisions of the 1997 reconciliation bill. I oppose this legislation for a number of reasons. The most important reason is that I believe that now is not the time for tax cuts. I believe that such a move would be irresponsible. Given the widespread support in Congress for a tax cut bill, however, I believe that a much more equitable bill could—and should—be enacted.

The economy today is in better shape than at any other time in the last 25 years. The economy is growing and inflation is low. The Federal deficit has been reduced from more than 6 percent of our national output to roughly 1 percent. These are things to celebrate, and I join with my colleagues in rejoicing over our good fortune and relatively responsible management. But as tempting as it would be to indulge ourselves, given these happy circumstances, in cutting taxes, I believe that it would be unwise and irresponsible to do so. It is at just such a prosperous time that we should begin addressing the long-term problems that we know will confront us in a few short years. Let's not wait until a crisis is upon us and more draconian solutions are necessary. Let us show some leadership today.

What problems lie on the horizon? What should we be doing instead of enacting tax cuts? In the coming years, we will face an increasingly competitive global economy and a demographic shift unparalleled in modern history. We will need to dedicate more of our national resources to caring for an increasingly older population and taking steps to increase our economic productivity. That means taking modest steps now to ensure the long-term solvency of Social Security and Medicare. That means keeping Federal deficits under control. That means investing in our infrastructure and promoting research and development. It means investing in early childhood development and improving public education. It means increasing access to higher education. And it means making health care available to all Americans. Our country would be better served by addressing these challenges than by cutting taxes for the affluent.

In addition, I am concerned that these tax cuts will increase Federal deficits substantially once they are fully phased in. I feel compelled to remind my colleagues that the last time we indulged in a package of massive tax cuts, we precipitated a long series of budget deficits that we are still paying off. As every spendthrift knows, you can have a pretty good time spending borrowed money, but eventually the money runs out and the loan comes due. The massive budget deficits of the Reagan years helped spur economic growth following the recession of the early 1980's, but at a heavy cost. Much of the more than $200 billion in interest payments the Federal Government makes each year is due to the deficit spending of the 1980's. The tax cuts enacted in 1981 contributed substantially to those deficits. Similarly, the tax cuts contained in the legislation we are considering here today will produce large revenue losses in the coming decades—just when the retirement of the baby boom generation will place increasing pressure on the Federal budget. I believe that the short-term benefits this legislation would provide would be more than offset in the outyears by the long-term fiscal difficulties that it would produce. That is a second reason that I believe these tax cuts are unwise.

As I stated earlier, however, it is clear that Congress intends to pass a substantial tax bill this year. Given the likelihood that we will, in fact, do so, I strongly believe that we should pass a bill that is more equitable than the bill we have before us today. The Republicans have produced a bill that would do relatively little for the average American family.

The $500 family tax credit is not refundable, which means that families that do not have any Federal income tax liability will not receive any family tax credit money. Many low-income families make so little money that they have no Federal income tax liability. While these families pay a significant percentage of their incomes in Federal payroll and excise taxes, many of them will nevertheless be denied the family credit. In addition, under the House Republicans' bill, the family tax credit is stacked after the earned income tax credit, meaning that taxpayers must offset their tax liability with the EITC before they can claim the family credit. Given that the family credit is nonrefundable, many working families will not have enough income tax liability left to claim the credit; other working families will receive far less than the full $500 credit. In all of these cases, the low- and moderate-income families who deserve and need a tax break as much or more than more affluent families will receive little or no tax relief under this bill. This is especially unfortunate, given that a modest increase in their disposable income would make a real difference in their lives.

Other provisions in this legislation would reduce taxes on capital gains and index future capital gains for inflation. These provisions would do little or nothing for most Americans, whose major life-time capital gain, the sale of their home after age 55, already goes untaxed in most cases. And because most capital gains taxes are paid by the wealthiest Americans, such a change would reduce the progressivity of the Federal Tax Code significantly. Moreover, the lower capital gains tax rate and the indexation of capital gains for inflation would result in a substantial Federal revenue loss in the years beyond the 5- and 10-year windows used in the budget reconciliation process. That revenue loss would kick in at just the time when the Federal Government will need to increase spending substantially for Social Security and Medicare to cover the costs associated with the retirement of the baby boom generation.

Similarly, this legislation has changed the college tuition tax credit proposed by President Clinton so that only taxpayers that spend over $3,000 on college costs will get the full $1,500 credit. The President's HOPE credit would have provided a full dollar-for-dollar tax credit for the first $1,500 in higher education costs. These changes from the President's proposal would make the credit less helpful to the low-income students who often attend low-cost community colleges, and they could prevent some of these students from pursuing education beyond high school. Such an outcome would deny many low-income individuals access to educational opportunity, but we would all suffer from the adverse impact that this outcome would have on our country's productivity.

The pattern is clear. The distributional effects of this tax cut package are abysmal. More than half of the tax relief in this bill would go to the top 5 percent of taxpayers—those with incomes of more than $100,000—once its provisions are completely phased in. If Congress is determined to pass a tax cut, it should at least ensure that the bulk of the tax relief that it provides goes to the people who need it most—the hard-pressed, hard-working low- and moderate-income households that are playing by the rules and struggling to make ends meet.

There are a number of other objectionable provisions in this legislation, too many to be mentioned here. Let me just mention one in passing. The bill would change the way in

which independent contractor status is determined. This change would most likely have the result of stripping thousands—and perhaps millions—of workers of their employee status and the benefits that that status conveys. It could lead to lower pay, the loss of health insurance coverage, ineligibility for pensions, and the loss of protection under State and Federal labor and workplace safety laws for many hard-working individuals.

Mr. Speaker, this legislation has very serious problems. I urge my colleagues to reject a major tax cut and, instead, to address the long-term fiscal problems that confront our country. Barring that approach, I urge them to work with me to produce a reconciliation bill that we can all support—one that provides tax relief for America's working families in a fiscally responsible fashion.

Mr. VENTO. Mr. Chairman, this legislation reminds me of Cinderella's stepsister trying to slip a size 10 foot in a size 5 glass slipper. It just won't work. And hopefully the American people will, like the Prince's emissary, discover what a fraud this legislation is.

I supported the budget framework adopted by Congress this year. Frankly, I was concerned and did have reservations about the tax portion of the agreement. I was concerned that the Republican majority would not be able to resist the opportunity to load up the tax bill with provisions that benefit the very rich at the expense of working and middle class Americans and that despite its rhetoric, the majority leadership is willing to sacrifice deficit reduction and the real progress that we have made over the past 4 years.

Unfortunately, these fears have been realized. Like children in a candy store, the majority party has not been able to restrain themselves from loading up with goodies. Like all candy, this bill is fattening. It will fatten the pocketbooks of the wealthiest in our Nation while swelling the Federal deficit.

The nonpartisan research organization, the Citizens for Tax Justice, has analyzed the real impacts of this tax bill. Their analysis has determined that 57 percent of the benefits of the tax cuts will go to people with incomes over $109,000, while average families, with incomes between $21,000 and $57,500, will only receive 17 percent of the benefits. Incredibly, families with income levels below $21,000 will get no tax cut or could actually pay more taxes under this bill. This outcome is particularly harsh for young families trying to succeed. The discrepancy between the very rich and ordinary working families is highlighted by the disclosure that this tax bill contains a $9 million tax break that benefits approximately 1,000 individuals.

Through a creative implementation schedule, the tax bill masks the true impact the loss of revenue and size of the tax breaks, resulting in a gap between tax expenditures and program expenditures. Just when the American taxpayer thinks the long fight to end the Federal deficit is at an end, the full impact of this backend loaded legislation will hit. The Center on Budget and Policy Priorities estimates that the Republican tax bill will blow a hole of between $600 and $700 billion for the second 10-year period from 2008 through 2017. That type of fiscal time bomb should not be fused by the passage of such a tax policy measure. Indexation of various tax breaks in this measure further digs the deficit hole that we are trying to extract ourselves from, experience would dictate and common sense prevail that such aspects of the Tax Code shouldn't be placed on automatic.

While I do not support the present tax bill, I do strongly support the alternative that will be offered today. That alternative provides a more targeted approach to tax relief. The Democratic substitute legislation fulfills the commitment to helping middle and working class families and children to afford the costs of post-secondary education. This alternative provides a child credit and does not deny that credit to families that have lower incomes and whose major tax payments are the payroll tax. The Democratic substitute maintains the commitment to estate tax reform and to reducing the real estate capital gains taxes without mortgaging our future. It permits the full earned income tax credit to remain in place, benefiting the working poor.

Mr. Speaker, the Rangel alternative builds upon the outstanding success that Congress has had in working with President Clinton to reduce the deficit. This has not been an easy process but now that the goal of a balanced budget is so close we must not yield to the siren call of tax breaks without discipline. We cannot and should not turn back on that progress to merely score political points. I urge my colleague to support meaningful deficit reduction and balanced tax reform by passing the Democratic alternative.

Mr. SOUDER. Mr. Chairman, on Wednesday, May 21, the Christian Action Network, a nonprofit lobbying organization dedicated to the protection of the American family, tried to display art funded by the National Endowment for the Arts on the steps of the U.S. Capitol as part of their touring exhibit, ''A Graphic Picture is Worth a Thousand votes.'' The purpose of this touring exhibit is to protest NEA funding of obscene and anti-Christian art.

However, the U.S. Capitol Police would not let the Christian Action Network display the NEA funded art on the basis that the art was obscene. In addition, the Capitol Police confiscated 17 pieces of NEA-funded art and are seeking a warrant for the arrest of Christian Action Network president, Martin Mawyer.

The simple fact that the U.S. Capitol Police would not let the Christian Action Network display this art proves Mr. Mawyer's point that the National Endowment for the Arts is using taxpayer money to pay for obscenity and to support people who produce illegal art. The NEA is an affront to religious beliefs, heritage, and sense of fairness and the agency needs to be eliminated. It has been proven over and over again that simple restrictions and reforms on the NEA don't work.

Jane Alexander maintains that she has cleaned up the NEA but this is clearly in doubt. For instance, the NEA has given $112,700 over the past 3 years to Women Make Movies, Inc., a nonprofit organization that produces and distributes independent films by and about women. One such film was ''Watermelon Woman'' which portrays graphic sex images, is strewn with graphic and degrading sexual language, and portrays the use of illegal drugs as a normal recreational activity. There are at least 14 other controversial films distributed by Women Makes Movies, Inc.

The Federal Government should not be in the business of determining what is art and what isn't art. Individual citizens and private groups should have the freedom to choose what art we wish to patronize and what we choose to ignore.

Today, I would like to enter into the CONGRESSIONAL RECORD a copy of a brief article from the May 30th edition of Human Events which covered Christian Action Network's art exhibit on Capitol Hill. I urge my colleagues to read this article and to vote to abolish the National Endowment for the Arts for fiscal year 1998.

[From Human Events, May 30, 1997]

CAPITOL POLICE CONFISCATE NEA 'ART' AS OBSCENE

On May 21, the U.S. Capitol Police confiscated 17 pieces of taxpayer-funded ''art'' displayed on the Capitol steps as a part of an exhibit put on by the Christian Action Network (CAN). Congress' security force is now seeking an arrest warrant for CAN President Martin Mawyer for publicly displaying obscene images.

The National Endowment for the Arts (NEA), long a target of conservatives for being wrong in principle, wasting taxpayer money and funding obscene and blasphemous art, granted federal funds to the artists who created the unfit-to-be-seen works. ''Finally,'' Mawyer told Human Events, ''someone in law enforcement authority has decided this is obscene. . . . Now, when we go around from [congressional] district to district to increase support for eliminating the NEA, we can show pictures of the Capitol Hill police confiscating this.''

NEA-funded photographs titled ''Bobby Masturbating'' and ''Woman Castrating a Man'' were among the confiscated material, as was a collection of stories called the ''Highways Brochure.'' One of them ''included a description of sex with [House Speaker] Newt Gingrich's mother,'' said Mawyer.

U.S. Capitol Police spokesman Sgt. Dan Nichols said May 22, ''It is up to the U.S. attorney's office for the District of Columbia to decide whether or not to issue a warrant. We will probably submit an affidavit today, perhaps tomorrow.'' He said they were definitely seeking Mawyer's arrest.

Since taking over Congress, Republicans have cut the NEA's budget to $99.5 million a year. But conservatives vow to enforce a deal struck in 1995 with House GOP moderates which called for the complete elimination of the NEA's funding by Fiscal 1998.

Mr. BERRY. Mr. chairman, I rise today in regretful opposition to the Republican tax proposal.

I am a strong supporter of tax relief for the American family and for our small business. Were I to craft the perfect tax package, I would devote over half of its tax relief to small business—reducing the estate tax so that families can pass on their business from generation to generation—establishing a better home office deduction—including provisions to allow for some independent contracting. In addition, I would provide relief for our families by including a $500 per-child tax credit—the President's tax credits for higher education—and deductibility of tuition and expenses.

This proposal violates the bipartisan budget deal and results in an escalating deficit over

the next 10 years. Not only does it not meet our objectives of balancing the budget, it worsens the deficit.

My ideal proposal would not include the Republicans' costly reduction in tax cuts to large corporations that explode our Nation's deficit and make it impossible to balance the Federal budget. While I support and will continue to fight for the enactment of the small business proposals included in the Republican package, and would in fact have preferred a larger reduction in the estate tax, I cannot support a return to the so-called trickle down economics that resulted in the rapid expansion of our national deficit since 1981. I am old enough to remember the incredibly adverse impact of the Reagan plan on our national economy.

In casting this vote today, I had to carefully consider what was best for those I represent—the citizens of the First District. I believe that the immediate, temporary political gain from supporting this Republican tax reform proposal is not worth the ultimate, long-term harm to America's economy that would result from the enactment of this tax package. The Republican tax proposal makes a lot of promises but does not contain any mechanism to ensure that the budget will continue to be balanced. It is fiscally irresponsible—phasing in the largest tax cuts over a 10-year period harms the budget and will destroy the deficit.

The Blue Dog Democratic alternative that I am supporting today is better for the American taxpayer, and better for American small business, than the Republican proposal for the following reasons: Our bill eliminates the so-called back loading from the Republican plan, which harms the economy in the long term and will increase the federal deficit; it provides more estate tax relief than the Republican plan—phasing it in immediately for our family farms and businesses; it eliminates the corporate welfare provisions in the Republic bill and dedicates that money to deficit reduction; and, it includes a $500 per-child tax credit; the President's Hope Scholarship, and deductibility of tuition for students.

Mr. Speaker, today's vote is simply the first step in a long budget process. I am confident that Congress will be able to work in a bipartisan manner to provide meaningful tax relief to America's families and small businesses.

Mr. FAZIO of California. Mr. Chairman, I thank the ranking member.

It is easy to see what the special interests want in a tax cut. Just look at the Republican bill.

But American families, according to a poll in the Wall Street Journal published today, want two things: A tax cut to make college affordable, and a tax credit so they can afford child care.

On both counts, the Democratic alternative wins hands down.

Instead of being loaded with fat capital gains cuts and benefits for corporations, it puts higher education in reach for millions of more Americans.

Instead of tax breaks for the rich, it makes community college an option for nearly every American who wants the opportunity to enroll.

Instead of massive estate tax reductions, it allows workers who want to learn new skills needed in our changing economy, tax credits so they can afford to learn—and earn—much more.

This debate isn't about whether we cut taxes. It's who we cut them for.

The Democratic plan is the one that makes the most sense for our economy, for education, and for our future.

Mr. UNDERWOOD. Mr. Chairman, it is truly unfortunate that this bill shortchanges the working poor of this Nation and carves out tremendous benefits for the wealthy. Those who need the relief the most are given the least under this legislation. It uses the language of helping all families with children but delivers to only half—the top half. But Mr. Chairman, I rise this afternoon to bring to the attention of my colleagues an issue of specific concern to Guam and the Insular areas—the airline tax provision contained in this reconciliation bill. I want my colleagues to know when they vote for this bill they will be voting to treat American citizens as foreigners. The new international tax of $15.50 for both departure and arrival may be a good idea when applied to just that—international passengers—but unfortunately this tax goes beyond just taxing international tourists. It affects American citizens flying from Guam traveling to the mainland United States. This issue has been addressed by a special rule for other communities that face a similar burden during an already costly trip to the U.S. mainland. I hope that the chairman examines this provision in conference and works to bring fairness in a bipartisan way to our American citizens from Guam and the other insular areas.

Mr. DUNCAN. Mr. Chairman, as members of the House of Representatives, we each hold dear to us a number of founding principles which make our democracy truly exceptional. One of these principles I am sure we all cherish is sensible, responsible, and coordinated government.

It has been a long-standing, established practice in the aviation industry to deduct as current expenses the costs of FAA-mandated aircraft safety inspections, maintenance, and repairs.

Recently, however, the IRS has sought to drastically reverse this policy. This reversal forces the cost of major FAA-mandated safety inspections, maintenance, and repairs to be capitalized, rather than being immediately expensed. This action unfairly penalizes airlines for complying with the FAA's mandated safety regulations.

Further, the IRS has not submitted this change to Congress as proposed regulation, nor as a proposed regulation change. If it had, these actions would be open to public scrutiny, interagency coordination and congressional review.

Changing tax-policy on airline safety-related activities should be consistent with, not contradict, the actions of the FAA. It is bad public policy to create a tax penalty on the safety-related efforts that others within the administration are trying to encourage.

In addition, the IRS, by avoiding the regulatory rulemaking and legislative process, is denying the public, other affected agencies, and, to some degree, even Congress participation in this aviation safety policy matter.

Mr. PORTMAN. Mr. Chairman, as many of you know, for the last year, I have cochaired the Commission on Restructuring the Internal Revenue Service. Yesterday we issued our report—the culmination of a year-long study of the IRS. One of our central recommendations deals with the need to simplify our tax system. In fact, quoting from our report, the Commission ''strongly recommends that Congress and the President work toward simplifying the tax code wherever possible.''

We provided Congress with 60 specific provisions of the tax code that the tax writing committees could consider simplifying or reforming. And, I'm pleased to note that, under the leadership of Chairman ARCHER, 23 of these tax simplification proposals are in this bill.

I'd like to mention two: providing broad capital gains tax relief for those who sell their homes; and protecting State and local public pension plans from needless IRS regulation.

Several months ago, BEN CARDIN and I introduced legislation to provide a capital gains exclusion from taxes for home sales. Under our proposal, which is incorporated in this bill, the number of people paying capital gains on the sale of a home will be reduced from 150,000 to 10,000 a year. This provision will eliminate the need to keep detailed records and file complicated reports. Mr. Speaker, that's real simplification.

And by doing away with the current rollover rules and the limited ''over 55 exclusion,'' homeowners will have more flexibility. They no longer will be forced to buy up in order avoid the tax bite. This will allow homeowners to use their savings to plan for retirement, meet education expenses for their kids and otherwise enhance their quality of life.

Our proposal recognizes that a home is the primary source of savings for most American families. Instead of forcing homeowners to give up all the money they've made on their home sale to Uncle Sam, Congress can give families a real break.

The second proposal, which I also authored with BEN CARDIN, will ensure that State and local pension plans will not have to undergo unnecessary and costly testing of their plans for compliance with complicated pension coverage rules. These rules are inappropriate for public plans. In fact, participation in public pension plans is often mandatory, and full-time public employees enjoy almost twice the pension coverage rate of their counterparts in the private sector. Furthermore, State and local governmental plans already come under a high level of scrutiny from elected officials, voters, and the media. There simply is no need to burden plans with unnecessary IRS regulations and costs.

Mr. Chairman, both of these proposals offer true simplification. I'm pleased the Ways and Means Committee included them and I'd like to note that the other body has incorporated them in its tax package as well. I urge my colleagues to support H.R. 2014.

Mr. PACKARD. Mr. Chairman, Americans are working harder than ever before, too often struggling to make ends meet, even with two incomes. The Taxpayer Relief Act is a first step toward allowing taxpayers to keep more of what they earn. We need to send more money back to hard-working Americans and keep it out of the Government coffers.

The Taxpayer Relief Act gives the American people the tax relief they deserve. We are helping every taxpayer at every stage of life. This tax relief proposal helps every taxpayer at every stage of life. Our child tax credit will help parents meet the needs of children and teenagers. Higher education is more within reach because we have built on the President's HOPE education proposal. And those who have worked hard, played by the rules and saved for retirement will be rewarded, not penalized.

Mr. Speaker, critics of our tax relief plan claim that it is geared toward the rich. Three-quarters of the tax relief provided in this proposal will go to those earning less than $75,000. I'd say it's obvious that hard-working, middle-income Americans benefit the most from our plan.

Under our plan, the typical family of four with a household income of $35,000 a year would see its taxes slashed 40 percent from $2,625 to $1,573 a year. If one child were in college, the tax relief would rise to 78 percent. This is real relief for middle-income families.

Mr. Speaker, the average Californian spends 2 hours and 45 minutes of each working day laboring to pay taxes. This is greater than the time worked to pay for food, shelter and clothing combined. It hasn't always been that way. Our plan ensures that this will not be the case in the future.

Hard-working, tax-paying citizens have finally won a major victory. Tax relief has become a reality because the American people spoke loudly and we have listened.

Ms. VELAZQUEZ. Mr. Chairman, I rise in strong opposition to this tax giveaway for the rich act of 1997. From capital gains tax breaks to hidden loopholes for the privileged few—Republicans have loaded this budget.

America's wealthy have much to celebrate under this bill—41 percent of the tax cuts will benefit taxpayers making more than $250,000. Meanwhile, families earning less than $23,000 will get no tax relief. This is unfair, Mr. speaker. Democrats and the American people will not stand for this tax sham.

Who do Republicans think they are fooling? They want to fatten the pockets of the rich and of the big corporations. Even the Wall Street Journal admits that the poor and middle class are given scraps. Just look at how this outrageous bill treats working mothers.

Republicans promised a $500 child tax credit to help all families. But now they want to exclude more than half of the children around the country. In New York alone, they would exclude over 3 million children. To Republicans, the child tax credit is acceptable only for a wealthy family, but they call it welfare for a working family.

If that injustice is not enough, Republicans want to punish 2 million working, middle-class women by reducing their child tax credit for child care. it is sad that the party of ''family values'' does not want to help working families.

Real tax relief should go to the struggling single mother with children, to the low-income family fighting poverty, to the middle class who carry the vast majority of the tax burden. These are the victims of your tax bill. These are the Americans who will suffer. We need tax relief that fairly benefits all communities.

The Republicans could not be trusted to keep their word under the budget agreement. And, they cannot be trusted with our children's future. They have failed working women. They have failed our children. They have failed the hard-working American family struggling to bring in a paycheck.

I strongly urge my colleagues to fail this outrageous Republican tax plan.

Mrs. McCARTHY of New York. Mr. Chairman: I rise in support of H.R. 2014, the budget reconciliation tax legislation.

When I talk to my constituents back home, they tell me overwhelmingly that taxes are by far their biggest concern. The median household income in the Fourth Congressional District is 50 percent higher than the national average, but we are not rich, because taxes and the cost of electricity take so much out of our pockets. It is not uncommon for a two-income household in my district to make over $70,000 a year and still just get by, having trouble putting their kids through college.

Long Island is a great place to live and raise a family, but the tax burden is driving young people and businesses away from our region. My constituents tell me that the best way to ensure Long Island remains productive and healthy is through tax relief.

The bill we are debating today is far from perfect, but I cannot in good conscience deny my constituents much-needed relief from taxes by letting the perfect be the enemy of the good. This bill will make a positive difference in the lives of people in my district, and for that reason alone, I plan to support it.

The family tax credit will provide relief for families struggling to make ends meet. The capital gains tax reductions will provide direct tax relief for the Fourth District, where the average home value is $173,600. The bill also provides needed estate tax reform, increasing the exemption from $600,000 to $1 million. This will help family-owned businesses in New York, a State which has over 600,000 small businesses.

Most importantly, this bill will provide tax incentives for higher education. My constituents believe very strongly in the importance of education, and they tell me that they want the Federal Government to help prepare young people for the future. As a member of the House Education and the Workforce Committee, I believe expanding access to education will lead young people to success in life and away from crime and gun violence.

As I said, there are several provisions in this bill which trouble me. For one thing, I am deeply concerned that section 931 will threaten the economic well-being of thousands of bakery drivers and their families. This provision, which would drastically overturn long-standing Federal policy, was attached to this bill with no debate or discussion in committee or the full House.

in addition, I oppose provisions which would reduce the retirement savings of current and future college and university retirees by removing the tax-exempt status of the Teachers Insurance and Annuity Association-College Retirement Equities Fund [TIAA–CREF].

Furthermore, I am afraid that provisions of this bill unfairly penalize graduate students by repealing section 117(d), which makes remitted tuition tax-free, and by failing to extend the section 127 exclusion for employer-provided tuition assistance for graduate students. As a cosponsor of H.R. 127, legislation to permanently extend section 127 for both undergraduate and graduate students, I will work to make this provision fair for all higher education students.

I pledge my continued efforts in the coming weeks to address these concerns, and I am hopeful that the bill will be improved in the conference committee. More importantly, I plan to work hard to ensure that Congress passes immediate, meaningful tax relief for the families and businesses of the Fourth Congressional District and the entire Nation.

Mr. POMEROY. Mr. Chairman, I believe that there are three important principles that Congress and the President should follow in delivering tax relief for American families: First, tax cuts should not explode the deficit in future years, increasing the tax burden on our children; second, the majority of the tax cut benefits should flow to those who need it most, working and middle-income families; and third, tax cuts should enhance the economic and retirement security of average Americans.

Unfortunately, in my view, the Ways and Means tax bill fails to adhere to these principles. I am especially concerned about the bill's shortcoming with regard to retirement security. First, the bill makes the wrong choices when it comes to expanding individual retirement accounts [IRA's]. And second, it targets educators for pension reductions.

Mr. Chairman, I am a strong proponent of expanding IRA's for working and middle-income families and have introduced legislation to do so. Yet, there is a right way to go about IRA expansion and a wrong way. The right way is to create new savers by providing extra tax incentives for low-wage workers and making more middle-income families eligible for IRA tax deductions. Working income Americans have tremendous difficulty saving today amid the press of monthly expenses and it is toward this group that we should direct IRA tax savings.

Unfortunately, the bill before goes about IRA expansion in precisely the wrong way. It establishes so-called backloaded IRA's which almost exclusively benefit the wealthy and which absolutely explode in cost outside the budget window. With backloaded IRA's, wealthy individuals can place substantial amounts of their investment income in an account where earnings and distributions will never be taxed. While the well-to-do can shelter their income in this way, backloaded IRA's do nothing to provide tax relief to the low- and moderate-income families who have such a difficult time saving for retirement. In fact, while taxpayers with incomes in the top 5 percent would save thousands per year with backloaded IRA's, families in the bottom 40 percent would realize no tax savings whatsoever.

Mr. Chairman, if there was one group whose retirement security we should all want to protect it is the dedicated individuals who educate our children. Yet, this bill singles out for pension reductions the educators who work to impart knowledge and values to our young people, the researchers who achieve the scientific and medical breakthroughs so critical to our quality of life, and the office and service workers who help make our universities the pride of the world. These are the people who have been served for 80 years by the Teachers Insurance and Annuity Association-College Retirement Equities Fund [TIAA–CREF].

This tax bill would revoke the longstanding tax-exempt status of TIAA–CREF's pension operations, a change which could reduce the incomes of retired university personnel by as much as 3 to 5 percent. And we're not talking about a group of wealthy professors here. The average TIAA–CREF beneficiary earns less than $12,000 per year in pension income. Mr. Chairman, at a time when we are rightly trying to attract the very best talent to help educate our Nation's children, we should not single out educators and jeopardize their retirement security.

Mr. Chairman, I urge may colleagues to oppose this tax bill. The Senate has taken a more balanced approach and I sincerely hope that the tax bill will come back from the conference in a form that we can all support.

However, this bill represents the wrong tax relief priorities and undermines rather than advances our Nation's retirement security.

Mr. OWENS. Mr. Chairman, I rise in vehement opposition to H.R. 2014, the Budget Reconciliation Tax Act. It is appalling that just 1 month ago, Republicans enjoyed photo opportunities and media blitzes in which they celebrated an historic agreement between the White House and the Republican leadership. Unsurprisingly, the parameters of this agreement have begun to unravel and H.R. 2014 represents the consummate slap in the face to everyone who was told that this agreement was honorable and genuinely beneficial to all of the children, women, and men of America. It must be exposed the H.R. 2014 is a moral and economic sneak attack on people who are not lucky enough to be rich, realize capital gains, utilize a corporate depreciation allowance, work on a job that provides real benefits.

At a time when individuals are bearing a larger share of the Federal tax burden, H.R. 2014 includes changes to U.S. tax policy which would overwhelmingly benefit the corporate wealth. H.R. 2014 would reduce the capital gains tax and modify the estate tax structure. According to the Center on Budget and Policy Priorities, the top 20 percent of the U.S. population would receive 87 percent of the benefits, while the bottom 60 percent of the population would receive a paltry 4 percent of these tax benefits. In fact, the wealthiest 1 percent of the population would enjoy a rise in after-tax income of approximately $27,000. And more than half of the benefits of the Republican tax plan would go to the wealthiest 5 percent—people making an average of $250,000 a year.

Moreover, H.R. 2014 would deny the highly publicized child tax credit to working-class families. Some families would be able to benefit from the $500 per child tax credit. However, those lower income families who receive the earned income tax credit [EITC] and have no Federal tax liability would be declared ineligible for the child credit—15 million families. Under H.R. 2014, the child tax credit could be nonrefundable and reduced by amounts received by families under EITC or the dependent care tax credit—which pays a portion of child care expenses. This means that a family with two children earning $25,000 per year would not receive the child credit. Republicans argue that the credit is not for families who have no Federal tax liability. Unfortunately, this shortsighted argument presents only half the picture: These families still pay payroll taxes, State taxes, and local taxes. As such, they deserve relief.

The Republicans further contend that families already receive a credit [EITC] and should not benefit from another one. This argument is laughable given that the majority is prepared to repeal and scale back the alternative minimum tax [AMT]—a tax that was first levied in 1969 and strengthened in 1986 when it was discovered that corporations took advantage of hundred of billions of dollars' worth of tax breaks and ended up paying no income taxes at all. The scaling back and repeal of AMT is expected to cost U.S. taxpayers an abominable $22 billion over a 10-year period. Because the Tax Code is rife with more than $70 billion in tax breaks, deductions, and credits—corporate welfare—billion-dollar corporations can end up owning $0 in taxes.

In despicable disregard for the nonwealthy American worker, Republicans have included a provision in H.R. 2014 that would expand the definition of independent contractor providing employers wholesale freedom to change the classification of their workers from employees to independent contractors. No one prepared the American people for another assault on the average worker and this provision was definitely not apart of the White House-Republican budget agreement. If a worker is classified as an employee then he or she is protected by a myriad of laws regarding minimum wage, overtime pay, workers' compensation, and health care and retirement benefits packages. However, if a worker is classified as an independent contractor, the employer can deny this worker these very basic protections and benefits. It is estimated that millions of workers would be affected should this provision be enacted into law.

Finally, H.R. 2014 would provide small tax incentives to economically depressed areas in the District of Columbia—a laudable goal at first glance. However, given the overall economic hunger in many U.S. cities, including our Capital City, the crumbs in this bill are grossly inadequate. The bill would designate a number of areas in the District of Columbia as enterprise zones for 5 years—four specific areas and any census tract where the poverty level is at least 35 percent. However, the Democratic substitute bill would expand the number of current empowerment zones from 9 to 29—and the number of enterprise communities from 20 to 100. Empowerment zones receive a combination of tax incentives and Federal grants in order to enhance employment opportunities and encourage community development in blighted areas. In 1994, when the first round of Federal EX's and EC's was completed, out of the 500 applications, only 29 were awarded. There are hundreds of cities in the United States with double-digit unemployment rates and high poverty rates and the Republicans wish to focus only on the District of Columbia—a city where a great deal of media attention is concentrated. We cannot be satisfied by this pittance when the overall need is so dramatic.

The Children's Defense Fund, Public Citizen, National Low-Income Housing Coalition, AFL–CIO, the National Education Association, and two dozen other organizations have circulated a letter to Members of Congress in collective opposition to the regressive tax cuts that are included in H.R. 2014. They state unequivocally,

> We * * * urge you to oppose significant tax cuts for our Nation's wealthiest citizens. * * * The budget accord diverts important resources to tax reductions * * * we hope you will focus on moderate tax cuts for low and middle-income Americans, not tax subsidies for the wealthy that have little economic rationale and blow a hole in the deficit.

I challenge my colleagues to declare the Republican crown jewel null and void. Send it back to the drawing board and bring the American people and this Congress a bill that is fair and genuinely poised to provide the economic relief that is needed by all of our communities and families. A great injustice is taking place. Vote ''no;; on H.R. 2014.

Mr. COSTELLO. Mr. Chairman, I rise today in opposition to the Republican leadership's tax bill. While I have supported a balanced budget amendment since coming to Congress in 1988, this bill mostly provides tax relief for upper income Americans with little relief for middle-income families.

A report issued by the Center on Budget and Policy Priorities shows that under this bill, the very wealthiest 1 percent of families would get their incomes boosted by an average of $27,000 a year, while families struggling at the bottom 20 percent of the economic ladder actually end up losing an average of $63 a year.

I will be supporting the Democratic alternative because it ensures that over 70 percent of the tax cuts go to families earning less than $100,000 per year. The American people want to see our Federal budget balanced. However, lower- and middle-income families need tax incentives themselves as they struggle to make ends meet financially.

The cost of college education for children is of major concern to many lower- and middle-income families. College tuition rates continue to increase at a staggering rate each year. The Democratic bill makes the HOPE scholarship tax credit available for all 4 years of college education, instead of just 2 years under the GOP bill. In the final 2 years, a 20-percent credit for tuition costs would be available. Also, the HOPE scholarship credits would not be reduced by a student's Pell grant and other nontaxable Federal scholarships.

Many middle-income families operate small businesses and farms and need estate and gift tax reform. The Democratic substitute raises the exemption among from paying estate taxes from $600,000 to $1 million effective January 1, 1998, instead of the year 2007 in the Republican version. Many of our family farms and family-owned businesses cannot survive from one generation to the next because of the high taxes our current laws bring about. Family-owned businesses are vital to expand our national economy, and this substitute allows for these businesses and farms to thrive.

Finaly, the Democratic bill targets the capital gains reductions to middle-income American families. Mr. Speaker, I realize that difficult choice have to be made to take on a challenge as large as reducing the Federal debt once and for all by 2002. However, I cannot support legislation which ignores the financial needs of lower- and middle-income families in order to benefit the wealthy.

All time for general debate has expired.

The CHAIRMAN pro tempore. Pursuant to the rule, the amendment numbered 2 in the CONGRESSIONAL RECORD is adopted. The bill, as amended, is considered as an original bill for the purpose of further amendment and is considered as read.

The text of H.R. 2014, as amended, pursuant to House Resolution 174, is as follows:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Taxpayer Relief Act of 1997''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; amendment of 1986 Code.

TITLE I—CHILD TAX CREDIT; TAX INCENTIVES FOR DEPENDENT CARE AND HEALTH CARE FOR CHILDREN
Sec. 101. Child tax credit.
Sec. 102. Inflation adjustment of limits and other modifications of dependent care credit.
TITLE II—EDUCATION INCENTIVES
Subtitle A—Tax Benefits Relating to Education Expenses
Sec. 201. Hope credit for higher education tuition and related expenses.
Sec. 202. Deduction for qualified higher education expenses.
Sec. 203. Penalty-free withdrawals from individual retirement plans for higher education expenses.
Sec. 204. Expenses for education which supplements elementary and secondary education.
Subtitle B—Expanded Education Investment Savings Opportunities
Sec. 211. Eligible educational institutions permitted to maintain qualified tuition programs; other modifications of qualified State tuition programs.
Sec. 212. Education investment accounts.
Subtitle C—Other Education Initiatives
Sec. 221. Extension of exclusion for employer-provided educational assistance.
Sec. 222. Increase in limitation on qualified 501(c)(3) bonds other than hospital bonds.
Sec. 223. Contributions of computer technology and equipment for elementary or secondary school purposes.
Sec. 224. Treatment of cancellation of certain student loans.
TITLE III—SAVINGS AND INVESTMENT INCENTIVES
Subtitle A—Retirement Savings
Sec. 301. Establishment of American Dream IRA.
Subtitle B—Capital Gains
PART I—INDIVIDUAL CAPITAL GAINS
Sec. 311. 20 percent maximum capital gains rate for individuals.
Sec. 312. Indexing of certain assets acquired after December 31, 2000, for purposes of determining gain.
Sec. 313. Exemption from tax for gain on sale of principal residence.
PART II—CORPORATE CAPITAL GAINS
Sec. 321. Reduction of alternative capital gain tax for corporations.
TITLE IV—ALTERNATIVE MINIMUM TAX REFORM
Sec. 401. Adjustment of exemption amounts for taxpayers other than corporations.
Sec. 402. Exemption from alternative minimum tax for small corporations.
Sec. 403. Repeal of adjustment for depreciation.
Sec. 404. Minimum tax not to apply to farmers' installment sales.
TITLE V—ESTATE, GIFT, AND GENERATION-SKIPPING TAX PROVISIONS
Subtitle A—Estate and Gift Tax Provisions
Sec. 501. Cost-of-living adjustments relating to estate and gift tax provisions.
Sec. 502. 20-year installment payment where estate consists largely of interest in closely held business.
Sec. 503. No interest on certain portion of estate tax extended under section 6166, reduced interest on remaining portion, and no deduction for such reduced interest.
Sec. 504. Extension of treatment of certain rents under section 2032A to lineal descendants.
Sec. 505. Clarification of judicial review of eligibility for extension of time for payment of estate tax.
Sec. 506. Gifts may not be revalued for estate tax purposes after expiration of statute of limitations.
Sec. 507. Termination of throwback rules for domestic trusts.
Sec. 508. Unified credit of decedent increased by unified credit of spouse used on split gift included in decedent's gross estate.
Sec. 509. Reformation of defective bequests, etc., to spouse of decedent.
Subtitle B—Generation-Skipping Tax Provisions
Sec. 511. Severing of trusts holding property having an inclusion ratio of greater than zero.
Sec. 512. Expansion of exception from generation-skipping transfer tax for transfers to individuals with deceased parents.
TITLE VI—EXTENSION AND MODIFICATION OF CERTAIN EXPIRING PROVISIONS
Sec. 601. Research tax credit.
Sec. 602. Contributions of stock to private foundations.
Sec. 603. Work opportunity tax credit.
Sec. 604. Orphan drug tax credit.
Sec. 605. Budgetary treatment of expiring preferential excise tax rates which are dedicated to trust funds.
TITLE VII—INCENTIVES FOR REVITALIZATION OF THE DISTRICT OF COLUMBIA
Sec. 701. Tax incentives for revitalization of the District of Columbia.
Sec. 702. Incentives conditioned on other DC reform.
TITLE VIII—WELFARE-TO-WORK INCENTIVES
Sec. 801. Incentives for employing long-term family assistance recipients.
TITLE IX—MISCELLANEOUS PROVISIONS
Subtitle A—Provisions Relating to Excise Taxes
Sec. 901. Repeal of tax on diesel fuel used in recreational boats.
Sec. 902. Continued application of tax on imported recycled Halon-1211.
Sec. 903. Uniform rate of tax on vaccines.
Sec. 904. Operators of multiple gasoline retail outlets treated as wholesale distributor for refund purposes.
Sec. 905. Exemption of electric and other clean-fuel motor vehicles from luxury automobile classification.
Subtitle B—Provisions Relating to Pensions and Fringe Benefits
Sec. 911. Section 401(k) plans for certain irrigation and drainage entities.
Sec. 912. Extension of moratorium on application of certain nondiscrimination rules to State and local governments.
Sec. 913. Treatment of certain disability benefits received by former police officers or firefighters.
Sec. 914. Portability of permissive service credit under governmental pension plans.
Sec. 915. Gratuitous transfers for the benefit of employees.
Sec. 916. Treatment of certain transportation on non-commercially operated aircraft as a fringe benefit excludable from gross income.
Sec. 917. Minimum pension accrued benefit distributable without consent increased to $5,000.
Sec. 918. Clarification of certain rules relating to employee stock ownership plans of S corporations.
Subtitle C—Revisions Relating to Disasters
Sec. 921. Authority to postpone certain tax-related deadlines by reason of presidentially declared disaster.
Sec. 922. Use of certain appraisals to establish amount of disaster loss.
Sec. 923. Treatment of livestock sold on account of weather-related conditions.
Sec. 924. Mortgage financing for residences located in disaster areas.
Subtitle D—Provisions Relating to Employment Taxes
Sec. 931. Clarification of employment tax status of individuals distributing bakery products.
Sec. 932. Clarification of standard to be used in determining employment tax status of retail securities brokers.
Sec. 933. Clarification of exemption from self-employment tax for certain termination payments received by former insurance salesmen.
Sec. 934. Standards for determining whether individuals are not employees.
Subtitle E—Provisions Relating to Small Businesses
Sec. 941. Waiver of penalty through 1998 on small businesses failing to make electronic fund transfers of taxes.
Sec. 942. Clarification of treatment of home office use for administrative and management activities.
Subtitle F—Other Provisions
Sec. 951. Use of estimates of shrinkage for inventory accounting.
Sec. 952. Assignment of workmen's compensation liability eligible for exclusion relating to personal injury liability assignments.
Sec. 953. Tax-exempt status for certain State worker's compensation act companies.
Sec. 954. Election to continue exception from treatment of publicly traded partnerships as corporations.
Sec. 955. Exclusion from unrelated business taxable income for certain sponsorship payments.
Sec. 956. Associations of holders of timeshare interests to be taxed like other homeowners associations.
Sec. 957. Additional advance refunding of certain Virgin Island bonds.
Sec. 958. Nonrecognition of gain on sale of stock to certain farmers' cooperatives.
Sec. 959. Exception from reporting of real estate transactions for sales and exchanges of certain principal residences.
Sec. 960. Increased deductibility of business meal expenses for individuals subject to Federal hours of service.
Sec. 961. Qualified lessee construction allowances for short-term leases.
Sec. 962. Tax treatment of consolidations of life insurance departments of mutual savings banks.
Sec. 963. Offset of past-due, legally enforceable State tax obligations against overpayments.
Sec. 964. Exemption of the incremental cost of a clean fuel vehicle from the limits on depreciation for vehicles.

Sec. 965. Tax benefits for law enforcement officers killed in the line of duty.
Sec. 966. Temporary suspension of taxable income limit on percentage depletion for marginal production.
Subtitle G—Extension of Duty-Free Treatment Under Generalized System of Preferences; Tariff Treatment of Certain Equipment and Repair of Vessels
Sec. 971. Generalized system of preferences.
Sec. 972. Equipment and repair of vessels.
Subtitle H—United States-Caribbean Basin Trade Partnership Act
Sec. 981. Short title.
Sec. 982. Findings and policy.
Sec. 983. Definitions.
Sec. 984. Temporary provisions to provide NAFTA parity to partnership countries.
Sec. 985. Effect of NAFTA on sugar imports from beneficiary countries.
Sec. 986. Duty-free treatment for certain beverages made with Caribbean rum.
Sec. 987. Meetings of trade ministers and USTR.
Sec. 988. Report on economic development and market oriented reforms in the Caribbean.
TITLE X—REVENUES
Subtitle A—Financial Products
Sec. 1001. Constructive sales treatment for appreciated financial positions.
Sec. 1002. Limitation on exception for investment companies under section 351.
Sec. 1003. Modification of rules for allocating interest expense to tax-exempt interest.
Sec. 1004. Gains and losses from certain terminations with respect to property.
Sec. 1005. Determination of original issue discount where pooled debt obligations subject to acceleration.
Sec. 1006. Denial of interest deductions on certain debt instruments.
Subtitle B—Corporate Organizations and Reorganizations
Sec. 1011. Tax treatment of certain extraordinary dividends.
Sec. 1012. Application of section 355 to distributions followed by acquisitions and to intragroup transactions.
Sec. 1013. Tax treatment of redemptions involving related corporations.
Sec. 1014. Modification of holding period applicable to dividends received deduction.
Subtitle C—Other Corporate Provisions
Sec. 1021. Registration and other provisions relating to confidential corporate tax shelters.
Sec. 1022. Certain preferred stock treated as boot.
Subtitle D—Administrative Provisions
Sec. 1031. Reporting of certain payments made to attorneys.
Sec. 1032. Decrease of threshold for reporting payments to corporations performing services for Federal agencies.
Sec. 1033. Disclosure of return information for administration of certain veterans programs.
Sec. 1034. Continuous levy on certain payments.
Sec. 1035. Modification of levy exemption.
Sec. 1036. Confidentiality and disclosure of returns and return information.
Sec. 1037. Returns of beneficiaries of estates and trusts required to file returns consistent with estate or trust return or to notify secretary of inconsistency.
Subtitle E—Excise Tax Provisions
Sec. 1041. Extension and modification of Airport and Airway Trust Fund taxes.
Sec. 1042. Kerosene taxed as diesel fuel.
Sec. 1043. Restoration of Leaking Underground Storage Tank Trust Fund taxes.
Sec. 1044. Application of communications tax to long-distance prepaid telephone cards.
Subtitle F—Provisions Relating to Tax-Exempt Entities
Sec. 1051. Expansion of look-thru rule for interest, annuities, royalties, and rents derived by subsidiaries of tax-exempt organizations.
Sec. 1052. Limitation on increase in basis of property resulting from sale by tax-exempt entity to a related person.
Sec. 1053. Modifications to exception from reporting, etc. of lobbying activities.
Sec. 1054. Termination of certain exceptions from rules relating to exempt organizations which provide commercial-type insurance.
Subtitle G—Other Revenue Provisions
Sec. 1061. Termination of suspense accounts for family corporations required to use accrual method of accounting.
Sec. 1062. Modification of taxable years to which net operating losses may be carried.
Sec. 1063. Expansion of denial of deduction for certain amounts paid in connection with insurance.
Sec. 1064. Allocation of basis among properties distributed by partnership.
Sec. 1065. Repeal of requirement that inventory be substantially appreciated.
Sec. 1066. Extension of time for taxing precontribution gain.
Sec. 1067. Restrictions on availability of earned income credit for taxpayers who improperly claimed credit in prior year.
Sec. 1068. Limitation on property for which income forecast method may be used.
Sec. 1069. Repeal of special rule for rental use of vacation homes, etc., for less than 15 days.
Sec. 1070. Expansion of requirement that involuntarily converted property be replaced with property acquired from an unrelated person.
Sec. 1071. Treatment of exception from installment sales rules for sales of property by a manufacturer to a dealer.
TITLE XI—SIMPLIFICATION AND OTHER FOREIGN-RELATED PROVISIONS
Subtitle A—General Provisions
Sec. 1101. Treatment of computer software as FSC export property.
Sec. 1102. Adjustment of dollar limitation on section 911 exclusion.
Sec. 1103. Certain individuals exempt from foreign tax credit limitation.
Sec. 1104. Exchange rate used in translating foreign taxes.
Sec. 1105. Election to use simplified section 904 limitation for alternative minimum tax.
Sec. 1106. Treatment of personal transactions by individuals under foreign currency rules.
Sec. 1107. All noncontrolled section 902 corporations which are not passive foreign investment companies in one foreign tax limitation basket.
Subtitle B—Treatment of Controlled Foreign Corporations
Sec. 1111. Gain on certain stock sales by controlled foreign corporations treated as dividends.
Sec. 1112. Miscellaneous modifications to subpart F.
Sec. 1113. Indirect foreign tax credit allowed for certain lower tier companies.
Subtitle C—Treatment of Passive Foreign Investment Companies
Sec. 1121. United States shareholders of controlled foreign corporations not subject to PFIC inclusion.
Sec. 1122. Election of mark to market for marketable stock in passive foreign investment company.
Sec. 1123. Effective date.
Subtitle D—Repeal of Excise Tax on Transfers to Foreign Entities
Sec. 1131. Repeal of excise tax on transfers to foreign entities; recognition of gain on certain transfers to foreign trusts and estates.
Subtitle E—Information Reporting
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TITLE I—CHILD TAX CREDIT; MODIFICATION OF DEPENDENT CARE CREDIT

SEC. 101. CHILD TAX CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 23 the following new section:

''SEC. 24. CHILD TAX CREDIT.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $500 multiplied by the number of qualifying children of the taxpayer.

''(b) LIMITATIONS.—

''(1) LIMITATION BASED ON ADJUSTED GROSS INCOME.—For limitation based on adjusted gross income, see section 26(c).

''(2) REDUCTION FOR DEPENDENT CARE CREDIT.—In the case of taxable years beginning after December 31, 1999—

''(A) IN GENERAL.—The credit allowed by subsection (a) for the taxable year (determined after paragraph (1) but before paragraph (3)) shall be reduced by the amount equal to 50 percent of the credit allowed under section 21 for such taxable year (determined after section 26(c)).

''(B) EXCEPTION BASED ON ADJUSTED GROSS INCOME.—

''(i) IN GENERAL.—Subparagraph (A) shall not apply to a taxpayer whose modified adjusted gross income for the taxable year does not exceed the threshold amount.

''(ii) PHASEIN OF REDUCTION.—If the modified adjusted gross income of the taxpayer for the taxable year exceeds the threshold amount by less than $5,000, the amount of the reduction under subparagraph (A) shall be an amount which bears the same ratio to the amount of such reduction (determined without regard to this clause) as the excess of the taxpayer's modified adjusted gross income over the threshold amount bears to $5,000. In the case of a joint return, the preceding sentence shall be applied by substituting '$10,000' for '$5,000' each place it appears.

''(iii) THRESHOLD AMOUNT.—For purposes of this subparagraph, the term 'threshold amount' means—

''(I) $60,000 in the case of a joint return,

''(II) $33,000 in the case of an individual who is not married, and

''(III) $25,000 in the case of a married individual filing a separate return.

For purposes of this clause, marital status shall be determined under section 7703.

''(iv) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subparagraph, the term 'modified adjusted gross income' has the meaning given such term by section 26(c).''.

''(C) NO REDUCTION FOR DEPENDENT CARE OF INDIVIDUALS INCAPABLE OF SELF-CARE.—Subparagraph (A) shall not apply to so much of the credit which would have been allowed under section 21 (determined without regard to section 26(c)) if only qualifying individuals described in subparagraph (B) or (C) of section 21(b)(1) were taken into account.

''(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed by subsection (a) (determined after paragraphs (1) and (2)) shall not exceed the excess (if any) of—

''(A) the taxpayer's regular tax liability for the taxable year reduced by the credits allowable against such tax under this subpart (other than this section), over

''(B) the sum of—

''(i) the taxpayer's tentative minimum tax for such taxable year (determined without regard to the alternative minimum tax foreign tax credit), plus

''(ii) the credit allowed for the taxable year under section 32.

''(c) QUALIFYING CHILD.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying child' means any individual if—

''(A) the taxpayer is allowed a deduction under section 151 with respect to such individual for the taxable year,

''(B) such individual has not attained the age of 17 as of the close of the calendar year in which the taxable year of the taxpayer begins, and

''(C) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B).

''(2) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

''(d) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.

''(e) PHASEIN OF CREDIT.—In the case of taxable years beginning in 1998, subsection (a) shall be applied by substituting '$400' for '$500'.''.

(b) HIGH RISK POOLS PERMITTED TO COVER DEPENDENTS OF HIGH RISK INDIVIDUALS.—Paragraph (26) of section 501(c) is amended by adding at the end the following flush sentence:

''A qualifying child (as defined in section 24(c)) of an individual described in subparagraph (B) (without regard to this sentence) shall be treated as described in subparagraph (B).''.

(c) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 26 is amended by inserting ''(other than the credit allowed by section 24)'' after ''credits allowed by this subpart''.

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 23 the following new item:

''Sec. 24. Child tax credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

(e) NOTICE OF CREDIT.—The Secretary of the Treasury or his delegate shall include in any booklet of instructions for Form 1040, 1040A, or 1040EZ prepared by such Secretary for filing individual income tax returns for taxable years beginning in 1998 a notice which states only the following: ''The Taxpayer Relief Act of 1997 which was recently passed by the Congress has fulfilled its promise to provide tax relief to American families. The Act's child tax credit allows American families to reduce their taxes by $400 per child for 1998 and $500 per child after 1998. You may wish to check with your employer about changing your tax withholding.''.

(f) ADJUSTMENTS TO WITHHOLDING.—

(1) IN GENERAL.—The Secretary of the Treasury or his delegate shall modify the tables and procedures under section 3402 of the Internal Revenue Code of 1986 such that every employer making payment of wages during calendar year 1998 to any specified employee—

(A) shall reduce the amount deducted and withheld as tax under chapter 24 of such Code for any payroll or other period during such year to reflect such period's proportionate share of the child care credit amount, and

(B) shall, before implementing such reduction, provide reasonable notice to such employees that such a reduction will apply to each specified employee who does not provide the employer with the notice referred to in paragraph (5).

(2) SPECIFIED EMPLOYEE.—For purposes of this subsection, the term ''specified employee'' means any employee—

(A) whose wages from the employer on an annualized basis are reasonably expected to be at least $30,000 but not more than $100,000, and

(B) who claims more than the base number of withholding exemptions on the withholding exemption certificate furnished to the employer.

For purposes of the preceding sentence, the term ''base number'' means 1 withholding exemption if the certificate reflects withholding for an unmarried individual and 2 withholding exemptions if the certificate reflects withholding for a married individual.

(3) CHILD CARE CREDIT AMOUNT.—For purposes of this subsection, the term ''child care credit amount'' means the lesser of $800 or the amount equal to the product of—

(A) $400, and

(B) the number of withholding exemptions claimed by the employee on the withholding exemption certificate furnished to the employer to the extent such number exceeds the base number (as defined in paragraph (2)) of such exemptions.

(4) PROPORTIONATE SHARE.—For purposes of this subsection, except as provided by the Secretary of the Treasury or his delegate, a period's proportionate share of the child care credit amount is the amount which bears the same ratio to the child care credit amount as the number of days in such period bears to 365.

(5) NOTICE TO HAVE SUBSECTION NOT APPLY TO EMPLOYEE.—This subsection shall not apply to any employee who provides written notice (in such form as the Secretary shall prescribe) to the employer of such employee's decision not to have this subsection apply to such employee.

(6) DEFINITIONS.—Terms used in this subsection which are also used in chapter 24 of the Internal Revenue Code of 1986 shall have the respective meanings given such terms by such chapter.

SEC. 102. INFLATION ADJUSTMENT OF LIMITS AND OTHER MODIFICATIONS OF DEPENDENT CARE CREDIT.

(a) INFLATION ADJUSTMENT.—

(1) IN GENERAL.—Subsection (c) of section 21 (relating to expenses for household and dependent care services necessary for gainful employment) is amended to read as follows:

''(c) DOLLAR LIMIT ON AMOUNT CREDITABLE.—

''(1) IN GENERAL.—The amount of the employment-related expenses incurred during any taxable year which may be taken into account under subsection (a) shall not exceed—

''(A) $2,400 if there is 1 qualifying individual with respect to the taxpayer for such taxable year, or

''(B) $4,800 if there are 2 or more qualifying individuals with respect to the taxpayer for such taxable year.

The amount determined under subparagraph (A) or (B) (whichever is applicable) shall be reduced by the aggregate amount excludable from gross income under section 129 for the taxable year.

''(2) INFLATION ADJUSTMENT.—In the case of taxable years beginning in a calendar year after 1997, each of the dollar amounts contained in paragraph (1) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1996' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.''.

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 21(d) is amended by striking ''(c)(1)'' and inserting ''(c)(1)(A)'' and by striking ''(c)(2)'' and inserting ''(c)(1)(B)''.

(b) REDUCTION OF BENEFIT BASED ON ADJUSTED GROSS INCOME.—

(1) IN GENERAL.—Section 26 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) REDUCTION OF DEPENDENT CARE CREDIT AND CHILD CREDIT BASED ON ADJUSTED GROSS INCOME.—

''(1) IN GENERAL.—The aggregate amount which would (but for subsection (a), this subsection, and paragraphs (2) and (3) of section 24(b)) be allowed under sections 21 and 24 shall be reduced (but not below zero) by $25 for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds the threshold amount. For purposes of the preceding sentence, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

''(2) THRESHOLD AMOUNT.—For purposes of paragraph (1), the term 'threshold amount' means—

''(A) $110,000 in the case of a joint return,

''(B) $75,000 in the case of an individual who is not married, and

''(C) $55,000 in the case of a married individual filing a separate return.

For purposes of this paragraph, marital status shall be determined under section 7703.

''(3) REMAINING CREDIT TREATED AS ATTRIBUTABLE TO DEPENDENT CARE TAX CREDIT.—The aggregate amount allowable under sections 21 and 24 after the application of paragraph (1) shall be treated as allowable solely under section 21 to the extent such amount does not exceed the amount allowable under section 21 (determined without regard to section 21(a)(3)).''.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (a) of section 21 is amended by adding at the end the following new paragraph:

''(3) LIMITATION BASED ON ADJUSTED GROSS INCOME.—

''For limitation based on adjusted gross income, see section 26(c).''.

(B) The section heading for section 26 is amended by inserting before the period ''; phaseout of certain credits based on income''.

(C) The item relating to section 26 in the table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting before the period ''; phaseout of certain credits based on income''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

TITLE II—EDUCATION INCENTIVES

Subtitle A—Tax Benefits Relating to Education Expenses

SEC. 201. HOPE CREDIT FOR HIGHER EDUCATION TUITION AND RELATED EXPENSES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25 the following new section:

''SEC. 25A. HIGHER EDUCATION TUITION AND RELATED EXPENSES.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the amount equal to 50 percent of qualified tuition and related expenses paid by the taxpayer during such taxable year for education furnished during any academic period beginning in such year.

''(b) LIMITATIONS.—

''(1) DOLLAR LIMITATION.—The amount allowed as a credit under subsection (a) for any taxable year with respect to the qualified tuition and related expenses of any 1 individual shall not exceed $1,500.

''(2) CREDIT ALLOWED ONLY FOR 2 TAXABLE YEARS.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified tuition and related expenses of an individual unless the taxpayer elects to have this section apply with respect to such individual for such year. An election under this paragraph shall not take effect with respect to an individual for any taxable year if an election under this paragraph (by the taxpayer or any other individual) is in effect with respect to such individual for any 2 prior taxable years.

''(3) CREDIT ALLOWED FOR YEAR ONLY IF INDIVIDUAL IS AT LEAST ½ TIME STUDENT FOR PORTION OF YEAR.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified tuition and related expenses of an individual unless such individual is an eligible student for at least one academic period which begins during such year.

''(4) CREDIT ALLOWED ONLY FOR FIRST TWO YEARS OF POSTSECONDARY EDUCATION.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified tuition and related expenses of an individual if the individual has completed (before the beginning of such taxable year) the first 2 years of postsecondary education at an eligible educational institution.

''(c) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(1) IN GENERAL.—The amount which would (but for this subsection) be taken into account under subsection (a) for the taxable year shall be reduced (but not below zero) by the amount determined under paragraph (2).

''(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph is the amount which bears the same ratio to the amount which would be so taken into account as—

''(A) the excess of—

''(i) the taxpayer's modified adjusted gross income for such taxable year, over

''(ii) $40,000 ($80,000 in the case of a joint return), bears to

''(B) $10,000 ($20,000 in the case of a joint return).

''(3) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED TUITION AND RELATED EXPENSES.—

''(A) IN GENERAL.—The term 'qualified tuition and related expenses' means tuition and fees required for the enrollment or attendance of—

''(i) the taxpayer,

''(ii) the taxpayer's spouse, or

''(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151,

at an eligible educational institution and books required for courses of instruction of such individual at such institution.

''(B) EXCEPTION FOR EDUCATION INVOLVING SPORTS, ETC.—Such term does not include expenses with respect to any course or other education involving sports, games, or hobbies, unless such course or other education is part of the individual's degree program.

''(C) EXCEPTION FOR NONACADEMIC FEES.—Such term does not include student activity fees, athletic fees, insurance expenses, or other expenses unrelated to an individual's academic course of instruction.

''(2) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means an institution—

''(A) which is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section, and

''(B) which is eligible to participate in a program under title IV of such Act.

''(3) ELIGIBLE STUDENT.—The term 'eligible student' means, with respect to any academic period, a student who—

''(A) meets the requirements of section 484(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1)), as in effect on the date of the enactment of this section, and

''(B) is carrying at least ½ the normal full-time work load for the course of study the student is pursuing.

''(4) OTHER TERMS RELATING TO THE HIGHER EDUCATION ACT.—The following terms shall have the meanings prescribed in regulations under section 481(g) of the Higher Education Act of 1965 (20 U.S.C. 1088(g)), as added by the Student Financial Aid Improvements Act of 1997:

''(A) Academic period.

''(B) Normal full-time workload.

''(C) First two years of postsecondary education.

''(e) TREATMENT OF EXPENSES PAID BY DEPENDENT.—If a deduction under section 151 with respect to an individual is allowed to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins—

''(1) no credit shall be allowed under subsection (a) to such individual for such individual's taxable year, and

''(2) qualified tuition and related expenses paid by such individual during such individual's taxable year shall be treated for purposes of this section as paid by such other taxpayer.

''(f) TREATMENT OF CERTAIN PREPAYMENTS.—If qualified tuition and related expenses are paid by the taxpayer during a taxable year for an academic period which begins during the first 3 months following such taxable year, such academic period shall be treated for purposes of this section as beginning during such taxable year.

''(g) SPECIAL RULES.—

''(1) IDENTIFICATION REQUIREMENT.—No credit shall be allowed under subsection (a)

to a taxpayer with respect to the qualified tuition and related expenses of an individual unless the taxpayer includes the name and taxpayer identification number of such individual on the return of tax for the taxable year.

''(2) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS, ETC.—The amount of qualified tuition and related expenses otherwise taken into account under subsection (a) with respect to an individual for an academic period shall be reduced (before the application of subsections (b) and (c)) by the sum of any amounts paid for the benefit of such individual which are allocable to such period as—

''(A) a qualified scholarship which is excludable from gross income under section 117,

''(B) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or under chapter 1606 of title 10, United States Code, and

''(C) a payment (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for such individual's educational expenses, or attributable to such individual's enrollment at an eligible educational institution, which is excludable from gross income under any law of the United States.

''(3) DENIAL OF CREDIT IF STUDENT CONVICTED OF A FELONY DRUG OFFENSE.—No credit shall be allowed under subsection (a) for qualified tuition and related expenses for the enrollment or attendance of a student for any academic period if such student has been convicted of a Federal or State felony offense consisting of the possession or distribution of a controlled substance before the end of the taxable year with or within which such period ends.

''(4) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any expense for which a deduction is allowed under any other provision of this chapter.

''(5) NO CREDIT FOR MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

''(6) NONRESIDENT ALIENS.—If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

''(h) INFLATION ADJUSTMENTS.—

''(1) DOLLAR LIMITATION ON AMOUNT OF CREDIT.—

''(A) IN GENERAL.—In the case of a taxable year beginning after 1998, the $1,500 amount in subsection (b)(1) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

''(2) INCOME LIMITS.—

''(A) IN GENERAL.—In the case of a taxable year beginning after 2000, the $40,000 and $80,000 amounts in subsection (c)(2) shall each be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $5,000, such amount shall be rounded to the next lowest multiple of $5,000.

''(i) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations providing for a recapture of credit allowed under this section in cases where there is a refund in a subsequent taxable year of any amount which was taken into account in determining the amount of such credit.''.

(b) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Paragraph (2) of section 6213(g) (relating to the definition of mathematical or clerical errors) is amended by striking ''and'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', and'', and by inserting after subparagraph (H) the following new subparagraph:

''(I) an omission of a correct TIN required under section 25A(g)(1) (relating to higher education tuition and related expenses) to be included on a return.''.

(c) RETURNS RELATING TO TUITION AND RELATED EXPENSES.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6050R the following new section:

''SEC. 6050S. RETURNS RELATING TO HIGHER EDUCATION TUITION AND RELATED EXPENSES.

''(a) IN GENERAL.—Any person—

''(1) which is an eligible educational institution which receives payments for qualified tuition and related expenses with respect to any individual for any calendar year, or

''(2) which is engaged in a trade or business and which, in the course of such trade or business, makes payments during any calendar year to any individual which constitute reimbursements or refunds (or similar amounts) of qualified tuition and related expenses of such individual,

shall make the return described in subsection (b) with respect to the individual at such time as the Secretary may by regulations prescribe.

''(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

''(1) is in such form as the Secretary may prescribe,

''(2) contains—

''(A) the name, address, and TIN of the individual with respect to whom payments described in subsection (a) were received from (or were paid to),

''(B) the name, address, and TIN of any individual certified by the individual described in subparagraph (A) as the taxpayer who will claim the individual as a dependent for purposes of the deduction allowable under section 151 for any taxable year ending with or within the calendar year, and

''(C) the—

''(i) aggregate amount of payments for qualified tuition and related expenses received with respect to the individual described in subparagraph (A) during the calendar year, and

''(ii) aggregate amount of reimbursements or refunds (or similar amounts) paid to such individual during the calendar year, and

''(D) such other information as the Secretary may prescribe.

''(c) APPLICATION TO GOVERNMENTAL UNITS.—For purposes of this section—

''(1) a governmental unit or any agency or instrumentality thereof shall be treated as a person, and

''(2) any return required under subsection (a) by such governmental entity shall be made by the officer or employee appropriately designated for the purpose of making such return.

''(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return under subparagraph (A) or (B) of subsection (b)(2) a written statement showing—

''(1) the name, address, and phone number of the information contact of the person required to make such return, and

''(2) the aggregate amounts described in subsection (b)(2)(C).

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

''(e) DEFINITIONS.—For purposes of this section, the terms 'eligible educational institution' and 'qualified tuition and related expenses' have the meanings given such terms by section 25A.

''(f) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section. No penalties shall be imposed under section 6724 with respect to any return or statement required under this section until such time as such regulations are issued.''.

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) (relating to definitions) is amended by redesignating clauses (ix) through (xiv) as clauses (x) through (xv), respectively, and by inserting after clause (viii) the following new clause:

''(ix) section 6050S (relating to returns relating to payments for qualified tuition and related expenses),''.

(B) Paragraph (2) of section 6724(d) is amended by striking ''or'' at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph and inserting '', or'', and by adding at the end the following new subparagraph:

''(Z) section 6050S(d) (relating to returns relating to qualified tuition and related expenses).''.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050R the following new item:

''Sec. 6050S. Returns relating to higher education tuition and related expenses.''.

(d) COORDINATION WITH SECTION 135.—Subsection (d) of section 135 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) COORDINATION WITH HIGHER EDUCATION CREDIT.—The amount of the qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced (before the application of subsection (b)) by the amount of such expenses which are taken into account in determining the credit allowable to the taxpayer or any other person under section 25A with respect to such expenses.''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25 the following new item:

''Sec. 25A. Higher education tuition and related expenses.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid after December 31, 1997 (in taxable years ending after such date), for education furnished in academic periods beginning after such date.

SEC. 202. DEDUCTION FOR QUALIFIED HIGHER EDUCATION EXPENSES.

(a) DEDUCTION ALLOWED.— Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

''SEC. 221. QUALIFIED HIGHER EDUCATION EXPENSES.

''(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction the amount of qualified higher education expenses paid by the taxpayer during the taxable year for education furnished during any academic period (within the meaning of section 25A) beginning in such year.

''(b) LIMITATIONS.—

''(1) ANNUAL LIMIT.—The amount allowed as a deduction under subsection (a) for any taxable year with respect to expenses paid for education furnished to any 1 individual shall not exceed the lesser of—

''(A) $10,000, or

''(B) the amount includible in the taxpayer's gross income for such taxable year by reason of a distribution from a qualified tuition program (as defined in section 529), or an education investment account (as defined in section 530), the beneficiary of which is such individual.

''(2) AGGREGATE LIMIT.—The amount allowed as a deduction under subsection (a) to the taxpayer or any other individual with respect to expenses paid for education furnished to any 1 individual shall not exceed $40,000 for all taxable years.

''(3) DEDUCTION ALLOWED FOR YEAR ONLY IF INDIVIDUAL IS AT LEAST ½ TIME STUDENT FOR PORTION OF YEAR.—No deduction shall be allowed under subsection (a) for a taxable year with respect to the qualified higher education expenses of an individual unless such individual is an eligible student (as defined in section 25A(d)(3)) for at least one academic period which begins during such year.

''(4) DEDUCTION ALLOWED ONLY FOR FIRST 4 YEARS OF POSTSECONDARY EDUCATION.—No deduction shall be allowed under subsection (a) for a taxable year with respect to the qualified higher education expenses of an individual if the individual has completed (before the beginning of such taxable year) the equivalent of the first 4 years of postsecondary education at an eligible educational institution (determined under the rules of section 25A).

''(5) COORDINATION WITH CREDIT FOR HIGHER EDUCATION EXPENSES.—No deduction shall be allowed under this section for a taxable year with respect to the qualified higher education expenses of an individual if an election is in effect under section 25A with respect to such individual for such taxable year.

''(c) QUALIFIED HIGHER EDUCATION EXPENSES.—The term 'qualified higher education expenses' means qualified higher education expenses (as defined in section 529) for the education of—

''(1) the taxpayer,

''(2) the taxpayer's spouse, or

''(3) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151,

at an eligible educational institution (as defined in section 529(e)(5)).

''(d) TREATMENT OF EXPENSES PAID BY DEPENDENT.—If a deduction under section 151 with respect to an individual is allowed to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins—

''(1) no deduction shall be allowed under subsection (a) to such individual for such individual's taxable year, and

''(2) qualified higher education expenses paid by such individual during such individual's taxable year shall be treated for purposes of this section as paid by such other taxpayer.

''(e) COORDINATION WITH AMOUNTS INCLUDIBLE IN GROSS INCOME UNDER SECTION 529 OR 530.—If any deduction is allowed under subsection (a) with respect to the qualified higher education expenses of an individual with respect to whom the taxpayer is allowed a deduction under section 151(c), any amount which would (but for this subsection) be includible in such individual's gross income by reason of section 529 or section 530 shall be includible in the gross income of the taxpayer and not such individual.

''(f) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS, ETC.—The amount of qualified higher education expenses otherwise taken into account under subsection (a) with respect to an individual for an academic period shall be reduced (before the application of subsection (b)) by the sum of—

''(1) the aggregate amount of the reductions under section 25A(g)(2) for the benefit of such individual for such period, and

''(2) the amount excludable from gross income under section 135 by reason of such expenses with respect to such individual which are allocable to such period.

''(g) DENIAL OF DEDUCTION IF STUDENT CONVICTED OF A FELONY DRUG OFFENSE.—No deduction shall be allowed under subsection (a) for qualified higher education expenses for the enrollment or attendance of a student for any academic period if such student has been convicted of a Federal or State felony offense consisting of the possession or distribution of a controlled substance before the end of the taxable year with or within which such period ends.

''(h) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under subsection (a) for any expense for which a deduction is allowed to the taxpayer under any other provision of this chapter.''.

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.—

(1) IN GENERAL.—Subsection (b) of section 63 is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) the deduction allowed by section 221 (relating to deduction for qualified higher education expenses).''.

(2) CONFORMING AMENDMENT.—Subsection (d) of section 63 is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) the deduction allowed by section 221 (relating to deduction for qualified higher education expenses).''.

(c) PHASEOUT OF EXCLUSION FOR QUALIFIED TUITION REDUCTIONS.—Subsection (d) of section 117 is amended by redesignating the last paragraph as paragraph (4) and by adding at the end the following new paragraph:

''(5) PHASEOUT OF EXCLUSION.—

''(A) TERMINATION.—Paragraph (1) shall not apply to any qualified tuition reduction for any course of instruction beginning after December 31, 2001.

''(B) PHASEOUT.—The amount excludable from gross income under paragraph (1) for any course of instruction beginning in a calendar year after 1997 and before 2002 shall not exceed the applicable percentage (determined in accordance with the following table) for such calendar year of the amount which would be so excludable but for this subparagraph:

In the case of calendar year:	The applicable percentage is:
1998	80
1999	60
2000	40
2001	20.''.

(d) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 529(e)(3) is amended by inserting ''(except as provided in section 221(e))'' after ''distributee''.

(2) The table of sections for part VII of subchapter B of chapter 1 is amended by striking the item relating to section 221 and inserting:

''Sec. 221. Qualified higher education expenses.

''Sec. 222. Cross reference.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid after December 31, 1997 (in taxable years ending after such date), for education furnished in academic periods beginning after such date.

SEC. 203. PENALTY-FREE WITHDRAWALS FROM INDIVIDUAL RETIREMENT PLANS FOR HIGHER EDUCATION EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new subparagraph:

''(E) DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR HIGHER EDUCATION EXPENSES.—Distributions to an individual from an individual retirement plan to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (7)) of the taxpayer for the taxable year. Distributions shall not be taken into account under the preceding sentence if such distributions are described in subparagraph (A), (C), or (D) or to the extent paragraph (1) does not apply to such distributions by reason of subparagraph (B).''.

(b) DEFINITION.—Section 72(t) is amended by adding at the end the following new paragraph:

''(7) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(E)—

''(A) IN GENERAL.—The term 'qualified higher education expenses' means qualified higher education expenses (as defined in section 529(e)(3) without regard to subparagraph (C) thereof) for education furnished to—

''(i) the taxpayer,

''(ii) the taxpayer's spouse, or

''(iii) any child (as defined in section 151(c)(3)) or grandchild of the taxpayer or the taxpayer's spouse,

at an eligible educational institution (as defined in section 529(e)(5)).

''(B) COORDINATION WITH OTHER BENEFITS.—The amount of qualified higher education expenses for any taxable year shall be reduced as provided in section 25A(g)(2).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1997, with respect to expenses paid after such date (in taxable years ending after such date), for education furnished in academic periods beginning after such date.

SEC. 204. EXPENSES FOR EDUCATION WHICH SUPPLEMENTS ELEMENTARY AND SECONDARY EDUCATION.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25A, as added by this title, the following new section:

"SEC. 25B. EXPENSES FOR EDUCATION WHICH SUPPLEMENTS ELEMENTARY AND SECONDARY EDUCATION.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the qualifying educational assistance expenses paid by the taxpayer during the taxable year.

''(b) LIMITATIONS.—

''(1) DOLLAR LIMITATION.—The amount allowed as a credit under subsection (a) for any taxable year with respect to the qualified educational assistance expenses of any 1 individual shall not exceed $150.

''(2) REDUCTION OF CREDIT BASED ON ADJUSTED GROSS INCOME.—

''(A) IN GENERAL.—The aggregate amount which would (but for this paragraph) be allowed by this section shall be reduced (but not below zero) by $25 for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds the threshold amount. For purposes of the preceding sentence, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

''(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the term 'threshold amount' means—

''(i) $80,000 in the case of a joint return,

''(ii) $50,000 in the case of an individual who is not married, and

''(iii) $40,000 in the case of a married individual filing a separate return.

For purposes of this subparagraph, marital status shall be determined under section 7703.

''(c) QUALIFIED EDUCATIONAL ASSISTANCE EXPENSES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified educational assistance expenses' means amounts paid to a qualified entity to provide supplementary education to any dependent (within the meaning of section 152) of the taxpayer—

''(A) who is less than 18 years of age as of the close of the taxable year, and

''(B) who is enrolled as a full-time student in an elementary or secondary school.

''(2) SUPPLEMENTARY EDUCATION.—For purposes of paragraph (1), supplementary education is education provided with respect to reading, mathematics, or any subject that the dependent student is studying at the time in elementary or secondary school classes. Eligible courses of study shall not include courses providing assistance with respect to preparation for college entrance examinations.

''(3) QUALIFIED ENTITY.—The term 'qualified entity' means a person that is accredited as a supplementary education service provider by an accreditation organization that is recognized by the Secretary of Education or by any other agency, association, or group that is certified by the Secretary for purposes of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25A the following new item:

''Sec. 25B. Expenses for education which supplements elementary and secondary education.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

Subtitle B—Expanded Education Investment Savings Opportunities

SEC. 211. ELIGIBLE EDUCATIONAL INSTITUTIONS PERMITTED TO MAINTAIN QUALIFIED TUITION PROGRAMS; OTHER MODIFICATIONS OF QUALIFIED STATE TUITION PROGRAMS.

(a) ELIGIBLE EDUCATIONAL INSTITUTIONS PERMITTED TO MAINTAIN QUALIFIED TUITION PROGRAMS.—Paragraph (1) of section 529(b) (defining qualified State tuition program) is amended by inserting ''or by one or more eligible educational institutions'' after ''maintained by a State or agency or instrumentality thereof''.

(b) QUALIFIED HIGHER EDUCATION EXPENSES TO INCLUDE ROOM AND BOARD.—Paragraph (3) of section 529(e) (defining qualified higher education expenses) is amended to read as follows:

''(3) QUALIFIED HIGHER EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of a designated beneficiary at an eligible education institution.

''(B) ROOM AND BOARD INCLUDED FOR STUDENTS WHO ARE AT LEAST HALF-TIME.—In the case of an individual who is an eligible student (as defined in section 25A(d)(3)) for any academic period, such term shall also include reasonable costs for such period (as determined under the qualified tuition program) incurred by the designated beneficiary for room and board while attending such institution. The amount treated as qualified higher education expenses by reason of the preceding sentence shall not exceed the minimum amount (applicable to the student) included for room and board for such period in the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, 20 U.S.C. 1087ll, as in effect on the date of the enactment of this paragraph) for the eligible educational institution for such period.

''(C) EXCLUSION FOR GRADUATE LEVEL COURSES.—Such term shall not include expenses for 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. Such courses shall not be taken into account in determining whether an individual is described in subsection (f)(3)(A).''.

(c) ADDITIONAL MODIFICATIONS.—

(1) MEMBER OF FAMILY.—Paragraph (2) of section 529(e) (relating to other definitions and special rules) is amended to read as follows:

''(2) MEMBER OF FAMILY.—The term 'member of the family' means—

''(A) an individual who bears a relationship to another individual which is a relationship described in paragraphs (1) through (8) of section 152(a), and

''(B) the spouse of any individual described in subparagraph (A).''.

(2) ELIGIBLE EDUCATIONAL INSTITUTION.—Section 529(e) is amended by adding at the end the following:

''(5) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means an institution—

''(A) which is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this paragraph, and

''(B) which is eligible to participate in a program under title IV of such Act.''.

(3) NO CONTRIBUTIONS AFTER BENEFICIARY ATTAINS AGE 18; DISTRIBUTIONS REQUIRED IN CERTAIN CASES.—Subsection (b) of section 529 (as amended by subsection (f) of this section) is amended by adding at the end the following new paragraph:

''(7) RESTRICTIONS RELATING TO AGE OF BENEFICIARY; COMPLETION OF EDUCATION.—

''(A) IN GENERAL.—A program shall be treated as a qualified tuition program only if—

''(i) no contribution is accepted on behalf of a designated beneficiary after the date on which such beneficiary attains age 18, and

''(ii) any balance to the credit of a designated beneficiary (if any) on the account termination date shall be distributed within 30 days after such date to such beneficiary (or in the case of death, the estate of the beneficiary).

''(B) ACCOUNT TERMINATION DATE.—For purposes of subparagraph (A), the term 'account termination date' means whichever of the following dates is the earliest:

''(i) The date on which the designated beneficiary completes the equivalent of 4 years of post-secondary education (whether or not at the same eligible educational institution).

''(ii) The date on which the designated beneficiary attains age 30.

''(iii) The date on which the designated beneficiary dies.''.

(4) ESTATE AND GIFT TAX TREATMENT.—

(A) GIFT TAX TREATMENT.—

(i) Paragraph (2) of section 529(c) is amended to read as follows:

''(2) GIFT TAX TREATMENT OF CONTRIBUTIONS.—For purposes of chapters 12 and 13, any contribution to a qualified tuition program on behalf of any designated beneficiary—

''(A) shall be treated as a completed gift to such beneficiary which is not a future interest in property, and

''(B) shall not be treated as a qualified transfer under section 2503(e).''.

(ii) Paragraph (5) of section 529(c) is amended to read as follows:

''(5) OTHER GIFT TAX RULES.—For purposes of chapters 12 and 13—

''(A) TREATMENT OF DISTRIBUTIONS.—In no event shall a distribution from a qualified tuition program be treated as a taxable gift.

''(B) TREATMENT OF DESIGNATION OF NEW BENEFICIARY.—The taxes imposed by chapters 12 and 13 shall apply to a transfer by reason of a change in the designated beneficiary under the program (or a rollover to the account of a new beneficiary) only if the new beneficiary is a generation below the generation of the old beneficiary (determined in accordance with section 2651).''.

(B) ESTATE TAX TREATMENT.—Paragraph (4) of section 529(c) is amended to read as follows:

''(4) ESTATE TAX TREATMENT.—

''(A) IN GENERAL.—No amount shall be includible in the gross estate of any individual for purposes of chapter 11 by reason of an interest in a qualified tuition program.

''(B) AMOUNTS INCLUDIBLE IN ESTATE OF DESIGNATED BENEFICIARY IN CERTAIN CASES.—Subparagraph (A) shall not apply to amounts distributed on account of the death of a beneficiary.''.

(5) LIMITATION ON CONTRIBUTIONS TO QUALIFIED TUITION PROGRAMS NOT MAINTAINED BY A STATE.—Subsection (b) of section 529 is amended by adding at the end the following new paragraph:

''(9) LIMITATION ON CONTRIBUTIONS TO QUALIFIED TUITION PROGRAMS NOT MAINTAINED BY A STATE.—In the case of a program not maintained by a State or agency or instrumentality thereof, such program shall not be treated as a qualified tuition program unless it limits the annual contribution to the program on behalf of a designated beneficiary to an amount equal to the lesser of—

''(A) $5,000, or

''(B) the excess of—

''(i) $50,000, over

''(ii) the aggregate amount contributed to such program on behalf of such beneficiary for all prior taxable years.''.

(d) ADDITIONAL TAX ON AMOUNTS NOT USED FOR HIGHER EDUCATION EXPENSES.—Section 529 is amended by adding at the end the following new subsection:

''(f) IMPOSITION OF ADDITIONAL TAX.—

''(1) IN GENERAL.—The tax imposed by this chapter for any taxable year on any taxpayer who receives a payment or distribution from a qualified tuition program which is includible in gross income shall be increased by 10 percent of the amount which is so includible.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply if the payment or distribution is—

''(A) used for qualified higher education expenses of the designated beneficiary,

''(B) made to a beneficiary (or to the estate of the designated beneficiary) on or after the death of the designated beneficiary,

''(C) attributable to the designated beneficiary's being disabled (within the meaning of section 72(m)(7)), or

''(D) made on account of a scholarship, allowance, or payment described in subparagraph (A), (B), or (C) of section 135(d)(1) received by the account holder to the extent the amount of the payment or distribution does not exceed the amount of the scholarship, allowance, or payment.

''(3) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—In the case of a qualified tuition program not maintained by a State or any agency or instrumentality thereof, paragraph (1) shall not apply to the distribution to a contributor of any contribution made during a taxable year on behalf of a designated beneficiary to the extent that such contribution exceeds the limitation in section 4973(e) if—

''(A) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such contributor's return for such taxable year, and

''(B) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (B) shall be included in the gross income of the contributor for the taxable year in which such excess contribution was made.''.

(e) COORDINATION WITH EDUCATION SAVINGS BOND.—Section 135(c)(2) (defining qualified higher education expenses) is amended by adding at the end the following:

''(C) CONTRIBUTIONS TO QUALIFIED TUITION PROGRAM.—Such term shall include any contribution to a qualified tuition program (as defined in section 529) on behalf of a designated beneficiary (as defined in such section) who is an individual described in subparagraph (A); but there shall be no increase in the investment in the contract for purposes of applying section 72 by reason of the portion of such contribution which is not includible in gross income by reason of this subparagraph.''.

(f) TAX ON EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Subsection (a) of section 4973 is amended by striking ''or'' at the end of paragraph (2) and by inserting after paragraph (3) the following new paragraphs:

''(4) a qualified tuition program (as defined in section 529) not maintained by a State or any agency or instrumentality thereof, or

''(5) an education investment account (as defined in section 530),''.

(2) EXCESS CONTRIBUTIONS DEFINED.—Section 4973 is amended by adding at the end the following new subsection:

''(e) EXCESS CONTRIBUTIONS TO PRIVATE QUALFIED TUITION PROGRAM AND EDUCATION INVESTMENT ACCOUNTS.—For purposes of this section—

''(1) IN GENERAL.—In the case of private education investment accounts maintained for the benefit of any 1 beneficiary, the term 'excess contributions' means the amount by which the amount contributed for the taxable year to such accounts exceeds the lesser of—

''(A) the excess of—

''(i) $5,000, over

''(ii) the aggregate amount contributed to all qualified tuition programs (as defined in section 529) maintained by a State or any agency or instrumentality thereof on behalf of such beneficiary for such taxable year, or

''(B) the excess of—

''(i) $50,000, over

''(ii) the sum of—

''(I) the aggregate amount contributed to such accounts for all prior taxable years, and

''(II) the aggregate amount contributed to all qualified tuition programs (as defined in section 529) maintained by a State or any agency or instrumentality thereof on behalf of such beneficiary for such taxable year and all prior taxable years.

''(2) PRIVATE EDUCATION INVESTMENT ACCOUNT.—For purposes of paragraph (1), the term 'private education investment account' means—

''(A) a qualified tuition program (as defined in section 529) not maintained by a State or any agency or instrumentality thereof, and

''(B) an education investment account (as defined in section 530).

''(3) SPECIAL RULES.—For purposes of paragraph (1), the following contributions shall not be taken into account:

''(A) Any contribution which is distributed out of the education investment account in a distribution to which section 530(c)(3)(B) applies.

''(B) Any contribution to a qualified tuition program (as so defined) described in section 530(b)(2)(B) from any such account.

''(C) Any rollover contribution.''.

(g) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 26(b) is amended by redesignating subparagraphs (E) through (P) as subparagraphs (F) through (Q), respectively, and by inserting after subparagraph (D) the following new subparagraph:

''(E) section 529(f) (relating to additional tax on certain distributions from qualified tuition programs),''.

(2) The text of section 529 is amended by striking ''qualified State tuition program'' each place it appears and inserting ''qualified tuition program''.

(3) Subsection (b) of section 529 is amended by striking paragraph (3) and by redesignating paragraphs (4) through (7) as paragraphs (3) through (6), respectively.

(4)(A) The section heading of section 529 is amended to read as follows:

''SEC. 529. QUALIFIED TUITION PROGRAMS.''.

(B) The item relating to section 529 in the table of sections for part VIII of subchapter F of chapter 1 is amended by striking ''State''.

(5)(A) The heading for part VIII of subchapter F of chapter 1 is amended to read as follows:

''PART VIII—HIGHER EDUCATION SAVINGS ENTITIES''.

(B) The table of parts for subchapter F of chapter 1 is amended by striking the item relating to part VIII and inserting:

''Part VIII. Higher education savings entities.''.

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on January 1, 1998.

(2) EXPENSES TO INCLUDE ROOM AND BOARD, ETC.—The amendments made by subsection (b) and (c)(2) shall apply to distributions after December 31, 1997, with respect to expenses paid after such date (in taxable years ending after such date), for education furnished in academic periods beginning after such date.

(3) PENALTY FOR NONEDUCATION WITHDRAWALS.—The amendment made by subsection (d) shall apply to distributions after December 31, 1997.

(4) COORDINATION WITH EDUCATION SAVINGS BONDS.—The amendment made by subsection (e) shall apply to taxable years beginning after December 31, 1997.

(5) ESTATE AND GIFT TAX CHANGES.—

(A) GIFT TAX CHANGES.—Paragraphs (2) and (5) of section 529(c) of the Internal Revenue Code of 1986, as amended by this section, shall apply to transfers (including designations of new beneficiaries) made after the date of the enactment of this Act.

(B) ESTATE TAX CHANGES.—Paragraph (4) of such section 529(c) shall apply to estates of decedents dying after June 8, 1997.

SEC. 212. EDUCATION INVESTMENT ACCOUNTS.

(a) IN GENERAL.—Part VIII of subchapter F of chapter 1 (relating to qualified State tuition programs) is amended by adding at the end the following new section:

''SEC. 530. EDUCATION INVESTMENT ACCOUNTS.

''(a) GENERAL RULE.—An education investment account shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, the education investment account shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

''(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) EDUCATION INVESTMENT ACCOUNT.—The term 'education investment account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified higher education expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

''(A) No contribution will be accepted—

''(i) unless it is in cash,

''(ii) after the date on which the account holder attains age 18, or

''(iii) in excess of $5,000 for the taxable year.

''(B) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section.

''(C) No part of the trust assets will be invested in life insurance contracts.

''(D) The assets of the trust shall not be commingled with other property except in a common trust fund or common investment fund.

''(E) Any balance in the account will be distributed as required under section 529(b)(8)(B) (as if such account were a qualified tuition program).

For $50,000 limit on aggregate contributions to accounts, see section 4973(e).

''(2) QUALIFIED HIGHER EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified higher education expenses' has the same meaning given such term by section 529(e)(3).

''(B) QUALIFIED TUITION PROGRAMS.—Such term shall include amounts paid or incurred to purchase tuition credits or certificates, or to make contributions to an account, under a qualified tuition program (as defined in section 529(b)) for the benefit of the account holder.

''(3) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' has the meaning given such term by section 529(e)(5).

''(4) ACCOUNT HOLDER.—The term 'account holder' means the individual for whose benefit the education investment account is established.

''(c) TAX TREATMENT OF DISTRIBUTIONS.—

''(1) IN GENERAL.—Any amount paid or distributed shall be includible in gross income as required by section 529(c)(3) (determined as if such account were a qualified tuition program).

''(2) SPECIAL RULES FOR APPLYING ESTATE AND GIFT TAXES WITH RESPECT TO ACCOUNT.—Rules similar to the rules of paragraphs (2), (4), and (5) of section 529(c) shall apply for purposes of this section.

''(3) ADDITIONAL TAX FOR DISTRIBUTIONS NOT USED FOR EDUCATIONAL EXPENSES.—

''(A) IN GENERAL.—The tax imposed by section 529(f) shall apply to payments and distributions from an education investment account in the same manner as such tax applies to qualified tuition programs (as defined in section 529).

''(B) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Subparagraph (A) shall not apply to the distribution to a contributor of any contribution paid during a taxable year to an education investment account to the extent that such contribution exceeds the limitation in section 4973(e) if such distribution (and the net income with respect to such excess contribution) meet requirements comparable to the requirements of section 529(f)(3).

''(4) ROLLOVER CONTRIBUTIONS—Paragraph (1) shall not apply to any amount paid or distributed from an education investment account to the extent that the amount received is paid into another education investment account for the benefit of the account holder or a member of the family (within the meaning of section 529(e)(2)) of the account holder not later than the 60th day after the date of such payment or distribution. The preceding sentence shall not apply to any payment or distribution if it applied to any prior payment or distribution during the 12-month period ending on the date of the payment or distribution.

''(5) CHANGE IN ACCOUNT HOLDER.—Any change in the account holder of an education investment account shall not be treated as a distribution for purposes of paragraph (1) if the new account holder is a member of the family (as so defined) of the old account holder.

''(6) SPECIAL RULES FOR DEATH AND DIVORCE.—Rules similar to the rules of paragraphs (7) and (8) of section 220(f) shall apply.

''(d) TAX TREATMENT OF ACCOUNTS.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to any education investment account.

''(e) COMMUNITY PROPERTY LAWS.—This section shall be applied without regard to any community property laws.

''(f) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in section 408(n)) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute an account described in subsection (b)(1). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

''(g) REPORTS.—The trustee of an education investment account shall make such reports regarding such account to the Secretary and to the account holder with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.''.

(b) TAX ON PROHIBITED TRANSACTIONS.—

(1) IN GENERAL.—Paragraph (1) of section 4975(e) (relating to prohibited transactions) is amended by striking ''or'' at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

''(E) an education investment account described in section 530, or''.

(2) SPECIAL RULE.—Subsection (c) of section 4975 is amended by adding at the end of subsection (c) the following new paragraph:

''(5) SPECIAL RULE FOR EDUCATION INVESTMENT ACCOUNTS.—An individual for whose benefit an education investment account is established and any contributor to such account shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if section 530(d) applies with respect to such transaction.''.

(c) FAILURE TO PROVIDE REPORTS ON EDUCATION INVESTMENT ACCOUNTS.—

(1) IN GENERAL.—Paragraph (2) of section 6693(a) (relating to failure to provide reports on individual retirement accounts or annuities) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) section 530(g) (relating to education investment accounts).''.

(2) CLERICAL AMENDMENT.—The section heading for section 6693 is amended by striking **''INDIVIDUAL RETIREMENT''** and insert **''CERTAIN TAX-FAVORED''**.

(d) TECHNICAL AMENDMENTS.—

(1) Subparagraph (F) of section 26(b)(2), as added by the preceding section, is amended by inserting before the comma ''and section 530(c)(3) (relating to additional tax on certain distributions from education investment accounts)''.

(2) Subparagraph (C) of section 135(c)(2), as added by the preceding section, is amended by inserting '', or to an education investment account (as defined in section 530) on behalf of an account holder (as defined in such section),'' after ''(as defined in such section)''.

(3) The table of sections for part VIII of subchapter F of chapter 1 is amended by adding at the end the following new item:

''Sec. 530. Education investment accounts.''.

(4) The item relating to section 6693 in the table of sections for part I of subchapter B of chapter 68 is amended by striking ''individual retirement'' and inserting ''certain tax-favored''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

Subtitle C—Other Education Initiatives

SEC. 221. EXTENSION OF EXCLUSION FOR EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Subsection (d) of section 127 (relating to educational assistance programs) is amended to read as follows:

''(d) TERMINATION.—This section shall not apply to expenses paid with respect to courses of instruction beginning after December 31, 1997.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1996.

SEC. 222. INCREASE IN LIMITATION ON QUALIFIED 501(C)(3) BONDS OTHER THAN HOSPITAL BONDS.

(a) IN GENERAL.—The text of paragraph (1) of section 145(b) is amended by striking ''$150,000,000.'' and inserting ''the limitation determined in accordance with the following table:

In the case of calendar year:	The limitation is:
1998	$160,000,000
1999	170,000,000
2000	180,000,000
2001	190,000,000
2002 or thereafter	200,000,000.''.

(b) CONFORMING AMENDMENT.—The heading for subsection (b) of section 145 is amended by striking ''$150,000,000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1998.

SEC. 223. CONTRIBUTIONS OF COMPUTER TECHNOLOGY AND EQUIPMENT FOR ELEMENTARY OR SECONDARY SCHOOL PURPOSES.

(a) CONTRIBUTIONS OF COMPUTER TECHNOLOGY AND EQUIPMENT FOR ELEMENTARY OR SECONDARY SCHOOL PURPOSES.—Subsection (e) of section 170 is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULE FOR CONTRIBUTIONS OF COMPUTER TECHNOLOGY AND EQUIPMENT FOR ELEMENTARY OR SECONDARY SCHOOL PURPOSES.—

''(A) LIMIT ON REDUCTION.—In the case of a qualified elementary or secondary educational contribution, the reduction under paragraph (1)(A) shall be no greater than the amount determined under paragraph (3)(B).

''(B) QUALIFIED ELEMENTARY OR SECONDARY EDUCATIONAL CONTRIBUTION.—For purposes of this paragraph, the term 'qualified elementary or secondary educational contribution' means a charitable contribution by a corporation of any computer technology or equipment, but only if—

''(i) the contribution is to—

''(I) an educational organization described in subsection (b)(1)(A)(ii), or

''(II) an entity described in section 501(c)(3) and exempt from tax under section 501(a) (other than an entity described in subclause (I)) that is organized primarily for purposes of supporting elementary and secondary education,

''(ii) the contribution is made not later than 2 years after the date the taxpayer acquired the property (or in the case of property constructed by the taxpayer, the date the construction of the property is substantially completed),

''(iii) substantially all of the use of the property by the donee is for use within the United States for educational purposes in any of the grades K–12 that are related to the purpose or function of the organization or entity,

''(iv) the property is not transferred by the donee in exchange for money, other property, or services, except for shipping, installation and transfer costs,

''(v) the property will fit productively into the entity's education plan, and

''(vi) the entity's use and disposition of the property will be in accordance with the provisions of clauses (iii) and (iv).

''(C) CONTRIBUTION TO PRIVATE FOUNDATION.—A contribution by a corporation of any computer technology or equipment to a private foundation (as defined in section 509) shall be treated as a qualified elementary or secondary educational contribution for purposes of this paragraph if—

''(i) the contribution to the private foundation satisfies the requirements of clauses (ii) and (iv) of subparagraph (B), and

''(ii) within 30 days after such contribution, the private foundation—

''(I) contributes the property to an entity described in clause (i) of subparagraph (B) that satisfies the requirements of clauses (iii) through (vi) of subparagraph (B), and

''(II) notifies the donor of such contribution.

''(D) SPECIAL RULE RELATING TO CONSTRUCTION OF PROPERTY.—For the purposes of this paragraph, the rules of paragraph (4)(C) shall apply.

''(E) DEFINITIONS.—For the purposes of this paragraph—

''(i) COMPUTER TECHNOLOGY OR EQUIPMENT.—The term 'computer technology or equipment' means computer software (as defined by section 197(e)(3)(B)), computer or peripheral equipment (as defined by section 168(i)(2)(B)), and fiber optic cable related to computer use.

''(ii) CORPORATION.—The term 'corporation' has the meaning given to such term by paragraph (4)(D).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the calendar year in which this Act is enacted.

SEC. 224. TREATMENT OF CANCELLATION OF CERTAIN STUDENT LOANS.

(a) CERTAIN DIRECT STUDENT LOANS THE REPAYMENT OF WHICH IS INCOME CONTINGENT.—Paragraph (1) of section 108(f) is amended by striking ''any student loan if'' and all that follows and inserting ''any student loan if—

''(A) such discharge was pursuant to a provision of such loan under which all or part of the indebtedness of the individual would be discharged if the individual worked for a certain period of time in certain professions for any of a broad class of employers, or

''(B) in the case of a loan made under part D of title IV of the Higher Education Act of 1965 which has a repayment schedule established under section 455(e)(4) of such Act (relating to income contingent repayments), such discharge is after the maximum repayment period under such loan (as prescribed under such part).''.

(b) CERTAIN LOANS BY EXEMPT ORGANIZATIONS.—

(1) IN GENERAL.—Paragraph (2) of section 108(f) (defining student loan) is amended by striking ''or'' at the end of subparagraph (B) and by striking subparagraph (D) and inserting the following:

''(D) any educational organization described in section 170(b)(1)(A)(ii) if such loan is made—

''(i) pursuant to an agreement with any entity described in subparagraph (A), (B), or (C) under which the funds from which the loan was made were provided to such educational organization, or

''(ii) pursuant to a program of such educational organization which is designed to encourage its students to serve in occupations with unmet needs or in areas with unmet needs and under which the services provided by the students (or former students) are for or under the direction of a governmental unit or an organization described in section 501(c)(3) and exempt from tax under section 501(a).

The term 'student loan' includes any loan made by an educational organization so described or by an organization exempt from tax under section 501(a) to refinance a loan meeting the requirements of the preceding sentence.''.

(2) EXCEPTION FOR DISCHARGES ON ACCOUNT OF SERVICES PERFORMED FOR CERTAIN LENDERS.—Subsection (f) of section 108 is amended by adding at the end the following new paragraph:

''(3) EXCEPTION FOR DISCHARGES ON ACCOUNT OF SERVICES PERFORMED FOR CERTAIN LENDERS.—Paragraph (1) shall not apply to the discharge of a loan made by an organization described in paragraph (2)(D) (or by an organization described in paragraph (2)(E) from funds provided by an organization described in paragraph (2)(D)) if the discharge is on account of services performed for either such organization.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges of indebtedness after the date of the enactment of this Act.

TITLE III—SAVINGS AND INVESTMENT INCENTIVES

Subtitle A—Retirement Savings

SEC. 301. ESTABLISHMENT OF AMERICAN DREAM IRA.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

''SEC. 408A. AMERICAN DREAM IRA.

''(a) GENERAL RULE.—Except as provided in this section, an American Dream IRA shall be treated for purposes of this title in the same manner as an individual retirement plan.

''(b) AMERICAN DREAM IRA.—For purposes of this title, the term 'American Dream IRA' or 'AD IRA' means an individual retirement plan (as defined in section 7701(a)(37)) which is designated at the time of the establishment of the plan as an American Dream IRA. Such designation shall be made in such manner as the Secretary may prescribe.

''(c) TREATMENT OF CONTRIBUTIONS.—

''(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an AD IRA.

''(2) CONTRIBUTION LIMIT.—

''(A) IN GENERAL.—The aggregate amount of contributions for any taxable year to all AD IRAs maintained for the benefit of an individual shall not exceed $2,000.

''(B) INFLATION ADJUSTMENT.—In the case of taxable years beginning in a calendar year after 1998, the $2,000 amount contained in subparagraph (A) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If the amount as adjusted under the preceding sentence is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

''(3) CONTRIBUTIONS PERMITTED AFTER AGE 70½.—Contributions to an AD IRA may be made even after the individual for whom the account is maintained has attained age 70½.

''(4) MANDATORY DISTRIBUTION RULES NOT TO APPLY, ETC.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), subsections (a)(6) and (b)(3) of section 408 (relating to required distributions) and section 4974 (relating to excise tax on certain accumulations in qualified retirement plans) shall not apply to any AD IRA.

''(B) POST-DEATH DISTRIBUTIONS.—Rules similar to the rules of section 401(a)(9) (other than subparagraph (A) thereof) shall apply for purposes of this section.

''(5) RULES RELATING TO ROLLOVER CONTRIBUTIONS.—

''(A) IN GENERAL.—No rollover contribution may be made to an AD IRA unless it is a qualified rollover contribution.

''(B) COORDINATION WITH LIMIT.—A qualified rollover contribution shall not be taken into account for purposes of paragraph (2).

''(6) TIME WHEN CONTRIBUTIONS MADE.—For purposes of this section, the rule of section 219(f)(3) shall apply.

''(d) DISTRIBUTION RULES.—For purposes of this title—

''(1) GENERAL RULES.—

''(A) EXCLUSIONS FROM GROSS INCOME.—Any qualified distribution from an AD IRA shall not be includible in gross income.

''(B) NONQUALIFIED DISTRIBUTIONS.—In applying section 72 to any distribution from an AD IRA which is not a qualified distribution, such distribution shall be treated as made from contributions to the AD IRA to the extent that such distribution, when added to all previous distributions from the AD IRA, does not exceed the aggregate amount of contributions to the AD IRA. For purposes of the preceding sentence, all AD IRAs maintained for the benefit of an individual shall be treated as 1 account.

''(C) EXCEPTION FROM PENALTY TAX.—Section 72(t) shall not apply to—

''(i) any qualified distribution from an AD IRA, and

''(ii) any qualified first-time homebuyer distribution (whether or not a qualified distribution) from an AD IRA.

''(2) QUALIFIED DISTRIBUTION.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified distribution' means any payment or distribution—

''(i) made on or after the date on which the individual attains age 59½,

''(ii) made to a beneficiary (or to the estate of the individual) on or after the death of the individual,

''(iii) attributable to the individual's being disabled (within the meaning of section 72(m)(7)), or

''(iv) which is a qualified first-time homebuyer distribution.

''(B) DISTRIBUTIONS WITHIN 5 YEARS.—No payment or distribution shall be treated as a qualified distribution if—

''(i) it is made within the 5-taxable year period beginning with the 1st taxable year for which the individual made a contribution to an AD IRA (or such individual's spouse made a contribution to an AD IRA) established for such individual, or

''(ii) in the case of a payment or distribution properly allocable (as determined in the manner prescribed by the Secretary) to a qualified rollover contribution (or income allocable thereto), it is made within the 5-taxable year period beginning with the taxable year in which the rollover contribution was made.

Clause (ii) shall not apply to a qualified rollover contribution from an AD IRA.

''(3) ROLLOVERS.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to any distribution which is transferred in a qualified rollover contribution to an AD IRA.

''(B) INCOME INCLUSION FOR ROLLOVERS FROM NON-AD IRAS.—

''(i) IN GENERAL.—In the case of any distribution to which this subparagraph applies—

''(I) sections 72(t) and 408(d)(3) shall not apply (but section 4980A shall apply), and

''(II) any amount required to be included in gross income by reason of this paragraph shall be so included ratably over the 4-taxable year period beginning with the taxable year in which the distribution is made.

''(ii) DISTRIBUTIONS TO WHICH SUBPARAGRAPH APPLIES.—This subparagraph shall apply to a distribution before January 1, 1999, from an individual retirement plan (other than an AD IRA) maintained for the benefit of an individual to an AD IRA maintained for the benefit of such individual if such distribution would be a qualified rollover contribution were such individual retirement plan an AD IRA.

''(iii) CONVERSIONS.—The conversion of an individual retirement plan (other than an

AD IRA) to an AD IRA shall be treated for purposes of this subparagraph as a distribution from such plan to such AD IRA.

''(C) ADDITIONAL REPORTING REQUIREMENTS.—The Secretary shall require that trustees of AD IRAs, trustees of individual retirement plans, or both, whichever is appropriate, shall include such additional information in reports required under section 408(i) as is necessary to ensure that amounts required to be included in gross income under subparagraph (B) are so included.

''(4) QUALIFIED FIRST-TIME HOMEBUYER DISTRIBUTION.—For purposes of this section—

''(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual, the spouse of such individual, or any child, grandchild, or ancestor of such individual or the individual's spouse.

''(B) LIFETIME DOLLAR LIMITATION.—The aggregate amount of payments or distributions received by an individual which may be treated as qualified first-time homebuyer distributions for any taxable year shall not exceed the excess (if any) of—

''(i) $10,000, over

''(ii) the aggregate amounts treated as qualified first-time homebuyer distributions with respect to such individual for all prior taxable years.

''(C) QUALIFIED ACQUISITION COSTS.—For purposes of this paragraph, the term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

''(D) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—For purposes of this paragraph—

''(i) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if—

''(I) such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 2-year period ending on the date of acquisition of the principal residence to which this paragraph applies, and

''(II) subsection (h) or (k) of section 1034 (as in effect on the day before the date of the enactment of this section) did not suspend the running of any period of time specified in section 1034 (as so in effect) with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A).

''(ii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 121.

''(iii) DATE OF ACQUISITION.—The term 'date of acquisition' means the date—

''(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

''(II) on which construction or reconstruction of such a principal residence is commenced.

''(E) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any distribution from any individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i) (determined by substituting '120 days' for '60 days' in such section), except that—

''(i) section 408(d)(3)(B) shall not be applied to such contribution, and

''(ii) such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) applies to any other amount.

''(e) QUALIFIED ROLLOVER CONTRIBUTION.—For purposes of this section, the term 'qualified rollover contribution' means a rollover contribution to an AD IRA from another such account, but only if such rollover contribution meets the requirements of section 408(d)(3).''.

(b) REPEAL OF NONDEDUCTIBLE CONTRIBUTIONS.—

(1) Subsection (f) of section 219 is amended by striking paragraph (7).

(2) Paragraph (5) of section 408(d) is amended by striking the last sentence.

(3) Section 408(o) is amended by adding at the end the following new paragraph:

''(5) TERMINATION.—This subsection shall not apply to any designated nondeductible contribution for any taxable year beginning after December 31, 1997.''.

(4) Subsection (b) of section 4973 is amended by striking the last sentence.

(c) EXCESS DISTRIBUTIONS TAX NOT TO APPLY.—

(1) Subparagraph (A) of section 4980A(d)(3) is amended by inserting ''(other than AD IRAs, as defined in section 4980A(b))'' after ''individual retirement plans''.

(2) Subparagraph (B) of section 4980A(e)(1) is amended by inserting ''other than an AD IRA (as defined in section 408A(b))'' after ''retirement plan''.

(d) EXCESS CONTRIBUTIONS.—

(1) Section 4973 is amended by adding at the end the following new subsection:

''(f) EXCESS CONTRIBUTIONS TO AMERICAN DREAM IRAS.—For purposes of this section, in the case of American Dream IRAs, the term 'excess contributions' means the amount by which the amount contributed for the taxable year to such IRAs exceeds the limitation in section 408A(c)(2).''.

(2) Subsection (b) of section 4973 is amended by adding at the end the following new sentence: ''For purposes of this subsection, an American Dream IRA shall not be treated as an individual retirement plan.''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

''Sec. 408A. American Dream IRA.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

Subtitle B—Capital Gains

PART I—INDIVIDUAL CAPITAL GAINS

SEC. 311. 20 PERCENT MAXIMUM CAPITAL GAINS RATE FOR INDIVIDUALS.

(a) IN GENERAL.—Subsection (h) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

''(h) MAXIMUM CAPITAL GAINS RATE.—

''(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, the tax imposed by this section for such taxable year shall not exceed the sum of—

''(A) the base tax amount,

''(B) 10 percent of so much of the taxpayer's adjusted net capital gain (or, if less, taxable income) as does not exceed the excess (if any) of—

''(i) the amount of taxable income which would (without regard to this paragraph) be taxed at a rate of 15 percent or less, over

''(ii) the taxable income reduced by the adjusted net capital gain, plus

''(C) 20 percent of the taxpayer's adjusted net capital gain (or, if less, taxable income) in excess of the amount on which a tax is determined under subparagraph (B).

''(2) NET CAPITAL GAIN TAKEN INTO ACCOUNT AS INVESTMENT INCOME.—For purposes of this subsection, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

''(3) BASE TAX AMOUNT.—For purposes of paragraph (1), the base tax amount is the lesser of—

''(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on taxable income reduced by the adjusted net capital gain, or

''(B) the sum of—

''(i) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

''(I) taxable income reduced by the net capital gain, or

''(II) the amount of taxable income taxed at a rate below 28 percent,

''(ii) a tax of 26 percent of the lesser of—

''(I) the section 1250 gain, or

''(II) the amount of taxable income in excess of the sum of the amount on which tax is determined under clause (i) plus the net capital gain determined without regard to section 1250 gain, plus

''(iii) a tax of 28 percent of the amount of taxable income in excess of the sum of—

''(I) the adjusted net capital gain, plus

''(II) the sum of the amounts on which tax is determined under clauses (i) and (ii).

''(4) ADJUSTED NET CAPITAL GAIN.—For purposes of this subsection, the term 'adjusted net capital gain' means net capital gain determined without regard to—

''(A) collectibles gain,

''(B) section 1202 gain, and

''(C) section 1250 gain.

''(5) COLLECTIBLES GAIN.—For purposes of paragraph (4)—

''(A) IN GENERAL.—The term 'collectibles gain' means gain from the sale or exchange of a collectible (as defined in section 408(m) without regard to paragraph (3) thereof) which is a capital asset held for more than 1 year but only to the extent such gain is taken into account in computing gross income.

''(B) COORDINATION WITH SECTION 1022.—Gain from the disposition of a collectible which is an indexed asset to which section 1022(a) applies shall be disregarded for purposes of this subsection. A taxpayer may elect to treat any collectible specified in such election as not being an indexed asset for purposes of section 1022. Any such election, and any specification therein, once made, shall be irrevocable.

''(C) PARTNERSHIPS, ETC.—For purposes of subparagraph (A), any gain from the sale of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751 shall apply for purposes of the preceding sentence.

''(6) SECTION 1202 GAIN.—For purposes of paragraph (4), the term 'section 1202 gain' means gain from the sale or exchange of any qualified small business stock (as defined in section 1202(c)) held more than 5 years which is taken into account in computing gross income.

''(7) SECTION 1250 GAIN.—For purposes of paragraph (4), the term 'section 1250 gain' means the excess (if any) of—

''(A) the amount which would be treated as ordinary income under section 1245 if all section 1250 property disposed of by the taxpayer were section 1245 property, over

''(B) the amount treated as ordinary income under section 1250.

In the case of a taxable year which includes May 7, 1997, section 1250 gain shall be determined by taking into account only the gain

properly taken into account for the portion of the taxable year after May 6, 1997.

''(8) PRE-EFFECTIVE DATE GAIN.—

''(A) IN GENERAL.—In the case of a taxable year which includes May 7, 1997, adjusted net capital gain shall be determined without regard to pre-May 7, 1997, gain.

''(B) PRE-MAY 7, 1997, GAIN.—The term 'pre-May 7, 1997, gain' means the amount which would be adjusted net capital gain for the taxable year if adjusted net capital gain were determined by taking into account only the gain or loss properly taken into account for the portion of the taxable year before May 7, 1997.

''(C) SPECIAL RULES FOR PASS-THRU ENTITIES.—In applying subparagraph (A) with respect to any pass-thru entity, the determination of when gains and loss are properly taken into account shall be made at the entity level.

''(D) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (C), the term 'pass-thru entity' means—

''(i) a regulated investment company,

''(ii) a real estate investment trust,

''(iii) an S corporation,

''(iv) a partnership,

''(v) an estate or trust, and

''(vi) a common trust fund.''.

(b) MINIMUM TAX.—

(1) IN GENERAL.—Subsection (b) of section 55 is amended by adding at the end the following new paragraph:

''(3) MAXIMUM RATE OF TAX ON NET CAPITAL GAIN OF NONCORPORATE TAXPAYERS.—The amount determined under the first sentence of paragraph (1)(A)(i) shall not exceed the sum of—

''(A) the lesser of—

''(i) the amount determined under such first sentence computed at the rates and in the same manner as if this paragraph had not been enacted on the taxable excess reduced by the adjusted net capital gain (as defined in section 1(h)(4)), or

''(ii) the sum of—

''(I) the amount determined under such first sentence computed at the rates and in the same manner as if this paragraph had not been enacted on the taxable excess reduced by the sum of the adjusted net capital gain (as so defined) and the section 1250 gain (as defined in section 1(h)(7)), plus

''(II) 26 percent of the lesser of the section 1250 gain (as so defined) or the taxable excess reduced by the adjusted net capital gain (as so defined),

''(B) a tax of 10 percent of so much of the taxpayer's adjusted net capital gain (or, if less, taxable excess) as does not exceed the amount on which a tax is determined under section 1(h)(1)(B), plus

''(C) a tax of 20 percent of the taxpayer's adjusted net capital gain (or, if less, taxable excess) in excess of the amount on which tax is determined under subparagraph (B).''.

(2) CONFORMING AMENDMENT.—Clause (ii) of section 55(b)(1)(A) is amended by striking ''clause (i)'' and inserting ''this subsection''.

(c) OTHER CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 291 is amended by inserting at the end the following new sentence: ''Any capital gain dividend treated as having been paid out of such difference to a shareholder which is not a corporation retains its characters as section 1250 gain for purposes of applying section 1(h) to such shareholder.''.

(2) Paragraph (1) of section 1445(e) is amended by striking ''28 percent'' and inserting ''20 percent''.

(3) The second sentence of section 7518(g)(6)(A), and the second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936, are each amended by striking ''28 percent'' and inserting ''20 percent''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending after May 6, 1997.

(2) WITHHOLDING.—The amendment made by subsection (c)(2) shall apply only to amounts paid after the date of the enactment of this Act.

(3) APPLICATION OF ESTIMATED TAX RULES.—Clause (i) of section 6654(d)(1)(C) of the Internal Revenue Code of 1986 shall be applied by substituting ''109 percent'' for ''110 percent'' where the preceding taxable year referred to in such clause is a taxable year beginning in calendar year 1996.

(4) APPLICATION OF ESTIMATED TAX RULES FOR 1998.—Clause (i) of section 6654(d)(1)(C) of the Internal Revenue Code of 1986 shall be applied by substituting ''105 percent'' for ''110 percent'' where the preceding taxable year referred to in such clause is a taxable year beginning in calendar year 1997.

SEC. 312. INDEXING OF CERTAIN ASSETS ACQUIRED AFTER DECEMBER 31, 2000, FOR PURPOSES OF DETERMINING GAIN.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

''SEC. 1022. INDEXING OF CERTAIN ASSETS ACQUIRED AFTER DECEMBER 31, 2000, FOR PURPOSES OF DETERMINING GAIN.

''(a) GENERAL RULE.—

''(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Solely for purposes of determining gain on the sale or other disposition by a taxpayer (other than a corporation) of an indexed asset which has been held for more than 3 years, the indexed basis of the asset shall be substituted for its adjusted basis.

''(2) EXCEPTION FOR DEPRECIATION, ETC.—The deductions for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

''(3) EXCEPTION FOR PRINCIPAL RESIDENCES.—Paragraph (1) shall not apply to any disposition of the principal residence (within the meaning of section 121) of the taxpayer .

''(b) INDEXED ASSET.—

''(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

''(A) common stock in a C corporation (other than a foreign corporation), and

''(B) tangible property,

which is a capital asset or property used in the trade or business (as defined in section 1231(b)).

''(2) STOCK IN CERTAIN FOREIGN CORPORATIONS INCLUDED.—For purposes of this section—

''(A) IN GENERAL.—The term 'indexed asset' includes common stock in a foreign corporation which is regularly traded on an established securities market.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to—

''(i) stock of a foreign investment company (within the meaning of section 1246(b)),

''(ii) stock in a passive foreign investment company (as defined in section 1296),

''(iii) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2), and

''(iv) stock in a foreign personal holding company (as defined in section 552).

''(C) TREATMENT OF AMERICAN DEPOSITORY RECEIPTS.—An American depository receipt for common stock in a foreign corporation shall be treated as common stock in such corporation.

''(c) INDEXED BASIS.—For purposes of this section—

''(1) GENERAL RULE.—The indexed basis for any asset is—

''(A) the adjusted basis of the asset, increased by

''(B) the applicable inflation adjustment.

''(2) APPLICABLE INFLATION ADJUSTMENT.—The applicable inflation adjustment for any asset is an amount equal to—

''(A) the adjusted basis of the asset, multiplied by

''(B) the percentage (if any) by which—

''(i) the chain-type price index for GDP for the last calendar quarter ending before the asset is disposed of, exceeds

''(ii) the chain-type price index for GDP for the last calendar quarter ending before the asset was acquired by the taxpayer.

The percentage under subparagraph (B) shall be rounded to the nearest 1/10 of 1 percentage point.

''(3) CHAIN-TYPE PRICE INDEX FOR GDP.—The chain-type price index for GDP for any calendar quarter is such index for such quarter (as shown in the last revision thereof released by the Secretary of Commerce before the close of the following calendar quarter).

''(d) SUSPENSION OF HOLDING PERIOD WHERE DIMINISHED RISK OF LOSS; TREATMENT OF SHORT SALES.—

''(1) IN GENERAL.—If the taxpayer (or a related person) enters into any transaction which substantially reduces the risk of loss from holding any asset, such asset shall not be treated as an indexed asset for the period of such reduced risk.

''(2) SHORT SALES.—

''(A) IN GENERAL.—In the case of a short sale of an indexed asset with a short sale period in excess of 3 years, for purposes of this title, the amount realized shall be an amount equal to the amount realized (determined without regard to this paragraph) increased by the applicable inflation adjustment. In applying subsection (c)(2) for purposes of the preceding sentence, the date on which the property is sold short shall be treated as the date of acquisition and the closing date for the sale shall be treated as the date of disposition.

''(B) SHORT SALE PERIOD.—For purposes of subparagraph (A), the short sale period begins on the day that the property is sold and ends on the closing date for the sale.

''(e) TREATMENT OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

''(1) ADJUSTMENTS AT ENTITY LEVEL.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the adjustment under subsection (a) shall be allowed to any qualified investment entity (including for purposes of determining the earnings and profits of such entity).

''(B) EXCEPTION FOR CORPORATE SHAREHOLDERS.—Under regulations—

''(i) in the case of a distribution by a qualified investment entity (directly or indirectly) to a corporation—

''(I) the determination of whether such distribution is a dividend shall be made without regard to this section, and

''(II) the amount treated as gain by reason of the receipt of any capital gain dividend shall be increased by the percentage by which the entity's net capital gain for the taxable year (determined without regard to this section) exceeds the entity's net capital gain for such year determined with regard to this section, and

''(ii) there shall be other appropriate adjustments (including deemed distributions) so as to ensure that the benefits of this section are not allowed (directly or indirectly) to corporate shareholders of qualified investment entities.

For purposes of the preceding sentence, any amount includible in gross income under section 852(b)(3)(D) shall be treated as a capital gain dividend and an S corporation shall not be treated as a corporation.

''(C) EXCEPTION FOR QUALIFICATION PURPOSES.—This section shall not apply for purposes of sections 851(b) and 856(c).

''(D) EXCEPTION FOR CERTAIN TAXES IMPOSED AT ENTITY LEVEL.—

''(i) TAX ON FAILURE TO DISTRIBUTE ENTIRE GAIN.—If any amount is subject to tax under section 852(b)(3)(A) for any taxable year, the amount on which tax is imposed under such section shall be increased by the percentage determined under subparagraph (B)(i)(II). A similar rule shall apply in the case of any amount subject to tax under paragraph (2) or (3) of section 857(b) to the extent attributable to the excess of the net capital gain over the deduction for dividends paid determined with reference to capital gain dividends only. The first sentence of this clause shall not apply to so much of the amount subject to tax under section 852(b)(3)(A) as is designated by the company under section 852(b)(3)(D).

''(ii) OTHER TAXES.—This section shall not apply for purposes of determining the amount of any tax imposed by paragraph (4), (5), or (6) of section 857(b).

''(2) ADJUSTMENTS TO INTERESTS HELD IN ENTITY.—

''(A) REGULATED INVESTMENT COMPANIES.—Stock in a regulated investment company (within the meaning of section 851) shall be an indexed asset for any calendar quarter in the same ratio as—

''(i) the average of the fair market values of the indexed assets held by such company at the close of each month during such quarter, bears to

''(ii) the average of the fair market values of all assets held by such company at the close of each such month.

''(B) REAL ESTATE INVESTMENT TRUSTS.—Stock in a real estate investment trust (within the meaning of section 856) shall be an indexed asset for any calendar quarter in the same ratio as—

''(i) the fair market value of the indexed assets held by such trust at the close of such quarter, bears to

''(ii) the fair market value of all assets held by such trust at the close of such quarter.

''(C) RATIO OF 80 PERCENT OR MORE.—If the ratio for any calendar quarter determined under subparagraph (A) or (B) would (but for this subparagraph) be 80 percent or more, such ratio for such quarter shall be 100 percent.

''(D) RATIO OF 20 PERCENT OR LESS.—If the ratio for any calendar quarter determined under subparagraph (A) or (B) would (but for this subparagraph) be 20 percent or less, such ratio for such quarter shall be zero.

''(E) LOOK-THRU OF PARTNERSHIPS.—For purposes of this paragraph, a qualified investment entity which holds a partnership interest shall be treated (in lieu of holding a partnership interest) as holding its proportionate share of the assets held by the partnership.

''(3) TREATMENT OF RETURN OF CAPITAL DISTRIBUTIONS.—Except as otherwise provided by the Secretary, a distribution with respect to stock in a qualified investment entity which is not a dividend and which results in a reduction in the adjusted basis of such stock shall be treated as allocable to stock acquired by the taxpayer in the order in which such stock was acquired.

''(4) QUALIFIED INVESTMENT ENTITY.—For purposes of this subsection, the term 'qualified investment entity' means—

''(A) a regulated investment company (within the meaning of section 851), and

''(B) a real estate investment trust (within the meaning of section 856).

''(f) OTHER PASS-THRU ENTITIES.—

''(1) PARTNERSHIPS.—

''(A) IN GENERAL.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

''(B) SPECIAL RULE IN THE CASE OF SECTION 754 ELECTIONS.—In the case of a transfer of an interest in a partnership with respect to which the election provided in section 754 is in effect—

''(i) the adjustment under section 743(b)(1) shall, with respect to the transferor partner, be treated as a sale of the partnership assets for purposes of applying this section, and

''(ii) with respect to the transferee partner, the partnership's holding period for purposes of this section in such assets shall be treated as beginning on the date of such adjustment.

''(2) S CORPORATIONS.—In the case of an S corporation, the adjustment made under subsection (a) at the corporate level shall be passed through to the shareholders. This section shall not apply for purposes of determining the amount of any tax imposed by section 1374 or 1375.

''(3) COMMON TRUST FUNDS.—In the case of a common trust fund, the adjustment made under subsection (a) at the trust level shall be passed through to the participants.

''(4) INDEXING ADJUSTMENT DISREGARDED IN DETERMINING LOSS ON SALE OF INTEREST IN ENTITY.—Notwithstanding the preceding provisions of this subsection, for purposes of determining the amount of any loss on a sale or exchange of an interest in a partnership, S corporation, or common trust fund, the adjustment made under subsection (a) shall not be taken into account in determining the adjusted basis of such interest.

''(g) DISPOSITIONS BETWEEN RELATED PERSONS.—

''(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

''(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

''(A) persons bearing a relationship set forth in section 267(b), and

''(B) persons treated as single employer under subsection (b) or (c) of section 414.

''(h) TRANSFERS TO INCREASE INDEXING ADJUSTMENT.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is to secure or increase an adjustment under subsection (a), the Secretary may disallow part or all of such adjustment or increase.

''(i) SPECIAL RULES.—For purposes of this section—

''(1) TREATMENT OF IMPROVEMENTS, ETC.—If there is an addition to the adjusted basis of any tangible property or of any stock in a corporation during the taxable year by reason of an improvement to such property or a contribution to capital of such corporation—

''(A) such addition shall never be taken into account under subsection (c)(1)(A) if the aggregate amount thereof during the taxable year with respect to such property or stock is less than $1,000, and

''(B) such addition shall be treated as a separate asset acquired at the close of such taxable year if the aggregate amount thereof during the taxable year with respect to such property or stock is $1,000 or more.

A rule similar to the rule of the preceding sentence shall apply to any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

''(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—The applicable inflation adjustment shall be appropriately reduced for periods during which the asset was not an indexed asset.

''(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

''(4) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

''(5) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

''(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of chapter 1 is amended by inserting after the item relating to section 1021 the following new item:

''Sec. 1022. Indexing of certain assets acquired after December 31, 2000, for purposes of determining gain.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to the disposition of any property the holding period of which begins after December 31, 2000.

(2) CERTAIN TRANSACTIONS BETWEEN RELATED PERSONS.—The amendments made by this section shall not apply to the disposition of any property acquired after December 31, 2000, from a related person (as defined in section 1022(g)(2) of the Internal Revenue Code of 1986, as added by this section) if—

(A) such property was so acquired for a price less than the property's fair market value, and

(B) the amendments made by this section did not apply to such property in the hands of such related person.

(d) ELECTION TO RECOGNIZE GAIN ON ASSETS HELD ON JANUARY 1, 2001.—For purposes of the Internal Revenue Code of 1986—

(1) IN GENERAL.—A taxpayer other than a corporation may elect to treat—

(A) any readily tradable stock (which is an indexed asset) held by such taxpayer on January 1, 2001, and not sold before the next business day after such date, as having been sold on such next business day for an amount equal to its closing market price on such next business day (and as having been reacquired on such next business day for an amount equal to such closing market price), and

(B) any other indexed asset held by the taxpayer on January 1, 2001, as having been sold on such date for an amount equal to its fair market value on such date (and as having been reacquired on such date for an amount equal to such fair market value).

(2) TREATMENT OF GAIN OR LOSS.—

(A) Any gain resulting from an election under paragraph (1) shall be treated as received or accrued on the date the asset is treated as sold under paragraph (1) and shall be recognized notwithstanding any provision of the Internal Revenue Code of 1986.

(B) Any loss resulting from an election under paragraph (1) shall not be allowed for any taxable year.

(3) ELECTION.—An election under paragraph (1) shall be made in such manner as the Secretary of the Treasury or his delegate may prescribe and shall specify the assets for

which such election is made. Such an election, once made with respect to any asset, shall be irrevocable.

(4) READILY TRADABLE STOCK.—For purposes of this subsection, the term ''readily tradable stock'' means any stock which, as of January 1, 2001, is readily tradable on an established securities market or otherwise.

SEC. 313. EXEMPTION FROM TAX FOR GAIN ON SALE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Section 121 (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended to read as follows:

''SEC. 121. EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

''(a) EXCLUSION.—Gross income shall not include gain from the sale or exchange of property if, during the 5-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence for periods aggregating 2 years or more.

''(b) LIMITATIONS.—

''(1) DOLLAR LIMITATION.—The amount of gain excluded from gross income under subsection (a) with respect to any sale or exchange shall not exceed $250,000 ($500,000 in the case of a joint return where both spouses meet the use requirement of subsection (a)).

''(2) APPLICATION TO ONLY 1 SALE OR EXCHANGE EVERY 2 YEARS.—

''(A) IN GENERAL.—Subsection (a) shall not apply to any sale or exchange by the taxpayer if, during the 2-year period ending on the date of such sale or exchange, there was any other sale or exchange by the taxpayer or his spouse to which subsection (a) applied.

''(B) PREMARRIAGE SALES BY SPOUSE NOT TAKEN INTO ACCOUNT.—If, but for this subparagraph, subsection (a) would not apply to a sale or exchange by a married individual by reason of a sale or exchange by such individual's spouse before their marriage—

''(i) subparagraph (A) shall be applied without regard to the sale or exchange by such individual's spouse, but

''(ii) the amount of gain excluded from gross income under subsection (a) with respect to the sale or exchange by such individual shall not exceed $250,000.

''(C) PRE-MAY 7, 1997, SALES NOT TAKEN INTO ACCOUNT.—Subparagraph (A) shall be applied without regard to any sale or exchange before May 7, 1997.

''(c) EXCLUSION FOR TAXPAYERS FAILING TO MEET CERTAIN REQUIREMENTS.—

''(1) IN GENERAL.—In the case of a sale or exchange to which this subsection applies, the ownership and use requirements of subsection (a) shall not apply and subsection (b)(2) shall not apply; but the amount of gain excluded from gross income under subsection (a) with respect to such sale of exchange shall not exceed—

''(A) the amount which bears the same ratio to the amount which would be so excluded if such requirements had been met, as

''(B) the shorter of—

''(i) the aggregate periods, during the 5-year period ending on the date of such sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence, or

''(ii) the period after the date of the most recent prior sale or exchange by the taxpayer or his spouse to which subsection (a) applied and before the date of such sale or exchange,

bears to 2 years.

''(2) SALES AND EXCHANGES TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any sale or exchange if—

''(A) subsection (a) would not (but for this subsection) apply to such sale or exchange by reason of—

''(i) a failure to meet the ownership and use requirements of subsection (a), or

''(ii) subsection (b)(2), and

''(B) such sale or exchange is by reason of a change in place of employment, health, or, to the extent provided in regulations, other unforeseen circumstances.

''(d) SPECIAL RULES.—

''(1) JOINT RETURNS.—For purposes of this section, if a husband and wife make a joint return for the taxable year of the sale or exchange of the property, subsection (a) shall, subject to the provisions of subsection (b), apply if either spouse meets the ownership and use requirements of subsection (a) with respect to such property.

''(2) PROPERTY OF DECEASED SPOUSE.—For purposes of this section, in the case of an unmarried individual whose spouse is deceased on the date of the sale or exchange of property, the period such unmarried individual owned such property shall include the period such deceased spouse held such property before death.

''(3) PROPERTY OF DIVORCED SPOUSE.—For purposes of this section, in the case of an individual holding property transferred to such individual incident to divorce (within the meaning of section 1041(c))—

''(A) the period such individual owns such property shall include the period the former spouse owned the property, and

''(B) the dollar limitation applicable under paragraph (1) shall not be less than the amount such limitation would have been had the sale or exchange occurred on the date the divorce became final.

''(4) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—For purposes of this section, if the taxpayer holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), then—

''(A) the holding requirements of subsection (a) shall be applied to the holding of such stock, and

''(B) the use requirements of subsection (a) shall be applied to the house or apartment which the taxpayer was entitled to occupy as such stockholder.

''(5) INVOLUNTARY CONVERSIONS.—

''(A) IN GENERAL.—For purposes of this section, the destruction, theft, seizure, requisition, or condemnation of property shall be treated as the sale of such property.

''(B) APPLICATION OF SECTION 1033.—In applying section 1033 (relating to involuntary conversions), the amount realized from the sale or exchange of property shall be treated as being the amount determined without regard to this section, reduced by the amount of gain not included in gross income pursuant to this section.

''(C) PROPERTY ACQUIRED AFTER INVOLUNTARY CONVERSION.—If the basis of the property sold or exchanged is determined (in whole or in part) under section 1033(b) (relating to basis of property acquired through involuntary conversion), then the holding and use by the taxpayer of the converted property shall be treated as holding and use by the taxpayer of the property sold or exchanged.

''(6) RECOGNITION OF GAIN ATTRIBUTABLE TO DEPRECIATION.—Subsection (a) shall not apply to so much of the gain from the sale of any property as does not exceed the portion of the depreciation adjustments (as defined in section 1250(b)(3)) attributable to periods after May 6, 1997, in respect of such property.

''(7) DETERMINATION OF USE DURING PERIODS OF OUT-OF-RESIDENCE CARE.—In the case of a taxpayer who—

''(A) becomes physically or mentally incapable of self-care, and

''(B) owns property and uses such property as the taxpayer's principal residence during the 5-year period described in subsection (a) for periods aggregating at least 1 year,

then the taxpayer shall be treated as using such property as the taxpayer's principal residence during any time during such 5-year period in which the taxpayer owns the property and resides in any facility (including a nursing home) licensed by a State or political subdivision to care for an individual in the taxpayer's condition.

''(8) DETERMINATION OF MARITAL STATUS.—In the case of any sale or exchange, for purposes of this section—

''(A) the determination of whether an individual is married shall be made as of the date of the sale or exchange, and

''(B) an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

''(9) SALES OF LIFE ESTATES AND REMAINDER INTERESTS.—For purposes of this section—

''(A) IN GENERAL.—This section shall not fail to apply to the sale or exchange of an interest in a principal residence by reason of such interest being a life estate or a remainder interest in such residence, but this section shall apply only to one such interest in such residence which is sold or exchanged separately.

''(B) EXCEPTION FOR SALES TO RELATED PARTIES.—Subparagraph (A) shall not apply to any sale to, or exchange with, any person who bears a relationship to the taxpayer which is described in section 267(b) or 707(b).

''(e) DENIAL OF EXCLUSION FOR EXPATRIATES.—This section shall not apply to any sale or exchange by an individual if the treatment provided by section 877(a)(1) applies to such individual.

''(f) ELECTION TO HAVE SECTION NOT APPLY.—This section shall not apply to any sale or exchange with respect to which the taxpayer elects not to have this section apply.

''(g) RESIDENCES ACQUIRED IN ROLLOVERS UNDER SECTION 1034.—For purposes of this section, in the case of property the acquisition of which by the taxpayer resulted under section 1034 (as in effect on the day before the date of the enactment of this sentence) in the nonrecognition of any part of the gain realized on the sale or exchange of another residence, in determining the period for which the taxpayer has owned and used such property as the taxpayer's principal residence, there shall be included the aggregate periods for which such other residence (and each prior residence taken into account under section 1223(7) in determining the holding period of such property) had been so owned and used.''.

(b) REPEAL OF NONRECOGNITION OF GAIN ON ROLLOVER OF PRINCIPAL RESIDENCE.—Section 1034 (relating to rollover of gain on sale of principal residence) is hereby repealed.

(c) CONFORMING AMENDMENTS.—

(1) The following provisions of the Internal Revenue Code of 1986 are each amended by striking ''section 1034'' and inserting ''section 121'': sections 25(e)(7), 56(e)(1)(A), 56(e)(3)(B)(i), 143(i)(1)(C)(i)(I), 163(h)(4)(A)(i)(I), 280A(d)(4)(A), 464(f)(3)(B)(i), 1033(h)(4), 1274(c)(3)(B), 6334(a)(13), and 7872(f)(11)(A).

(2) Paragraph (4) of section 32(c) is amended by striking ''(as defined in section 1034(h)(3))'' and by adding at the end the following new sentence: ''For purposes of the preceding sentence, the term 'extended active duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.''.

(3) Subparagraph (A) of 143(m)(6) is amended by inserting ''(as in effect on the day before the date of the enactment of the Taxpayer Relief Act of 1997)'' after ''1034(e)''.

(4) Subsection (e) of section 216 is amended by striking ''such exchange qualifies for nonrecognition of gain under section 1034(f)'' and inserting ''such dwelling unit is used as his principal residence (within the meaning of section 121)''.

(5) Section 512(a)(3)(D) is amended by inserting ''(as in effect on the day before the date of the enactment of the Taxpayer Relief Act of 1997)'' after ''1034''.

(6) Paragraph (7) of section 1016(a) is amended by inserting ''(as in effect on the day before the date of the enactment of the Taxpayer Relief Act of 1997)'' after ''1034'' and by inserting ''(as so in effect)'' after ''1034(e)''.

(7) Paragraph (3) of section 1033(k) is amended to read as follows:

''(3) For exclusion from gross income of gain from involuntary conversion of principal residence, see section 121.''.

(8) Subsection (e) of section 1038 is amended to read as follows:

''(e) PRINCIPAL RESIDENCES.—If—

''(1) subsection (a) applies to a reacquisition of real property with respect to the sale of which gain was not recognized under section 121 (relating to gain on sale of principal residence); and

''(2) within 1 year after the date of the reacquisition of such property by the seller, such property is resold by him,

then, under regulations prescribed by the Secretary, subsections (b), (c), and (d) of this section shall not apply to the reacquisition of such property and, for purposes of applying section 121, the resale of such property shall be treated as a part of the transaction constituting the original sale of such property.''.

(9) Paragraph (7) of section 1223 is amended by inserting ''(as in effect on the day before the date of the enactment of the Taxpayer Reief Act of 1997)'' after ''1034''.

(10) Paragraph (7) of section 1250(d) is amended to read as follows:

''(7) DISPOSITION OF PRINCIPAL RESIDENCE.—Subsection (a) shall not apply to a disposition of property to the extent used by the taxpayer as his principal residence (within the meaning of section 121, relating to gain on sale of principal residence).''.

(11) Subsection (c) of section 6012 is amended by striking ''(relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55)'' and inserting ''(relating to gain from sale of principal residence)''.

(12) Paragraph (2) of section 6212(c) is amended by striking subparagraph (C) and by redesignating the succeeding subparagraphs accordingly.

(13) Section 6504 is amended by striking paragraph (4) and by redesignating the succeeding paragraphs accordingly.

(14) The item relating to section 121 in the table of sections for part III of subchapter B of chapter 1 is amended to read as follows:

''Sec. 121. Exclusion of gain from sale of principal residence.''.

(15) The table of sections for part III of subchapter O of chapter 1 of such Code is amended by striking the item relating to section 1034.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to sales and exchanges after May 6, 1997.

(2) SALES BEFORE DATE OF ENACTMENT.—At the election of the taxpayer, the amendments made by this section shall not apply to any sale or exchange before the date of the enactment of this Act.

(3) BINDING CONTRACTS.—At the election of the taxpayer, the amendments made by this section shall not apply to a sale or exchange after the date of the enactment of this Act, if—

(A) such sale or exchange is pursuant to a contract which was binding on such date, or

(B) without regard to such amendments, gain would not be recognized under section 1034 of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act) on such sale or exchange by reason of a new residence acquired on or before such date or with respect to the acquisition of which by the taxpayer a binding contract was in effect on such date.

This paragraph shall not apply to any sale or exchange by an individual if the treatment provided by section 877(a)(1) of the Internal Revenue Code of 1986 applies to such individual.

PART II—CORPORATE CAPITAL GAINS

SEC. 321. REDUCTION OF ALTERNATIVE CAPITAL GAIN TAX FOR CORPORATIONS.

(a) IN GENERAL.—Section 1201 is amended to read as follows:

''SEC. 1201. ALTERNATIVE TAX FOR CORPORATIONS.

''(a) GENERAL RULE.—If for any taxable year a corporation has 8-year gain, then, in lieu of the tax imposed by sections 11, 511, and 831 (a) and (b) (whichever is applicable), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

''(1) a tax computed on the taxable income reduced by the amount of the 8-year gain, at the rates and in the manner as if this subsection had not been enacted, plus

''(2) a tax of the applicable percentage of the amount of the 8-year gain (or, if less, taxable income).

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a)—

''(1) IN GENERAL.—The term 'applicable percentage' means—

''(A) 32 percent for the portion of any taxable year within 1998,

''(B) 31 percent for the portion of any taxable year within 1999, and

''(C) 30 percent for the portion of any taxable year after 1999.

''(2) FISCAL YEAR TAXPAYERS.—

''(A) TAXABLE YEARS BEGINNING IN 1997.—In applying this section to taxable years beginning in 1997, 8-year gain shall not exceed the 8-year gain determined by taking into account only gains and losses properly taken into account for the portion of the taxable year after December 31, 1997.

''(B) TAXABLE YEARS BEGINNING IN 1998 OR 1999.—In the case of a taxable year beginning in 1998 or 1999 which includes portions of 2 calendar years, the applicable percentage shall be applied separately to such portions by taking into account—

''(i) in the case of the first such portion, the lesser of—

''(I) the 8-year gain determined by taking into account only gains and losses properly taken into account for such portion, or

''(II) the 8-year gain determined for the entire taxable year, and

''(ii) in the case of the second such portion, the 8-year gain (and the taxable income) determined for the entire taxable year reduced by the amount on which tax is determined under subsection (a)(2) for the first such portion determined under clause (i).

''(C) SPECIAL RULE FOR PASS-THRU ENTITIES.—Section 1(h)(8)(C) shall apply for purposes of this paragraph.

''(c) 8-YEAR GAIN.—For purposes of this section, the term '8-year gain' means the lesser of—

''(1) the amount of long-term capital gain which would be computed for the taxable year if only gain from the sale or exchange of property held by the taxpayer for more than 8 years were taken into account, or

''(2) net capital gain.

The determination under the preceding sentence shall be made without regard to collectibles gain (as defined in section 1(h)(5)) or section 1250 gain (as defined in section 1(h)(7)).

''(d) CROSS REFERENCES.—

''For computation of the alternative tax—

''(1) in the case of life insurance companies, see section 801(a)(2),

''(2) in the case of regulated investment companies and their shareholders, see section 852(b)(3)(A) and (D), and

''(3) in the case of real estate investment trusts, see section 857(b)(3)(A).''.

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (d) of section 291 is amended by striking ''subsection (a)(1) to such shareholder'' and inserting ''subsection (a)(1) and section 1201 to such shareholder''.

(2) Clause (iii) of section 852(b)(3)(D) is amended by striking ''65 percent'' and inserting ''the applicable percentage'' and by inserting at the end the following new sentence: ''For purposes of the preceding sentence, the term 'applicable percentage' means the percentage equal to the excess of 100 percent over the percentage applicable under section 1201(a).''.

(3)(A) Subparagraph (B) of section 852(b)(3) is amended to read as follows:

''(B) TREATMENT OF CAPITAL GAIN DIVIDENDS BY SHAREHOLDERS.—

''(i) IN GENERAL.—Except as provided in clause (ii), a capital gain dividend shall be treated by the shareholders as gain from the sale or exchange of a capital asset held for more than 1 year.

''(ii) COORDINATION WITH 8-YEAR HOLDING PERIOD FOR CORPORATE NET CAPITAL GAIN.—The portion of any capital gain dividend designated by the company as allocable to gain from the sale or exchange of property held by the company for more than 8 years shall be treated as gain from the sale or exchange of a capital asset held for more than 8 years. Rules similar to the rules of subparagraph (C) shall apply to any designation under the preceding sentence.''.

(B) Clause (i) of section 851(b)(3)(D) is amended by adding at the end thereof the following new sentence: ''Rules similar to the rules of subparagraph (B) shall apply in determining character of the amount to be so included by any such shareholder which is a corporation.''.

(4) Subparagraph (B) of section 857(b)(3) is amended to read as follows:

''(B) TREATMENT OF CAPITAL GAIN DIVIDENDS BY SHAREHOLDERS.—

''(i) IN GENERAL.—Except as provided in clause (ii), a capital gain dividend shall be treated by the shareholders or holders of beneficial interests as gain from the sale or exchange of a capital asset held for more than 1 year.

''(ii) COORDINATION WITH 8-YEAR HOLDING PERIOD FOR CORPORATE NET CAPITAL GAIN.—The portion of any capital gain dividend designated by the company as allocable to gain from the sale or exchange of property held by the company for more than 8 years shall be treated as gain from the sale or exchange of a capital asset held for more than 8 years. Rules similar to the rules of subparagraph (C) shall apply to any designation under the preceding sentence.''.

(5) Subsection (c) of section 584 is amended—

(A) by inserting ''but not more than 8 years'' after ''1 year'' each place it appears in paragraph (2),

(B) by striking ''and'' at the end of paragraph (2), and

(C) by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following new paragraph:

''(3) as part of its gains and losses from sales or exchanges of capital assets held for more than 8 years, its proportionate share of the gains and losses of the common trust fund from sales or exchanges of capital assets held for more than 8 years, and''.

(6) Subparagraph (E) of section 904(b)(3) is amended by adding at the end the following new clause:

''(iv) REGULATIONS.—The Secretary shall prescribe regulations that adjust the limitation under subsection (a) to reflect the rate differential for 8-year gain (as defined in section 1201(c)) between the highest rate of tax specified in section 11(b) and the alternate rate of tax under section 1201(a) and the limitation on the deduction for capital losses under section 1211.''.

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to taxable years ending after December 31, 1997.

TITLE IV—ALTERNATIVE MINIMUM TAX REFORM

SEC. 401. ADJUSTMENT OF EXEMPTION AMOUNTS FOR TAXPAYERS OTHER THAN CORPORATIONS.

(a) IN GENERAL.—Subsection (d) of section 55 is amended by adding at the end the following new paragraph:

''(4) ADJUSTMENT OF EXEMPTION AMOUNTS FOR TAXPAYERS OTHER THAN CORPORATIONS.—

''(A) TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 2008.—In the case of any taxable year beginning in a calendar year after 1998 and before 2008—

''(i) IN GENERAL.—The dollar amount applicable under paragraph (1)(A) for any odd-numbered calendar year—

''(I) shall be $1,000 greater than the dollar amount applicable under paragraph (1)(A) for the prior odd-numbered calendar year, and

''(II) shall apply to taxable years beginning in such odd-numbered calendar year and the succeeding calendar year.

''(B) TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2007.—In the case of any taxable year beginning in a calendar year after 2007, the dollar amount applicable under paragraph (1)(A) for taxable years beginning in 2007 shall be increased by an amount equal to the product of—

''(i) such dollar amount, and

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2006' for 'calendar year 1992' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $100, such increase shall be rounded to the next lowest multiple of $100.

''(C) OTHER AMOUNTS.—

''(i) The dollar amount applicable under paragraph (1)(B) for any taxable year shall be an amount equal to 75 percent of the dollar amount applicable under paragraph (1)(A) for such year.

''(ii) The dollar amount applicable under paragraph (1)(C) for any taxable year shall be an amount equal to 50 percent of the dollar amount applicable under paragraph (1)(A) for such year.''.

(b) CONFORMING AMENDMENT.—The last sentence of section 55(d)(3) is amended by striking ''$165,000 or (ii) $22,500'' and inserting ''the minimum amount of such income (as so determined) for which the exemption amount under paragraph (1)(C) is zero, or (ii) such exemption amount (determined without regard to this paragraph)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 402. EXEMPTION FROM ALTERNATIVE MINIMUM TAX FOR SMALL CORPORATIONS.

(a) IN GENERAL.—Section 55 (relating to alternative minimum tax imposed) is amended by adding at the end the following new subsection:

''(e) EXEMPTION FOR SMALL CORPORATIONS.—

''(1) IN GENERAL.—The tentative minimum tax of a corporation shall be zero for any taxable year if—

''(A) such corporation met the $5,000,000 gross receipts test of section 448(c) for any prior taxable year beginning after December 31, 1996, and

''(B) such corporation would meet such test for the taxable year and all prior taxable years beginning after December 31, 1997, if such test were applied by substituting '$7,500,000' for '$5,000,000'

''(2) PROSPECTIVE APPLICATION OF MINIMUM TAX IF SMALL CORPORATION CEASES TO BE SMALL.—In the case of a corporation whose tentative minimum tax is zero for any prior taxable year by reason of paragraph (1), the application of this part for taxable years beginning with the first taxable year such corporation ceases to be described in paragraph (1) shall be determined without regard to transactions entered into or other items arising in taxable years prior to such first taxable year.

''(3) LIMITATION ON USE OF CREDIT FOR PRIOR YEAR MINIMUM TAX LIABILITY.—In the case of a taxpayer whose tentative minimum tax for any taxable year is zero by reason of paragraph (1), the amount described in paragraph (2) of section 53(b) shall not be less than the greater of—

''(A) the tentative minimum tax for the taxable year, or

''(B) 25 percent of so much of the regular tax liability (reduced by the credit allowed by section 27) as exceeds $25,000.

Rules similar to the rules of section 38(c)(3)(B) shall apply for purposes of the preceding sentence.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 403. REPEAL OF ADJUSTMENT FOR DEPRECIATION.

(a) IN GENERAL.—Clause (i) of section 56(a)(1)(A) is amended by inserting ''and before January 1, 1999,'' after ''December 31, 1986,''.

(b) STUDY.—

(1) IN GENERAL.—Because it is the intent of Congress that the amendment made by subsection (a) not have the result of permitting any corporation with taxable income from current year operations to pay no Federal income tax, the Secretary of the Treasury or his delegate shall conduct a study to determine whether such amendment has that result and, if so, the policy implications of that result.

(2) REPORT.—The report of such study shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than January 1, 2001.

SEC. 404. MINIMUM TAX NOT TO APPLY TO FARMERS' INSTALLMENT SALES.

(a) IN GENERAL.—The last sentence of paragraph (6) of section 56(a) (relating to treatment of installment sales in computing alternative minimum taxable income) is amended to read as follows: ''This paragraph shall not apply to any disposition—

''(A) in the case of a taxpayer using the cash receipts and disbursements method of accounting, described in section 453(l)(2)(A) (relating to farm property), or

''(B) with respect to which an election is in effect under section 453(l)(2)(B) (relating to timeshares and residential lots).''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to dispositions in taxable years beginning after December 31, 1987.

(2) SPECIAL RULE FOR 1987.—In the case of taxable years beginning in 1987, the last sentence of section 56(a)(6) of the Internal Revenue Code of 1986 (as in effect for such taxable years) shall be applied by inserting ''or in the case of a taxpayer using the cash receipts and disbursements method of accounting, any disposition described in section 453C(e)(1)(B)(ii)'' after ''section 453C(e)(4)''.

TITLE V—ESTATE, GIFT, AND GENERATION-SKIPPING TAX PROVISIONS

Subtitle A—Estate and Gift Tax Provisions

SEC. 501. COST-OF-LIVING ADJUSTMENTS RELATING TO ESTATE AND GIFT TAX PROVISIONS.

(a) INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDIT.—

(1) ESTATE TAX CREDIT.—

(A) IN GENERAL.—Subsection (a) of section 2010 (relating to unified credit against estate tax) is amended by striking ''$192,800'' and inserting ''the applicable credit amount''.

(B) APPLICABLE CREDIT AMOUNT.—Section 2010 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) APPLICABLE CREDIT AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—For purposes of this section, the applicable credit amount is the amount of the tentative tax which would be determined under the rate schedule set forth in section 2001(c) if the amount with respect to which such tentative tax is to be computed were the applicable exclusion amount determined in accordance with the following table:

''In the case of estates of decedents dying, and gifts made during:	The applicable exclusion amount is:
1998	$650,000
1999	$750,000
2000	$765,000
2001 through 2004	$775,000
2005	$800,000
2006	$825,000
2007 or thereafter	$1,000,000.

''(2) COST-OF-LIVING ADJUSTMENT.—In the case of any decedent dying, and gift made, in a calendar year after 2007, the $1,000,000 amount set forth in paragraph (1) shall be increased by an amount equal to—

''(A) $1,000,000, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2006' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the next lowest multiple of $10,000.''.

(C) ESTATE TAX RETURNS.—Paragraph (1) of section 6018(a) is amended by striking ''$600,000'' and inserting ''the applicable exclusion amount in effect under section 2010(c) for the calendar year which includes the date of death''.

(D) PHASEOUT OF GRADUATED RATES AND UNIFIED CREDIT.—Paragraph (2) of section 2001(c) is amended by striking ''$21,040,000'' and inserting ''the amount at which the average tax rate under this section is 55 percent''.

(E) ESTATES OF NONRESIDENTS NOT CITIZENS.—Subparagraph (A) of section 2102(c)(3) is amended by striking ''$192,800'' and inserting ''the applicable credit amount in effect under section 2010(c) for the calendar year which includes the date of death''.

(2) UNIFIED GIFT TAX CREDIT.—Paragraph (1) of section 2505(a) is amended by striking ''$192,800'' and inserting ''the applicable credit amount in effect under section 2010(c) for such calendar year''.

(b) ALTERNATE VALUATION OF CERTAIN FARM, ETC., REAL PROPERTY.—Subsection (a) of section 2032A is amended by adding at the end the following new paragraph:

''(3) INFLATION ADJUSTMENT.—In the case of estates of decedents dying in a calendar year after 1998, the $750,000 amount contained in paragraph (2) shall be increased by an amount equal to—

''(A) $750,000, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the next lowest multiple of $10,000.''.

(c) ANNUAL GIFT TAX EXCLUSION.—Subsection (b) of section 2503 is amended—

(1) by striking the subsection heading and inserting the following:

''(b) EXCLUSIONS FROM GIFTS.—

''(1) IN GENERAL.—'',

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new paragraph:

''(2) INFLATION ADJUSTMENT.—In the case of gifts made in a calendar year after 1998, the $10,000 amount contained in paragraph (1) shall be increased by an amount equal to—

''(A) $10,000, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $1,000, such amount shall be rounded to the next lowest multiple of $1,000.''.

(d) EXEMPTION FROM GENERATION-SKIPPING TAX.—Section 2631 (relating to GST exemption) is amended by adding at the end the following new subsection:

''(c) INFLATION ADJUSTMENT.—In the case of an individual who dies in any calendar year after 1998, the $1,000,000 amount contained in subsection (a) shall be increased by an amount equal to—

''(1) $1,000,000, multiplied by

''(2) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the next lowest multiple of $10,000.''.

(e) AMOUNT SUBJECT TO REDUCED RATE WHERE EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX ON CLOSELY HELD BUSINESS.—Subsection (j) of section 6601 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) INFLATION ADJUSTMENT.—In the case of estates of decedents dying in a calendar year after 1998, the $1,000,000 amount contained in paragraph (2)(A) shall be increased by an amount equal to—

''(A) $1,000,000, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the next lowest multiple of $10,000.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 1997.

SEC. 502. 20-YEAR INSTALLMENT PAYMENT WHERE ESTATE CONSISTS LARGELY OF INTEREST IN CLOSELY HELD BUSINESS.

(a) IN GENERAL.—Section 6166(a) (relating to extension of time for payment of estate tax where estate consists largely of interest in closely held business) is amended by striking ''10'' in paragraph (1) and the heading thereof and inserting ''20''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1997.

SEC. 503. NO INTEREST ON CERTAIN PORTION OF ESTATE TAX EXTENDED UNDER SECTION 6166, REDUCED INTEREST ON REMAINING PORTION, AND NO DEDUCTION FOR SUCH REDUCED INTEREST.

(a) NO INTEREST AND REDUCED INTEREST.—

(1) IN GENERAL.—Paragraphs (1) and (2) of section 6601(j) (relating to 4-percent rate on certain portion of estate tax extended under section 6166), as amended by section 501(e), are amended to read as follows:

''(1) IN GENERAL.—If the time for payment of an amount of tax imposed by chapter 11 is extended as provided in section 6166, then in lieu of the annual rate provided by subsection (a)—

''(A) no interest shall be paid on the no-interest portion of such amount, and

''(B) interest on so much of such amount as exceeds such no-interest portion shall be paid at a rate equal to 45 percent of the annual rate provided by subsection (a).

For purposes of this subsection, the amount of any deficiency which is prorated to installments payable under section 6166 shall be treated as an amount of tax payable in installments under such section.

''(2) NO-INTEREST PORTION.—For purposes of this section, the term 'no-interest portion' means the lesser of—

''(A)(i) the amount of the tentative tax which would be determined under the rate schedule set forth in section 2001(c) if the amount with respect to which such tentative tax is to be computed were the sum of $1,000,000 and the applicable exclusion amount in effect under section 2010(c), reduced by

''(ii) the applicable credit amount in effect under section 2010(c), or

''(B) the amount of the tax imposed by chapter 11 which is extended as provided in section 6166.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 6601(j), as amended by section 501, is amended—

(i) by striking ''4-percent'' each place it appears in paragraph (3) and inserting ''no-interest'', and

(ii) by striking ''4-PERCENT RATE ON CERTAIN PORTION OF'' in the heading and inserting ''RATE ON''.

(B) Section 6166(b)(7)(A)(iii) is amended to read as follows:

''(iii) for purposes of applying section 6601(j) (relating to rate on estate tax extended under section 6166), the no-interest portion shall be zero.''.

(C) Section 6166(b)(8)(A)(iii) is amended to read as follows:

''(iii) NO-INTEREST PORTION NOT TO APPLY.—For purposes of applying section 6601(j) (relating to rate on estate tax extended under section 6166), the no-interest portion shall be zero.''.

(b) DISALLOWANCE OF INTEREST DEDUCTION.—

(1) ESTATE TAX.—Paragraph (1) of section 2053(c) is amended by adding at the end the following new subparagraph:

''(D) SECTION 6166 INTEREST.—No deduction shall be allowed under this section for any interest payable under section 6601 on any unpaid portion of the tax imposed by section 2001 for the period during which an extension of time for payment of such tax is in effect under section 6166.''.

(2) INCOME TAX.—Subparagraph (E) of section 163(h)(2) is amended by striking ''or 6166''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1997.

SEC. 504. EXTENSION OF TREATMENT OF CERTAIN RENTS UNDER SECTION 2032A TO LINEAL DESCENDANTS.

(a) GENERAL RULE.—Paragraph (7) of section 2032A(c) (relating to special rules for tax treatment of dispositions and failures to use for qualified use) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN RENTS TREATED AS QUALIFIED USE.—For purposes of this subsection, a surviving spouse or lineal descendant of the decedent shall not be treated as failing to use qualified real property in a qualified use solely because such spouse or descendant rents such property to a member of the family of such spouse or descendant on a net cash basis. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as the child of such individual by blood.''.

(b) CONFORMING AMENDMENT.—Section 2032A(b)(5)(A) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to leases entered into after December 31, 1976.

SEC. 505. CLARIFICATION OF JUDICIAL REVIEW OF ELIGIBILITY FOR EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX.

(a) IN GENERAL.—Part IV of subchapter C of chapter 76 of the Internal Revenue Code of 1986 (relating to declaratory judgments) is amended by adding at the end the following new section:

''SEC. 7479. DECLARATORY JUDGMENTS RELATING TO ELIGIBILITY OF ESTATE WITH RESPECT TO INSTALLMENT PAYMENTS UNDER SECTION 6166.

''(a) CREATION OF REMEDY.—In a case of actual controversy involving a determination by the Secretary of (or a failure by the Secretary to make a determination with respect to)—

''(1) whether an election may be made under section 6166 (relating to extension of time for payment of estate tax where estate consists largely of interest in closely held business) with respect to an estate, or

''(2) whether the extension of time for payment of tax provided in section 6166(a) has ceased to apply with respect to an estate,

upon the filing of an appropriate pleading, the Tax Court may make a declaration with respect to whether such election may be made, whether such extension has ceased to apply, or the amount of such installment payments. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

''(b) LIMITATIONS.—

''(1) PETITIONER.—A pleading may be filed under this section, with respect to any estate, only—

''(A) by the executor of such estate, or

''(B) by any person who has assumed an obligation to make payments under section 6166 with respect to such estate (but only if each other such person is joined as a party).

''(2) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—The court shall not issue a declaratory judgment or decree under this section

in any proceeding unless it determines that the petitioner has exhausted all available administrative remedies within the Internal Revenue Service. A petitioner shall be deemed to have exhausted its administrative remedies with respect to a failure of the Secretary to make a determination at the expiration of 180 days after the date on which the request for such determination was made if the petitioner has taken, in a timely manner, all reasonable steps to secure such determination.

''(3) TIME FOR BRINGING ACTION.—If the Secretary sends by certified or registered mail notice of his determination as described in subsection (a) to the petitioner, no proceeding may be initiated under this section unless the pleading is filed before the 91st day after the date of such mailing.''.

(b) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter C of chapter 76 of such Code is amended by adding at the end the following new item:

''Sec. 7479. Declaratory judgments relating to eligibility of estate with respect to installment payments under section 6166.''.

(c) 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.

SEC. 506. GIFTS MAY NOT BE REVALUED FOR ESTATE TAX PURPOSES AFTER EXPIRATION OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Section 2001 (relating to imposition and rate of estate tax) is amended by adding at the end the following new subsection:

''(f) VALUATION OF GIFTS.—If—

''(1) the time has expired within which a tax may be assessed under chapter 12 (or under corresponding provisions of prior laws) on the transfer of property by gift made during a preceding calendar period (as defined in section 2502(b)), and

''(2) the value of such gift is shown on the return for such preceding calendar period or is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such gift,

the value of such gift shall, for purposes of computing the tax under this chapter, be the value of such gift as finally determined for purposes of chapter 12.''.

(b) MODIFICATION OF APPLICATION OF STATUTE OF LIMITATIONS.—Paragraph (9) of section 6501(c) is amended to read as follows:

''(9) GIFT TAX ON CERTAIN GIFTS NOT SHOWN ON RETURN.—If any gift of property the value of which (or any increase in taxable gifts required under section 2701(d) which) is required to be shown on a return of tax imposed by chapter 12 (without regard to section 2503(b)), and is not shown on such return, any tax imposed by chapter 12 on such gift may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time. The preceding sentence shall not apply to any item which is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such item. The value of any item which is so disclosed may not be redetermined by the Secretary after the expiration of the period under subsection (a).''.

(c) DECLARATORY JUDGMENT PROCEDURE FOR DETERMINING VALUE OF GIFT.—

(1) IN GENERAL.—Part IV of subchapter C of chapter 76 is amended by inserting after section 7476 the following new section:

''SEC. 7477. DECLARATORY JUDGMENTS RELATING TO VALUE OF CERTAIN GIFTS.

''(a) CREATION OF REMEDY.—In a case of an actual controversy involving a determination by the Secretary of the value of any gift shown on the return of tax imposed by chapter 12 or disclosed on such return or in any statement attached to such return, upon the filing of an appropriate pleading, the Tax Court may make a declaration of the value of such gift. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

''(b) LIMITATIONS.—

''(1) PETITIONER.—A pleading may be filed under this section only by the donor.

''(2) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—The court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines that the petitioner has exhausted all available administrative remedies within the Internal Revenue Service.

''(3) TIME FOR BRINGING ACTION.—If the Secretary sends by certified or registered mail notice of his determination as described in subsection (a) to the petitioner, no proceeding may be initiated under this section unless the pleading is filed before the 91st day after the date of such mailing.''.

(2) CLERICAL AMENDMENT.—The table of sections for such part IV is amended by inserting after the item relating to section 7476 the following new item:

''Sec. 7477. Declaratory judgments relating to value of certain gifts.''.

(d) CONFORMING AMENDMENT.—Subsection (c) of section 2504 is amended by striking '', and if a tax under this chapter or under corresponding provisions of prior laws has been assessed or paid for such preceding calendar period''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall apply to gifts made after the date of the enactment of this Act.

(2) SUBSECTION (b)—The amendment made by subsection (b) shall apply to gifts made in calendar years ending after the date of the enactment of this Act.

SEC. 507. TERMINATION OF THROWBACK RULES FOR DOMESTIC TRUSTS.

(a) ACCUMULATION DISTRIBUTIONS.—

(1) IN GENERAL.—Section 665 is amended by adding at the end the following new subsection:

''(f) SPECIAL RULE FOR UNITED STATES TRUSTS.—For purposes of this subpart, in the case of a trust other than a foreign trust, any distribution in any taxable year beginning after the date of the enactment of this subsection shall be computed without regard to any undistributed net income.''.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 665 is amended by inserting ''except as provided in subsection (f),'' after ''subpart,''.

(b) PROPERTY TRANSFERRED TO TRUSTS.—Subsection (e) of section 644 is amended by striking ''or'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', or '', and by adding at the end the following new paragraph:

''(5) in the case of a trust other than a foreign trust, any sale or exchange of property after the date of the enactment of this paragraph.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to distributions in taxable years beginning after the date of the enactment of this Act.

(2) TRANSFERRED PROPERTY.—The amendments made by subsection (b) shall apply to sales or exchanges after the date of the enactment of this Act.

SEC. 508. UNIFIED CREDIT OF DECEDENT INCREASED BY UNIFIED CREDIT OF SPOUSE USED ON SPLIT GIFT INCLUDED IN DECEDENT'S GROSS ESTATE.

(a) IN GENERAL.—Section 2010 (relating to unified credit against estate tax) is amended by adding at the end the following new subsection:

''(d) TREATMENT OF UNIFIED CREDIT USED BY SPOUSE ON SPLIT-GIFT INCLUDED IN DECEDENT'S GROSS ESTATE.—If—

''(1) the decedent was the donor of any gift one-half of which was considered under section 2513 as made by the decedent's spouse, and

''(2) the amount of such gift is includible in the gross estate of the decedent by reason of section 2035, 2036, 2037, or 2038,

the amount of the credit allowable by subsection (a) to the estate of the decedent shall be increased by the amount of the unified credit allowed against the tax imposed by section 2501 on the amount of such gift considered under section 2513 as made by such spouse.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to gifts made after the date of the enactment of this Act.

SEC. 509. REFORMATION OF DEFECTIVE BEQUESTS, ETC., TO SPOUSE OF DECEDENT.

(a) IN GENERAL.—Subsection (b) of section 2056 (relating to bequests, etc., to surviving spouse) is amended by adding at the end the following new paragraph:

''(11) REFORMATIONS PERMITTED.—

''(A) IN GENERAL.—In the case of any interest in property with respect to which a deduction would be allowable under subsection (a) but for a provision of this subsection, if—

''(i) the surviving spouse is entitled to all of the income from the property for life,

''(ii) no person other than such spouse is entitled to any distribution of such property during such spouse's life, and

''(iii) there is a change of a governing instrument (by reformation, amendment, construction, or otherwise) as of the applicable date which results in the satisfaction of the requirements of such provision as of the date of the decedent's death,

the determination of whether such deduction is allowable shall be made as of the applicable date.

''(B) SPECIAL RULE WHERE TIMELY COMMENCEMENT OF REFORMATION.—Clauses (i) and (ii) of subparagraph (A) shall not apply to any interest if, not later than the date described in subparagraph (C)(i), a judicial proceeding is commenced to change such interest into an interest which satisfies the requirements of the provision by reason of which (but for this paragraph) a deduction would not be allowable under subsection (a) for such interest.

''(C) APPLICABLE DATE.—For purposes of subparagraph (A), the term 'applicable date' means—

''(i) the last date (including extensions) for filing the return of tax imposed by this chapter, or

''(ii) if a judicial proceeding is commenced to comply with such provision, the time when the changes pursuant to such proceeding are made.

''(D) SPECIAL RULE.—If the change referred to in subparagraph (A)(iii) is to qualify the passage of the interest under paragraph (7), subparagraph (A) shall apply only if the election under paragraph (7)(B) is made.

''(E) STATUTE OF LIMITATIONS.—If a judicial proceeding described in subparagraph (C)(ii) is commenced with respect to any interest, the period for assessing any deficiency of tax attributable to such interest shall not expire before the date 1 year after the date on

which the Secretary is notified that such provision has been complied with or that such proceeding has been terminated.''.

(b) COMPARABLE RULE FOR GIFT TAX.—Section 2523 (relating to gift to spouse) is amended by adding at the end the following new subsection:

''(j) REFORMATIONS PERMITTED.—Rules similar to the rules of section 2056(b)(11) shall apply for purposes of this section.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying, and gifts made, after the date of the enactment of this Act.

Subtitle B—Generation-Skipping Tax Provisions

SEC. 511. SEVERING OF TRUSTS HOLDING PROPERTY HAVING AN INCLUSION RATIO OF GREATER THAN ZERO.

(a) IN GENERAL.—Subsection (a) of section 2642 (relating to inclusion ratio) is amended by adding at the end the following new paragraph:

''(3) SEVERING OF TRUSTS HOLDING PROPERTY HAVING AN INCLUSION RATIO OF GREATER THAN ZERO.—

''(A) IN GENERAL.—If a trust holding property having an inclusion ratio of greater than zero is severed in a qualified severance, at the election of the trustee of such trust, the trusts resulting from such severance shall be treated as separate trusts for purposes of this chapter and 1 such trust shall have an inclusion ratio of 1 and the other such trust shall have an inclusion ratio of zero.

''(B) QUALIFIED SEVERANCE.—For purposes of subparagraph (A), the term 'qualified severance' means the creation of 2 trusts from a single trust if each property held by the single trust was divided between the 2 created trusts such that one trust received an interest in each such property equal to the applicable fraction of the single trust. Such term includes any other severance permitted under regulations prescribed by the Secretary.

''(C) ELECTION.—The election under this paragraph shall be made at the time prescribed by the Secretary. Such an election, once made, shall be irrevocable.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to severances after the date of the enactment of this Act.

SEC. 512. EXPANSION OF EXCEPTION FROM GENERATION-SKIPPING TRANSFER TAX FOR TRANSFERS TO INDIVIDUALS WITH DECEASED PARENTS.

(a) IN GENERAL.—Section 2651 (relating to generation assignment) is amended by redesignating subsection (e) as subsection (f), and by inserting after subsection (d) the following new subsection:

''(e) SPECIAL RULE FOR PERSONS WITH A DECEASED PARENT.—

''(1) IN GENERAL.—For purposes of determining whether any transfer is a generation-skipping transfer, if—

''(A) an individual is a descendant of a parent of the transferor (or the transferor's spouse or former spouse), and

''(B) such individual's parent who is a lineal descendant of the parent of the transferor (or the transferor's spouse or former spouse) is dead at the time the transfer (from which an interest of such individual is established or derived) is subject to a tax imposed by chapter 11 or 12 upon the transferor (and if there shall be more than 1 such time, then at the earliest such time),

such individual shall be treated as if such individual were a member of the generation which is 1 generation below the lower of the transferor's generation or the generation assignment of the youngest living ancestor of such individual who is also a descendant of the parent of the transferor (or the transferor's spouse or former spouse), and the generation assignment of any descendant of such individual shall be adjusted accordingly.

''(2) LIMITED APPLICATION OF SUBSECTION TO COLLATERAL HEIRS.—This subsection shall not apply with respect to a transfer to any individual who is not a lineal descendant of the transferor (or the transferor's spouse or former spouse) if, at the time of the transfer, such transferor has any living lineal descendant.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 2612(c) (defining direct skip) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(2) Section 2612(c)(2) (as so redesignated) is amended by striking ''section 2651(e)(2)'' and inserting ''section 2651(f)(2)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to terminations, distributions, and transfers occurring after December 31, 1997.

TITLE VI—EXTENSIONS

SEC. 601. RESEARCH TAX CREDIT.

(a) IN GENERAL.—Paragraph (1) of section 41(h) (relating to termination) is amended—

(1) by striking ''May 31, 1997'' and inserting ''December 31, 1998'', and

(2) by striking in the last sentence ''during the first 11 months of such taxable year.'' and inserting ''during the 30-month period beginning with the first month of such year. The 30 months referred to in the preceding sentence shall be reduced by the number of full months after June 1996 (and before the first month of such first taxable year) during which the taxpayer paid or incurred any amount which is taken into account in determining the credit under this section.''.

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (B) of section 41(c)(4) is amended to read as follows:

''(B) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary.''.

(2) Paragraph (1) of section 45C(b) is amended by striking ''May 31, 1997'' and inserting ''December 31, 1998''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after May 31, 1997.

SEC. 602. CONTRIBUTIONS OF STOCK TO PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Clause (ii) of section 170(e)(5)(D) (relating to termination) is amended by striking ''May 31, 1997'' and inserting ''December 31, 1998''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contributions made after May 31, 1997.

SEC. 603. WORK OPPORTUNITY TAX CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Subparagraph (B) of section 51(c)(4) (relating to termination) is amended by striking ''September 30, 1997'' and inserting ''September 30, 1998''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to individuals who begin work for the employer after September 30, 1997.

(b) WORK OPPORTUNITY CREDIT ALLOWED AGAINST MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULES FOR WORK OPPORTUNITY CREDIT.—

''(A) IN GENERAL.—In the case of the work opportunity credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) subparagraph (A) shall not apply, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the work opportunity credit).

''(B) WORK OPPORTUNITY CREDIT.—For purposes of this subsection, the term 'work opportunity credit' means the credit allowable under subsection (a) by reason of section 51(a).''.

(2) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) is amended by inserting ''or the work opportunity credit'' after ''employment credit''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1997.

(c) PERCENTAGE OF WAGES ALLOWED AS CREDIT.—

(1) IN GENERAL.—Subsection (a) of section 51 (relating to determination of amount) is amended by striking ''35 percent'' and inserting ''40 percent''.

(2) APPLICATION OF CREDIT FOR INDIVIDUALS PERFORMING FEWER THAN 400 HOURS OF SERVICES.—Paragraph (3) of section 51(i) is amended to read as follows:

''(3) INDIVIDUALS NOT MEETING MINIMUM EMPLOYMENT PERIODS.—

''(A) REDUCTION OF CREDIT FOR INDIVIDUALS PERFORMING FEWER THAN 400 HOURS OF SERVICES.—In the case of an individual who has completed at least 120 hours, but less than 400 hours, of services performed for the employer, subsection (a) shall be applied by substituting '25 percent' for '40 percent'.

''(B) DENIAL OF CREDIT FOR INDIVIDUALS PERFORMING FEWER THAN 120 HOURS OF SERVICES.—No wages shall be taken into account under subsection (a) with respect to any individual unless such individual has completed at least 120 hours of services performed for the employer.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to individuals who begin work for the employer after September 30, 1997.

(d) MODIFICATION OF ELIGIBILITY REQUIREMENT BASED ON PERIOD ON WELFARE.—

(1) IN GENERAL.—Subparagraph (A) of section 51(d)(2) (defining qualified IV–A recipient) is amended by striking all that follows ''a IV–A program'' and inserting ''for any 9 months during the 18-month period ending on the hiring date.''.

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 51(d)(3) is amended to read as follows:

''(A) IN GENERAL.—The term 'qualified veteran' means any veteran who is certified by the designated local agency as being a member of a family receiving assistance under a food stamp program under the Food Stamp Act of 1977 for at least a 3-month period ending during the 12-month period ending on the hiring date.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to individuals who begin work for the employer after September 30, 1997.

SEC. 604. ORPHAN DRUG TAX CREDIT.

(a) IN GENERAL.—Section 45C (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is amended by striking subsection (e).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts paid or incurred after May 31, 1997.

SEC. 605. BUDGETARY TREATMENT OF EXPIRING PREFERENTIAL EXCISE TAX RATES WHICH ARE DEDICATED TO TRUST FUNDS.

(a) IN GENERAL.—Subparagraph (C) of section 257(b)(2) of the Balanced Budget and

Emergency Deficit Control Act of 1985 (relating to the baseline) is amended by inserting before the period ''; except that any expiring preferential rate (and any credit or refund related thereto) shall be assumed not to be extended''.

(b) ESTIMATE OF REVENUE GAIN FROM CORRECTING BASELINE.—For purposes of estimating revenues under budget reconciliation, the impact of the amendment made by subsection (a) on the calculation of the baseline shall be determined in the same manner as if such amendment were an amendment to the Internal Revenue Code of 1986.

(c) BUDGET ACT POINT OF ORDER.—For purposes of section 311(a) of the Congressional Budget Act of 1974, the appropriate level of revenues shall be determined on the assumption that any expiring preferential rate (and any credit or refund related thereto) of any excise tax dedicated to a trust fund shall expire according to current law.

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to budget years beginning after the date of the enactment of this Act.

TITLE VII—INCENTIVES FOR REVITALIZATION OF THE DISTRICT OF COLUMBIA

SEC. 701. TAX INCENTIVES FOR REVITALIZATION OF THE DISTRICT OF COLUMBIA.

(a) IN GENERAL.—Chapter 1 is amended by adding at the end the following new subchapter:

''Subchapter W—District of Columbia Enterprise Zone

''Sec. 1400. Establishment of DC Zone.
''Sec. 1400A. Tax-exempt economic development bonds.
''Sec. 1400B. Credit for equity investments in and loans to District of Columbia businesses.
''Sec. 1400C. Zero percent capital gains rate.
''Sec. 1400D. Credit to provide equivalent of 10 percent rate bracket in lieu of 15 percent bracket.

''SEC. 1400. ESTABLISHMENT OF DC ZONE.

''(a) IN GENERAL.—The applicable DC area is hereby designated as the District of Columbia Enterprise Zone. For purposes of this title (except as otherwise provided in this subchapter), the District of Columbia Enterprise Zone shall be treated as an empowerment zone designated under subchapter U.

''(b) APPLICABLE DC AREA.—For purposes of subsection (a), the term 'applicable DC area' means the area consisting of—

''(1) the census tracts located in the District of Columbia which are part of an enterprise community designated under subchapter U before the date of the enactment of this subchapter, and

''(2) all other census tracts—

''(A) which are located in the District of Columbia, and

''(B) for which the poverty rate is not less than 35 percent.

''(c) DISTRICT OF COLUMBIA ENTERPRISE ZONE.—For purposes of this subchapter, the terms 'District of Columbia Enterprise Zone' and 'DC Zone' mean the District of Columbia Enterprise Zone designated by subsection (a).

''(d) SPECIAL RULE FOR APPLICATION OF EMPLOYMENT CREDIT.—In the case of the DC Zone, section 1396 (relating to empowerment zone employment credit) shall be applied by substituting ''20'' for ''15'' in the table contained in section 1396(b). The preceding sentence shall apply only with respect to qualified zone employees, as defined in section 1396(d), determined by treating no area other than the DC Zone as an empowerment zone or enterprise community.

''(e) TIME FOR WHICH DESIGNATION APPLICABLE.—

''(1) IN GENERAL.—The designation made by subsection (a) shall apply for the period beginning on January 1, 1998, and ending on December 31, 2002.

''(2) COORDINATION WITH DC ENTERPRISE COMMUNITY DESIGNATED UNDER SUBCHAPTER U.—The designation as an enterprise community, under subchapter U, of the census tracts referred to in subsection (b)(1) shall terminate on December 31, 2002.

''SEC. 1400A. TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.

''(a) IN GENERAL.—In the case of the District of Columbia Enterprise Zone—

''(1) subsection (a) of section 1394 (relating to tax-exempt facility bonds for empowerment zones and enterprise communities) applies only with respect to bonds issued by the Economic Development Corporation, and

''(2) subparagraph (A) of section 1394(c)(1) (relating to limitation on amount of bonds) shall be applied by substituting '$15,000,000' for '$3,000,000'.

''(b) ECONOMIC DEVELOPMENT CORPORATION.—For purposes of this section, the term 'Economic Development Corporation' means an entity which is created by Federal law in 1997 as part of the District of Columbia government.

''(c) PERIOD OF APPLICABILITY.—This section shall apply to bonds issued during the period beginning on January 1, 1998, and ending on December 31, 2002.

''SEC. 1400B. CREDIT FOR EQUITY INVESTMENTS IN AND LOANS TO DISTRICT OF COLUMBIA BUSINESSES.

''(a) GENERAL RULE.—For purposes of section 38, the DC Zone investment credit determined under this section for any taxable year is—

''(1) the qualified lender credit for such year, and

''(2) the qualified equity investment credit for such year.

''(b) QUALIFIED LENDER CREDIT.—For purposes of this section—

''(1) IN GENERAL.—The qualified lender credit for any taxable year is the amount of credit specified for such year by the Economic Development Corporation with respect to qualified District loans made by the taxpayer.

''(2) LIMITATION.—In no event may the qualified lender credit with respect to any loan exceed 25 percent of the cost of the property purchased with the proceeds of the loan.

''(3) QUALIFIED DISTRICT LOAN.—For purposes of paragraph (1), the term 'qualified district loan' means any loan for the purchase (as defined in section 179(d)(2)) of property to which section 168 applies (or would apply but for section 179) (or land which is functionally related and subordinate to such property) and substantially all of the use of which is in the District of Columbia and is in the active conduct of a trade or business in the District of Columbia. A rule similar to the rule of section 1397C(a)(2) shall apply for purposes of the preceding sentence.

''(c) QUALIFIED EQUITY INVESTMENT CREDIT.—

''(1) IN GENERAL.—For purposes of this section, the qualified equity investment credit determined under this section for any taxable year is an amount equal to the percentage specified by the Economic Development Corporation (but not greater than 25 percent) of the aggregate amount paid in cash by the taxpayer during the taxable year for the purchase of District business investments.

''(2) DISTRICT BUSINESS INVESTMENT.—For purposes of this subsection, the term 'District business investment' means—

''(A) any District business stock, and

''(B) any District partnership interest.

''(3) DISTRICT BUSINESS STOCK.—For purposes of this subsection—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'District business stock' means any stock in a domestic corporation if—

''(i) such stock is acquired by the taxpayer at its original issue (directly or through an underwriter) solely in exchange for cash, and

''(ii) as of the time such stock was issued, such corporation was engaged in a trade or business in the District of Columbia (or, in the case of a new corporation, such corporation was being organized for purposes of engaging in such a trade or business).

''(B) REDEMPTIONS.—A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this paragraph.

''(4) QUALIFIED DISTRICT PARTNERSHIP INTEREST.—For purposes of this subsection, the term 'qualified District partnership interest' means any interest in a partnership if—

''(A) such interest is acquired by the taxpayer from the partnership solely in exchange for cash, and

''(B) as of the time such interest was acquired, such partnership was engaging in a trade or business in the District of Columbia (or, in the case of a new partnership, such partnership was being organized for purposes of engaging in such a trade or business).

A rule similar to the rule of paragraph (3)(B) shall apply for purposes of this paragraph.

''(5) RECAPTURE OF CREDIT UPON CERTAIN DISPOSITIONS OF DISTRICT BUSINESS INVESTMENTS.—

''(A) IN GENERAL.—If a taxpayer disposes of any District business investment (or any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such investment) before the end of the 5-year period beginning on the date such investment was acquired by the taxpayer, the taxpayer's tax imposed by this chapter for the taxable year in which such distribution occurs shall be increased by the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero any credit determined under this section with respect to such investment.

''(B) EXCEPTIONS.—Subparagraph (A) shall not apply to any gift, transfer, or transaction described in paragraph (1), (2), or (3) of section 1245(b).

''(C) SPECIAL RULE.—Any increase in tax under subparagraph (A) shall not be treated as a tax imposed by this chapter for purposes of—

''(i) determining the amount of any credit allowable under this chapter, and

''(ii) determining the amount of the tax imposed by section 55.

''(6) BASIS REDUCTION.—For purposes of this title, the basis of any District business investment shall be reduced by the amount of the credit determined under this section with respect to such investment.

''(d) LIMITATION ON AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the DC Zone investment credit determined under this section with respect to any taxpayer for any taxable year shall not exceed the credit amount allocated to such taxpayer for such taxable year by the Economic Development Corporation.

''(2) OVERALL LIMITATION.—The aggregate credit amount which may be allocated by the Economic Development Corporation under this section shall not exceed $75,000,000.

''(3) CRITERIA FOR ALLOCATING CREDIT AMOUNTS.—The allocation of credit amounts under this section shall be made in accordance with criteria established by the Economic Development Corporation. In establishing such criteria, such Corporation shall take into account—

''(A) the degree to which the business receiving the loan or investment will provide

job opportunities for low and moderate income residents of the DC Zone, and

''(B) whether such business is within the DC Zone.

''(e) ECONOMIC DEVELOPMENT CORPORATION.—For purposes of this section, the term 'Economic Development Corporation' has the meaning given such term by section 1400A(b).

''(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section.

''(g) APPLICATION OF SECTION.—This section shall apply to any credit amount allocated for taxable years beginning after December 31, 1997, and before January 1, 2003.

''SEC. 1400C. ZERO PERCENT CAPITAL GAINS RATE.

''(a) EXCLUSION.—Gross income shall not include qualified capital gain from the sale or exchange of any DC Zone asset held for more than 5 years.

''(b) DC ZONE ASSET.—For purposes of this section—

''(1) IN GENERAL.—The term 'DC Zone asset' means—

''(A) any DC Zone business stock,

''(B) any DC Zone partnership interest, and

''(C) any DC Zone business property.

''(2) DC ZONE BUSINESS STOCK.—

''(A) IN GENERAL.—The term 'DC Zone business stock' means any stock in a domestic corporation which is originally issued after December 31, 1997, if—

''(i) such stock is acquired by the taxpayer, before January 1, 2003, at its original issue (directly or through an underwriter) solely in exchange for cash,

''(ii) as of the time such stock was issued, such corporation was a DC Zone business (or, in the case of a new corporation, such corporation was being organized for purposes of being a DC Zone business), and

''(iii) during substantially all of the taxpayer's holding period for such stock, such corporation qualified as a DC Zone business.

''(B) REDEMPTIONS.—A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this paragraph.

''(3) DC ZONE PARTNERSHIP INTEREST.—The term 'DC Zone partnership interest' means any capital or profits interest in a domestic partnership which is originally issued after December 31, 1997, if—

''(A) such interest is acquired by the taxpayer, before January 1, 2003, from the partnership solely in exchange for cash,

''(B) as of the time such interest was acquired, such partnership was a DC Zone business (or, in the case of a new partnership, such partnership was being organized for purposes of being a DC Zone business), and

''(C) during substantially all of the taxpayer's holding period for such interest, such partnership qualified as a DC Zone business. A rule similar to the rule of paragraph (2)(B) shall apply for purposes of this paragraph.

''(4) DC ZONE BUSINESS PROPERTY.—

''(A) IN GENERAL.—The term 'DC Zone business property' means tangible property if—

''(i) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after December 31, 1997, and before January 1, 2003,

''(ii) the original use of such property in the DC Zone commences with the taxpayer, and

''(iii) during substantially all of the taxpayer's holding period for such property, substantially all of the use of such property was in a DC Zone business of the taxpayer.

''(B) SPECIAL RULE FOR BUILDINGS WHICH ARE SUBSTANTIALLY IMPROVED.—

''(i) IN GENERAL.—The requirements of clauses (i) and (ii) of subparagraph (A) shall be treated as met with respect to—

''(I) property which is substantially improved by the taxpayer before January 1, 2003, and

''(II) any land on which such property is located.

''(ii) SUBSTANTIAL IMPROVEMENT.—For purposes of clause (i), property shall be treated as substantially improved by the taxpayer only if, during any 24-month period beginning after December 31, 1997, additions to basis with respect to such property in the hands of the taxpayer exceed the greater of—

''(I) an amount equal to the adjusted basis of such property at the beginning of such 24-month period in the hands of the taxpayer, or

''(II) $5,000.

''(6) TREATMENT OF SUBSEQUENT PURCHASERS, ETC.—The term 'DC Zone asset' includes any property which would be a DC Zone asset but for paragraph (2)(A)(i), (3)(A), or (4)(A)(ii) in the hands of the taxpayer if such property was a DC Zone asset in the hands of a prior holder.

''(7) 5-YEAR SAFE HARBOR.—If any property ceases to be a DC Zone asset by reason of paragraph (2)(A)(iii), (3)(C), or (4)(A)(iii) after the 5-year period beginning on the date the taxpayer acquired such property, such property shall continue to be treated as meeting the requirements of such paragraph; except that the amount of gain to which subsection (a) applies on any sale or exchange of such property shall not exceed the amount which would be qualified capital gain had such property been sold on the date of such cessation.

''(c) DC ZONE BUSINESS.—For purposes of this section, the term 'DC Zone business' means any entity which is an enterprise zone business (as defined in section 1397B), determined by treating no area other than the DC Zone as an empowerment zone or enterprise community.

''(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) QUALIFIED CAPITAL GAIN.—Except as otherwise provided in this subsection, the term 'qualified capital gain' means any gain recognized on the sale or exchange of—

''(A) a capital asset, or

''(B) property used in the trade or business (as defined in section 1231(b)).

''(2) GAIN BEFORE 1998 OR AFTER 2007 NOT QUALIFIED.—The term 'qualified capital gain' shall not include any gain attributable to periods before January 1, 1998, or after December 31, 2007.

''(3) CERTAIN GAIN ON REAL PROPERTY NOT QUALIFIED.—The term 'qualified capital gain' shall not include any gain which would be treated as ordinary income under section 1250 if section 1250 applied to all depreciation rather than the additional depreciation.

''(4) INTANGIBLES AND LAND NOT INTEGRAL PART OF DC ZONE BUSINESS.—The term 'qualified capital gain' shall not include any gain which is attributable to real property, or an intangible asset, which is not an integral part of a DC Zone business.

''(5) RELATED PARTY TRANSACTIONS.—The term 'qualified capital gain' shall not include any gain attributable, directly or indirectly, in whole or in part, to a transaction with a related person. For purposes of this paragraph, persons are related to each other if such persons are described in section 267(b) or 707(b)(1).

''(e) CERTAIN OTHER RULES TO APPLY.—Rules similar to the rules of subsections (g), (h), (i)(2), and (j) of section 1202 shall apply for purposes of this section.

''(f) SALES AND EXCHANGES OF INTERESTS IN PARTNERSHIPS AND S CORPORATIONS WHICH ARE DC ZONE BUSINESSES.—In the case of the sale or exchange of an interest in a partnership, or of stock in an S corporation, which was a DC Zone business during substantially all of the period the taxpayer held such interest or stock, the amount of qualified capital gain shall be determined without regard to—

''(1) any gain which is attributable to real property, or an intangible asset, which is not an integral part of a DC Zone business, and

''(2) any gain attributable to periods before January 1, 1998, or after December 31, 2007.

''SEC. 1400D. CREDIT TO PROVIDE EQUIVALENT OF 10 PERCENT RATE BRACKET IN LIEU OF 15 PERCENT BRACKET.

''(a) IN GENERAL.—In the case of a DC Zone individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 5 percent of so much of the taxpayer's taxable income for the year as does not exceed the highest amount of such income which is subject to the 15 percent rate under section 1.

''(b) DC ZONE INDIVIDUAL.—For purposes of this section, the term 'DC Zone individual' means an individual who has a principal place of abode in the District of Columbia Enterprise Zone for not less than 183 days of the taxable year.

''(c) CREDIT NOT TO APPLY TO ESTATE OR TRUST.—This section shall not apply to an estate or trust.

''(d) COORDINATION WITH OTHER CREDITS.—For purposes of this chapter, the credit under this section shall be treated as a credit under subpart A of part IV of subchapter A.

''(e) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 2007.''.

(b) CREDITS MADE PART OF GENERAL BUSINESS CREDIT.—

(1) Subsection (b) of section 38 is amended by striking ''plus'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', plus'', and by adding at the end the following new paragraph:

''(13) the DC Zone investment credit determined under section 1400B(a).''.

(2) Subsection (d) of section 39 is amended by adding at the end the following new paragraph:

''(8) NO CARRYBACK OF DC ZONE CREDITS BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit under section 1400B, or to the credits under subchapter U by reason of section 1400, may be carried back to a taxable year ending before the date of the enactment of sections 1400B and 1400.''.

(3) Subsection (c) of section 196 is amended by striking ''and'' at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting '', and'', and by adding at the end the following new paragraph:

''(8) the DC Zone investment credit determined under section 1400B(a).''.

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by adding at the end the following new item:

''Subchapter W. District of Columbia Enterprise Zone.''.

(d) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 702. INCENTIVES CONDITIONED ON OTHER DC REFORM.

The amendments made by section 701 shall not take effect unless an entity known as the Economic Development Corporation is created by Federal law in 1997 as part of the District of Columbia government.

TITLE VIII—WELFARE-TO-WORK INCENTIVES

SEC. 801. INCENTIVES FOR EMPLOYING LONG-TERM FAMILY ASSISTANCE RECIPIENTS.

(a) IN GENERAL.—Subpart F of part IV of subchapter A of chapter 1 is amended by inserting after section 51 the following new section:

"SEC. 51A. TEMPORARY INCENTIVES FOR EMPLOYING LONG-TERM FAMILY ASSISTANCE RECIPIENTS.

''(a) DETERMINATION OF AMOUNT.—For purposes of section 38, the amount of the welfare-to-work credit determined under this section for the taxable year shall be equal to—

''(1) 35 percent of the qualified first-year wages for such year, and

''(2) 50 percent of the qualified second-year wages for such year.

''(b) QUALIFIED WAGES DEFINED.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified wages' means the wages paid or incurred by the employer during the taxable year to individuals who are long-term family assistance recipients.

''(2) QUALIFIED FIRST-YEAR WAGES.—The term 'qualified first-year wages' means, with respect to any individual, qualified wages attributable to service rendered during the 1-year period beginning with the day the individual begins work for the employer.

''(3) QUALIFIED SECOND-YEAR WAGES.—The term 'qualified second-year wages' means, with respect to any individual, qualified wages attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such individual determined under paragraph (2).

''(4) ONLY FIRST $10,000 OF WAGES PER YEAR TAKEN INTO ACCOUNT.—The amount of the qualified first-year wages, and the amount of qualified second-year wages, which may be taken into account with respect to any individual shall not exceed $10,000 per year.

''(5) WAGES.—

''(A) IN GENERAL.—The term 'wages' has the meaning given such term by section 51(c), without regard to paragraph (4) thereof.

''(B) CERTAIN AMOUNTS TREATED AS WAGES.—The term 'wages' includes amounts paid or incurred by the employer which are excludable from such recipient's gross income under—

''(i) section 105 (relating to amounts received under accident and health plans),

''(ii) section 106 (relating to contributions by employer to accident and health plans),

''(iii) section 127 (relating to educational assistance programs) or would be so excludable but for section 127(d), but only to the extent paid or incurred to a person not related to the employer, or

''(iv) section 129 (relating to dependent care assistance programs).

The amount treated as wages by clause (i) or (ii) for any period shall be based on the reasonable cost of coverage for the period, but shall not exceed the applicable premium for the period under section 4980B(f)(4).

''(C) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—If such recipient is an employee to whom subparagraph (A) or (B) of section 51(h)(1) applies, rules similar to the rules of such subparagraphs shall apply except that—

''(i) such subparagraph (A) shall be applied by substituting '$10,000' for '$6,000', and

''(ii) such subparagraph (B) shall be applied by substituting '$833.33' for '$500'.

''(c) LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—For purposes of this section—

''(1) IN GENERAL.—The term 'long-term family assistance recipient' means any individual who is certified by the designated local agency (as defined in section 51(d)(10))—

''(A) as being a member of a family receiving assistance under a IV-A program (as defined in section 51(d)(2)(B)) for at least the 18-month period ending on the hiring date.

''(B)(i) as being a member of a family receiving such assistance for 18 months beginning after the date of the enactment of this section, and

''(ii) as having a hiring date which is not more than 2 years after the end of the earliest such 18-month period, or

''(C)(i) as being a member of a family which ceased to be eligible after the date of the enactment of this section for such assistance by reason of any limitation imposed by Federal or State law on the maximum period such assistance is payable to a family, and

''(ii) as having a hiring date which is not more than 2 years after the date of such cessation.

''(2) HIRING DATE.—The term 'hiring date' has the meaning given such term by section 51(d).

''(d) CERTAIN RULES TO APPLY.—

''(1) IN GENERAL.—Rules similar to the rules of section 52, and subsections (d)(11), (f), (g), (i) (as in effect on the day before the date of the enactment of the Taxpayer Reief Act of 1997), (j), and (k) of section 51, shall apply for purposes of this section.

''(2) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT, ETC.—References to section 51 in section 38(b), 280C(a), and 1396(c)(3) shall be treated as including references to this section.

''(e) COORDINATION WITH WORK OPPORTUNITY CREDIT.—If a credit is allowed under this section to an employer with respect to an individual for any taxable year, then for purposes of applying section 51 to such employer, such individual shall not be treated as a member of a targeted group for such taxable year.

''(f) TERMINATION.—This section shall not apply to individuals who begin work for the employer after April 30, 1999.''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart F of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 51 the following new item:

''Sec. 51A. Temporary incentives for employing long-term family assistance recipients.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 1997.

TITLE IX—MISCELLANEOUS PROVISIONS

Subtitle A—Provisions Relating to Excise Taxes

SEC. 901. REPEAL OF TAX ON DIESEL FUEL USED IN RECREATIONAL BOATS.

(a) IN GENERAL.—Subparagraph (B) of section 6421(e)(2) (defining off-highway business use) is amended by striking clauses (iii) and (iv).

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 4041(a)(1) is amended—

(A) by striking '', a diesel-powered train, or a diesel-powered boat'' each place it appears and inserting ''or a diesel-powered train'', and

(B) by striking ''vehicle, train, or boat'' and inserting ''vehicle or train''.

(2) Paragraph (1) of section 4041(a) is amended by striking subparagraph (D).

(3) Paragraph (2) of section 9503(f) is amended by striking subparagraph (C) and by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1998.

SEC. 902. CONTINUED APPLICATION OF TAX ON IMPORTED RECYCLED HALON-1211.

(a) IN GENERAL.—Paragraph (1) of section 4682(d) is amended by striking ''recycled halon'' and inserting ''recycled Halon-1301 or recycled Halon-2402''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 903. UNIFORM RATE OF TAX ON VACCINES.

(a) IN GENERAL.—Subsection (b) of section 4131 is amended to read as follows:

''(b) AMOUNT OF TAX.—

''(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be 84 cents per dose of any taxable vaccine.

''(2) COMBINATIONS OF VACCINES.—If any taxable vaccine is described in more than 1 subparagraph of section 4132(a)(1), the amount of the tax imposed by subsection (a) on such vaccine shall be the sum of the amounts for the vaccines which are so included.''.

(b) TAXABLE VACCINES.—Paragraph (1) of section 4132(a) is amended to read as follows:

''(1) TAXABLE VACCINE.—The term 'taxable vaccine' means any of the following vaccines which are manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing:

''(A) Any vaccine containing diphtheria toxoid.

''(B) Any vaccine containing tetanus toxoid.

''(C) Any vaccine containing pertussis bacteria, extracted or partial cell bacteria, or specific pertussis antigens.

''(D) Any vaccine against measles.

''(E) Any vaccine against mumps.

''(F) Any vaccine against rubella.

''(G) Any vaccine containing polio virus.

''(H) Any HIB vaccine.

''(I) Any vaccine against hepatitis B.

''(J) Any vaccine against chicken pox.''.

(c) CONFORMING AMENDMENT.—Subsection (a) of section 4132 is amended by striking paragraphs (2), (3), and (4) and by redesignating paragraphs (5) through (8) as paragraphs (2) through (5), respectively.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1997.

SEC. 904. OPERATORS OF MULTIPLE GASOLINE RETAIL OUTLETS TREATED AS WHOLESALE DISTRIBUTOR FOR REFUND PURPOSES.

(a) IN GENERAL.—Subparagraph (B) of section 6416(a)(4) (defining whole distributor) is amended by adding at the end the following new sentence: ''Such term includes any person who makes retail sales of gasoline at 10 or more retail motor fuel outlets.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 905. EXEMPTION OF ELECTRIC AND OTHER CLEAN-FUEL MOTOR VEHICLES FROM LUXURY AUTOMOBILE CLASSIFICATION.

(a) IN GENERAL.—Subsection (a) of section 4001 (relating to imposition of tax) is amended to read as follows:

''(a) IMPOSITION OF TAX.—

''(1) IN GENERAL.—There is hereby imposed on the 1st retail sale of any passenger vehicle a tax equal to 10 percent of the price for which so sold to the extent such price exceeds the applicable amount.

''(2) APPLICABLE AMOUNT.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the applicable amount is $30,000.

''(B) QUALIFIED CLEAN-FUEL VEHICLE PROPERTY.—In the case of a passenger vehicle which is propelled by a fuel which is not a clean-burning fuel to which is installed qualified clean-fuel vehicle property (as defined in section 179A(c)(1)(A)) for purposes of permitting such vehicle to be propelled by a clean-burning fuel, the applicable amount is equal to the sum of—

''(i) $30,000, plus

''(ii) the increase in the price for which the passenger vehicle was sold (within the meaning of section 4002) due to the installation of such property.

''(C) PURPOSE BUILT PASSENGER VEHICLE.—

''(i) IN GENERAL.—In the case of a purpose built passenger vehicle, the applicable amount is equal to 150 percent of $30,000.

''(ii) PURPOSE BUILT PASSENGER VEHICLE.—For purposes of clause (i), the term 'purpose built passenger vehicle' means a passenger vehicle produced by an original equipment manufacturer and designed so that the vehicle may be propelled primarily by electricity.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (e) of section 4001 (relating to inflation adjustment) is amended to read as follows:

''(e) INFLATION ADJUSTMENT.—

''(1) IN GENERAL.—The $30,000 amount in subparagraphs (A), (B)(i), and (C)(i) of subsection (a)(2) shall be increased by an amount equal to—

''(A) $30,000, multiplied by

''(B) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the vehicle is sold, determined by substituting 'calendar year 1990' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $2,000, such amount shall be rounded to the next lowest multiple of $2,000.''.

(2) Subsection (f) of section 4001 (relating to phasedown) is amended by striking ''subsection (a)'' and inserting ''subsection (a)(1)''.

(3) Subparagraph (B) of section 4003(a)(2) is amended to read as follows:

''(B) the appropriate applicable amount as determined under section 4001(a)(2).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and installations occurring on or after the date of the enactment of this Act.

Subtitle B—Provisions Relating to Pensions and Fringe Benefits

SEC. 911. SECTION 401(K) PLANS FOR CERTAIN IRRIGATION AND DRAINAGE ENTITIES.

(a) IN GENERAL.—Subparagraph (B) of section 401(k)(7) (relating to rural cooperative plan) is amended—

(1) by striking ''and'' at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

''(iv) any organization which—

''(I) is a mutual irrigation or ditch company described in section 501(c)(12) (without regard to the 85 percent requirement thereof), or

''(II) is a district organized under the laws of a State as a municipal corporation for the purpose of irrigation, water conservation, or drainage, and'', and

(2) in clause (v), as so redesignated, by striking ''or (iii)'' and inserting '', (iii), or (iv)''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to years beginning after December 31, 1997.

SEC. 912. EXTENSION OF MORATORIUM ON APPLICATION OF CERTAIN NONDISCRIMINATION RULES TO STATE AND LOCAL GOVERNMENTS.

(a) GENERAL NONDISCRIMINATION AND PARTICIPATION RULES.—

(1) NONDISCRIMINATION REQUIREMENTS.—Section 401(a)(5) (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by adding at the end the following:

''(G) GOVERNMENTAL PLANS.—Paragraphs (3) and (4) shall not apply to a governmental plan (within the meaning of section 414(d)).''.

(2) ADDITIONAL PARTICIPATION REQUIREMENTS.—Section 401(a)(26)(H) (relating to additional participation requirements) is amended to read as follows:

''(H) EXCEPTION FOR GOVERNMENTAL PLANS.—This paragraph shall not apply to a governmental plan (within the meaning of section 414(d)).''.

(3) MINIMUM PARTICIPATION STANDARDS.—Section 410(c)(2) (relating to application of participation standards to certain plans) is amended to read as follows:

''(2) A plan described in paragraph (1) shall be treated as meeting the requirements of this section for purposes of section 401(a), except that in the case of a plan described in subparagraph (B), (C), or (D) of paragraph (1), this paragraph shall only apply if such plan meets the requirements of section 401(a)(3) (as in effect on September 1, 1974).''.

(b) PARTICIPATION STANDARDS FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS.—Section 401(k)(3) (relating to application of participation and discrimination standards) is amended by adding at the end the following:

''(G)(i) The requirements of subparagraph (A)(i) and (C) shall not apply to a governmental plan (within the meaning of section 414(d)).

''(ii) The requirements of subsection (m)(2) (without regard to subsection (a)(4)) shall apply to any matching contribution of a governmental plan (as so defined).''.

(c) NONDISCRIMINATION RULES FOR SECTION 403(b) PLANS.—Section 403(b)(12) (relating to nondiscrimination requirements) is amended by adding at the end the following:

''(C) GOVERNMENTAL PLANS.—For purposes of paragraph (1)(D), the requirements of subparagraph (A)(i) shall not apply to a governmental plan (within the meaning of section 414(d)).''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section apply to taxable years beginning on or after the date of enactment of this Act.

(2) TREATMENT FOR YEARS BEGINNING BEFORE DATE OF ENACTMENT.—A governmental plan (within the meaning of section 414(d) of the Internal Revenue Code of 1986) shall be treated as satisfying the requirements of sections 401(a)(3), 401(a)(4), 401(a)(26), 401(k), 401(m), 403 (b)(1)(D) and (b)(12), and 410 of such Code for all taxable years beginning before the date of enactment of this Act.

SEC. 913. TREATMENT OF CERTAIN DISABILITY BENEFITS RECEIVED BY FORMER POLICE OFFICERS OR FIREFIGHTERS.

(a) GENERAL RULE.—For purposes of determining whether any amount to which this section applies is excludable from gross income under section 104(a)(1) of the Internal Revenue Code of 1986, the following conditions shall be treated as personal injuries or sickness in the course of employment:

(1) Heart disease.

(2) Hypertension.

(b) AMOUNTS TO WHICH SECTION APPLIES.—This section shall apply to any amount—

(1) which is payable—

(A) to an individual (or to the survivors of an individual) who was a full-time employee of any police department or fire department which is organized and operated by a State, by any political subdivision thereof, or by any agency or instrumentality of a State or political subdivision thereof, and

(B) under a State law (as amended on May 19, 1992) which irrebuttably presumed that heart disease and hypertension are work-related illnesses but only for employees separating from service before July 1, 1992; and

(2) which was received in calendar year 1989, 1990, or 1991.

(c) WAIVER OF STATUTE OF LIMITATIONS.—If, on the date of the enactment of this Act (or at any time within the 1-year period beginning on such date of enactment) credit or refund of any overpayment of tax resulting from the provisions of this section is barred by any law or rule of law, credit or refund of such overpayment shall, nevertheless, be allowed or made if claim therefore is filed before the date 1 year after such date of enactment.

SEC. 914. PORTABILITY OF PERMISSIVE SERVICE CREDIT UNDER GOVERNMENTAL PENSION PLANS.

(a) IN GENERAL.—Section 415(b)(2) (relating to the limitation for defined benefit plans) is amended by adding at the end the following new subparagraph:

''(J) PURCHASE OF PERMISSIVE SERVICE CREDIT.—

''(i) BENEFITS TREATED AS DERIVED FROM EMPLOYER CONTRIBUTIONS.—For purposes of this section, the term 'annual benefit' shall include the accrued benefit derived from contributions to a governmental plan (within the meaning of section 414(d)) to purchase permissive service credit.

''(ii) DEFINITION OF PERMISSIVE SERVICE CREDIT.—For purposes of this subparagraph, the term 'permissive service credit' means credit—

''(I) for a period of service recognized by a governmental plan for purposes of calculating an employee's accrued benefit under such plan,

''(II) which such employee has not received (or has forfeited), and

''(III) which such employee may receive only by making a contribution, as determined under the governmental plan, which does not exceed the amount (actuarially determined under the terms of such governmental plan) necessary to fund the accrued benefit attributable to such period of service.

''(iii) NO EFFECT ON EMPLOYER 'PICK-UP' CONTRIBUTIONS.—Nothing in this subparagraph shall be construed as preventing the application of section 414(h) to contributions to purchase permissive service credit.''.

(b) CONFORMING AMENDMENT.—Section 415(c)(2) is amended by adding at the end the following new sentence: ''The term 'annual addition' shall not include contributions to purchase permissive service credit (within the meaning of subsection (b)(2)(J)).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1997.

SEC. 915. GRATUITOUS TRANSFERS FOR THE BENEFIT OF EMPLOYEES.

(a) IN GENERAL.—Subparagraph (C) of section 664(d)(1) and subparagraph (C) of section 664(d)(2) are each amended by striking the period at the end thereof and inserting ''or, to the extent the remainder interest is in qualified employer securities (as defined in paragraph (3)(C)), is to be transferred to an employee stock ownership plan (as defined in section 4975(e)(7)) in a qualified gratuitous transfer (as defined by subsection (g)).''.

(b) QUALIFIED GRATUITOUS TRANSFER DEFINED.—Section 664 is amended by adding at the end the following new subsection:

''(g) QUALIFIED GRATUITOUS TRANSFER OF QUALIFIED EMPLOYER SECURITIES.—

''(1) IN GENERAL.—For purposes of this section, the term 'qualified gratuitous transfer' means a transfer of qualified employer securities to an employee stock ownership plan (as defined in section 4975(e)(7)) but only to the extent that—

''(A) the securities transferred previously passed from a decedent dying before January 1, 1999, to a trust described in paragraph (1) or (2) of subsection (d),

''(B) no deduction under section 404 is allowable with respect to such transfer,

''(C) such plan contains the provisions required by paragraph (3),

''(D) such plan treats such securities as being attributable to employer contributions but without regard to the limitations otherwise applicable to such contributions under section 404, and

''(E) the employer whose employees are covered by the plan described in this paragraph files with the Secretary a verified written statement consenting to the application of sections 4978 and 4979A with respect to such employer.

''(2) EXCEPTION.—The term 'qualified gratuitous transfer' shall not include a transfer of qualified employer securities to an employee stock ownership plan unless—

''(A) such plan was in existence on August 1, 1996,

''(B) at the time of the transfer, the decedent and members of the decedent's family (within the meaning of section 267(c)(4)) own (directly or through the application of section 318(a)) no more than 10 percent of the value of the stock of the corporation referred to in paragraph (4), and

''(C) immediately after the transfer, such plan owns (after the application of section 318(a)(4)) at least 60 percent of the value of the outstanding stock of the corporation.

''(3) PLAN REQUIREMENTS.—A plan contains the provisions required by this paragraph if such plan provides that—

''(A) the qualified employer securities so transferred are allocated to plan participants in a manner consistent with section 401(a)(4),

''(B) plan participants are entitled to direct the plan as to the manner in which such securities which are entitled to vote and are allocated to the account of such participant are to be voted,

''(C) an independent trustee votes the securities so transferred which are not allocated to plan participants,

''(D) each participant who is entitled to a distribution from the plan has the rights described in subparagraphs (A) and (B) of section 409(h)(1),

''(E) such securities are held in a suspense account under the plan to be allocated each year, up to the limitations under section 415(c), after first allocating all other annual additions for the limitation year, up to the limitations under sections 415 (c) and (e), and

''(F) on termination of the plan, all securities so transferred which are not allocated to plan participants as of such termination are to be transferred to, or for the use of, an organization described in section 170(c).

For purposes of the preceding sentence, the term 'independent trustee' means any trustee who is not a member of the family (within the meaning of section 267(c)(4)) of the decedent or a 5-percent shareholder. A plan shall not fail to be treated as meeting the requirements of section 401(a) by reason of meeting the requirements of this subsection.

''(4) QUALIFIED EMPLOYER SECURITIES.—For purposes of this section, the term 'qualified employer securities' means employer securities (as defined in section 409(l)) which are issued by a domestic corporation—

''(A) which has no outstanding stock which is readily tradable on an established securities market, and

''(B) which has only 1 class of stock.

''(5) TREATMENT OF SECURITIES ALLOCATED BY EMPLOYEE STOCK OWNERSHIP PLAN TO PERSONS RELATED TO DECEDENT OR 5-PERCENT SHAREHOLDERS.—

''(A) IN GENERAL.—If any portion of the assets of the plan attributable to securities acquired by the plan in a qualified gratuitous transfer are allocated to the account of—

''(i) any person who is related to the decedent (within the meaning of section 267(b)), or

''(ii) any person who, at the time of such allocation or at any time during the 1-year period ending on the date of the acquisition of qualified employer securities by the plan, is a 5-percent shareholder of the employer maintaining the plan,

the plan shall be treated as having distributed (at the time of such allocation) to such person or shareholder the amount so allocated.

''(B) 5-PERCENT SHAREHOLDER.—For purposes of subparagraph (A), the term '5-percent shareholder' means any person who owns (directly or through the application of section 318(a)) more than 5 percent of the outstanding stock of the corporation which issued such qualified employer securities or of any corporation which is a member of the same controlled group of corporations (within the meaning of section 409(l)(4)) as such corporation. For purposes of the preceding sentence, section 318(a) shall be applied without regard to the exception in paragraph (2)(B)(i) thereof.

''(C) CROSS REFERENCE.—

''For excise tax on allocations described in subparagraph (A), see section 4979A.

''(6) TAX ON FAILURE TO TRANSFER UNALLOCATED SECURITIES TO CHARITY ON TERMINATION OF PLAN.—If the requirements of paragraph (3)(F) are not met with respect to any securities, there is hereby imposed a tax on the employer maintaining the plan in an amount equal to the sum of—

''(A) the amount of the increase in the tax which would be imposed by chapter 11 if such securities were not transferred as described in paragraph (1), and

''(B) interest on such amount at the underpayment rate under section 6621 (and compounded daily) from the due date for filing the return of the tax imposed by chapter 11.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 401(a)(1) is amended by inserting ''or by a charitable remainder trust pursuant to a qualified gratuitous transfer (as defined in section 664(g)(1)),'' after ''stock bonus plans),''.

(2) Section 404(a)(9) is amended by inserting after subparagraph (B) the following new subparagraph:

''(C) A qualified gratuitous transfer (as defined in section 664(g)(1)) shall have no effect on the amount or amounts otherwise deductible under paragraph (3) or (7) or under this paragraph.''.

(3) Section 415(c)(6) is amended by adding at the end thereof the following new sentence:

''The amount of any qualified gratuitous transfer (as defined in section 664(g)(1)) allocated to a participant for any limitation year shall not exceed the limitations imposed by this section, but such amount shall not be taken into account in determining whether any other amount exceeds the limitations imposed by this section.''.

(4) Section 415(e) is amended—

(A) by redesignating paragraph (6) as paragraph (7), and

(B) by inserting after paragraph (5) the following new paragraph:

''(6) SPECIAL RULE FOR QUALIFIED GRATUITOUS TRANSFERS.—Any qualified gratuitous transfer of qualified employer securities (as defined by section 664(g)) shall not be taken into account in calculating, and shall not be subject to, the limitations provided in this subsection.''.

(5) Subparagraph (B) of section 664(d)(1) and subparagraph (B) of section 664(d)(2) are each amended by inserting ''and other than qualified gratuitous transfers described in subparagraph (C)'' after ''subparagraph (A)''.

(6) Paragraph (4) of section 674(b) is amended by inserting before the period ''or to an employee stock ownership plan (as defined in section 4975(e)(7)) in a qualified gratuitous transfer (as defined in section 664(g)(1))''.

(7) Section 2055(a) is amended—

(i) by striking ''or'' at the end of paragraph (3),

(ii) by striking the period at the end of paragraph (4) and inserting ''; or'', and

(iii) by inserting after paragraph (4) the following new paragraph:

''(5) to an employee stock ownership plan if such transfer qualifies as a qualified gratuitous transfer of qualified employer securities within the meaning of section 664(g).''.

(8) Paragraph (8) of section 2056(b) is amended to read as follows:

''(8) SPECIAL RULE FOR CHARITABLE REMAINDER TRUSTS.—

''(A) IN GENERAL.—If the surviving spouse of the decedent is the only beneficiary of a qualified charitable remainder trust who is not a charitable beneficiary nor an ESOP beneficiary, paragraph (1) shall not apply to any interest in such trust which passes or has passed from the decedent to such surviving spouse.

''(B) DEFINITIONS.—For purposes of subparagraph (A)—

''(i) CHARITABLE BENEFICIARY.—The term 'charitable beneficiary' means any beneficiary which is an organization described in section 170(c).

''(ii) ESOP BENEFICIARY.—The term 'ESOP beneficiary' means any beneficiary which is an employee stock ownership plan (as defined in section 4975(e)(7)) that holds a remainder interest in qualified employer securities (as defined in section 664(g)(4)) to be transferred to such plan in a qualified gratuitous transfer (as defined in section 664(g)(1)).

''(iii) QUALIFIED CHARITABLE REMAINDER TRUST.—The term 'qualified charitable remainder trust' means a charitable remainder annuity trust or a charitable remainder unitrust (described in section 664).''.

(9) Section 4947(b) is amended by inserting after paragraph (3) the following new paragraph:

''(4) SECTION 507.—The provisions of section 507(a) shall not apply to a trust which is described in subsection (a)(2) by reason of a distribution of qualified employer securities (as defined in section 664(g)(4)) to an employee stock ownership plan (as defined in section 4975(e)(7)) in a qualified gratuitous transfer (as defined by section 664(g)).''.

(10) The last sentence of section 4975(e)(7) is amended by inserting ''and section 664(g)'' after ''section 409(n)''

(11) Subsection (a) of section 4978 is amended—

(A) by inserting ''or acquired any qualified employer securities in a qualified gratuitous transfer to which section 664(g) applied'' after ''section 1042 applied'', and

(B) by inserting before the period at the end of subparagraph (B) ''60 percent of the total value of all employer securities as of such disposition in the case of any qualified employer securities in a qualified gratuitous transfer to which section 664(g) applied)''.

(12) Paragraph (2) of section 4978(b) is amended—

(A) by inserting ''or acquired in the qualified gratuitous transfer to which section 664(g) applied'' after ''section 1042 applied'', and

(B) by inserting ''or to which section 664(g) applied'' after ''section 1042 applied'' in subparagraph (C) thereof.

(13) Subsection (c) of section 4978 is amended by striking ''written statement'' and all that follows and inserting ''written statement described in section 664(g)(1)(E) or in section 1042(b)(3) (as the case may be).''.

(14) Paragraph (2) of section 4978(e) is amended by striking the period and inserting ''; except that such section shall be applied without regard to subparagraph (B) thereof for purposes of applying this section and section 4979A with respect to securities acquired in a qualified gratuitous transfer (as defined in section 664(g)(1)).''.

(15) Subsection (a) of section 4979A is amended to read as follows:

''(a) IMPOSITION OF TAX.—If—

''(1) there is a prohibited allocation of qualified securities by any employee stock ownership plan or eligible worker-owned cooperative, or

''(2) there is an allocation described in section 664(g)(5)(A),

there is hereby imposed a tax on such allocation equal to 50 percent of the amount involved.''.

(16) Subsection (c) of section 4979A is amended to read as follows:

''(c) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by—

''(1) the employer sponsoring such plan, or

''(2) the eligible worker-owned cooperative, which made the written statement described in section 664(g)(1)(E) or in section 1042(b)(3)(B) (as the case may be).''.

(17) Section 4979A is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

''(d) SPECIAL STATUTE OF LIMITATIONS FOR TAX ATTRIBUTABLE TO CERTAIN ALLOCATIONS.—The statutory period for the assessment of any tax imposed by this section on an allocation described in subsection (a)(2) of qualified employer securities shall not expire before the date which is 3 years from the later of—

''(1) the 1st allocation of such securities in connection with a qualified gratuitous transfer (as defined in section 664(g)(1)), or

''(2) the date on which the Secretary is notified of the allocation described in subsection (a)(2).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers made by trusts to, or for the use of, an employee stock ownership plan after the date of the enactment of this Act.

SEC. 916. TREATMENT OF CERTAIN TRANSPORTATION ON NON-COMMERCIALLY OPERATED AIRCRAFT AS A FRINGE BENEFIT EXCLUDABLE FROM GROSS INCOME.

(a) IN GENERAL.—Subsection (b) of section 132 (relating to no-additional-cost service defined) is amended to read as follows:

''(b) NO-ADDITIONAL-COST SERVICE DEFINED.—For purposes of this section, the term 'no-additional-cost service' means any service provided by an employer to an employee for use by such employee if—

''(1) such service—

''(A) is offered for sale to customers in the ordinary course of the line of business of the employer in which the employee is performing services, or

''(B) consists of transportation on an aircraft, if—

''(i) transportation on such aircraft is not offered for sale to customers,

''(ii) such transportation for use by such employee is provided on a flight made in the ordinary course of the trade or business of an employer which owns or leases such aircraft for use in such trade or business, and

''(iii) the flight on which the transportation is provided would have been made whether or not such employee was transported on the flight, and

''(2) the employer incurs no substantial additional cost (including forgone revenue) in providing such service to the employee (determined without regard to any amount paid by the employee for such service).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services provided after December 31, 1997.

SEC. 917. MINIMUM PENSION ACCRUED BENEFIT DISTRIBUTABLE WITHOUT CONSENT INCREASED TO $5,000.

(a) IN GENERAL.—Subparagraph (A) of section 411(a)(11) (relating to restrictions on certain mandatory distributions) is amended by striking ''$3,500'' and inserting ''the applicable limit''.

(b) APPLICABLE LIMIT.—Paragraph (11) of section 411(a) is amended by adding at the end the following new subparagraph:

''(D) APPLICABLE LIMIT.—

''(i) IN GENERAL.—For purposes of subparagraph (A), the applicable limit is $5,000.

''(ii) INFLATION ADJUSTMENT.—In the case of plan years beginning in a calendar year after 1998, the dollar amount contained in clause (i) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 411(a)(7)(B), paragraphs (1) and (2) of section 417(e), and section 457(e)(9) are each amended by striking ''$3,500'' each place in appears (other than the headings) and inserting ''the applicable limit under section 411(a)(11)(D)''.

(2) The headings for paragraphs (1) and (2) of section 417(e) and subparagraph (A) of section 457(e)(9) are each amended by striking ''$3,500'' and inserting ''APPLICABLE LIMIT''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 918. CLARIFICATION OF CERTAIN RULES RELATING TO EMPLOYEE STOCK OWNERSHIP PLANS OF S CORPORATIONS.

(a) CERTAIN CASH DISTRIBUTIONS PERMITTED.—

(1) Paragraph (2) of section 409(h) is amended by adding at the end the following new subparagraph:

''(B) PLAN MAINTAINED BY S CORPORATION.—In the case of a plan established and maintained by an S corporation which otherwise meets the requirements of this subsection or section 4975(e)(7), such plan shall not be treated as failing to meet the requirements of this subsection or section 401(a) merely because it does not permit a participant to exercise the right described in paragraph (1)(A) if such plan provides that the participant entitled to a distribution has a right to receive the distribution in cash.''.

(2) Paragraph (2) of section 409(h) is amended—

(A) by striking ''a plan which'' in the first sentence and inserting the following:

''(A) IN GENERAL.—A plan which'', and

(B) by moving the text before subparagraph (B) 2 ems to the right.

(b) SHAREHOLDER-EMPLOYEES NOT TREATED AS OWNER-EMPLOYEES UNDER TAX ON PROHIBITED TRANSACTIONS.—The last sentence of section 4975(d) is amended by striking all that follows ''preceding sentence,'' through ''Revision Act of 1982,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

Subtitle C—Revisions Relating to Disasters

SEC. 921. AUTHORITY TO POSTPONE CERTAIN TAX-RELATED DEADLINES BY REASON OF PRESIDENTIALLY DECLARED DISASTER.

(a) IN GENERAL.—Chapter 77 is amended by inserting after section 7508 the following new section:

''SEC. 7508A. AUTHORITY TO POSTPONE CERTAIN TAX-RELATED DEADLINES BY REASON OF PRESIDENTIALLY DECLARED DISASTER.

''(a) IN GENERAL.—In the case of a taxpayer determined by the Secretary to be affected by a Presidentially declared disaster (as defined by section 1033(h)(3)), the Secretary may prescribe regulations under which a period of up to 90 days may be disregarded in determining, under the internal revenue laws, in respect of any tax liability (including any penalty, additional amount, or addition to the tax) of such taxpayer—

''(1) whether any of the acts by the taxpayer described in paragraph (1) of section 7508(a) were performed within the time prescribed therefor, and

''(2) the amount of any credit or refund.

''(b) INTEREST ON OVERPAYMENTS AND UNDERPAYMENTS.—Subsection (a) shall not apply for the purpose of determining interest on any overpayment or underpayment.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by inserting after the item relating to section 7508 the following new item:

''Sec. 7508A. Authority to postpone certain tax-related deadlines by reason of presidentially declared disaster.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any period for performing an act that has not expired before the date of the enactment of this Act.

SEC. 922. USE OF CERTAIN APPRAISALS TO ESTABLISH AMOUNT OF DISASTER LOSS.

(a) IN GENERAL.—Subsection (i) of section 165 is amended by adding at the end the following new paragraph:

''(4) USE OF DISASTER LOAN APPRAISALS TO ESTABLISH AMOUNT OF LOSS.—Nothing in this title shall be construed to prohibit the Secretary from prescribing regulations or other guidance under which an appraisal for the purpose of obtaining a loan of Federal funds or a loan guarantee from the Federal Government as a result of a Presidentially declared disaster (as defined by section 1033(h)(3)) may be used to establish the amount of any loss described in paragraph (1) or (2).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 923. TREATMENT OF LIVESTOCK SOLD ON ACCOUNT OF WEATHER-RELATED CONDITIONS.

(a) DEFERRAL OF INCOME INCLUSION.—Subsection (e) of section 451 (relating to special rules for proceeds from livestock sold on account of drought) is amended—

(1) by striking ''drought conditions, and that these drought conditions'' in paragraph (1) and inserting ''drought, flood, or other weather-related conditions, and that such conditions''; and

(2) by inserting '', FLOOD, OR OTHER WEATHER-RELATED CONDITIONS'' after ''DROUGHT'' in the subsection heading.

(b) INVOLUNTARY CONVERSIONS.—Subsection (e) of section 1033 (relating to livestock sold on account of drought) is amended—

(1) by inserting '', flood, or other weather-related conditions'' before the period at the end thereof; and

(2) by inserting '', FLOOD, OR OTHER WEATHER-RELATED CONDITIONS'' after ''DROUGHT'' in the subsection heading.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after December 31, 1996.

SEC. 924. MORTGAGE FINANCING FOR RESIDENCES LOCATED IN DISASTER AREAS.

Subsection (k) of section 143 (relating to mortgage revenue bonds; qualified mortgage bond and qualified veteran's mortgage bond) is amended by adding at the end the following new paragraph:

''(11) SPECIAL RULES FOR RESIDENCES LOCATED IN DISASTER AREAS.—In the case of a

residence located in an area determined by the President to warrant assistance from the Federal Government under the Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of the Taxpayer Relief Act of 1997), this section shall be applied with the following modifications to financing provided with respect to such residence within 1 year after the date of the disaster declaration:

''(A) Subsection (d) (relating to 3-year requirement) shall not apply.

''(B) Subsections (e) and (f) (relating to purchase price requirement and income requirement) shall be applied as if such residence were a targeted area residence.

The preceding sentence shall apply only with respect to bonds issued after December 31, 1996, and before January 1, 2000.''.

Subtitle D—Provisions Relating to Employment Taxes

SEC. 931. CLARIFICATION OF EMPLOYMENT TAX STATUS OF INDIVIDUALS DISTRIBUTING BAKERY PRODUCTS.

(a) INTERNAL REVENUE CODE.—Subparagraph (A) of section 3121(d)(3) is amended by striking ''bakery products,''.

(b) SOCIAL SECURITY ACT.—Subparagraph (A) of section 210(j)(3) of the Social Security Act is amended by striking ''bakery products,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services performed after December 31, 1997.

SEC. 932. CLARIFICATION OF STANDARD TO BE USED IN DETERMINING EMPLOYMENT TAX STATUS OF SECURITIES BROKERS.

(a) IN GENERAL.—In determining for purposes of the Internal Revenue Code of 1986 whether a registered representative of a securities broker-dealer is an employee (as defined in section 3121(d) of the Internal Revenue Code of 1986), no weight shall be given to instructions from the service recipient which are imposed only in compliance with investor protection standards imposed by the Federal Government, any State government, or a governing body pursuant to a delegation by a Federal or State agency.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to services performed after December 31, 1997.

SEC. 933. CLARIFICATION OF EXEMPTION FROM SELF-EMPLOYMENT TAX FOR CERTAIN TERMINATION PAYMENTS RECEIVED BY FORMER INSURANCE SALESMEN.

(a) INTERNAL REVENUE CODE.—Section 1402 (relating to definitions) is amended by adding at the end the following new subsection:

''(k) CODIFICATION OF TREATMENT OF CERTAIN TERMINATION PAYMENTS RECEIVED BY FORMER INSURANCE SALESMEN.—Nothing in subsection (a) shall be construed as including in the net earnings from self-employment of an individual any amount received during the taxable year from an insurance company on account of services performed by such individual as an insurance salesman for such company if—

''(1) such amount is received after termination of such individual's agreement to perform such services for such company,

''(2) such individual performs no services for such company after such termination and before the close of such taxable year,

''(3) such individual enters into a covenant not to compete against such company which applies to at least the 1-year period beginning on the date of such termination, and

''(4) the amount of such payment—

''(A) depends solely on policies sold by such individual during the last year of such agreement and the extent to which such policies remain in force for some period after such termination, and

''(B) does not depend to any extent on length of service or overall earnings from services performed for such company.''.

(b) SOCIAL SECURITY ACT.—Section 211 of the Social Security Act is amended by adding at the end the following new subsection:

''Codification of Treatment of Certain Termination Payments Received by Former Insurance Salesmen

''(j) Nothing in subsection (a) shall be construed as including in the net earnings from self-employment of an individual any amount received during the taxable year from an insurance company on account of services performed by such individual as an insurance salesman for such company if—

''(1) such amount is received after termination of such individual's agreement to perform such services for such company,

''(2) such individual performs no services for such company after such termination and before the close of such taxable year,

''(3) such individual enters into a covenant not to compete against such company which applies to at least the 1-year period beginning on the date of such termination, and

''(4) the amount of such payment—

''(A) depends solely on policies sold by such individual during the last year of such agreement and the extent to which such policies remain in force for some period after such termination, and

''(B) does not depend to any extent on length of service or overall earnings from services performed for such company.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments after December 31, 1997.

SEC. 934. STANDARDS FOR DETERMINING WHETHER INDIVIDUALS ARE NOT EMPLOYEES.

(a) IN GENERAL.—Chapter 25 (general provisions relating to employment taxes) is amended by adding after section 3510 the following new section:

''SEC. 3511. STANDARDS FOR DETERMINING WHETHER INDIVIDUALS ARE NOT EMPLOYEES.

''(a) GENERAL RULE.—For purposes of this title, and notwithstanding any provision of this title to the contrary, if the requirements of subsections (b), (c), and (d) are met with respect to any service performed by any individual, then with respect to such service—

''(1) the service provider shall not be treated as an employee,

''(2) the service recipient shall not be treated as an employer, and

''(3) the payor shall not be treated as an employer.

''(b) SERVICE PROVIDER REQUIREMENTS WITH REGARD TO SERVICE RECIPIENT.—For the purposes of subsection (a), the requirements of this subsection are met if the service provider, in connection with performing the service—

''(1) has a significant investment in assets and/or training,

''(2) incurs significant unreimbursed expenses,

''(3) agrees to perform the service for a particular amount of time or to complete a specific result and is liable for damages for early termination without cause,

''(4) is paid primarily on a commissioned basis, or

''(5) purchases products for resale.

''(c) ADDITIONAL SERVICE PROVIDER REQUIREMENTS WITH REGARD TO OTHERS.—For the purposes of subsection (a), the requirements of this subsection are met if—

''(1) the service provider—

''(A) has a principal place of business,

''(B) does not primarily provide the service in the service recipient's place of business, or

''(C) pays a fair market rent for use of the service recipient's place of business; or

''(2) the service provider—

''(A) is not required to perform service exclusively for the service recipient, and

''(B) in the year involved, or in the preceding or subsequent year—

''(i) has performed a significant amount of service for other persons,

''(ii) has offered to perform service for other persons through—

''(I) advertising,

''(II) individual written or oral solicitations,

''(III) listing with registries, agencies, brokers, and other persons in the business of providing referrals to other service recipients, or

''(IV) other similar activities, or

''(iii) provides service under a business name which is registered with (or for which a license has been obtained from) a State, a political subdivision of a State, or any agency or instrumentality of 1 or more States or political subdivisions.

''(d) WRITTEN DOCUMENT REQUIREMENTS.—For purposes of subsection (a), the requirements of this subsection are met if the services performed by the individual are performed pursuant to a written contract between such individual and the person for whom the services are performed, or the payor, and such contract provides that the individual will not be treated as an employee with respect to such services for purposes of this subtitle or subtitle A.

''(e) SPECIAL RULES.—For purposes of this section—

''(1) If for any taxable year any service recipient or payor fails to meet the applicable reporting requirements of sections 6041(a), 6041A(a), or 6051 with respect to a service provider, then, unless such failure is due to reasonable cause and not willful neglect, this section shall not apply in determining whether such service provider shall not be treated as an employee of such service recipient or payor for such year.

''(2) If the service provider is performing services through an entity owned in whole or in part by such service provider, then the references to 'service provider' in subsections (b) through (d) may include such entity, provided that the written contract referred to in paragraph (1) of subsection (d) may be with either the service provider or such entity and need not be with both.

''(f) DEFINITIONS.—For the purposes of this section—

''(1) SERVICE PROVIDER.—The term 'service provider' means any individual who performs service for another person.

''(2) SERVICE RECIPIENT.—Except as provided in paragraph (5), the term 'service recipient' means the person for whom the service provider performs such service.

''(3) PAYOR.—Except as provided in paragraph (5), the term 'payor' means the person who pays the service provider for the performance of such service in the event that the service recipients do not pay the service provider.

''(4) IN CONNECTION WITH PERFORMING THE SERVICE.—The term 'in connection with performing the service' means in connection or related to—

''(A) the actual service performed by the service provider for the service recipients or for other persons for whom the service provider has performed similar service, or

''(B) the operation of the service provider's trade or business.

''(5) EXCEPTIONS.—The terms 'service recipient' and 'payor' do not include any entity which is owned in whole or in part by the service provider.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 25 is amended by adding at the end the following new item:

''Sec. 3511. Standards for determining whether individuals are not employees.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services performed after December 31, 1997.

Subtitle E—Provisions Relating to Small Businesses

SEC. 941. WAIVER OF PENALTY THROUGH 1998 ON SMALL BUSINESSES FAILING TO MAKE ELECTRONIC FUND TRANSFERS OF TAXES.

No penalty shall be imposed under the Internal Revenue Code of 1986 solely by reason of a failure by a person to use the electronic fund transfer system established under section 6302(h) of such Code if—

(1) such person is a member of a class of taxpayers first required to use such system on or after July 1, 1997, and

(2) such failure occurs before January 1, 1999.

SEC. 942. CLARIFICATION OF TREATMENT OF HOME OFFICE USE FOR ADMINISTRATIVE AND MANAGEMENT ACTIVITIES.

(a) IN GENERAL.—Paragraph (1) of section 280A(c) is amended by adding at the end the following new sentence: ''For purposes of subparagraph (A), the term 'principal place of business' includes a place of business which is used by the taxpayer for the administrative or management activities of any trade or business of the taxpayer if there is no other fixed location of such trade or business where the taxpayer conducts substantial administrative or management activities of such trade or business.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1997.

Subtitle F—Other Provisions

SEC. 951. USE OF ESTIMATES OF SHRINKAGE FOR INVENTORY ACCOUNTING.

(a) IN GENERAL.—Section 471 (relating to general rule for inventories) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

''(b) ESTIMATES OF INVENTORY SHRINKAGE PERMITTED.—A method of determining inventories shall not be deemed not to clearly reflect income solely because it utilizes estimates of inventory shrinkage that are confirmed by a physical count only after the last day of the taxable year if—

''(1) the taxpayer normally does a physical count of inventories at each location on a regular and consistent basis, and

''(2) the taxpayer makes proper adjustments to such inventories and to its estimating methods to the extent such estimates are greater than or less than the actual shrinkage.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) COORDINATION WITH SECTION 481.—In the case of any taxpayer permitted by this section to change its method of accounting to a permissible method for any taxable year—

(A) such changes shall be treated as initiated by the taxpayer,

(B) such changes shall be treated as made with the consent of the Secretary, and

(C) the period for taking into account the adjustments under section 481 by reason of such change shall be 4 years.

SEC. 952. ASSIGNMENT OF WORKMEN'S COMPENSATION LIABILITY ELIGIBLE FOR EXCLUSION RELATING TO PERSONAL INJURY LIABILITY ASSIGNMENTS.

(a) IN GENERAL.—Subsection (c) of section 130 (relating to certain personal injury liability assignments) is amended—

(1) by inserting '', or as compensation under any workmen's compensation act,'' after ''(whether by suit or agreement)'' in the material preceding paragraph (1),

(2) by inserting ''or the workmen's compensation claim,'' after ''agreement,'' in paragraph (1), and

(3) by striking ''section 104(a)(2)'' in paragraph (2)(D) and inserting ''paragraph (1) or (2) of section 104(a)''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to claims under workmen's compensation acts filed after the date of the enactment of this Act.

SEC. 953. TAX-EXEMPT STATUS FOR CERTAIN STATE WORKER'S COMPENSATION ACT COMPANIES.

(a) IN GENERAL.—Section 501(c)(27) (relating to membership organizations under workmen's compensation acts) is amended by adding at the end the following:

''(B) Any organization (including a mutual insurance company) if—

''(i) such organization is created by State law and is organized and operated under State law exclusively to—

''(I) provide workmen's compensation insurance which is required by State law or with respect to which State law provides significant disincentives if such insurance is not purchased by an employer, and

''(II) provide related coverage which is incidental to workmen's compensation insurance,

''(ii) such organization must provide workmen's compensation insurance to any employer in the State (for employees in the State or temporarily assigned out-of-State) which seeks such insurance and meets other reasonable requirements relating thereto,

''(iii)(I) the State makes a financial commitment with respect to such organization either by extending the full faith and credit of the State to debt of such organization or by providing the initial operating capital of such organization and (II) in the case of periods after the date of enactment of this subparagraph, the assets of such organization revert to the State upon dissolution, and

''(iv) the majority of the board of directors or oversight body of such organization are appointed by the chief executive officer or other executive branch official of the State, by the State legislature, or by both.''.

(b) CONFORMING AMENDMENTS.—Section 501(c)(27) of such Code is amended by inserting ''(A)'' after ''(27)'', by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and by redesignating clauses (i) and (ii) of subparagraphs (B) and (C) (before redesignation) as subclauses (I) and (II), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 954. ELECTION TO CONTINUE EXCEPTION FROM TREATMENT OF PUBLICLY TRADED PARTNERSHIPS AS CORPORATIONS.

(a) IN GENERAL.—Section 7704 is amended by adding at the end thereof the following new subsection:

''(g) EXCEPTION FOR EXISTING PUBLICLY TRADED PARTNERSHIPS.—

''(1) IN GENERAL.—Subsection (a) shall not apply to an existing publicly traded partnership which elects the application of this subsection and consents to the application of the tax imposed by paragraph (3).

''(2) EXISTING PUBLICLY TRADED PARTNERSHIP.—For purposes of this section, the term 'existing publicly traded partnership' means any publicly traded partnership to which subsection (a) does not apply as of the date of the enactment of this paragraph (other than by reason of subsection (c)(1)).

''(3) ADDITIONAL TAX ON ELECTING PUBLICLY TRADED PARTNERSHIPS.—

''(A) IMPOSITION OF TAX.—There is hereby imposed for each taxable year on the income of every electing publicly traded partnership a tax equal to 15 percent of the gross income for such taxable year from the active conduct of trades and businesses by the partnership.

''(B) ELECTING PUBLICLY TRADED PARTNERSHIP.—For purposes of this paragraph, the term 'electing publicly traded partnership' means any partnership for which the consent under paragraph (1) is in effect.

''(C) ADJUSTMENTS IN THE CASE OF TIERED PARTNERSHIPS.—For purposes of this paragraph, if the income of the partnership includes its distributive share of income from another partnership for any taxable year, the gross income referred to in subparagraph (A) shall include the gross income of such other partnership from the active conduct of trades and businesses of such other partnership (in lieu of such distributive share). A similar rule shall apply in the case of lower-tiered partnerships.

''(D) TREATMENT OF TAX.—For purposes of this title, the tax imposed by this paragraph shall be treated as imposed by chapter 1 other than for purposes of determining the amount of any credit allowable under chapter 1.

''(4) ELECTION.—An election and consent under this subsection shall apply to the taxable year for which made and all subsequent taxable years unless revoked by the partnership. Such revocation may be made without the consent of the Secretary, but, once so revoked, may not be reinstated.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 955. EXCLUSION FROM UNRELATED BUSINESS TAXABLE INCOME FOR CERTAIN SPONSORSHIP PAYMENTS.

(a) IN GENERAL.—Section 513 (relating to unrelated trade or business income) is amended by adding at the end the following new subsection:

''(i) TREATMENT OF CERTAIN SPONSORSHIP PAYMENTS.—

''(1) IN GENERAL.—The term 'unrelated trade or business' does not include the activity of soliciting and receiving qualified sponsorship payments.

''(2) QUALIFIED SPONSORSHIP PAYMENTS.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified sponsorship payment' means any payment made by any person engaged in a trade or business with respect to which there is no arrangement or expectation that such person will receive any substantial return benefit other than the use or acknowledgement of the name or logo (or product lines) of such person's trade or business in connection with the activities of the organization that receives such payment. Such a use or acknowledgement does not include advertising such person's products or services (including messages containing qualitative or comparative language, price information or other indications of savings or value, an endorsement, or an inducement to purchase, sell, or use such products or services).

''(B) LIMITATIONS.—

''(i) CONTINGENT PAYMENTS.—The term 'qualified sponsorship payment' does not include any payment if the amount of such payment is contingent upon the level of attendance at one or more events, broadcast ratings, or other factors indicating the degree of public exposure to one or more events.

''(ii) ACKNOWLEDGEMENTS OR ADVERTISING IN PERIODICALS.—The term 'qualified sponsorship payment' does not include any payment which entitles the payor to an acknowledgement or advertising in regularly scheduled and printed material published by

or on behalf of the payee organization that is not related to and primarily distributed in connection with a specific event conducted by the payee organization.

''(3) ALLOCATION OF PORTIONS OF SINGLE PAYMENT.—For purposes of this subsection, to the extent that a portion of a payment would (if made as a separate payment) be a qualified sponsorship payment, such portion of such payment and the other portion of such payment shall be treated as separate payments.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments solicited or received after December 31, 1997.

SEC. 956. ASSOCIATIONS OF HOLDERS OF TIMESHARE INTERESTS TO BE TAXED LIKE OTHER HOMEOWNERS ASSOCIATIONS.

(a) TIMESHARE ASSOCIATIONS INCLUDED AS HOMEOWNER ASSOCIATIONS.—

(1) IN GENERAL.—Paragraph (1) of section 528(c) (defining homeowners association) is amended—

(A) by striking ''or a residential real estate management association'' and inserting '', a residential real estate management association, or a timeshare association'' in the material preceding subparagraph (A),

(B) by striking ''or'' at the end of clause (i) of subparagraph (B), by striking the period at the end of clause (ii) of subparagraph (B) and inserting '', or'', and by adding at the end of subparagraph (B) the following new clause:

''(iii) owners of timeshare rights to use, or timeshare ownership interests in, association property in the case of a timeshare association,'', and

(C) by inserting ''and, in the case of a timeshare association, for activities provided to or on behalf of members of the association'' before the comma at the end of subparagraph (C).

(2) TIMESHARE ASSOCIATION DEFINED.—Subsection (c) of section 528 is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) TIMESHARE ASSOCIATION.—The term 'timeshare association' means any organization (other than a condominium management association) meeting the requirement of subparagraph (A) of paragraph (1) if any member thereof holds a timeshare right to use, or a timeshare ownership interest in, real property constituting association property.''.

(b) EXEMPT FUNCTION INCOME.—Paragraph (3) of section 528(d) is amended by striking ''or'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', or'', and by adding at the end the following new subparagraph:

''(C) owners of timeshare rights to use, or timeshare ownership interests in, real property in the case of a timeshare association.''.

(c) RATE OF TAX.—Subsection (b) of section 528 (relating to certain homeowners associations) is amended by inserting before the period ''(32 percent of such income in the case of a timeshare association)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 957. ADDITIONAL ADVANCE REFUNDING OF CERTAIN VIRGIN ISLAND BONDS.

Subclause (I) of section 149(d)(3)(A)(i) of the Internal Revenue Code of 1986 shall not apply to the second advance refunding of any issue of the Virgin Islands which was first advance refunded before June 9, 1997, if the debt provisions of the refunding bonds are changed to repeal the priority first lien requirement of the refunded bonds.

SEC. 958. NONRECOGNITION OF GAIN ON SALE OF STOCK TO CERTAIN FARMERS' COOPERATIVES.

(a) IN GENERAL.—Section 1042 (relating to sales of stock to employee stock ownership plans or certain cooperatives) is amended by adding at the end the following new subsection:

''(g) APPLICATION OF SECTION TO SALES OF STOCK IN AGRICULTURAL REFINERS AND PROCESSORS TO ELIGIBLE FARM COOPERATIVES.—

''(1) IN GENERAL.—This section shall apply to the sale of stock of a qualified refiner or processor to an eligible farmers' cooperative.

''(2) QUALIFIED REFINER OR PROCESSOR.—For purposes of this subsection, the term 'qualified refiner or processor' means a domestic corporation—

''(A) substantially all of the activities of which consist of the active conduct of the trade or business of refining or processing agricultural or horticultural products, and

''(B) which purchases more than one-half of such products to be refined or processed from—

''(i) farmers who make up the eligible farmers' cooperative which is purchasing stock in the corporation in a transaction to which this subsection is to apply, and

''(ii) such cooperative.

''(3) ELIGIBLE FARMERS' COOPERATIVE.—For purposes of this section, the term 'eligible farmers' cooperative' means an organization to which part I of subchapter T applies which is engaged in the marketing of agricultural or horticultural products.

''(4) SPECIAL RULES.—In applying this section to a sale to which paragraph (1) applies—

''(A) the eligible farmers' cooperative shall be treated in the same manner as a cooperative described in subsection (b)(1)(B),

''(B) subsection (b)(2) shall be applied by substituting '100 percent' for '30 percent' each place it appears,

''(C) the determination as to whether any stock in the domestic corporation is a qualified security shall be made without regard to whether the stock is an employer security or to subsection (c)(1)(A), and

''(D) paragraphs (2)(D) and (7) of subsection (c) shall not apply.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales after December 31, 1997.

SEC. 959. EXCEPTION FROM REPORTING OF REAL ESTATE TRANSACTIONS FOR SALES AND EXCHANGES OF CERTAIN PRINCIPAL RESIDENCES.

(a) IN GENERAL.—Subsection (e) of section 6045 (relating to return required in the case of real estate transactions) is amended by adding at the end the following new paragraph:

''(5) EXCEPTION FOR SALES OR EXCHANGES OF CERTAIN PRINCIPAL RESIDENCES.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to any sale or exchange of a residence for $250,000 or less if the person referred to in paragraph (2)(A) receives written assurance in a form acceptable to the Secretary from the seller that—

''(i) such residence is the principal residence (within the meaning of section 121) of the seller,

''(ii) there is no federally subsidized mortgage financing assistance with respect to the mortgage on such residence, and

''(iii) the seller meets the requirements of section 121(a) with respect to such sale or exchange.

If such assurance includes an assurance that the seller is married, the preceding sentence shall be applied by substituting '$500,000' for '$250,000'.

''(B) SELLER.—For purposes of this paragraph, the term 'seller' includes the person relinquishing the residence in an exchange.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales and exchanges after the date of the enactment of this Act.

SEC. 960. INCREASED DEDUCTIBILITY OF BUSINESS MEAL EXPENSES FOR INDIVIDUALS SUBJECT TO FEDERAL HOURS OF SERVICE.

(a) IN GENERAL.—Section 274(n) (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR INDIVIDUALS SUBJECT TO FEDERAL HOURS OF SERVICE.—

''(A) IN GENERAL.—In the case of any expenses for food or beverages consumed while away from home (within the meaning of section 162(a)(2)) by an individual during, or incident to, the period of duty subject to the hours of service limitations of the Department of Transportation, paragraph (1) shall be applied by substituting 'the applicable percentage' for '50 percent'.

''(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the term 'applicable percentage' means the percentage determined under the following table:

''For taxable years beginning in calendar year—	The applicable percentage is—
1998 or 1999	55
2000 or 2001	60
2002 or 2003	65
2004 or 2005	70
2006 or 2007	75
2008 or thereafter	80.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1997.

SEC. 961. QUALIFIED LESSEE CONSTRUCTION ALLOWANCES FOR SHORT-TERM LEASES.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 is amended by inserting after section 109 the following new section:

''SEC. 110. QUALIFIED LESSEE CONSTRUCTION ALLOWANCES FOR SHORT-TERM LEASES.

''(a) IN GENERAL.—Gross income of a lessee does not include any amount received in cash (or treated as a rent reduction) by a lessee from a lessor—

''(1) under a short-term lease of retail space, and

''(2) for the purpose of such lessee's constructing or improving qualified long-term real property for use in such lessee's trade or business at such retail space,

but only to the extent that such amount does not exceed the amount expended by the lessee for such construction or improvement.

''(b) CONSISTENT TREATMENT BY LESSOR.—Qualified long-term real property constructed or improved in connection with any amount excluded from a lessee's income by reason of subsection (a) shall be treated as nonresidential real property by the lessor.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED LONG-TERM REAL PROPERTY.—The term 'qualified long-term real property' means nonresidential real property which is part of, or otherwise present at, the retail space referred to in subsection (a) and which reverts to the lessor at the termination of the lease.

''(2) SHORT-TERM LEASE.—The term 'short-term lease' means a lease (or other agreement for occupancy or use) of retail space for 15 years or less (as determined under the rules of section 168(i)(3)).

''(3) RETAIL SPACE.—The term 'retail space' means real property leased, occupied, or otherwise used by a lessee in its trade or business of selling tangible personal property or services to the general public.

''(d) INFORMATION REQUIRED TO BE FURNISHED TO SECRETARY.—Under regulations, the lessee and lessor described in subsection (a) shall, at such times and in such manner as may be provided in such regulations, furnish to the Secretary—

''(1) information concerning the amounts received (or treated as a rent reduction) and expended as described in subsection (a), and

''(2) any other information which the Secretary deems necessary to carry out the provisions of this section.''.

(b) TREATMENT AS INFORMATION RETURN.—Subparagraph (A) of section 6724(d)(1)(A) is amended by striking ''or'' at the end of clause (vii), by adding ''or'' at the end of clause (viii), and by adding at the end the following new clause:

''(ix) section 110(d) (relating to qualified lessee construction allowances for short-term leases),''.

(c) CROSS REFERENCE.—Paragraph (8) of section 168(i) (relating to treatment of leasehold improvements) is amended by adding at the end the following new subparagraph:

''(C) CROSS REFERENCE.—

''For treatment of qualified long-term real property constructed or improved in connection with cash or rent reduction from lessor to lessee, see section 110(b).''.

(d) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 109 the following new item:

''Sec. 110. Qualified lessee construction allowances for short-term leases.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to leases entered into after the date of the enactment of this Act.

SEC. 962. TAX TREATMENT OF CONSOLIDATIONS OF LIFE INSURANCE DEPARTMENTS OF MUTUAL SAVINGS BANKS.

(a) GENERAL RULE.—Section 594 (relating to alternative tax for mutual savings banks conducting life insurance business) is amended by adding at the end thereof the following new subsection:

''(c) TREATMENT OF CONSOLIDATIONS.—If 2 or more life insurance departments to which subsection (a) applied are consolidated into a single life insurance company pursuant to a requirement of State law—

''(1) such consolidation shall be treated as a reorganization described in section 368(a)(1)(E), and

''(2) any payments required to be made to policyholders in connection with such consolidation shall be treated as policyholder dividends deductible under section 808 but only if—

''(A) such payments are only with respect to policies in effect immediately before such consolidation,

''(B) such payments are only with respect to policies which are participating before and after such consolidation,

''(C) such payments shall cease with respect to any policy if such policy lapses after such consolidation,

''(D) the policyholders before such consolidation had no divisible right to the surplus of any such department and had no right to vote, and

''(E) the approval of such policyholders was not required for such consolidation.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on December 31, 1991.

SEC. 963. OFFSET OF PAST-DUE, LEGALLY ENFORCEABLE STATE TAX OBLIGATIONS AGAINST OVERPAYMENTS.

(a) IN GENERAL.—Section 6402 is amended by redesignating subsections (e) through (i) as subsections (f) through (j), respectively, and by inserting after subsection (d) the following new subsection:

''(e) COLLECTION OF PAST-DUE, LEGALLY ENFORCEABLE STATE TAX OBLIGATIONS.—

''(1) IN GENERAL.—Upon receiving notice from any State that a named person owes a past-due, legally enforceable State tax obligation to such State, the Secretary shall, under such conditions as may be prescribed by the Secretary—

''(A) reduce the amount of any overpayment payable to such person by the amount of such State tax obligation;

''(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such State and notify such State of such person's name, taxpayer identification number, address, and the amount collected; and

''(C) notify the person making such overpayment that the overpayment has been reduced by an amount necessary to satisfy a past-due, legally enforceable State tax obligation.

If an offset is made pursuant to a joint return, the notice under subparagraph (B) shall include the names, taxpayer identification numbers, and addresses of each person filing such return.

''(2) OFFSET PERMITTED ONLY AGAINST RESIDENTS OF STATE SEEKING OFFSET.—Paragraph (1) shall apply to an overpayment by any person for a taxable year only if the address shown on the return for such taxable year is an address within the State seeking the offset.

''(3) PRIORITIES FOR OFFSET.—Any overpayment by a person shall be reduced pursuant to this subsection—

''(A) after such overpayment is reduced pursuant to—

''(i) subsection (a) with respect to any liability for any internal revenue tax on the part of the person who made the overpayment,

''(ii) subsection (c) with respect to past-due support, and

''(iii) subsection (d) with respect to any past-due, legally enforceable debt owed to a Federal agency, and

''(B) before such overpayment is credited to the future liability for any Federal internal revenue tax of such person pursuant to subsection (b).

If the Secretary receives notice from 1 or more agencies of the State of more than 1 debt subject to paragraph (1) that is owed by such person to such an agency, any overpayment by such person shall be applied against such debts in the order in which such debts accrued.

''(4) NOTICE; CONSIDERATION OF EVIDENCE.—No State may take action under this subsection until such State—

''(A) notifies the person owing the past-due State tax liability that the State proposes to take action pursuant to this section,

''(B) gives such person at least 60 days to present evidence that all or part of such liability is not past-due or not legally enforceable,

''(C) considers any evidence presented by such person and determines that an amount of such debt is past-due and legally enforceable, and

''(D) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under subparagraph (C) is valid and that the State has made reasonable efforts to obtain payment of such State tax obligation.

''(5) PAST-DUE, LEGALLY ENFORCEABLE STATE TAX OBLIGATION.—For purposes of this subsection, the term 'past-due, legally enforceable State tax obligation' means a debt—

''(A)(i) which resulted from—

''(I) a judgment rendered by a court of competent jurisdiction which has determined an amount of State tax to be due, or

''(II) a determination after an administrative hearing which has determined an amount of State tax to be due, and

''(ii) which is no longer subject to judicial review, or

''(B) which resulted from a State tax which has been assessed but not collected, the time for redetermination of which has expired, and which has not been delinquent for more than 10 years.

For purposes of this paragraph, the term 'State tax' includes any local tax administered by the chief tax administration agency of the State.

''(6) REGULATIONS.—The Secretary shall issue regulations prescribing the time and manner in which States must submit notices of past-due, legally enforceable State tax obligations and the necessary information that must be contained in or accompany such notices. The regulations shall specify the types of State taxes and the minimum amount of debt to which the reduction procedure established by paragraph (1) may be applied. The regulations may require States to pay a fee to reimburse the Secretary for the cost of applying such procedure. Any fee paid to the Secretary pursuant to the preceding sentence shall be used to reimburse appropriations which bore all or part of the cost of applying such procedure.

''(7) ERRONEOUS PAYMENT TO STATE.—Any State receiving notice from the Secretary that an erroneous payment has been made to such State under paragraph (1) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such State under such paragraph have been paid to such State).''.

(b) DISCLOSURE OF CERTAIN INFORMATION TO STATES REQUESTING REFUND OFFSETS FOR PAST-DUE, LEGALLY ENFORCEABLE STATE TAX OBLIGATIONS.—

(1) Paragraph (10) of section 6103(l) is amended by striking ''(c) or (d)'' each place it appears and inserting ''(c), (d), or (e)''.

(2) The paragraph heading for such paragraph (10) is amended by striking ''SECTION 6402(c) OR 6402(d)'' and inserting ''SUBSECTION (c), (d), OR (e) OF SECTION 6402''.

(c) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 6402 is amended by striking ''(c) and (d)'' and inserting ''(c), (d), and (e)''.

(2) Paragraph (2) of section 6402(d) is amended by striking ''and before such overpayment'' and inserting ''and before such overpayment is reduced pursuant to subsection (e) and before such overpayment''.

(3) Subsection (f) of section 6402, as redesignated by subsection (a), is amended—

(A) by striking ''(c) or (d)'' and inserting ''(c), (d), or (e)'', and

(B) by striking ''Federal agency'' and inserting ''Federal agency or State''.

(4) Subsection (h) of section 6402, as redesignated by subsection (a), is amended by striking ''subsection (c)'' and inserting ''subsection (c) or (e)''.

(d) AMENDMENTS APPLIED AFTER TECHNICAL CORRECTIONS TO PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.—

(1) Section 110(l) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended by striking paragraphs (4), (5), and (7) (and the amendments made by such paragraphs), and the Internal Revenue Code of 1986 shall be applied as if such paragraphs (and amendments) had never been enacted.

(2) For purposes of applying the amendments made by this section other than this subsection, the provisions of this subsection shall be treated as having been enacted immediately before the other provisions of this section.

(e) EFFECTIVE DATE.—The amendments made by this section (other than subsection (d)) shall apply to refunds payable under section 6402 of the Internal Revenue Code of 1986 after December 31, 1998.

SEC. 964. EXEMPTION OF THE INCREMENTAL COST OF A CLEAN FUEL VEHICLE FROM THE LIMITS ON DEPRECIATION FOR VEHICLES.

(a) IN GENERAL.—Section 280F(a)(1) (relating to limiting depreciation on luxury automobiles) is amended by adding at the end the following new subparagraph:

''(C) SPECIAL RULE FOR CERTAIN CLEAN-FUEL PASSENGER AUTOMOBILES.—

''(i) MODIFIED AUTOMOBILES.—In the case of a passenger automobile which is propelled by a fuel which is not a clean-burning fuel to which is installed qualified clean-fuel vehicle property (as defined in section 179A(c)(1)(A)) for purposes of permitting such vehicle to be propelled by a clean burning fuel (as defined in section 179A(e)(1)), subparagraph (A) shall not apply to the cost of the installed qualified clean burning vehicle property as depreciated pursuant to section 168 by applying the rules under subsections (b)(1), (d)(1), and (e)(3)(B) thereof.

''(ii) PURPOSE BUILT PASSENGER VEHICLES.—In the case of a purpose built passenger vehicle (as defined in section 4001(a)(2)(C)(ii)), each of the annual limitations specified in subparagraph (A) shall be tripled.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service on or after the date of enactment of this Act and before January 1, 2005.

SEC. 965. TAX BENEFITS FOR LAW ENFORCEMENT OFFICERS KILLED IN THE LINE OF DUTY.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 138 as section 139 and by inserting after section 137 the following new section:

''SEC. 138. SURVIVOR BENEFITS ATTRIBUTABLE TO SERVICE BY A LAW ENFORCEMENT OFFICER WHO IS KILLED IN THE LINE OF DUTY.

''(a) IN GENERAL.—Gross income shall not include any amount paid as a survivor annuity on account of the death of a law enforcement officer killed in the line of duty—

''(1) if such annuity is provided under a governmental plan which meets the requirements of section 401(a) to the spouse (or a former spouse) of the law enforcement officer or to a child of such officer, and

''(2) to the extent such annuity is attributable to such officer's service as a law enforcement officer.

''(b) EXCEPTIONS.—

''(1) IN GENERAL.—Subsection (a) shall not apply with respect to the death of any law enforcement officer if—

''(A) the death was caused by the intentional misconduct of the officer or by such officer's intention to bring about such officer's death,

''(B) the officer was voluntarily intoxicated (as defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968) at the time of death, or

''(C) the officer was performing such officer's duties in a grossly negligent manner at the time of death.

''(2) EXCEPTION FOR BENEFITS PAID TO CERTAIN INDIVIDUALS.—Subsection (a) shall not apply to any payment to an individual whose actions were a substantial contributing factor to the death of the officer.

''(c) LAW ENFORCEMENT OFFICER.—For purposes of this section, the term 'law enforcement officer' means an individual serving a public agency (as defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968) in an official capacity, with or without compensation, as a law enforcement officer (as defined in such section).''.

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the last item and inserting the following new items:

''Sec. 138. Survivor benefits attributable to service by a law enforcement officer who is killed in the line of duty.

''Sec. 139. Cross references to other Acts.''.

(c) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received in taxable years beginning after December 31, 1996, with respect to individuals dying after such date.

SEC. 966. TEMPORARY SUSPENSION OF TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR MARGINAL PRODUCTION.

In the case of taxable years beginning after December 31, 1997, and before January 1, 2000, paragraph (1) of section 613A(d) of the Internal Revenue Code of 1986 shall not apply to so much of the allowance for depletion computed under section 613A(c) of such Code as is attributable to paragraph (6) thereof.

Subtitle G—Extension of Duty-Free Treatment Under Generalized System of Preferences; Tariff Treatment of Certain Equipment and Repair of Vessels

SEC. 971. GENERALIZED SYSTEM OF PREFERENCES.

(a) EXTENSION OF DUTY-FREE TREATMENT UNDER SYSTEM.—Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended by striking ''May 31, 1997'' and inserting ''May 31, 1999''.

(b) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(1) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law and subject to paragraph (2), the entry—

(A) of any article to which duty-free treatment under title V of the Trade Act of 1974 would have applied if the entry had been made on May 31, 1997, and

(B) that was made after May 31, 1997, and before the date of the enactment of this Act,

shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry. As used in this subsection, the term ''entry'' includes a withdrawal from warehouse for consumption.

(2) REQUESTS.—Liquidation or reliquidation may be made under paragraph (1) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

SEC. 972. EQUIPMENT AND REPAIR OF VESSELS.

(a) TARIFF TREATMENT.—Section 466 of the Tariff Act of 1930 (19 U.S.C. 1466), is amended by adding at the end the following new subsection:

''(i)(1) The duty imposed by subsection (a) shall not apply with respect to activities occurring in a Shipbuilding Agreement Party, with respect to—

''(A) self-propelled seagoing vessels of 100 gross tons or more that are used for transportation of goods or persons or for performance of a specialized service (including, but not limited to, ice breakers and dredges), and

''(B) tugs of 365 kilowatts or more.

A vessel shall be considered 'self-propelled seagoing' if its permanent propulsion and steering provide it all the characteristics of self-navigability in the high seas.

''(2) As used in this subsection—

''(A) the term 'Shipbuilding Agreement Party' means a state or separate customs territory that is a signatory to the Shipbuilding Agreement; and

''(B) the term 'Shipbuilding Agreement' means The Agreement Respecting Normal Competitive Conditions in the Commercial Shipbuilding and Repair Industry, resulting from negotiations under the auspices of the Organization for Economic Cooperation and Development, and entered into on December 21, 1994.''.

(b) APPLICABILITY.—The amendment made by subsection (a) applies only with respect to activities occurring in a Shipbuilding Agreement Party (as defined in section 466(i) of the Tariff Act of 1930) during the 1-year period beginning on the date of the enactment of this Act.

Subtitle H—United States-Caribbean Basin Trade Partnership Act

SEC. 981. SHORT TITLE.

This subtitle may be cited as the ''United States-Caribbean Basin Trade Partnership Act''.

SEC. 982. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress makes the following findings:

(1) The United States apparel industry is a major component of the United States manufacturing sector of the United States, employing nearly 825,000 people who are located in every State in the country. The United States apparel industry consumes 42 percent of the fabric produced by United States textile mills, which employ more than 650,000 people.

(2) In 1973 the United States apparel industry supplied 88 percent of the garments consumed by Americans, and in 1995 that share fell to less than 50 percent.

(3) Countries in the Western Hemisphere offer the greatest opportunities for increased exports of United States textile and apparel products.

(4) Given the greater propensity of countries located in the Western Hemisphere to use United States components and to purchase United States products compared to other countries, increased trade and economic activity between the United States and countries in the Western Hemisphere will create new jobs in the United States as a result of expanding export opportunities.

(5) The Caribbean Basin Economic Recovery Act represents a permanent commitment by the United States to encourage the development of strong democratic governments and revitalized economies in neighboring countries in the Caribbean Basin.

(6) The economic security of the countries in the Caribbean Basin is potentially threatened by the diversion of investment to Mexico as a result of the North American Free Trade Agreement.

(7) Offering NAFTA equivalent benefits to Caribbean Basin beneficiary countries, pending their eventual accession to the NAFTA or a free trade agreement comparable to the NAFTA, will promote the growth of free enterprise and economic opportunity in the region, and thereby enhance the national security interests of the United States.

(b) POLICY.—It is the policy of the United States—

(1) to assure that the domestic textile and apparel industry remains competitive in the global marketplace by encouraging the formation and expansion of ''partnerships'' between the textile and apparel industry of the

United States and the textile and apparel industry of various countries located in the Western Hemisphere; and

(2) to offer to the products of Caribbean Basin partnership countries tariffs and quota treatment equivalent to that accorded to products of NAFTA countries, and to seek the accession of these partnership countries to the NAFTA or a free trade agreement comparable to the NAFTA at the earliest possible date, with the goal of achieving full participation in the NAFTA or in a free trade agreement comparable to the NAFTA by all partnership countries by not later than January 1, 2005.

SEC. 983. DEFINITIONS.

As used in this Act:

(1) PARTNERSHIP COUNTRY.—The term ''partnership country'' means a beneficiary country as defined in section 212(a)(1)(A) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(a)(1)(A)).

(2) NAFTA.—The term ''NAFTA'' means the North American Free Trade Agreement entered into between the United States, Mexico, and Canada on December 17, 1992.

(3) TRADE REPRESENTATIVE.—The term ''Trade Representative'' means the United States Trade Representative.

(4) WTO AND WTO MEMBER.—The terms ''WTO'' and ''WTO member'' have the meanings given those terms in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

SEC. 984. TEMPORARY PROVISIONS TO PROVIDE NAFTA PARITY TO PARTNERSHIP COUNTRIES.

(a) TEMPORARY PROVISIONS.—Section 213(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)) is amended to read as follows:

''(b) IMPORT-SENSITIVE ARTICLES.—

''(1) IN GENERAL.—Subject to paragraphs (2) through (5), the duty-free treatment provided under this title does not apply to—

''(A) textile and apparel articles which are subject to textile agreements;

''(B) footwear not designated at the time of the effective date of this title as eligible articles for the purpose of the generalized system of preferences under title V of the Trade Act of 1974;

''(C) tuna, prepared or preserved in any manner, in airtight containers;

''(D) petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS;

''(E) watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital, or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply; or

''(F) articles to which reduced rates of duty apply under subsection (h).

''(2) NAFTA TRANSITION PERIOD TREATMENT OF CERTAIN TEXTILE AND APPAREL ARTICLES.—

''(A) EQUIVALENT TARIFF AND QUOTA TREATMENT.—During the transition period—

''(i) the tariff treatment accorded at any time to any textile or apparel article that originates in the territory of a partnership country shall be identical to the tariff treatment that is accorded at such time under section 2 of the Annex to an article described in the same 8-digit subheading of the HTS that is an originating good of Mexico and is imported into the United States;

''(ii) duty-free treatment under this title shall apply to any textile or apparel article that is imported into the United States from a partnership country and that—

''(I) is assembled in a partnership country, from fabrics wholly formed and cut in the United States from yarns formed in the United States, and is entered—

''(aa) under subheading 9802.00.80 of the HTS; or

''(bb) under chapter 61 or 62 of the HTS if, after such assembly, the article would have qualified for treatment under subheading 9802.00.80 of the HTS, but for the fact the article was subjected to bleaching, dyeing, stone-washing, enzyme-washing, acid-washing, perma-pressing, or similar processes or embroidery; or

''(II) is knit-to-shape in a partnership country from yarns wholly formed in the United States;

''(III) is made from fabric knit in a partnership country from yarns wholly formed in the United States;

''(IV) is cut and assembled in a partnership country from yarns wholly formed in the United States; or

''(V) is identified under subparagraph (C) as a handloomed, handmade, or folklore article of such country and is certified as such by the competent authority of such country; and

''(iii) no quantitative restriction under any bilateral textile agreement may be applied to the importation into the United States of any textile or apparel article that—

''(I) originates in the territory of a partnership country, or

''(II) qualifies for duty-free treatment under subclause (I), (II), (III), (IV), or (V) of clause (ii).

''(B) NAFTA TRANSITION PERIOD TREATMENT OF NONORIGINATING TEXTILE AND APPAREL ARTICLES.—

''(i) PREFERENTIAL TARIFF TREATMENT.—Subject to clause (ii), the President may place in effect at any time during the transition period with respect to any textile or apparel article that—

''(I) is a product of a partnership country, but

''(II) does not qualify as a good that originates in the territory of a partnership country,

tariff treatment that is identical to the in-preference-level tariff treatment accorded at such time under Appendix 6.B of the Annex to an article described in the same 8-digit subheading of the HTS that is a product of Mexico and is imported into the United States. For purposes of this clause, the 'in-preference-level tariff treatment' accorded to an article that is a product of Mexico is the rate of duty applied to that article when imported in quantities less than or equal to the quantities specified in Schedule 6.B.1, 6.B.2., or 6.B.3. of the Annex for imports of that article from Mexico into the United States.

''(ii) LIMITATIONS ON CERTAIN ARTICLES.—(I) Tariff treatment under clause (i) may be extended, during any calendar year, to not more than 45,000,000 square meter equivalents of cotton or man-made fiber apparel, to not more than 1,500,000 square meter equivalents of wool apparel, and to not more than 25,000,000 square meter equivalents of goods entered under subheading 9802.00.80 of the HTS.

''(II) Except as provided in subclause (III), the amounts set forth in subclause (I) shall be allocated among the 7 partnership countries with the largest volume of exports to the United States of textile and apparel goods in calendar year 1996, based upon a pro rata share of the volume of textile and apparel goods of each of those 7 countries that entered the United States under subheading 9802.00.80 of the HTS during the first 12 months of the 14-month period ending on the date of the enactment of the United States-Caribbean Basin Trade Partnership Act.

''(III) Five percent of the amounts set forth in subclause (I) shall be allocated among the partnership countries, other than those to which subclause (II) applies, based upon a pro rata share of the exports to the United States of textile and apparel goods of each of those countries during the first 12 months of the 14-month period ending on the date of the enactment of the United States-Caribbean Basin Trade Partnership Act.

''(iii) PRIOR CONSULTATION.—The President may implement the preferential tariff treatment described in clause (i) only after consultation with representatives of the United States textile and apparel industry and other interested parties regarding—

''(I) the specific articles to which such treatment will be extended,

''(II) the annual quantities of such articles that may be imported at the preferential duty rates described in clause (i), and

''(III) the allocation of such annual quantities among beneficiary countries.

''(C) HANDLOOMED, HANDMADE, AND FOLKLORE ARTICLES.—For purposes of subparagraph (A), the Trade Representative shall consult with representatives of the partnership country for the purpose of identifying particular textile and apparel goods that are mutually agreed upon as being handloomed, handmade, or folklore goods of a kind described in section 2.3 (a), (b), or (c) or Appendix 3.1.B.11 of the Annex.

''(D) BILATERAL EMERGENCY ACTIONS.—(i) The President may take—

''(I) bilateral emergency tariff actions of a kind described in section 4 of the Annex with respect to any textile or apparel article imported from a partnership country if the application of tariff treatment under subparagraph (A) to such article results in conditions that would be cause for the taking of such actions under such section 4 with respect to an article described in the same 8-digit subheading of the HTS that is imported from Mexico; or

''(II) bilateral emergency quantitative restriction actions of a kind described in section 5 of the Annex with respect to imports of any textile or apparel article described in subparagraph (B)(i) (I) and (II) if the importation of such article into the United States results in conditions that would be cause for the taking of such actions under such section 5 with respect to a like article that is a product of Mexico.

''(ii) The requirement in paragraph (5) of section 4 of the Annex (relating to providing compensation) shall not be deemed to apply to a bilateral emergency action taken under this subparagraph.

''(iii) For purposes of applying bilateral emergency action under this subparagraph—

''(I) the term 'transition period' in sections 4 and 5 of the Annex shall be deemed to be the period defined in paragraph (5)(D); and

''(II) any requirements to consult specified in section 4 or 5 of the Annex are deemed to be satisfied if the President requests consultations with the partnership country in question and the country does not agree to consult within the time period specified in such section.

''(3) NAFTA TRANSITION PERIOD TREATMENT OF CERTAIN OTHER ARTICLES ORIGINATING IN BENEFICIARY COUNTRIES.—

''(A) EQUIVALENT TARIFF TREATMENT.—

''(i) IN GENERAL.—Subject to clause (ii), the tariff treatment accorded at any time during the transition period to any article referred to in any of subparagraphs (B) through (F) of paragraph (1) that originates in the territory of a partnership country shall be identical to the tariff treatment that is accorded at such time under Annex 302.2 of the NAFTA to an article described in the same 8-digit subheading of the HTS that is an originating good of Mexico and is imported into the United States.

''(ii) EXCEPTION.—Clause (i) does not apply to any article accorded duty-free treatment

under U.S. Note 2(b) to subchapter II of chapter 98 of the HTS.

''(B) RELATIONSHIP TO SUBSECTION (h) DUTY REDUCTIONS.—If at any time during the transition period the rate of duty that would (but for action taken under subparagraph (A)(i) in regard to such period) apply with respect to any article under subsection (h) is a rate of duty that is lower than the rate of duty resulting from such action, then such lower rate of duty shall be applied for the purposes of implementing such action.

''(4) CUSTOMS PROCEDURES.—

''(A) IN GENERAL.—

''(i) The obligations under chapter 5 of the NAFTA regarding customs procedures, as such obligations apply to the exporting country, shall apply to importations under paragraphs (2) and (3) of articles from partnership countries.

''(ii) The Secretary of the Treasury shall prescribe regulations that require, as a condition of entry, that any importer of record that claims preferential treatment under paragraph (2) or (3) must comply with requirements similar in all material respects to the requirements of article 502.1 of the NAFTA. The certificate of origin that otherwise would be required under this subparagraph shall not be required in the case of an article imported under paragraph (2) or (3) if such certificate of origin would not be required under article 503 of the NAFTA for a similar importation from Mexico.

''(B) PENALTIES FOR ENGAGING IN TRANSSHIPMENT OR OTHER CUSTOMS FRAUD.—If an exporter is determined under the laws of the United States to have engaged in illegal transshipment of textile or apparel products from a partnership country, then the President shall deny all benefits under this title to such exporter, and any successors of such exporter, for a period of 2 years.

''(C) STUDY BY USTR ON COOPERATION OF OTHER COUNTRIES CONCERNING CIRCUMVENTION.—The Trade Representative, in consultation with the United States Commissioner of Customs, shall conduct a study analyzing the extent to which each partnership country—

''(i) has cooperated fully with the United States, consistent with its domestic laws and procedures, in instances of circumvention or alleged circumvention of existing quotas on imports of textile and apparel goods, to establish necessary relevant facts in the places of import, export, and, where applicable, transshipment, including investigation of circumvention practices, exchanges of documents, correspondence, reports, and other relevant information, to the extent such information is available;

''(ii) has taken appropriate measures, consistent with its domestic laws and procedures, against exporters and importers involved in instances of false declaration concerning fiber content, quantities, description, classification, or origin of textile and apparel goods; and

''(iii) has penalized the individuals and entities involved in any such circumvention, consistent with its domestic laws and procedures, and has worked closely to seek the cooperation of any third country to prevent such circumvention from taking place in that third country.

The Trade Representative shall submit to the Congress, not later than October 1, 1998, a report on the study conducted under this subparagraph.

''(5) DEFINITIONS.—For purposes of this subsection—

''(A) The term 'the Annex' means Annex 300–B of the NAFTA.

''(B) The term 'NAFTA' means the North American Free Trade Agreement entered into between the United States, Mexico, and Canada on December 17, 1992.

''(C) The term 'partnership country' means a beneficiary country.

''(D) The term 'textile or apparel article' means any article referred to in paragraph (1)(A) that is a good listed in Appendix 1.1 of the Annex.

''(E) The term 'transition period' means, with respect to a partnership country, the period that begins on January 1, 1998, and ends on the earlier of—

''(i) December 31, 1998; or

''(ii) the date on which—

''(I) the United States first applies the NAFTA to the partnership country upon its accession to the NAFTA, or

''(II) there enters into force with respect to the United States and the partnership country a free trade agreement comparable to the NAFTA that makes substantial progress in achieving the negotiating objectives set forth in section 108(b)(5) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3317(b)(5)).

''(F) An article shall be deemed as originating in the territory of a partnership country if the article meets the rules of origin for a good set forth in chapter 4 of the NAFTA, and, in the case of an article described in Appendix 6.A of the Annex, the requirements stated in such Appendix 6.A for such article to be treated as if it were an originating good. In applying such chapter 4 or Appendix 6.A with respect to a partnership country for purposes of this subsection—

''(i) no countries other than the United States and partnership countries may be treated as being Parties to the NAFTA,

''(ii) references to trade between the United States and Mexico shall be deemed to refer to trade between the United States and partnership countries, and

''(iii) references to a Party shall be deemed to refer to the United States or a partnership country, and references to the Parties shall be deemed to refer to any combination of partnership countries or the United States.''.

(b) DETERMINATION REGARDING RETENTION OF DESIGNATION.—Section 212(e)(1) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(e)) is amended—

(1) by inserting ''(A)'' after ''(1)'';

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(3) by adding at the end the following:

''(B)(i) Based on the President's review and analysis described in subsection (f), the President may determine if the preferential treatment under section 213(b)(2) and (3) should be withdrawn, suspended, or limited with respect to any article of a partnership country. Such determination shall be included in the report required by subsection (f).

''(ii) Withdrawal, suspension, or limitation of the preferential treatment under section 213(b)(2) and (3) with respect to a partnership country shall be taken only after the requirements of subsection (a)(2) and paragraph (2) of this subsection have been met.''.

(c) REPORTING REQUIREMENTS.—Section 212(f) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(f)) is amended to read as follows:

''(f) REPORTING REQUIREMENTS.—Not later than 1 year after the date of the enactment of the United States-Caribbean Basin Trade Partnership Act and at the close of each 3-year period thereafter, the President shall submit to the Congress a complete report regarding the operation of this title, including—

''(1) with respect to subsections (b) and (c) of this section, the results of a general review of beneficiary countries based on the considerations described in such subsections;

''(2) with respect to subsection (c)(4), the degree to which a country follows accepted rules of international trade provided for under the General Agreement on Tariffs and Trade and the World Trade Organization;

''(3) with respect to subsection (c)(9), the extent to which beneficiary countries are providing or taking steps to provide protection of intellectual property rights comparable to the protection provided to the United States in bilateral intellectual property rights agreements;

''(4) with respect to subsection (b)(2) and subsection (c)(5), the extent that beneficiary countries are providing or taking steps to provide protection of investment and investors comparable to the protection provided to the United States in bilateral investment treaties;

''(5) with respect to subsection (c)(3), the extent that beneficiary countries are providing the United States with equitable and reasonable market access in the product sectors for which benefits are provided under this title;

''(6) with respect to subsection (c)(11), the extent that beneficiary countries are cooperating with the United States in administering the provisions of section 213(b); and

''(7) with respect to subsection (c)(8), the extent that beneficiary countries are meeting the internationally recognized worker rights criteria under such subsection.

In the first report under this subsection, the President shall include a review of the implementation of section 213(b), and his analysis of whether the benefits under paragraphs (2) and (3) of such section further the objectives of this title and whether such benefits should be continued.''.

(d) CONFORMING AMENDMENT.—Section 213(a)(1) of the Caribbean Basin Economic Recovery Act is amended by inserting ''and except as provided in section 213(b)(2) and (3),'' after ''Tax Reform Act of 1986,''.

SEC. 985. EFFECT OF NAFTA ON SUGAR IMPORTS FROM BENEFICIARY COUNTRIES.

The President shall monitor the effects, if any, that the implementation of the NAFTA has on the access of beneficiary countries under the Caribbean Basin Economic Recovery Act to the United States market for sugars, syrups, and molasses. If the President considers that the implementation of the NAFTA is affecting, or will likely affect, in an adverse manner the access of such countries to the United States market, the President shall promptly—

(1) take such actions, after consulting with interested parties and with the appropriate committees of the House of Representatives and the Senate, or

(2) propose to the Congress such legislative actions,

as may be necessary or appropriate to ameliorate such adverse effect.

SEC. 986. DUTY-FREE TREATMENT FOR CERTAIN BEVERAGES MADE WITH CARIBBEAN RUM.

Section 213(a) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(a)) is amended—

(1) in paragraph (5), by striking ''chapter'' and inserting ''title''; and

(2) by adding at the end the following new paragraph:

''(6) Notwithstanding paragraph (1), the duty-free treatment provided under this title shall apply to liqueurs and spirituous beverages produced in the territory of Canada from rum if—

''(A) such rum is the growth, product, or manufacture of a beneficiary country or of the Virgin Islands of the United States;

''(B) such rum is imported directly from a beneficiary country or the Virgin Islands of the United States into the territory of Canada, and such liqueurs and spirituous beverages are imported directly from the territory of Canada into the customs territory of the United States;

''(C) when imported into the customs territory of the United States, such liqueurs and spirituous beverages are classified in subheading 2208.90 or 2208.40 of the HTS; and

''(D) such rum accounts for at least 90 percent by volume of the alcoholic content of such liqueurs and spiritous beverages.''.

SEC. 987. MEETINGS OF TRADE MINISTERS AND USTR.

(a) SCHEDULE OF MEETINGS.—The President shall take the necessary steps to convene a meeting with the trade ministers of the partnership countries in order to establish a schedule of regular meetings, to commence as soon as is practicable, of the trade ministers and the Trade Representative, for the purpose set forth in subsection (b).

(b) PURPOSE.—The purpose of the meetings scheduled under subsection (a) is to reach agreement between the United States and partnership countries on the likely timing and procedures for initiating negotiations for partnership to accede to the NAFTA, or to enter into mutually advantageous free trade agreements with the United States that contain provisions comparable to those in the NAFTA and would make substantial progress in achieving the negotiating objectives set forth in section 108(b)(5) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3317(b)(5)).

SEC. 988. REPORT ON ECONOMIC DEVELOPMENT AND MARKET ORIENTED REFORMS IN THE CARIBBEAN.

(a) IN GENERAL.—The Trade Representative shall make an assessment of the economic development efforts and market oriented reforms in each partnership country and the ability of each such country, on the basis of such efforts and reforms, to undertake the obligations of the NAFTA. The Trade Representative shall, not later than July 1, 1998, submit to the President and to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on that assessment.

(b) ACCESSION TO NAFTA.—

(1) ABILITY OF COUNTRIES TO IMPLEMENT NAFTA.—The Trade Representative shall include in the report under subsection (a) a discussion of possible timetables and procedures pursuant to which partnership countries can complete the economic reforms necessary to enable them to negotiate accession to the NAFTA. The Trade Representative shall also include an assessment of the potential phase-in periods that may be necessary for those partnership countries with less developed economies to implement the obligations of the NAFTA.

(2) FACTORS IN ASSESSING ABILITY TO IMPLEMENT NAFTA.—In assessing the ability of each partnership country to undertake the obligations of the NAFTA, the Trade Representative should consider, among other factors—

(A) whether the country has joined the WTO;

(B) the extent to which the country provides equitable access to the markets of that country;

(C) the degree to which the country uses export subsidies or imposes export performance requirements or local content requirements;

(D) macroeconomic reforms in the country such as the abolition of price controls on traded goods and fiscal discipline;

(E) progress the country has made in the protection of intellectual property rights;

(F) progress the country has made in the elimination of barriers to trade in services;

(G) whether the country provides national treatment to foreign direct investment;

(H) the level of tariffs bound by the country under the WTO (if the country is a WTO member);

(I) the extent to which the country has taken other trade liberalization measures; and

(J) the extent which the country works to accommodate market access objectives of the United States.

(c) PARITY REVIEW IN THE EVENT A NEW COUNTRY ACCEDES TO NAFTA.—If—

(1) a country or group of countries accedes to the NAFTA, or

(2) the United States negotiates a comparable free trade agreement with another country or group of countries,

the Trade Representative shall provide to the committees referred to in subsection (a) a separate report on the economic impact of the new trade relationship on partnership countries. The report shall include any measures the Trade Representative proposes to minimize the potential for the diversion of investment from partnership countries to the new NAFTA member or free trade agreement partner.

TITLE X—REVENUES

Subtitle A—Financial Products

SEC. 1001. CONSTRUCTIVE SALES TREATMENT FOR APPRECIATED FINANCIAL POSITIONS.

(a) IN GENERAL.—Part IV of subchapter P of chapter 1 is amended by adding at the end the following new section:

''SEC. 1259. CONSTRUCTIVE SALES TREATMENT FOR APPRECIATED FINANCIAL POSITIONS.

''(a) IN GENERAL.—If there is a constructive sale of an appreciated financial position—

''(1) the taxpayer shall recognize gain as if such position were sold, assigned, or otherwise terminated at its fair market value on the date of such constructive sale (and any gain shall be taken into account for the taxable year which includes such date), and

''(2) for purposes of applying this title for periods after the constructive sale—

''(A) proper adjustment shall be made in the amount of any gain or loss subsequently realized with respect to such position for any gain taken into account by reason of paragraph (1), and

''(B) the holding period of such position shall be determined as if such position were originally acquired on the date of such constructive sale.

''(b) APPRECIATED FINANCIAL POSITION.—For purposes of this section—

''(1) IN GENERAL.—Except as provided in paragraph (2), the term 'appreciated financial position' means any position with respect to any stock, debt instrument, or partnership interest if there would be gain were such position sold, assigned, or otherwise terminated at its fair market value.

''(2) EXCEPTIONS.—The term 'appreciated financial position' shall not include—

''(A) any position with respect to straight debt (as defined in section 1361(c)(5)(B) without regard to clause (iii) thereof), and

''(B) any position which is marked to market under any provision of this title or the regulations thereunder.

''(3) POSITION.—The term 'position' means an interest, including a futures or forward contract, short sale, or option.

''(c) CONSTRUCTIVE SALE.—For purposes of this section—

''(1) IN GENERAL.—A taxpayer shall be treated as having made a constructive sale of an appreciated financial position if the taxpayer (or a related person)—

''(A) enters into a short sale of the same or substantially identical property,

''(B) enters into an offsetting notional principal contract with respect to the same or substantially identical property,

''(C) enters into a futures or forward contract to deliver the same or substantially identical property,

''(D) in the case of an appreciated financial position that is a short sale or a contract described in subparagraph (B) or (C) with respect to any property, acquires the same or substantially identical property, or

''(E) to the extent prescribed by the Secretary in regulations, enters into 1 or more other transactions (or acquires 1 or more positions) that have substantially the same effect as a transaction described in any of the preceding subparagraphs.

''(2) EXCEPTION FOR SALES OF NONPUBLICLY TRADED PROPERTY.—The term 'constructive sale' shall not include any contract for sale of any stock, debt instrument, or partnership interest which is not a marketable security (as defined in section 453(f)) if the contract settles within 1 year after the date such contract is entered into.

''(3) EXCEPTION FOR CERTAIN CLOSED TRANSACTIONS.—In applying this section, there shall be disregarded any transaction (which would otherwise be treated as a constructive sale) during the taxable year if—

''(A) such transaction is closed before the end of the 30th day after the close of such taxable year, and

''(B) in the case of a transaction which is closed during the 90-day period ending on such 30th day—

''(i) the taxpayer holds the appreciated financial position throughout the 60-day period beginning on the date such transaction is closed, and

''(ii) at no time during such 60-day period is the taxpayer's risk of loss with respect to such position reduced by reason of a circumstance which would be described in section 246(c)(4) if references to stock included references to such position.

''(4) RELATED PERSON.—A person is related to another person with respect to a transaction if—

''(A) the relationship is described in section 267 or 707(b), and

''(B) such transaction is entered into with a view toward avoiding the purposes of this section.

''(d) OTHER DEFINITIONS.—For purposes of this section—

''(1) FORWARD CONTRACT.—The term 'forward contract' means a contract to deliver a substantially fixed amount of property for a substantially fixed price.

''(2) OFFSETTING NOTIONAL PRINCIPAL CONTRACT.—The term 'offsetting notional principal contract' means, with respect to any property, an agreement which includes—

''(A) a requirement to pay (or provide credit for) all or substantially all of the investment yield (including appreciation) on such property for a specified period, and

''(B) a right to be reimbursed for (or receive credit for) all or substantially all of any decline in the value of such property.

''(e) SPECIAL RULES.—

''(1) TREATMENT OF SUBSEQUENT SALE OF POSITION WHICH WAS DEEMED SOLD.—If—

''(A) there is a constructive sale of any appreciated financial position,

''(B) such position is subsequently disposed of, and

''(C) at the time of such disposition, the transaction resulting in the constructive sale of such position is open with respect to the taxpayer or any related person,

solely for purposes of determining whether the taxpayer has entered into a constructive sale of any other appreciated financial position held by the taxpayer, the taxpayer shall be treated as entering into such transaction immediately after such disposition. For purposes of the preceding sentence, an assignment or other termination shall be treated as a disposition.

''(2) CERTAIN TRUST INSTRUMENTS TREATED AS STOCK.—For purposes of this section, an interest in a trust which is actively traded (within the meaning of section 1092(d)(1)) shall be treated as stock.

''(3) MULTIPLE POSITIONS IN PROPERTY.—If a taxpayer holds multiple positions in property, the determination of whether a specific transaction is a constructive sale and, if so, which appreciated financial position is deemed sold shall be made in the same manner as actual sales.

''(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) ELECTION OF MARK TO MARKET FOR SECURITIES TRADERS AND FOR TRADERS AND DEALERS IN COMMODITIES.—Subsection (d) of section 475 (relating to mark to market accounting method for dealers in securities) is amended by adding at the end the following new paragraph:

''(4) ELECTION OF MARK TO MARKET FOR SECURITIES TRADERS AND FOR TRADERS AND DEALERS IN COMMODITIES.—

''(A) IN GENERAL.—In the case of a person—

''(i) who is engaged in a trade or business to which this paragraph applies, and

''(ii) who elects to be treated as a dealer in securities for purposes of this section with respect to such trade or business,

subsections (a), (b)(3), (c)(3), and (e) and the preceding provisions of this subsection (or, in the case of a dealer in commodities, this section) shall apply to all commodities and securities held by such person in any trade or business with respect to which such election is in effect in the same manner as if such person were a dealer in securities and all references to securities included references to commodities.

''(B) APPLICATION OF PARAGRAPH.—This paragraph shall apply to any active trade or business—

''(i) as a trader in securities, or

''(ii) as a trader or dealer in commodities.

''(C) EXCEPTION FOR CERTAIN HOLDINGS OF TRADERS.—In the case of a trader in securities or commodities, subsection (a) shall not apply to any security or commodity (to which subsection (a) would otherwise apply solely by reason of this paragraph) if such security or commodity is clearly identified in the trader's records (before the close of the day applicable under subsection (b)(2)) as being held other than in a trade or business to which the election under subparagraph (A) is in effect. A security or commodity so identified shall be treated as described in subsection (b)(1).

''(D) COMMODITY.—For purposes of this paragraph, the term 'commodities' includes only commodities of a kind customarily dealt in on an organized commodity exchange.

''(E) ELECTION.—An election under this paragraph may be made separately for each trade or business and without the consent of the Secretary. Such an election, once made, shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.''.

(c) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter P of chapter 1 is amended by adding at the end the following new item:

''Sec. 1259. Constructive sales treatment for appreciated financial positions.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to any constructive sale after June 8, 1997.

(2) EXCEPTION FOR SALES OF POSITIONS, ETC. HELD BEFORE JUNE 9, 1997.—A constructive sale before June 9, 1997, and the property to which the position involved in the transaction relates, shall not be taken into account in determining whether any other constructive sale after June 8, 1997, has occurred if, within before the close of the 30-day period beginning on the date of the enactment of this Act, such position and property are clearly identified in the taxpayer's records as offsetting. The preceding sentence shall cease to apply as of the date the taxpayer ceases to hold such position or property.

(3) SPECIAL RULE.—In the case of a decedent dying after June 8, 1997, if—

(A) there was a constructive sale on or before such date of any appreciated financial position,

(B) the transaction resulting in such constructive sale of such position remains open (with respect to the decedent or any related person) for not less than 2 years after the date of such transaction (whether such period is before or after such date), and

(C) such transaction is not closed within the 30-day period beginning on the date of the enactment of this Act,

then, for purposes of such Code, such position (and any property related thereto, as determined under the principles of section 1259(d)(1) of such Code (as so added)) shall be treated as property constituting rights to receive an item of income in respect of a decedent under section 691 of such Code.

(4) ELECTION OF SECURITIES TRADERS, AND FOR TRADERS AND DEALERS IN COMMODITIES, TO BE TREATED AS DEALERS IN SECURITIES.—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to taxable years ending after the date of the enactment of this Act.

(B) 4-YEAR SPREAD OF ADJUSTMENTS.—In the case of a taxpayer who elects under section 475(d)(4) of the Internal Revenue Code of 1986 (as added by this section) to change its method of accounting for its first taxable year ending after the date of the enactment of this Act, the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 4-taxable year period beginning with such first taxable year.

SEC. 1002. LIMITATION ON EXCEPTION FOR INVESTMENT COMPANIES UNDER SECTION 351.

(a) IN GENERAL.—Paragraph (1) of section 351(e) (relating to exceptions) is amended by adding at the end the following: ''For purposes of the preceding sentence, the determination of whether a company is an investment company shall be made—

''(A) by taking into account all stock and securities held by the company, whether or not readily marketable, and

''(B) by treating all of the following as securities:

''(i) Money.

''(ii) Any financial instrument (as defined in section 731(c)(2)(C)).

''(iii) Any foreign currency.

''(iv) Any interest in a real estate investment trust, a common trust fund, a regulated investment company, or a publicly traded partnership (as defined in section 7704(b)).

''(v) Any interest described in clause (iv), (v), or (vi) of section 731(c)(2)(B) (or which would be so described without regard to any reference to active trading or marketability).

''(vi) Any other asset specified in regulations prescribed by the Secretary.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to transfers after June 8, 1997, in taxable years ending after such date.

(2) BINDING CONTRACTS.—The amendment made by subsection (a) shall not apply to any transfer pursuant to a written binding contract in effect on June 8, 1997, that provides for the transfer of a fixed amount of property, and at all times thereafter before such transfer.

SEC. 1003. MODIFICATION OF RULES FOR ALLOCATING INTEREST EXPENSE TO TAX-EXEMPT INTEREST.

(a) PRO RATA ALLOCATION RULES APPLICABLE TO CORPORATIONS.—

(1) IN GENERAL.—Paragraph (1) of section 265(b) is amended by striking ''In the case of a financial institution'' and inserting ''In the case of a corporation''.

(2) ONLY OBLIGATIONS ACQUIRED AFTER JUNE 8, 1997, TAKEN INTO ACCOUNT.—Subparagraph (A) of section 265(b)(2) is amended by striking ''August 7, 1986'' and inserting ''June 8, 1997 (August 7, 1986, in the case of a financial institution)''.

(3) SMALL ISSUER EXCEPTION NOT TO APPLY.—Subparagraph (A) of section 265(b)(3) is amended by striking ''Any qualified'' and inserting ''In the case of a financial institution, any qualified''.

(4) EXCEPTION FOR CERTAIN BONDS ACQUIRED ON SALE OF GOODS OR SERVICES.—Subparagraph (B) of section 265(b)(4) is amended by adding at the end the following new sentence: ''In the case of a taxpayer other than a financial institution, such term shall not include a nonsalable obligation acquired by such taxpayer in the ordinary course of business as payment for goods or services provided by such taxpayer to any State or local government.''.

(5) LOOK-THRU RULES FOR PARTNERSHIPS.—Paragraph (6) of section 265(b) is amended by adding at the end the following new subparagraph:

''(C) LOOK-THRU RULES FOR PARTNERSHIPS.—In the case of a corporation which is a partner in a partnership, such corporation shall be treated for purposes of this subsection as holding directly its allocable share of the assets of the partnership.''.

(6) APPLICATION OF PRO RATA DISALLOWANCE ON AFFILIATED GROUP BASIS.—Subsection (b) of section 265 is amended by adding at the end the following new paragraph:

''(7) APPLICATION OF DISALLOWANCE ON AFFILIATED GROUP BASIS.—

''(A) IN GENERAL.—For purposes of this subsection, all members of an affiliated group filing a consolidated return under section 1501 shall be treated as 1 taxpayer.

''(B) TREATMENT OF INSURANCE COMPANIES.—This subsection shall not apply to an insurance company, and subparagraph (A) shall be applied without regard to any member of an affiliated group which is an insurance company.''.

(6) DE MINIMIS EXCEPTION FOR NONFINANCIAL INSTITUTIONS.—Subsection (b) of section 265 is amended by adding at the end the following new paragraph:

''(8) DE MINIMIS EXCEPTION FOR NONFINANCIAL INSTITUTIONS.—In the case of a corporation, paragraph (1) shall not apply for any taxable year if the amount described in paragraph (2)(A) with respect to such corporation does not exceed the lesser of—

''(A) 2 percent of the amount described in paragraph (2)(B), or

''(B) $1,000,000.

The preceding sentence shall not apply to a financial institution or to a dealer in tax-exempt obligations.''.

(7) CLERICAL AMENDMENT.—The subsection heading for section 265(b) is amended by striking ''FINANCIAL INSTITUTIONS'' and inserting ''CORPORATIONS''.

(b) APPLICATION OF SECTION 265(a)(2) WITH RESPECT TO CONTROLLED GROUPS.—Paragraph (2) of section 265(a) is amended after ''obligations'' by inserting ''held by the taxpayer (or any corporation which is a member of a controlled group (as defined in section 267(f)(1)) which includes the taxpayer)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable

years beginning after the date of the enactment of this Act.

SEC. 1004. GAINS AND LOSSES FROM CERTAIN TERMINATIONS WITH RESPECT TO PROPERTY.

(a) APPLICATION OF CAPITAL TREATMENT TO PROPERTY OTHER THAN PERSONAL PROPERTY.—

(1) IN GENERAL.—Paragraph (1) of section 1234A (relating to gains and losses from certain terminations) is amended by striking ''personal property (as defined in section 1092(d)(1))'' and inserting ''property''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to terminations more than 30 days after the date of the enactment of this Act.

(b) APPLICATION OF CAPITAL TREATMENT, ETC. TO OBLIGATIONS ISSUED BY NATURAL PERSONS.—

(1) IN GENERAL.—Section 1271(b) is amended to read as follows:

''(b) EXCEPTION FOR CERTAIN OBLIGATIONS.—

''(1) IN GENERAL.—This section shall not apply to—

''(A) any obligation issued by a natural person before June 9, 1997, and

''(B) any obligation issued before July 2, 1982, by an issuer which is not a corporation and is not a government or political subdivision thereof.

''(2) TERMINATION.—Paragraph (1) shall not apply to any obligation purchased (within the meaning of section 179(d)(2)) after June 8, 1997.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act.

SEC. 1005. DETERMINATION OF ORIGINAL ISSUE DISCOUNT WHERE POOLED DEBT OBLIGATIONS SUBJECT TO ACCELERATION.

(a) IN GENERAL.—Subparagraph (C) of section 1272(a)(6) (relating to debt instruments to which the paragraph applies) is amended by striking ''or'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting '', or'', and by inserting after clause (i) the following:

''(iii) any pool of debt instruments the yield on which may be reduced by reason of prepayments (or to the extent provided in regulations, by reason of other events).

To the extent provided in regulations prescribed by the Secretary, in the case of a small business engaged in the trade or business of selling tangible personal property at retail, clause (iii) shall not apply to debt instruments incurred in the ordinary course of such trade or business while held by such business.''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for its first taxable year beginning after the date of the enactment of this Act—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 4-taxable year period beginning with such first taxable year.

SEC. 1006. DENIAL OF INTEREST DEDUCTIONS ON CERTAIN DEBT INSTRUMENTS.

(a) IN GENERAL.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) DISALLOWANCE OF DEDUCTION ON CERTAIN DEBT INSTRUMENTS OF CORPORATIONS.—

''(1) IN GENERAL.—No deduction shall be allowed under this chapter for any interest paid or accrued on a disqualified debt instrument.

''(2) DISQUALIFIED DEBT INSTRUMENT.—For purposes of this subsection, the term 'disqualified debt instrument' means any indebtedness of a corporation which is payable in equity of the issuer or a related party.

''(3) SPECIAL RULES FOR AMOUNTS PAYABLE IN EQUITY.—For purposes of paragraph (2), indebtedness shall be treated as payable in equity of the issuer or a related party only if—

''(A) a substantial amount of the principal or interest is required to be paid or converted, or at the option of the issuer or a related party is payable in, or convertible into, such equity,

''(B) a substantial amount of the principal or interest is required to be determined, or at the option of the issuer or a related party is determined, by reference to the value of such equity, or

''(C) the indebtedness is part of an arrangement which is reasonably expected to result in a transaction described in subparagraph (A) or (B).

For purposes of subparagraphs (A) and (B), principal or interest shall be treated as required to be so paid, converted, or determined if it may be required at the option of the holder or a related party and there is a substantial certainty the option will be exercised.

''(4) RELATED PARTY.—For purposes of this subsection, a person is a related party with respect to another person if such person bears a relationship to such other person described in section 267(b) or 707(b).

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations preventing avoidance of this subsection through the use of an issuer other than a corporation.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to disqualified debt instruments issued after June 8, 1997.

(2) TRANSITION RULE.—The amendment made by this section shall not apply to any instrument issued after June 8, 1997, if such instrument is—

(A) issued pursuant to a written agreement which was binding on such date and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission required solely by reason of the distribution.

Subtitle B—Corporate Organizations and Reorganizations

SEC. 1011. TAX TREATMENT OF CERTAIN EXTRAORDINARY DIVIDENDS.

(a) TREATMENT OF EXTRAORDINARY DIVIDENDS IN EXCESS OF BASIS.—Paragraph (2) of section 1059(a) (relating to corporate shareholder's recognition of gain attributable to nontaxed portion of extraordinary dividends) is amended to read as follows:

''(2) AMOUNTS IN EXCESS OF BASIS.—If the nontaxed portion of such dividends exceeds such basis, such excess shall be treated as gain from the sale or exchange of such stock for the taxable year in which the extraordinary dividend is received.''.

(b) TREATMENT OF REDEMPTIONS WHERE OPTIONS INVOLVED.—Paragraph (1) of section 1059(e) (relating to treatment of partial liquidations and non-pro rata redemptions) is amended to read as follows:

''(1) TREATMENT OF PARTIAL LIQUIDATIONS AND CERTAIN REDEMPTIONS.—Except as otherwise provided in regulations—

''(A) REDEMPTIONS.—In the case of any redemption of stock—

''(i) which is part of a partial liquidation (within the meaning of section 302(e)) of the redeeming corporation,

''(ii) which is not pro rata as to all shareholders, or

''(iii) which would not have been treated (in whole or in part) as a dividend if any options had not been taken into account under section 318(a)(4),

any amount treated as a dividend with respect to such redemption shall be treated as an extraordinary dividend to which paragraphs (1) and (2) of subsection (a) apply without regard to the period the taxpayer held such stock. In the case of a redemption described in clause (iii), only the basis in the stock redeemed shall be taken into account under subsection (a).

''(B) REORGANIZATIONS, ETC.—An exchange described in section 356 which is treated as a dividend shall be treated as a redemption of stock for purposes of applying subparagraph (A).''.

(c) TIME FOR REDUCTION.—Paragraph (1) of section 1059(d) is amended to read as follows:

''(1) TIME FOR REDUCTION.—Any reduction in basis under subsection (a)(1) shall be treated as occurring at the beginning of the ex-dividend date of the extraordinary dividend to which the reduction relates.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after May 3, 1995.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution made pursuant to the terms of—

(A) a written binding contract in effect on May 3, 1995, and at all times thereafter before such distribution, or

(B) a tender offer outstanding on May 3, 1995.

(3) CERTAIN DIVIDENDS NOT PURSUANT TO CERTAIN REDEMPTIONS.—In determining whether the amendment made by subsection (a) applies to any extraordinary dividend other than a dividend treated as an extraordinary dividend under section 1059(e)(1) of the Internal Revenue Code of 1986 (as amended by this Act), paragraphs (1) and (2) shall be applied by substituting ''September 13, 1995'' for ''May 3, 1995''.

SEC. 1012. APPLICATION OF SECTION 355 TO DISTRIBUTIONS FOLLOWED BY ACQUISITIONS AND TO INTRAGROUP TRANSACTIONS.

(a) DISTRIBUTIONS FOLLOWED BY ACQUISITIONS.—Section 355 (relating to distribution of stock and securities of a controlled corporation) is amended by adding at the end the following new subsection:

''(e) RECOGNITION OF GAIN WHERE CERTAIN DISTRIBUTIONS OF STOCK OR SECURITIES ARE FOLLOWED BY ACQUISITION.—

''(1) GENERAL RULE.—If there is a distribution to which this subsection applies, the following rules shall apply:

''(A) ACQUISITION OF CONTROLLED CORPORATION.—If there is an acquisition described in paragraph (2)(A)(ii) with respect to any controlled corporation, any stock or securities in the controlled corporation shall not be treated as qualified property for purposes of subsection (c)(2) of this section or section 361(c)(2).

''(B) ACQUISITION OF DISTRIBUTING CORPORATION.—If there is an acquisition described in paragraph (2)(A)(ii) with respect to the distributing corporation, the controlled corporation shall recognize gain in an amount equal to the amount of net gain which would

be recognized if all the assets of the distributing corporation (immediately after the distribution) were sold (at such time) for fair market value. Any gain recognized under the preceding sentence shall be treated as long-term capital gain and shall be taken into account for the taxable year which includes the day after the date of such distribution.

''(2) DISTRIBUTIONS TO WHICH SUBSECTION APPLIES.—

''(A) IN GENERAL.—This subsection shall apply to any distribution—

''(i) to which this section (or so much of section 356 as relates to this section) applies, and

''(ii) which is part of a plan (or series of related transactions) pursuant to which 1 or more persons acquire directly or indirectly stock representing a 50-percent or greater interest in the distributing corporation or any controlled corporation.

''(B) PLAN PRESUMED TO EXIST IN CERTAIN CASES.—If 1 or more persons acquire directly or indirectly stock representing a 50-percent or greater interest in the distributing corporation or any controlled corporation during the 4-year period beginning on the date which is 2 years before the date of the distribution, such acquisition shall be treated as pursuant to a plan described in subparagraph (A)(ii) unless it is established that the distribution and the acquisition are not pursuant to a plan or series of related transactions.

''(C) COORDINATION WITH SUBSECTION (d).—This subsection shall not apply to any distribution to which subsection (d) applies.

''(3) SPECIAL RULES RELATING TO ACQUISITIONS.—

''(A) CERTAIN ACQUISITIONS NOT TAKEN INTO ACCOUNT.—Except as provided in regulations, the following acquisitions shall not be treated as described in paragraph (2)(A)(ii):

''(i) The acquisition of stock in any controlled corporation by the distributing corporation.

''(ii) The acquisition by a person of stock in any controlled corporation by reason of holding stock in the distributing corporation.

''(iii) The acquisition by a person of stock in any successor corporation of the distributing corporation or any controlled corporation by reason of holding stock in such distributing or controlled corporation.

''(iv) The acquisition of stock in a corporation if shareholders owning directly or indirectly a 50-percent or greater interest in the distributing corporation or any controlled corporation before such acquisition own indirectly a 50-percent or greater interest in such distributing or controlled corporation after such acquisition.

This subparagraph shall not apply to any acquisition if the stock held before the acquisition was acquired pursuant to a plan described in subparagraph (A)(ii).

''(B) ASSET ACQUISITIONS.—Except as provided in regulations, for purposes of this subsection, if the assets of the distributing corporation or any controlled corporation are acquired by a successor corporation in a transaction described in subparagraph (A), (C), or (D) of section 368(a)(1) or any other transaction specified in regulations by the Secretary, the shareholders (immediately before the acquisition) of the corporation acquiring such assets shall be treated as acquiring stock in the corporation from which the assets were acquired.

''(4) DEFINITION AND SPECIAL RULES.—For purposes of this subsection—

''(A) 50-PERCENT OR GREATER INTEREST.—The term '50-percent or greater interest' has the meaning given such term by subsection (d)(4).

''(B) DISTRIBUTIONS IN TITLE 11 OR SIMILAR CASE.—Paragraph (1) shall not apply to any distribution made in a title 11 or similar case (as defined in section 368(a)(3)).

''(C) AGGREGATION AND ATTRIBUTION RULES.—

''(i) AGGREGATION.—The rules of paragraph (7)(A) of subsection (d) shall apply.

''(ii) ATTRIBUTION.—Section 355(d)(8)(A) shall apply in determining whether a person holds stock or securities in any corporation.

''(D) SUCCESSORS AND PREDECESSORS.—For purposes of this subsection, any reference to a controlled corporation or a distributing corporation shall include a reference to any predecessor or successor of such corporation.

''(E) STATUTE OF LIMITATIONS.—If there is an acquisition to which paragraph (1) (A) or (B) applies—

''(i) the statutory period for the assessment of any deficiency attributable to any part of the gain recognized under this subsection by reason of such acquisition shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) that such acquisition occurred, and

''(ii) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations—

''(A) providing for the application of this subsection where there is more than 1 controlled corporation,

''(B) treating 2 or more distributions as 1 distribution where necessary to prevent the avoidance of such purposes, and

''(C) providing for the application of rules similar to the rules of subsection (d)(6) where appropriate for purposes of paragraph (2)(B).''.

(b) SECTION 355 NOT TO APPLY TO CERTAIN INTRAGROUP TRANSACTIONS.—Section 355, as amended by subsection (a), is amended by adding at the end the following new subsection:

''(f) SECTION NOT TO APPLY TO CERTAIN INTRAGROUP TRANSACTIONS.—Except as provided in regulations, this section shall not apply to the distribution of stock from 1 member of an affiliated group filing a consolidated return to another member of such group, and the Secretary shall provide proper adjustments for the treatment of such distribution, including (if necessary) adjustments to—

''(1) the adjusted basis of any stock which—

''(A) is in a corporation which is a member of such group, and

''(B) is held by another member of such group, and

''(2) the earnings and profits of any member of such group.''.

(c) DETERMINATION OF CONTROL IN CERTAIN DIVISIVE TRANSACTIONS.—

(1) SECTION 351 TRANSACTIONS.—Section 351(c) (relating to special rule) is amended to read as follows:

''(c) SPECIAL RULES WHERE DISTRIBUTION TO SHAREHOLDERS.—

''(1) IN GENERAL.—In determining control for purposes of this section—

''(A) the fact that any corporate transferor distributes part or all of the stock in the corporation which it receives in the exchange to its shareholders shall not be taken into account, and

''(B) if the requirements of section 355 are met with respect to such distribution, the shareholders shall be treated as in control of such corporation immediately after the exchange if the shareholders hold at least a 50-percent interest in such corporation immediately after the distribution.

''(2) 50-PERCENT INTEREST.—For purposes of this subsection, the term '50-percent interest' means stock possessing 50 percent of the total combined voting power of all classes of stock entitled to vote and 50 percent of the total value of shares of all classes of stock.''.

(2) D REORGANIZATIONS.—Section 368(a)(2)(H) (relating to special rule for determining whether certain transactions are qualified under paragraph (1)(D)) is amended to read as follows:

''(H) SPECIAL RULES FOR DETERMINING WHETHER CERTAIN TRANSACTIONS ARE QUALIFIED UNDER PARAGRAPH (1)(D).—For purposes of determining whether a transaction qualifies under paragraph (1)(D)—

''(i) in the case of a transaction with respect to which the requirements of subparagraphs (A) and (B) of section 354(b)(1) are met, the term 'control' has the meaning given such term by section 304(c), and

''(ii) in the case of a transaction with respect to which the requirements of section 355 are met, the shareholders described in paragraph (1)(D) shall be treated as having control of the corporation to which the assets are transferred if such shareholders hold a 50-percent or greater interest (as defined in section 351(c)(2)) in such corporation immediately after the transfer.''.

(d) EFFECTIVE DATES.—

(1) SECTION 355 RULES.—The amendments made by subsections (a) and (b) shall apply to distributions after April 16, 1997.

(2) DIVISIVE TRANSACTIONS.—The amendments made by subsection (c) shall apply to transfers after the date of the enactment of this Act.

(3) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution after April 16, 1997, if such distribution is—

(A) made pursuant to a written agreement which was binding on such date and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission required solely by reason of the distribution.

This paragraph shall not apply to any written agreement, ruling request, or public announcement or filing unless it identifies the unrelated acquirer of the distributing corporation or of any controlled corporation, whichever is applicable.

SEC. 1013. TAX TREATMENT OF REDEMPTIONS INVOLVING RELATED CORPORATIONS.

(a) STOCK PURCHASES BY RELATED CORPORATIONS.—The last sentence of section 304(a)(1) (relating to acquisition by related corporation other than subsidiary) is amended to read as follows: ''To the extent that such distribution is treated as a distribution to which section 301 applies, the transferor and the acquiring corporation shall be treated in the same manner as if the transferor had transferred the stock so acquired to the acquiring corporation in exchange for stock of the acquiring corporation in a transaction to which section 351(a) applies, and then the acquiring corporation had redeemed the stock it was treated as issuing in such transaction.''.

(b) COORDINATION WITH SECTION 1059.—Clause (iii) of section 1059(e)(1)(A), as amended by this title, is amended to read as follows:

''(iii) which would not have been treated (in whole or in part) as a dividend if—

''(I) any options had not been taken into account under section 318(a)(4), or

''(II) section 304(a) had not applied,''.

(c) SPECIAL RULE FOR ACQUISITIONS BY FOREIGN CORPORATIONS.—Section 304(b) (relating to special rules for application of subsection (a)) is amended by adding at the end the following new paragraph:

''(5) ACQUISITIONS BY FOREIGN CORPORATIONS.—

''(A) IN GENERAL.—In the case of any acquisition to which subsection (a) applies in which the acquiring corporation is a foreign corporation, the only earnings and profits taken into account under paragraph (2)(A) shall be those earnings and profits—

''(i) which are attributable (under regulations prescribed by the Secretary) to stock of the acquiring corporation owned (within the meaning of section 958(a)) by a corporation or individual which is—

''(I) a United States shareholder (within the meaning of section 951(b)) of the acquiring corporation, and

''(II) the transferor or a person who bears a relationship to the transferor described in section 267(b) or 707(b), and

''(ii) which were accumulated during the period or periods such stock was owned by such person while the acquiring corporation was a controlled foreign corporation.

''(B) APPLICATION OF SECTION 1248.—For purposes of subparagraph (A), the rules of section 1248(d) shall apply except to the extent otherwise provided by the Secretary.

''(C) REGULATIONS.—The Secretary shall prescribe such regulations as are appropriate to carry out the purposes of this paragraph.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions and acquisitions after June 8, 1997.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution or acquisition after June 8, 1997, if such distribution or acquisition is—

(A) made pursuant to a written agreement which was binding on such date and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described in a public announcement or filing with the Securities and Exchange Commission on or before such date.

SEC. 1014. MODIFICATION OF HOLDING PERIOD APPLICABLE TO DIVIDENDS RECEIVED DEDUCTION.

(a) IN GENERAL.—Subparagraph (A) of section 246(c)(1) is amended to read as follows:

''(A) which is held by the taxpayer for 45 days or less during the 90-day period beginning on the date which is 45 days before the date on which such share becomes ex-dividend with respect to such dividend, or''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 246(c) is amended to read as follows:

''(2) 90-DAY RULE IN THE CASE OF CERTAIN PREFERENCE DIVIDENDS.—In the case of stock having preference in dividends, if the taxpayer receives dividends with respect to such stock which are attributable to a period or periods aggregating in excess of 366 days, paragraph (1)(A) shall be applied—

''(A) by substituting '90 days' for '45 days' each place it appears, and

''(B) by substituting '180-day period' for '90-day period'.''.

(2) Paragraph (3) of section 246(c) is amended by adding ''and'' at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dividends received or accrued after the 30th day after the date of the enactment of this Act.

Subtitle C—Other Corporate Provisions

SEC. 1021. REGISTRATION AND OTHER PROVISIONS RELATING TO CONFIDENTIAL CORPORATE TAX SHELTERS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

''(d) CERTAIN CONFIDENTIAL ARRANGEMENTS TREATED AS TAX SHELTERS.—

''(1) IN GENERAL.—For purposes of this section, the term 'tax shelter' includes any entity, plan, arrangement, or transaction—

''(A) a significant purpose of the structure of which is the avoidance or evasion of Federal income tax for a direct or indirect participant which is a corporation,

''(B) which is offered to any potential participant under conditions of confidentiality, and

''(C) for which the tax shelter promoters may receive fees in excess of $100,000 in the aggregate.

''(2) CONDITIONS OF CONFIDENTIALITY.—For purposes of paragraph (1)(B), an offer is under conditions of confidentiality if—

''(A) the potential participant to whom the offer is made (or any other person acting on behalf of such participant) has an understanding or agreement with or for the benefit of any promoter of the tax shelter that such participant (or such other person) will limit disclosure of the tax shelter or any significant tax features of the tax shelter, or

''(B) any promoter of the tax shelter—

''(i) claims, knows, or has reason to know,

''(ii) knows or has reason to know that any other person (other than the potential participant) claims, or

''(iii) causes another person to claim,

that the tax shelter (or any aspect thereof) is proprietary to any person other than the potential participant or is otherwise protected from disclosure to or use by others.

For purposes of this subsection, the term 'promoter' means any person or any related person (within the meaning of section 267 or 707) who participates in the organization, management, or sale of the tax shelter.

''(3) PERSONS OTHER THAN PROMOTER REQUIRED TO REGISTER IN CERTAIN CASES.—

''(A) IN GENERAL.—If—

''(i) the requirements of subsection (a) are not met with respect to any tax shelter (as defined in paragraph (1)) by any tax shelter promoter, and

''(ii) no tax shelter promoter is a United States person,

then each United States person who discussed participation in such shelter shall register such shelter under subsection (a).

''(B) EXCEPTION.—Subparagraph (A) shall not apply to a United States person who discussed participation in a tax shelter if—

''(i) such person notified the promoter in writing (not later than the close of the 90th day after the day on which such discussions began) that such person would not participate in such shelter, and

''(ii) such person does not participate in such shelter.

''(4) OFFER TO PARTICIPATE TREATED AS OFFER FOR SALE.—For purposes of subsections (a) and (b), an offer to participate in a tax shelter (as defined in paragraph (1)) shall be treated as an offer for sale.''.

(b) PENALTY.—Subsection (a) of section 6707 (relating to failure to furnish information regarding tax shelters) is amended by adding at the end the following new paragraph:

''(3) CONFIDENTIAL ARRANGEMENTS.—

''(A) IN GENERAL.—In the case of a tax shelter (as defined in section 6111(d)), the penalty imposed under paragraph (1) shall be an amount equal to the greater of—

''(i) 50 percent of the fees paid to all promoters of the tax shelter with respect to offerings made before the date such shelter is registered under section 6111, or

''(ii) $10,000.

Clause (i) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in paragraph (1).

''(B) SPECIAL RULE FOR PARTICIPANTS REQUIRED TO REGISTER SHELTER.—In the case of a person required to register such a tax shelter by reason of section 6111(d)(3)—

''(i) such person shall be required to pay the penalty under paragraph (1) only if such person actually participated in such shelter,

''(ii) the amount of such penalty shall be determined by taking into account under subparagraph (A)(i) only the fees paid by such person, and

''(iii) such penalty shall be in addition to the penalty imposed on any other person for failing to register such shelter.''.

(c) MODIFICATIONS TO SUBSTANTIAL UNDERSTATEMENT PENALTY.—

(1) RESTRICTION ON REASONABLE BASIS FOR CORPORATE UNDERSTATEMENT OF INCOME TAX.—Subparagraph (B) of section 6662(d)(2) is amended by adding at the end the following new flush sentence:

''For purposes of clause (ii)(II), in no event shall a corporation be treated as having a reasonable basis for its tax treatment of an item attributable to a multiple-party financing transaction if such treatment does not clearly reflect the income of the corporation.''.

(2) MODIFICATION TO DEFINITION OF TAX SHELTER.—Clause (iii) of section 6662(d)(2)(C) is amended by striking ''the principal purpose'' and inserting ''a significant purpose''.

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6707(a) is amended by striking ''The penalty'' and inserting ''Except as provided in paragraph (3), the penalty''.

(2) Subparagraph (A) of section 6707(a)(1) is amended by striking ''paragraph (2)'' and inserting ''paragraph (2) or (3), as the case may be''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to any tax shelter (as defined in section 6111(d) of the Internal Revenue Code of 1986, as amended by this section) interests in which are offered to potential participants after the Secretary of the Treasury prescribes guidance with respect to meeting requirements added by such amendments.

(2) MODIFICATIONS TO SUBSTANTIAL UNDERSTATEMENT PENALTY.—The amendments made by subsection (c) shall apply to items with respect to transactions entered into after the date of the enactment of this Act.

SEC. 1022. CERTAIN PREFERRED STOCK TREATED AS BOOT.

(a) SECTION 351.—Section 351 (relating to transfer to corporation controlled by transferor) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) NONQUALIFIED PREFERRED STOCK NOT TREATED AS STOCK.—

''(1) IN GENERAL.—For purposes of subsections (a) and (b), the term 'stock' shall not include nonqualified preferred stock.

''(2) NONQUALIFIED PREFERRED STOCK.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The term 'nonqualified preferred stock' means preferred stock if—

''(i) the holder of such stock has the right to require the issuer or a related person to redeem or purchase the stock,

''(ii) the issuer or a related person is required to redeem or purchase such stock,

''(iii) the issuer or a related person has the right to redeem or purchase the stock and, as of the issue date, it is more likely than not that such right will be exercised, or

''(iv) the dividend rate on such stock varies in whole or in part (directly or indirectly) with reference to interest rates, commodity prices, or other similar indices.

''(B) LIMITATIONS.—Clauses (i), (ii), and (iii) of subparagraph (A) shall apply only if the right or obligation referred to therein may be exercised within the 20-year period beginning on the issue date of such stock and such right or obligation is not subject to a contingency which, as of the issue date, makes remote the likelihood of the redemption or purchase.

''(C) EXCEPTIONS FOR CERTAIN RIGHTS OR OBLIGATIONS.—

''(i) IN GENERAL.—A right or obligation shall not be treated as described in clause (i), (ii), or (iii) of subparagraph (A) if—

''(I) it may be exercised only upon the death, disability, or mental incompetency of the holder, or

''(II) in the case of a right or obligation to redeem or purchase stock transferred in connection with the performance of services for the issuer or a related person (and which represents reasonable compensation), it may be exercised only upon the holder's separation from service from the issuer or a related person.

''(ii) EXCEPTION.—Clause (i)(I) shall not apply if the stock relinquished in the exchange, or the stock acquired in the exchange is in—

''(I) a corporation if any class of stock in such corporation or a related party is readily tradable on an established securities market or otherwise, or

''(II) any other corporation if such exchange is part of a transaction or series of transactions in which such corporation is to become a corporation described in subclause (I).

''(3) DEFINITIONS.—For purposes of this subsection—

''(A) PREFERRED STOCK.—The term 'preferred stock' means stock which is limited and preferred as to dividends and does not participate (including through a conversion privilege) in corporate growth to any significant extent.

''(B) RELATED PERSON.—A person shall be treated as related to another person if they bear a relationship to such other person described in section 267(b) or 707(b).

''(4) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection and sections 354(a)(2)(C), 355(a)(3)(D), and 356(e). The Secretary may also prescribe regulations, consistent with the treatment under this subsection and such sections, for the treatment of nonqualified preferred stock under other provisions of this title.''.

(b) SECTION 354.—Paragraph (2) of section 354(a) (relating to exchanges of stock and securities in certain reorganizations) is amended by adding at the end the following new subparagraph:

''(C) NONQUALIFIED PREFERRED STOCK.—

''(i) IN GENERAL.—Nonqualified preferred stock (as defined in section 351(g)(2)) received in exchange for stock other than nonqualified preferred stock (as so defined) shall not be treated as stock or securities.

''(ii) RECAPITALIZATIONS OF FAMILY-OWNED CORPORATIONS.—

''(I) IN GENERAL.—Clause (i) shall not apply in the case of a recapitalization under section 368(a)(1)(E) of a family-owned corporation.

''(II) FAMILY-OWNED CORPORATION.—For purposes of this clause, except as provided in regulations, the term 'family-owned corporation' means any corporation which is described in clause (i) of section 447(d)(2)(C) throughout the 8-year period beginning on the date which is 5 years before the date of the recapitalization. For purposes of the preceding sentence, stock shall not be treated as owned by a family member during any period described in section 355(d)(6)(B).''.

(c) SECTION 355.—Paragraph (3) of section 355(a) is amended by adding at the end the following new subparagraph:

''(D) NONQUALIFIED PREFERRED STOCK.—Nonqualified preferred stock (as defined in section 351(g)(2)) received in a distribution with respect to stock other than nonqualified preferred stock (as so defined) shall not be treated as stock or securities.''.

(d) SECTION 356.—Section 356 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

''(e) NONQUALIFIED PREFERRED STOCK TREATED AS OTHER PROPERTY.—For purposes of this section—

''(1) IN GENERAL.—Except as provided in paragraph (2), the term 'other property' includes nonqualified preferred stock (as defined in section 351(g)(2)).

''(2) EXCEPTION.—The term 'other property' does not include nonqualified preferred stock (as so defined) to the extent that, under section 354 or 355, such preferred stock would be permitted to be received without the recognition of gain.''.

(e) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 354(a)(2) and subparagraph (C) of section 355(a)(3)(C) are each amended by inserting ''(including nonqualified preferred stock, as defined in section 351(g)(2))'' after ''stock''.

(2) Subparagraph (A) of section 354(a)(3) and subparagraph (A) of section 355(a)(4) are each amended by inserting ''nonqualified preferred stock and'' after ''including''.

(3) Section 1036 is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

''(b) NONQUALIFIED PREFERRED STOCK NOT TREATED AS STOCK.—For purposes of this section, nonqualified preferred stock (as defined in section 351(g)(2)) shall be treated as property other than stock.''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transactions after June 8, 1997.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any transaction after June 8, 1997, if such transaction is—

(A) made pursuant to a written agreement which was binding on such date and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission required solely by reason of the distribution.

Subtitle D—Administrative Provisions

SEC. 1031. REPORTING OF CERTAIN PAYMENTS MADE TO ATTORNEYS.

(a) IN GENERAL.—Section 6045 (relating to returns of brokers) is amended by adding at the end the following new subsection:

''(f) RETURN REQUIRED IN THE CASE OF PAYMENTS TO ATTORNEYS.—

''(1) IN GENERAL.—Any person engaged in a trade or business and making a payment (in the course of such trade or business) to which this subsection applies shall file a return under subsection (a) and a statement under subsection (b) with respect to such payment.

''(2) APPLICATION OF SUBSECTION.—

''(A) IN GENERAL.—This subsection shall apply to any payment to an attorney in connection with legal services (whether or not such services are performed for the payor).

''(B) EXCEPTION.—This subsection shall not apply to the portion of any payment which is required to be reported under section 6041(a) (or would be so required but for the dollar limitation contained therein) or section 6051.''.

(b) REPORTING OF ATTORNEYS' FEES PAYABLE TO CORPORATIONS.—The regulations providing an exception under section 6041 of the Internal Revenue Code of 1986 for payments made to corporations shall not apply to payments of attorneys' fees.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 1997.

SEC. 1032. DECREASE OF THRESHOLD FOR REPORTING PAYMENTS TO CORPORATIONS PERFORMING SERVICES FOR FEDERAL AGENCIES.

(a) IN GENERAL.—Subsection (d) of section 6041A (relating to returns regarding payments of remuneration for services and direct sales) is amended by adding at the end the following new paragraph:

''(3) PAYMENTS TO CORPORATIONS BY FEDERAL EXECUTIVE AGENCIES.—

''(A) IN GENERAL.—Notwithstanding any regulation prescribed by the Secretary before the date of the enactment of this paragraph, subsection (a) shall apply to remuneration paid to a corporation by any Federal executive agency (as defined in section 6050M(b)).

''(B) EXCEPTION.—Subparagraph (A) shall not apply to—

''(i) services under contracts described in section 6050M(e)(3) with respect to which the requirements of section 6050M(e)(2) are met, and

''(ii) such other services as the Secretary may specify in regulations prescribed after the date of the enactment of this paragraph.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns the due date for which (determined without regard to any extension) is more than 90 days after the date of the enactment of this Act.

SEC. 1033. DISCLOSURE OF RETURN INFORMATION FOR ADMINISTRATION OF CERTAIN VETERANS PROGRAMS.

(a) GENERAL RULE.—Subparagraph (D) of section 6103(l)(7) (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended by striking ''Clause (viii) shall not apply after September 30, 1998.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 1034. CONTINUOUS LEVY ON CERTAIN PAYMENTS.

(a) IN GENERAL.—Section 6331 (relating to levy and distraint) is amended—

(1) by redesignating subsection (h) as subsection (i), and

(2) by inserting after subsection (g) the following new subsection:

''(h) CONTINUING LEVY ON CERTAIN PAYMENTS.—

''(1) IN GENERAL.—The effect of a levy on specified payments to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released. Notwithstanding section 6334, such continuous levy shall attach to up to 15 percent of any specified payment due to the taxpayer.

''(2) SPECIFIED PAYMENT.—For the purposes of paragraph (1), the term 'specified payment' means—

''(A) any Federal payment other than a payment for which eligibility is based on the income or assets (or both) of a payee,

''(B) any payment described in paragraph (4), (7), (9), or (11) of section 6334(a), and

''(C) any annuity or pension payment under the Railroad Retirement Act or benefit under the Railroad Unemployment Insurance Act described in subsection (a)(6) of this section.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to levies issued after the date of the enactment of this Act.

SEC. 1035. MODIFICATION OF LEVY EXEMPTION.

(a) IN GENERAL.—Section 6334 (relating to property exempt from levy) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) LEVY ALLOWED ON CERTAIN SPECIFIED PAYMENTS.—Any payment described in subparagraph (B) or (C) of section 6331(h)(2) shall not be exempt from levy if the Secretary approves the levy thereon under section 6331(h).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to levies issued after the date of the enactment of this Act.

SEC. 1036. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) IN GENERAL.—Subsection (k) of section 6103 is amended by adding at the end the following new paragraph:

''(8) LEVIES ON CERTAIN GOVERNMENT PAYMENTS.—

''(A) DISCLOSURE OF RETURN INFORMATION IN LEVIES ON FINANCIAL MANAGEMENT SERVICE.—In serving a notice of levy, or release of such levy, with respect to any applicable government payment, the Secretary may disclose to officers and employees of the Financial Management Service—

''(i) return information, including taxpayer identity information,

''(ii) the amount of any unpaid liability under this title (including penalties and interest), and

''(iii) the type of tax and tax period to which such unpaid liability relates.

''(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Financial Management Service only for the purpose of, and to the extent necessary in, transferring levied funds in satisfaction of the levy, maintaining appropriate agency records in regard to such levy or the release thereof, notifying the taxpayer and the agency certifying such payment that the levy has been honored, or in the defense of any litigation ensuing from the honor of such levy.

''(C) APPLICABLE GOVERNMENT PAYMENT.—For purposes of this paragraph, the term 'applicable government payment' means—

''(i) any Federal payment (other than a payment for which eligibility is based on the income or assets (or both) of a payee) certified to the Financial Management Service for disbursement, and

''(ii) any other payment which is certified to the Financial Management Service for disbursement and which the Secretary designates by published notice.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 6301(p) is amended—

(A) in paragraph (3)(A), by striking ''(2), or (6)'' and inserting ''(2), (6), or (8), and

(B) in paragraph (4), by inserting ''(k)(8),'' after ''(j) (1) or (2),'' each place it appears.

(2) Section 552a(a)(8)(B) of title 5, United States Code, is amended by striking ''or'' at the end of clause (v), by adding ''or'' at the end of clause (vi), and by adding at the end the following new clause:

''(vii) matches performed incident to a levy described in section 6103(k)(8) of the Internal Revenue Code of 1986;''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to levies issued after the date of the enactment of this Act.

SEC. 1037. RETURNS OF BENEFICIARIES OF ESTATES AND TRUSTS REQUIRED TO FILE RETURNS CONSISTENT WITH ESTATE OR TRUST RETURN OR TO NOTIFY SECRETARY OF INCONSISTENCY.

(a) DOMESTIC ESTATES AND TRUSTS.—Section 6034A (relating to information to beneficiaries of estates and trusts) is amended by adding at the end the following new subsection:

''(c) BENEFICIARY'S RETURN MUST BE CONSISTENT WITH ESTATE OR TRUST RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.—

''(1) IN GENERAL.—A beneficiary of any estate or trust to which subsection (a) applies shall, on such beneficiary's return, treat any reported item in a manner which is consistent with the treatment of such item on the applicable entity's return.

''(2) NOTIFICATION OF INCONSISTENT TREATMENT.—

''(A) IN GENERAL.—In the case of any reported item, if—

''(i)(I) the applicable entity has filed a return but the beneficiary's treatment on such beneficiary's return is (or may be) inconsistent with the treatment of the item on the applicable entity's return, or

''(II) the applicable entity has not filed a return, and

''(ii) the beneficiary files with the Secretary a statement identifying the inconsistency,

paragraph (1) shall not apply to such item.

''(B) BENEFICIARY RECEIVING INCORRECT INFORMATION.—A beneficiary shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a reported item if the beneficiary—

''(i) demonstrates to the satisfaction of the Secretary that the treatment of the reported item on the beneficiary's return is consistent with the treatment of the item on the statement furnished under subsection (a) to the beneficiary by the applicable entity, and

''(ii) elects to have this paragraph apply with respect to that item.

''(3) EFFECT OF FAILURE TO NOTIFY.—In any case—

''(A) described in subparagraph (A)(i)(I) of paragraph (2), and

''(B) in which the beneficiary does not comply with subparagraph (A)(ii) of paragraph (2),

any adjustment required to make the treatment of the items by such beneficiary consistent with the treatment of the items on the applicable entity's return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

''(4) DEFINITIONS.—For purposes of this subsection—

''(A) REPORTED ITEM.—The term 'reported item' means any item for which information is required to be furnished under subsection (a).

''(B) APPLICABLE ENTITY.—The term 'applicable entity' means the estate or trust of which the taxpayer is the beneficiary.

''(5) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—For addition to tax in the case of a beneficiary's negligence in connection with, or disregard of, the requirements of this section, see part II of subchapter A of chapter 68.''.

(b) FOREIGN TRUSTS.—Subsection (d) of section 6048 (relating to information with respect to certain foreign trusts) is amended by adding at the end the following new paragraph:

''(5) UNITED STATES PERSON'S RETURN MUST BE CONSISTENT WITH TRUST RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.—Rules similar to the rules of section 6034A(c) shall apply to items reported by a trust under subsection (b)(1)(B) and to United States persons referred to in such subsection.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns of beneficiaries and owners filed after the date of the enactment of this Act.

Subtitle E—Excise Tax Provisions

SEC. 1041. EXTENSION AND MODIFICATION OF AIRPORT AND AIRWAY TRUST FUND TAXES.

(a) FUEL TAXES.—

(1) AVIATION FUEL.—Clause (ii) of section 4091(b)(3)(A) is amended by striking ''September 30, 1997'' and inserting ''September 30, 2007''.

(2) AVIATION GASOLINE.—Subparagraph (B) of section 4081(d)(2) is amended by striking ''September 30, 1997'' and inserting ''September 30, 2007''.

(3) NONCOMMERCIAL AVIATION.—Subparagraph (B) of section 4041(c)(3) is amended by striking ''September 30, 1997'' and inserting ''September 30, 2007''.

(b) TICKET TAXES.—

(1) PERSONS.—Clause (ii) of section 4261(g)(1)(A) is amended by striking ''September 30, 1997'' and inserting ''September 30, 2007''.

(2) PROPERTY.—Clause (ii) of section 4271(d)(1)(A) is amended by striking ''September 30, 1997'' and inserting ''September 30, 2007''.

(c) MODIFICATIONS TO TAX ON TRANSPORTATION OF PERSONS BY AIR.—

(1) IN GENERAL.—Section 4261 (relating to imposition of tax) is amended by striking subsections (a), (b), and (c) and inserting the following new subsections:

''(a) IN GENERAL.—There is hereby imposed on the amount paid for taxable transportation of any person a tax equal to 7.5 percent of the amount so paid.

''(b) DOMESTIC SEGMENTS OF TAXABLE TRANSPORTATION.—

''(1) IN GENERAL.—There is hereby imposed on the amount paid for each domestic segment of taxable transportation by air a tax in the amount determined in accordance with the following table for the calendar year in which the segment begins:

In the case of segments beginning during:	The tax is:
1997 or 1998	$2.00
1999	$2.25
2000	$2.50
2001	$2.75
2002 or thereafter	$3.00.

''(2) DOMESTIC SEGMENT.—For purposes of this section, the term 'domestic segment' means any segment which is taxable transportation described in section 4262(a)(1).

''(3) CHANGES IN SEGMENTS BY REASON OF REROUTING.—If—

''(A) a ticket is purchased for transportation between 2 locations on specified flights, and

''(B) at the initiation of the air carrier after such purchase, there is a change in the route taken which changes the number of domestic segments, but there is no change in the amount charged for such transportation, the tax imposed by paragraph (1) shall be determined without regard to such change in route.

''(c) USE OF INTERNATIONAL TRAVEL FACILITIES.—

''(1) IN GENERAL.—There is hereby imposed a tax of $15.50 on any amount paid (whether within or without the United States) for any transportation of any person by air, if such transportation begins or ends in the United States.

''(2) EXCEPTION FOR TRANSPORTATION ENTIRELY TAXABLE UNDER SUBSECTION (a).—This subsection shall not apply to any transportation all of which is taxable under subsection (a) (determined without regard to sections 4281 and 4282).

''(3) SPECIAL RULE FOR ALASKA AND HAWAII.—In any case in which the tax imposed by paragraph (1) applies to a domestic segment, such tax shall apply only on departure.''.

(2) SPECIAL RULES.—Section 4261 is amended by redesignating subsections (e), (f), and (g), as subsections (f), (g), and (h), respectively, and by inserting after subsection (d) the following new subsection:

''(e) SPECIAL RULES.—

''(1) AMOUNTS PAID OUTSIDE THE UNITED STATES.—In the case of amounts paid outside the United States for taxable transportation, the taxes imposed by subsections (a) and (b) shall apply only to segments of such transportation which begin and end in the United States.

''(2) AMOUNTS PAID FOR RIGHT TO AWARD FREE OR REDUCED RATE AIR TRANSPORTATION.—Any amount paid (and the value of any other benefit provided) to an air carrier (or any related person) for the right to provide mileage awards for (or other reductions in the cost of) any transportation of persons by air shall be treated for purposes of subsection (a) as an amount paid for taxable transportation, and such amount shall be taxable under subsection (a) without regard to any other provision of this subchapter. The Secretary shall prescribe rules which reallocate items of income, deduction, credit, exclusion, or other allowance to the extent necessary to prevent the avoidance of tax imposed by reason of this paragraph.

''(3) INFLATION ADJUSTMENT OF DOLLAR RATES OF TAX.—

''(A) IN GENERAL.—In the case of taxable events in a calendar year after the last nonindexed year, the dollar amount contained in subsection (b) and the dollar amount contained in subsection (c) shall each be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting the year before the last nonindexed year for 'calendar year 1992' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of 10 cents, such increase shall be rounded to the nearest multiple of 10 cents.

''(B) LAST NONINDEXED YEAR.—For purposes of subparagraph (A), the last nonindexed year is—

''(i) 2002 in the case of a dollar amount contained in subsection (b), and

''(ii) 1998 in the case of a dollar amount contained in subsection (c).

''(C) TAXABLE EVENT.—For purposes of subparagraph (A), in the case of the tax imposed subsection (b), the beginning of the domestic segment shall be treated as the taxable event.''.

(3) SECONDARY LIABILITY OF CARRIER FOR UNPAID TAX.—Subsection (c) of section 4263 is amended by striking ''subchapter—'' and all that follows and inserting '', such tax shall be paid by the carrier providing the initial segment of such transportation which begins or ends in the United States.''.

(d) MODIFICATION OF RULES ON AIRLINE FARE ADVERTISING.—Subsection (b) of section 7275 (relating to advertising) is amended by striking ''shall—'' and all that follows and inserting ''shall—

''(1) separately state—

''(A) the amount to be paid for such transportation, and

''(B) the amount of the taxes imposed by subsections (a), (b), and (c) of section 4261 at a location proximate to (and in a type size not less than half the type size of) the statement of the amount described in subparagraph (A), and

''(2) describe such taxes substantially as: 'user taxes to pay for airport construction and airway safety and operations'.''.

(e) INCREASED AIRPORT AND AIRWAY TRUST FUND DEPOSITS.—

(1) Paragraph (1) of section 9502(b) is amended—

(A) by striking ''(to the extent that the rate of the tax on such gasoline exceeds 4.3 cents per gallon)'' in subparagraph (C), and

(B) by striking ''to the extent attributable to the Airport and Airway Trust Fund financing rate'' in subparagraph (C).

(2) Section 9502 is amended by striking subsection (f).

(f) EFFECTIVE DATES.—

(1) FUEL TAXES.—The amendments made by subsection (a) shall apply take effect on October 1, 1997.

(2) TICKET TAXES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by subsections (b) and (c) shall apply to transportation beginning on or after October 1, 1997.

(B) TREATMENT OF AMOUNTS PAID FOR TICKETS PURCHASED BEFORE DATE OF ENACTMENT.—The amendments made by subsection (c) shall not apply to amounts paid for a ticket purchased before the date of the enactment of this Act for a specified flight beginning on or after October 1, 1997.

(C) AMOUNTS PAID FOR RIGHT TO AWARD MILEAGE AWARDS.—

(i) IN GENERAL.—Paragraph (2) of section 4261(e) of the Internal Revenue Code of 1986 (as added by the amendment made by subsection (c)) shall apply to amounts paid after September 30, 1997.

(ii) PAYMENTS WITHIN CONTROLLED GROUP.—For purposes of clause (i), any amount paid after June 11, 1997, and before October 1, 1997, by 1 member of a controlled group for a right which is described in such section 4261(e)(2) and is furnished by another member of such group after September 30, 1997, shall be treated as paid after September 30, 1997. For purposes of the preceding sentence, all persons treated as a single employer under subsection (a) or (b) of section 52 of such Code shall be treated as members of a controlled group.

(3) ADVERTISING.—The amendment made by subsection (d) shall take effect on October 1, 1997.

(4) INCREASED DEPOSITS INTO AIRPORT AND AIRWAY TRUST FUND.—The amendments made by subsection (e) shall apply with respect to taxes received in the Treasury on and after October 1, 1997.

(g) DELAYED DEPOSITS OF AIRLINE TICKET TAX REVENUES.—Notwithstanding section 6302 of the Internal Revenue Code of 1986, in the case of deposits of taxes imposed by section 4261 of the Internal Revenue Code of 1986, the due date for any such deposit which would (but for this subsection) be required to be made—

(1) after August 14, 1997, and before October 1, 1997, shall be October 10, 1997, or

(2) after June 30, 1998, and before October 1, 1998, shall be October 13, 1998.

SEC. 1042. KEROSENE TAXED AS DIESEL FUEL.

(a) IN GENERAL.—Subsection (a) of section 4083 (defining taxable fuel) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) kerosene.''.

(b) RATE OF TAX.—Clause (iii) of section 4081(a)(2)(A) is amended by inserting ''or kerosene'' after ''diesel fuel''.

(c) EXEMPTIONS FROM TAX; REFUNDS TO VENDORS.—

(1) IN GENERAL.—Section 4082 (relating to exemptions for diesel fuel) is amended by striking ''diesel fuel'' each place it appears in subsections (a) and (c) and inserting ''diesel fuel and kerosene''.

(2) CERTAIN KEROSENE EXEMPT FROM DYEING REQUIREMENT.—Section 4082 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) EXCEPTIONS TO DYEING REQUIREMENTS.—

''(1) AVIATION-GRADE KEROSENE.—Subsection (a)(2) shall not apply to a removal, entry, or sale of aviation-grade kerosene (as determined under regulations prescribed by the Secretary) if the person receiving the kerosene is registered under section 4101 with respect to the tax imposed by section 4091.

''(2) USE FOR NON-FUEL FEEDSTOCK PURPOSES.—Subsection (a)(2) shall not apply to kerosene—

''(A) received by pipeline or barge for use by the person receiving the kerosene in the manufacture or production of any substance (other than gasoline, diesel fuel, or special fuels referred to in section 4041), or

''(B) to the extent provided in regulations, removed or entered—

''(i) for such a use by the person removing or entering the kerosene, or

''(ii) for resale by such person for such a use by the purchaser,

but only if the person receiving, removing, or entering the kerosene and such purchaser (if any) are registered under section 4101 with respect to the tax imposed by section 4081.''.

(3) REFUNDS.—

(A) Subsection (l) of section 6427 is amended by inserting ''or kerosene'' after ''diesel fuel'' each place it appears in paragraphs (1), (2), and (5) (including the heading for paragraph (5)).

(B) Paragraph (5) of section 6427(l) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) SALES OF KEROSENE NOT FOR USE IN MOTOR FUEL.—Paragraph (1)(A) shall not apply to kerosene sold by a vendor—

''(i) for any use if such sale is from a pump which (as determined under regulations prescribed by the Secretary) is not suitable for use in fueling any diesel-powered highway vehicle or train, or

''(ii) to the extent provided by the Secretary, for blending with heating oil to be used during periods of extreme or unseasonable cold.''.

(C) Subparagraph (C) of section 6427(l)(5), as redesignated by subparagraph (B) of this paragraph, is amended by striking ''subparagraph (A)'' and inserting ''subparagraph (A) or (B)''.

(D) The heading for subsection (l) of section 6427 is amended by inserting '', KEROSENE,'' after ''DIESEL FUEL''.

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 4041(a) is amended by striking ''kerosene, gas oil, or fuel oil'' and inserting ''gas oil, fuel oil''.

(2) Paragraph (1) of section 4041(c) is amended by striking ''any liquid'' and inserting ''kerosene and any other liquid''.

(3)(A) The heading for section 4082 is amended by inserting ''**AND KEROSENE**'' after ''**DIESEL FUEL**''.

(B) The table of sections for subpart A of part III of subchapter A of chapter 32 is amended by inserting ''and kerosene'' after ''diesel fuel'' in the item relating to section 4082.

(4) Subsection (b) of section 4083 is amended by striking ''gasoline, diesel fuel,'' and inserting ''taxable fuels''.

(5) Subsection (a) of section 4093 is amended by striking ''any liquid'' and inserting ''kerosene and any other liquid''.

(6) The material following subparagraph (F) of section 6416(b)(2) is amended by inserting ''or kerosene'' after ''diesel fuel''.

(7) Paragraphs (1) and (3) of section 6427(f), and the heading for section 6427(f), are each amended by inserting ''kerosene,'' after ''diesel fuel,''.

(8) Paragraph (2) of section 6427(f) is amended by striking ''or diesel fuel'' each place it appears and inserting '', diesel fuel, or kerosene''.

(9) Subparagraph (A) of section 6427(i)(3) is amended by striking ''or diesel fuel'' and inserting '', diesel fuel, or kerosene''.

(10) The heading for paragraph (4) of section 6427(i) is amended to read as follows:

''(4) SPECIAL RULE FOR REFUNDS UNDER SUBSECTION (l).—''

(11) Paragraph (1) of section 6715(c) is amended by inserting ''or kerosene'' after ''diesel fuel''.

(12)(A) The text of section 7232 is amended by striking ''gasoline, lubricating oil, diesel fuel'' and inserting ''any taxable fuel (as defined in section 4083)''.

(B) The section heading for section 7232 is amended to read as follows:

''SEC. 7232. FAILURE TO REGISTER UNDER SECTION 4101, FALSE REPRESENTATIONS OF REGISTRATION STATUS, ETC.''.

(C) The table of sections for part II of subchapter A of chapter 75 is amended by striking the item relating to section 7232 and inserting the following:

''Sec. 7232. Failure to register under section 4101, false representations of registration status, etc.''.

(13) Sections 9503(b)(1)(E) and 9508(b)(2) are each amended by striking ''and diesel fuel'' and inserting '', diesel fuel, and kerosene''.

(14) Subparagraph (B) of section 9503(b)(5) is amended by striking ''or diesel fuel'' and inserting '', diesel fuel, or kerosene''.

(15) Paragraphs (1)(B) and (2) of section 9503(f) are each amended by inserting ''or kerosene'' after ''diesel fuel'' each place it appears.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1998.

(f) FLOOR STOCK TAXES.—

(1) IMPOSITION OF TAX.—In the case of kerosene which is held on July 1, 1998, by any person, there is hereby imposed a floor stocks tax of 24.3 cents per gallon.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding kerosene on July 1, 1998, 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 paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before August 31, 1998.

(3) DEFINITIONS.—For purposes of this subsection—

(A) HELD BY A PERSON.—Kerosene shall be considered as ''held by a person'' if title thereto has passed to such person (whether or not delivery to the person has been made).

(B) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or his delegate.

(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to kerosene held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 of the Internal Revenue Code of 1986 is allowable for such use.

(5) EXCEPTION FOR FUEL HELD IN VEHICLE TANK.—No tax shall be imposed by paragraph (1) on kerosene held in the tank of a motor vehicle or motorboat.

(6) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on kerosene held on July 1, 1998, by any person if the aggregate amount of kerosene held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (4) or (5).

(C) CONTROLLED GROUPS.—For purposes of this paragraph—

(i) CORPORATIONS.—

(I) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

(II) CONTROLLED GROUP.—The term ''controlled group'' has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase ''more than 50 percent'' shall be substituted for the phrase ''at least 80 percent'' each place it appears in such subsection.

(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

(7) COORDINATION WITH SECTION 4081.—No tax shall be imposed by paragraph (1) on kerosene to the extent that tax has been (or will be) imposed on such kerosene under section 4081 or 4091 of such Code.

(8) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081.

SEC. 1043. RESTORATION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES.

Paragraph (3) of section 4081(d) is amended by striking ''shall not apply after December 31, 1995'' and inserting ''shall apply after the date of the enactment of the Taxpayer Relief Act of 1997 and before October 1, 2002''.

SEC. 1044. APPLICATION OF COMMUNICATIONS TAX TO LONG-DISTANCE PREPAID TELEPHONE CARDS.

(a) IN GENERAL.—Subsection (b) of section 4251 is amended—

(1) by adding at the end the following new paragraph:

''(3) LONG-DISTANCE PREPAID TELEPHONE CARDS AND SIMILAR ARRANGEMENTS.—Any amount paid (and the value of any other benefit provided) to a provider of communications services (or any related person) for the right to award, sell, or otherwise make available telephone service (or reductions in the cost of such service) other than local telephone service through prepaid telephone cards or any similar arrangement shall be treated as an amount paid for communications services. The Secretary shall prescribe rules which reallocate items of income, deduction, credit, exclusion, or other allowance to the extent necessary to prevent the avoidance of tax imposed by reason of this paragraph.'', and

(2) by inserting ''AND SPECIAL RULE'' after ''DEFINITIONS'' in the heading.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to amounts paid on or after the date of the enactment of this Act.

(2) PAYMENTS WITHIN CONTROLLED GROUP.—For purposes of paragraph (1), any amount paid after June 11, 1997, and before the date of the enactment of this Act by 1 member of a controlled group for a right which is described in section 4251(b)(3) of the Internal Revenue Code of 1986 (as added by this section) and is furnished by another member of such group shall be treated as paid on the date of the enactment of this Act. For purposes of the preceding sentence, all persons treated as a single employer under subsection (a) or (b) of section 52 of such Code shall be treated as members of a controlled group.

Subtitle F—Provisions Relating to Tax-Exempt Entities

SEC. 1051. EXPANSION OF LOOK-THRU RULE FOR INTEREST, ANNUITIES, ROYALTIES, AND RENTS DERIVED BY SUBSIDIARIES OF TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Paragraph (13) of section 512(b) is amended to read as follows:

''(13) SPECIAL RULES FOR CERTAIN AMOUNTS RECEIVED FROM CONTROLLED ENTITIES.—

''(A) IN GENERAL.—If an organization (in this paragraph referred to as the 'controlling organization') receives (directly or indirectly) a specified payment from another entity which it controls (in this paragraph referred to as the 'controlled entity'), notwithstanding paragraphs (1), (2), and (3), the controlling organization shall include such payment as an item of gross income derived from an unrelated trade or business to the extent such payment reduces the net unrelated income of the controlled entity (or increases any net unrelated loss of the controlled entity). There shall be allowed all deductions of the controlling organization directly connected with amounts treated as derived from an unrelated trade or business under the preceding sentence.

''(B) NET UNRELATED INCOME OR LOSS.—For purposes of this paragraph—

''(i) NET UNRELATED INCOME.—The term 'net unrelated income' means—

''(I) in the case of a controlled entity which is not exempt from tax under section 501(a), the portion of such entity's taxable income which would be unrelated business taxable income if such entity were exempt from tax under section 501(a) and had the same exempt purposes (as defined in section 513A(a)(5)(A)) as the controlling organization, or

''(II) in the case of a controlled entity which is exempt from tax under section 501(a), the amount of the unrelated business taxable income of the controlled entity.

''(ii) NET UNRELATED LOSS.—the term 'net unrelated loss' means the net operating loss adjusted under rules similar to the rules of clause (i).

''(C) SPECIFIED PAYMENT.—For purposes of this paragraph, the term 'specified payment' means any interest, annuity, royalty, or rent.

''(D) DEFINITION OF CONTROL.—For purposes of this paragraph—

''(i) CONTROL.—The term 'control' means—

''(I) in the case of a corporation, ownership (by vote or value) of more than 50 percent of the stock in such corporation,

''(II) in the case of a partnership, ownership of more than 50 percent of the profits interests or capital interests in such partnership, or

''(III) in any other case, ownership of more than 50 percent of the beneficial interests in the entity.

''(ii) CONSTRUCTIVE OWNERSHIP.—Section 318 (relating to constructive ownership of stock) shall apply for purposes of determining ownership of stock in a corporation. Similar principles shall apply for purposes of determining ownership of interests in any other entity.

''(E) RELATED PERSONS.—The Secretary shall prescribe such rules as may be necessary or appropriate to prevent avoidance of the purposes of this paragraph through the use of related persons.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) CONTROL TEST.—In the case of taxable years beginning before January 1, 1999, an organization shall be treated as controlling another organization for purposes of section 512(b)(13) of the Internal Revenue Code of 1986 (as amended by this section) only if it controls such organization within the meaning of such section, determined by substituting ''80 percent'' for ''50 percent'' each place it appears in subparagraph (D) thereof.

SEC. 1052. LIMITATION ON INCREASE IN BASIS OF PROPERTY RESULTING FROM SALE BY TAX-EXEMPT ENTITY TO A RELATED PERSON.

(a) IN GENERAL.—Part IV of subchapter O of chapter 1 (relating to special rules for gain or loss on disposition of property) is amended by redesignating section 1061 as section 1062 and by inserting after section 1060 the following new section:

''SEC. 1061. BASIS LIMITATION FOR SALE OR EXCHANGE OF PROPERTY BY TAX-EXEMPT ENTITY TO RELATED PERSON.

''(a) GENERAL RULE.—In the case of a sale or exchange of property directly or indirectly between a tax-exempt entity and a related person, the basis of the related person in the property acquired shall not exceed the adjusted basis of such property (immediately before the exchange) in the hands of the tax-exempt entity, increased by the amount of gain recognized to the tax-exempt entity on the transfer which is subject to tax under section 511.

''(b) DEFINITIONS.—For purposes of this section—

''(1) TAX-EXEMPT ENTITY.—The term 'tax-exempt entity' means any entity which is exempt from the tax imposed by this chapter.

''(2) RELATED PERSON.—The term 'related person' means any person bearing a relationship to the tax-exempt entity which is described in section 267(b) or 707(b)(1). For purposes of applying section 267(b)(2) under the preceding sentence, such an entity shall be treated as if it were an individual.''.

(b) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter O of chapter 1 is amended by striking the last item and inserting the following:

''Sec. 1061. Basis limitation for sale or exchange of property by tax-exempt entity to related person.

''Sec. 1062. Cross references.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to sales and exchanges after June 8, 1997.

(2) BINDING CONTRACTS.—The amendments made by this section shall not apply to any sale or exchange pursuant to a written contract which was binding on June 8, 1997, and at all times thereafter before the sale or exchange.

SEC. 1053. MODIFICATIONS TO EXCEPTION FROM REPORTING, ETC. OF LOBBYING ACTIVITIES.

(a) IN GENERAL.—Paragraph (3) of section 6033(e) (relating to exception where dues generally nondeductible) is amended to read as follows:

''(3) EXCEPTION WHERE DUES GENERALLY NONDEDUCTIBLE.—

''(A) IN GENERAL.—Paragraph (1)(A) shall not apply to an organization if more than 90 percent of the amount of the aggregate annual dues (or similar payments) paid to such organization are paid—

''(i) by individuals or families whose annual dues (or similar amounts) are less than $100, or

''(ii) by organizations which are exempt from tax.

For purposes of the preceding sentence, all organizations sharing a name, charter, historic affiliation, or similar characteristics and coordinating their lobbying activities shall be treated as 1 organization.

''(B) INFLATION ADJUSTMENT.—In the case of dues for annual periods beginning in any calendar year after 1998, the dollar amount contained in subparagraph (A)(i) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $5, such increase shall be rounded to the nearest multiple of $5.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1997.

SEC. 1054. TERMINATION OF CERTAIN EXCEPTIONS FROM RULES RELATING TO EXEMPT ORGANIZATIONS WHICH PROVIDE COMMERCIAL-TYPE INSURANCE.

(a) IN GENERAL.—Subparagraphs (A) and (B) of section 1012(c)(4) of the Tax Reform Act of 1986 shall not apply to any taxable year beginning after December 31, 1997.

(b) SPECIAL RULES.—In the case of an organization to which section 501(m) of the Internal Revenue Code of 1986 applies solely by reason of the amendment made by subsection (a)—

(1) no adjustment shall be made under section 481 (or any other provision) of such Code on account of a change in its method of accounting for its first taxable year beginning after December 31, 1997, and

(2) for purposes of determining gain or loss, the adjusted basis of any asset held on the 1st day of such taxable year shall be treated as equal to its fair market value as of such day.

(c) RESERVE WEAKENING AFTER JUNE 8, 1997.—Any reserve weakening after June 8, 1997, by an organization described in subsection (b) shall be treated as occurring in such organizations 1st taxable year beginning after December 31, 1997.

(d) REGULATIONS.—The Secretary of the Treasury or his delegate may prescribe rules for providing proper adjustments for organizations described in subsection (b) with respect to short taxable years which begin during 1998 by reason of section 843 of the Internal Revenue Code of 1986.

Subtitle G—Other Revenue Provisions

SEC. 1061. TERMINATION OF SUSPENSE ACCOUNTS FOR FAMILY CORPORATIONS REQUIRED TO USE ACCRUAL METHOD OF ACCOUNTING.

(a) IN GENERAL.—Subsection (i) of section 447 (relating to method of accounting for corporations engaged in farming) is amended by adding at the end the following new paragraph:

''(7) TERMINATION.—

''(A) IN GENERAL.—No suspense account may be established under this subsection by any corporation required by this section to change its method of accounting for any taxable year ending after June 8, 1997.

''(B) PHASEOUT OF EXISTING SUSPENSE ACCOUNTS.—

''(i) IN GENERAL.—Each suspense account under this subsection shall be reduced (but not below zero) for each taxable year beginning after June 8, 1997, by an amount equal to the lesser of—

''(I) the applicable portion of such account, or

''(II) 50 percent of the taxable income of the corporation for the taxable year, or, if the corporation has no taxable income for such year, the amount of any net operating loss (as defined in section 172(c)) for such taxable year.

For purposes of the preceding sentence, the amount of taxable income and net operating loss shall be determined without regard to this paragraph.

''(ii) COORDINATION WITH OTHER REDUCTIONS.—The amount of the applicable portion for any taxable year shall be reduced (but not below zero) by the amount of any reduction required for such taxable year under any other provision of this subsection.

''(iv) INCLUSION IN INCOME.—Any reduction in a suspense account under this paragraph shall be included in gross income for the taxable year of the reduction.

''(C) APPLICABLE PORTION.—For purposes of subparagraph (B), the term 'applicable portion' means, for any taxable year, the amount which would ratably reduce the amount in the account (after taking into account prior reductions) to zero over the period consisting of such taxable year and the remaining taxable years in such first 20 taxable years.

''(D) AMOUNTS AFTER 20TH YEAR.—Any amount in the account as of the close of the 20th year referred to in subparagraph (C) shall be treated as the applicable portion for each succeeding year thereafter to the extent not reduced under this paragraph for any prior taxable year after such 20th year.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 8, 1997.

SEC. 1062. MODIFICATION OF TAXABLE YEARS TO WHICH NET OPERATING LOSSES MAY BE CARRIED.

(a) IN GENERAL.—Subparagraph (A) of section 172(b)(1) (relating to years to which loss may be carried) is amended—

(1) by striking ''3'' in clause (i) and inserting ''2'', and

(2) by striking ''15'' in clause (ii) and inserting ''20''.

(b) RETENTION OF 3-YEAR CARRYBACK FOR CASUALTY LOSSES OF INDIVIDUALS.—Paragraph (1) of section 172(b) is amended by adding at the end the following new subparagraph:

''(F) CASUALTY LOSSES OF INDIVIDUALS.—Subparagraph (A)(i) shall be applied by substituting '3 years' for '2 years' with respect to the portion of the net operating loss of an individual for the taxable year which is attributable to losses of property arising from fire, storm, shipwreck, or other casualty, or from theft.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to net operating losses for taxable years beginning after the date of the enactment of this Act.

SEC. 1063. EXPANSION OF DENIAL OF DEDUCTION FOR CERTAIN AMOUNTS PAID IN CONNECTION WITH INSURANCE.

(a) DENIAL OF DEDUCTION FOR PREMIUMS.—Paragraph (1) of section 264(a) is amended to read as follows:

''(1) Premiums on any life insurance policy, or endowment or annuity contract, if the taxpayer is directly or indirectly a beneficiary under the policy or contract.''.

(b) INTEREST ON POLICY LOANS.—Paragraph (4) of section 264(a) is amended by striking ''individual, who'' and all that follows and inserting ''individual.''.

(c) PRO RATA ALLOCATION OF INTEREST EXPENSE TO POLICY CASH VALUES.—Section 264 is amended by adding at the end the following new subsection:

''(e) PRO RATA ALLOCATION OF INTEREST EXPENSE TO POLICY CASH VALUES.—

''(1) IN GENERAL.—No deduction shall be allowed for that portion of the taxpayer's interest expense which is allocable to unborrowed policy cash values.

''(2) ALLOCATION.—For purposes of paragraph (1), the portion of the taxpayer's interest expense which is allocable to unborrowed policy cash values is an amount which bears the same ratio to such interest expense as—

''(A) the taxpayer's average unborrowed policy cash values of life insurance policies, and annuity and endowment contracts, issued after June 8, 1997, bears to

''(B) the average adjusted bases (within the meaning of section 1016) for all assets of the taxpayer.

''(3) UNBORROWED POLICY CASH VALUES.—The term 'unborrowed policy cash value' means, with respect to any life insurance policy or annuity or endowment contract, the excess of—

''(A) the cash surrender value of such policy or contract determined without regard to any surrender charge, over

''(B) the amount of any loan in respect of such policy or contract.

''(4) EXCEPTION FOR CERTAIN POLICIES AND CONTRACTS COVERING OFFICERS, DIRECTORS, AND EMPLOYEES.—Paragraph (1) shall not apply to any policy or contract owned by an entity engaged in a trade or business which covers any individual who is an officer, director, or employee of such trade or business at the time first covered by the policy or contract, and such policies and contracts shall not be taken into account under paragraph (2).

''(5) EXCEPTION FOR POLICIES AND CONTRACTS HELD BY NATURAL PERSONS; TREATMENT OF PARTNERSHIPS AND S CORPORATIONS.—

''(A) POLICIES AND CONTRACTS HELD BY NATURAL PERSONS.—

''(i) IN GENERAL.—This subsection shall not apply to any policy or contract held by a natural person.

''(ii) EXCEPTION WHERE BUSINESS IS BENEFICIARY.—If a trade or business is directly or indirectly the beneficiary under any policy or contract, to the extent of the unborrowed cash value of such policy or contract, such policy or contract shall be treated as held by such trade or business and not by a natural person.

''(iii) SPECIAL RULES.—

''(I) CERTAIN TRADES OR BUSINESSES NOT TAKEN INTO ACCOUNT.—Clause (ii) shall not apply to any trade or business carried on as a sole proprietorship and to any trade or business performing services as an employee.

''(II) LIMITATION ON UNBORROWED CASH VALUE.—The amount of the unborrowed cash value of any policy or contract which is taken into account by reason of clause (ii) shall not exceed the benefit to which the trade or business is entitled under the policy or contract.

''(iv) REPORTING.—The Secretary shall require such reporting from policyholders and issuers as is necessary to carry out clause (ii). Any report required under the preceding sentence shall be treated as a statement referred to in section 6724(d)(1).

''(B) TREATMENT OF PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation, this subsection shall be applied at the partnership and corporate levels.

''(6) SPECIAL RULES.—

''(A) COORDINATION WITH SUBSECTION (a) AND SECTION 265.—If interest on any indebtedness is disallowed under subsection (a) or section 265—

''(i) such disallowed interest shall not be taken into account for purposes of applying this subsection, and

''(ii) for purposes of applying paragraph (2)(B), the adjusted bases otherwise taken into account shall be reduced (but not below zero) by the amount of such indebtedness.

''(B) COORDINATION WITH SECTION 263A.—This subsection shall be applied before the application of section 263A (relating to capitalization of certain expenses where taxpayer produces property).''.

''(7) INTEREST EXPENSE.—The term 'interest expense' means the aggregate amount allowable to the taxpayer as a deduction for interest (within the meaning of section 265(b)(4)) for the taxable year (determined without regard to this subsection, section 265(b), and section 291).

''(8) AGGREGATION RULES.—

''(A) IN GENERAL.—All members of a controlled group (within the meaning of subsection (d)(5)(B)) shall be treated as 1 taxpayer for purposes of this subsection.

''(B) TREATMENT OF INSURANCE COMPANIES.—This subsection shall not apply to an insurance company, and subparagraph (A) shall be applied without regard to any insurance company.''.

(b) TREATMENT OF INSURANCE COMPANIES.—

(1) Clause (ii) of section 805(a)(4)(C) is amended by inserting '', or out of the increase for the taxable year in policy cash values (within the meaning of section 264(e)(3)(A)) of life insurance policies and annuity and endowment contracts to which section 264(e) applies'' after ''tax-exempt interest''.

(2) Clause (iii) of section 805(a)(4)(D) is amended by striking ''and'' and inserting '', the increase for the taxable year in policy cash values (within the meaning of section 264(e)(3)(A)) of life insurance policies and annuity and endowment contracts to which section 264(e) applies, and''.

(3) Subparagraph (B) of section 807(a)(2) is amended by striking ''interest,'' and inserting ''interest and the amount of the policyholder's share of the increase for the taxable year in policy cash values (within the meaning of section 264(e)(3)(A)) of life insurance policies and annuity and endowment contracts to which section 264(e) applies,''.

(4) Subparagraph (B) of section 807(b)(1) is amended by striking ''interest,'' and inserting ''interest and the amount of the policyholder's share of the increase for the taxable year in policy cash values (within the meaning of section 264(e)(3)(A)) of life insurance policies and annuity and endowment contracts to which section 264(e) applies,''.

(5) Paragraph (1) of section 812(d) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) the increase for any taxable year in the policy cash values (within the meaning of section 264(e)(3)(A)) of life insurance policies and annuity and endowment contracts to which section 264(e) applies.''.

(6) Subparagraph (B) of section 832(b)(5) is amended by striking ''and'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting '', and'', and by adding at the end the following new clause:

''(iii) the increase for the taxable year in policy cash values (within the meaning of section 264(e)(3)(A)) of life insurance policies and annuity and endowment contracts to which section 264(e) applies.''.

(c) CONFORMING AMENDMENT.—Subparagraph (A) of section 265(b)(4) is amended by inserting '', section 264,'' before ''and section 291''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts issued after June 8, 1997, in taxable years ending after such date. For purposes of the preceding sentence, any material increase in the death benefit or other material change in the contract shall be treated as a new contract but the addition of covered lives shall be treated as a new contract only with respect to such additional covered lives. For purposes of this subsection, an increase in the death benefit under a policy or contract issued in connection with a lapse described in section 501(d)(2) of the Health Insurance Portability and Accountability Act of 1996 shall not be treated as a new contract.

SEC. 1064. ALLOCATION OF BASIS AMONG PROPERTIES DISTRIBUTED BY PARTNERSHIP.

(a) IN GENERAL.—Subsection (c) of section 732 is amended to read as follows:

''(c) ALLOCATION OF BASIS.—

''(1) IN GENERAL.—The basis of distributed properties to which subsection (a)(2) or (b) is applicable shall be allocated—

''(A)(i) first to any unrealized receivables (as defined in section 751(c)) and inventory items (as defined in section 751(d)(2)) in an amount equal to the adjusted basis of each such property to the partnership, and

''(ii) if the basis to be allocated is less than the sum of the adjusted bases of such properties to the partnership, then, to the extent any decrease is required in order to have the adjusted bases of such properties equal the basis to be allocated, in the manner provided in paragraph (3), and

''(B) to the extent of any basis not allocated under subparagraph (A), to other distributed properties—

''(i) first by assigning to each such other property such other property's adjusted basis to the partnership, and

''(ii) then, to the extent any increase or decrease in basis is required in order to have the adjusted bases of such other distributed properties equal such remaining basis, in the manner provided in paragraph (2) or (3), whichever is appropriate.

''(2) METHOD OF ALLOCATING INCREASE.—Any increase required under paragraph (1)(B) shall be allocated among the properties—

''(A) first to properties with unrealized appreciation in proportion to their respective amounts of unrealized appreciation before such increase (but only to the extent of each property's unrealized appreciation), and

''(B) then, to the extent such increase is not allocated under subparagraph (A), in proportion to their respective fair market values.

''(3) METHOD OF ALLOCATING DECREASE.—Any decrease required under paragraph (1)(A) or (1)(B) shall be allocated—

''(A) first to properties with unrealized depreciation in proportion to their respective amounts of unrealized depreciation before such decrease (but only to the extent of each property's unrealized depreciation), and

''(B) then, to the extent such decrease is not allocated under subparagraph (A), in proportion to their respective adjusted bases (as adjusted under subparagraph (A)).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

SEC. 1065. REPEAL OF REQUIREMENT THAT INVENTORY BE SUBSTANTIALLY APPRECIATED.

(a) IN GENERAL.—Paragraph (2) of section 751(a) is amended to read as follows:

''(2) inventory items of the partnership,''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 751 is amended to read as follows:

''(d) INVENTORY ITEMS.—For purposes of this subchapter, the term 'inventory items' means—

''(1) property of the partnership of the kind described in section 1221(1),

''(2) any other property of the partnership which, on sale or exchange by the partnership, would be considered property other than a capital asset and other than property described in section 1231,

''(3) any other property of the partnership which, if sold or exchanged by the partnership, would result in a gain taxable under subsection (a) of section 1246 (relating to gain on foreign investment company stock), and

''(4) any other property held by the partnership which, if held by the selling or distributee partner, would be considered property of the type described in paragraph (1), (2), or (3).''.

(2) Sections 724(d)(2), 731(a)(2)(B), 731(c)(6), 732(c)(1)(A) (as amended by the preceding section), 735(a)(2), and 735(c)(1) are each amended by striking ''section 751(d)(2)'' and inserting ''section 751(d)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales, exchanges, and distributions after the date of the enactment of this Act.

SEC. 1066. EXTENSION OF TIME FOR TAXING PRECONTRIBUTION GAIN.

(a) IN GENERAL.—Sections 704(c)(1)(B) and 737(b)(1) are each amended by striking ''5 years'' and inserting ''10 years''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property contributed to a partnership after June 8, 1997.

SEC. 1067. RESTRICTIONS ON AVAILABILITY OF EARNED INCOME CREDIT FOR TAXPAYERS WHO IMPROPERLY CLAIMED CREDIT IN PRIOR YEAR.

(a) IN GENERAL.—Section 32 is amended by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and by inserting after subsection (j) the following new subsection:

''(k) RESTRICTIONS ON TAXPAYERS WHO IMPROPERLY CLAIMED CREDIT IN PRIOR YEAR.—

''(1) TAXPAYERS MAKING PRIOR FRAUDULENT OR RECKLESS CLAIMS.—

''(A) IN GENERAL.—No credit shall be allowed under this section for any taxable year in the disallowance period.

''(B) DISALLOWANCE PERIOD.—For purposes of paragraph (1), the disallowance period is—

''(i) the period of 10 taxable years after the most recent taxable year for which there was a final determination that the taxpayer's claim of credit under this section was due to fraud, and

''(ii) the period of 2 taxable years after the most recent taxable year for which there was a final determination that the taxpayer's claim of credit under this section was due to reckless or intentional disregard of rules and regulations (but not due to fraud).

''(2) TAXPAYERS MAKING IMPROPER PRIOR CLAIMS.—In the case of a taxpayer who is denied credit under this section for any taxable year as a result of the deficiency procedures under subchapter B of chapter 63, no credit shall be allowed under this section for any subsequent taxable year unless the taxpayer provides such information as the Secretary may require to demonstrate eligibility for such credit.''.

(b) DUE DILIGENCE REQUIREMENT ON INCOME TAX RETURN PREPARERS.—Section 6695 is amended by adding at the end the following new subsection:

''(g) FAILURE TO BE DILIGENT IN DETERMINING ELIGIBILITY FOR EARNED INCOME CREDIT.—Any person who is an income tax preparer with respect to any return or claim for refund who fails to comply with due diligence requirements imposed by the Secretary by regulations with respect to determining eligibility for, or the amount of, the credit allowable by section 32 shall pay a penalty of $100 for each such failure.''.

(c) EXTENSION PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Paragraph (2) of section 6213(g) (relating to the definition of mathematical or clerical errors) is amended by striking ''and'' at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting '', and'', and by inserting after subparagraph (I) the following new subparagraph:

''(J) an omission of information required by section 32(k)(2) (relating to taxpayers making improper prior claims of earned income credit).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 1068. LIMITATION ON PROPERTY FOR WHICH INCOME FORECAST METHOD MAY BE USED.

(a) LIMITATION.—Subsection (g) of section 167 is amended by adding at the end the following new paragraph:

''(6) LIMITATION ON PROPERTY FOR WHICH INCOME FORECAST METHOD MAY BE USED.—The depreciation deduction allowable under this section may be determined under the income forecast method or any similar method only with respect to—

''(A) property described in paragraph (3) or (4) of section 168(f),

''(B) copyrights,

''(C) books,

''(D) patents, and

''(E) other property specified in regulations.

Such methods may not be used with respect to any amortizable section 197 intangible (as defined in section 197(c)).''.

(b) DEPRECIATION PERIOD FOR RENT-TO-OWN PROPERTY.—

(1) IN GENERAL.—Subparagraph (A) of section 168(e)(3) (relating to 3-year property) is amended by striking ''and'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting '', and'', and by adding at the end the following new clause:

''(iii) any qualified rent-to-own property.''.

(2) 4-YEAR CLASS LIFE.—The table contained in section 168(g)(3)(B) is amended by inserting before the first item the following new item:

''(A)(iii) ..... 4 ''.

(3) DEFINITION OF QUALIFIED RENT-TO-OWN PROPERTY.—Subsection (i) of section 168 is amended by adding at the end the following new paragraph:

''(14) QUALIFIED RENT-TO-OWN PROPERTY.—

''(A) IN GENERAL.—The term 'qualified rent-to-own property' means property held by a rent-to-own dealer for purposes of being subject to a rent-to-own contract.

''(B) RENT-TO-OWN DEALER.—The term 'rent-to-own dealer' means a person that, in the ordinary course of business, regularly enters into rent-to-own contracts with customers for the use of consumer property, if a substantial portion of those contracts terminate and the property is returned to such person before the receipt of all payments required to transfer ownership of the property from such person to the customer.

''(C) CONSUMER PROPERTY.—The term 'consumer property' means tangible personal property of a type generally used within the home. Such term shall not include cellular telephones and any computer or peripheral equipment (as defined in section 168(i)).

''(D) RENT-TO-OWN CONTRACT.—The term 'rent-to-own contract' means any lease for the use of consumer property between a rent-to-own dealer and a customer who is an individual which—

''(i) is titled 'Rent-to-Own Agreement' or 'Lease Agreement with Ownership Option,' or uses other similar language,

''(ii) provides for level, regular periodic payments (for a payment period which is a week or month),

''(iii) provides that legal title to such property remains with the rent-to-own dealer until the customer makes all the payments described in clause (ii) or early purchase payments required under the contract to acquire legal title to the item of property,

''(iv) provides a beginning date and a maximum period of time for which the contract may be in effect that does not exceed 156 weeks or 36 months from such beginning date (including renewals or options to extend),

''(v) provides for level payments within the 156-week or 36-month period that, in the aggregate, generally exceed the normal retail price of the consumer property plus interest,

''(vi) provides for payments under the contract that, in the aggregate, do not exceed $10,000 per item of consumer property,

''(vii) provides that the customer does not have any legal obligation to make all the payments referred to in clause (ii) set forth under the contract, and that at the end of each payment period the customer may either continue to use the consumer property by making the payment for the next payment period or return such property to the rent-to-own dealer in good working order, in which case the customer does not incur any further obligations under the contract and is not entitled to a return of any payments previously made under the contract, and

''(viii) provides that the customer has no right to sell, sublease, mortgage, pawn, pledge, encumber, or otherwise dispose of the consumer property until all the payments stated in the contract have been made.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 1069. REPEAL OF SPECIAL RULE FOR RENTAL USE OF VACATION HOMES, ETC., FOR LESS THAN 15 DAYS.

(a) IN GENERAL.—Section 280A (relating to disallowance of certain expenses in connection with business use of home, rental of vacation homes, etc.) is amended by striking subsection (g).

(b) NO BASIS REDUCTION UNLESS DEPRECIATION CLAIMED.—Section 1016 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) SPECIAL RULE WHERE RENTAL USE OF VACATION HOME, ETC., FOR LESS THAN 15 DAYS.—If a dwelling unit is used during the taxable year by the taxpayer as a residence and such dwelling unit is actually rented for less than 15 days during the taxable year, the reduction under subsection (a)(2) by reason of such rental use in any taxable year beginning after December 31, 1997, shall not exceed the depreciation deduction allowed for such rental use.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1070. EXPANSION OF REQUIREMENT THAT INVOLUNTARILY CONVERTED PROPERTY BE REPLACED WITH PROPERTY ACQUIRED FROM AN UNRELATED PERSON.

(a) IN GENERAL.—Subsection (i) of section 1033 is amended to read as follows:

''(i) REPLACEMENT PROPERTY MUST BE ACQUIRED FROM UNRELATED PERSON IN CERTAIN CASES.—

''(1) IN GENERAL.—If the property which is involuntarily converted is held by a taxpayer to which this subsection applies, subsection (a) shall not apply if the replacement property or stock is acquired from a related person. The preceding sentence shall not apply to the extent that the related person acquired the replacement property or stock from an unrelated person during the period applicable under subsection (a)(2)(B).

''(2) TAXPAYERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to—

''(A) a C corporation,

''(B) a partnership in which 1 or more C corporations own, directly or indirectly (determined in accordance with section 707(b)(3)), more than 50 percent of the capital interest, or profits interest, in such partnership at the time of the involuntary conversion, and

''(C) any other taxpayer if, with respect to property which is involuntarily converted during the taxable year, the aggregate of the amount of realized gain on such property on which there is realized gain exceeds $100,000. In the case of a partnership, subparagraph (C) shall apply with respect to the partnership and with respect to each partner. A similar rule shall apply in the case of an S corporation and its shareholders.

''(3) RELATED PERSON.—For purposes of this subsection, a person is related to another person if the person bears a relationship to the other person described in section 267(b) or 707(b)(1).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to involuntary conversions occurring after June 8, 1997.

SEC. 1071. TREATMENT OF EXCEPTION FROM INSTALLMENT SALES RULES FOR SALES OF PROPERTY BY A MANUFACTURER TO A DEALER.

(a) IN GENERAL.—Paragraph (2) of section 811(c) of the Tax Reform Act of 1986 is hereby repealed.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) COORDINATION WITH SECTION 481.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such changes shall be treated as initiated by the taxpayer,

(B) such changes shall be treated as made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account under section 481(a) of the Internal Revenue Code of 1986 shall be taken into account ratably over the 4 taxable year period beginning with the first taxable year beginning after the date of the enactment of this Act.

TITLE XI—SIMPLIFICATION AND OTHER FOREIGN-RELATED PROVISIONS

Subtitle A—General Provisions

SEC. 1101. TREATMENT OF COMPUTER SOFTWARE AS FSC EXPORT PROPERTY.

(a) IN GENERAL.—Subparagraph (B) of section 927(a)(2) (relating to property excluded from eligibility as FSC export property) is amended by inserting '', and other than computer software (whether or not patented)'' before '', for commercial or home use''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to gross receipts attributable to periods after December 31, 1997, in taxable years ending after such date.

(c) PHASEIN OF TREATMENT.—For purposes of the Internal Revenue Code of 1986—

(1) 1998.—In the case of gross receipts attributable to calendar year 1998, the amendment made by subsection (a) shall apply to only ⅓ of such gross receipts.

(2) 1999.—In the case of gross receipts attributable to calendar year 1999, the amendment made by subsection (a) shall apply to only ⅔ of such gross receipts.

SEC. 1102. ADJUSTMENT OF DOLLAR LIMITATION ON SECTION 911 EXCLUSION.

(a) GENERAL RULE.—Paragraph (2) of section 911(b) is amended by—

(1) by striking ''of $70,000'' in subparagraph (A) and inserting ''equal to the exclusion amount for the calendar year in which such taxable year begins'', and

(2) by adding at the end the following new subparagraph:

''(D) EXCLUSION AMOUNT.—

''(i) IN GENERAL.—The exclusion amount for any calendar year is the exclusion amount determined in accordance with the following table (as adjusted by clause (ii)):

''For calendar year—	The exclusion amount is—
1998	$72,000
1999	74,000
2000	76,000
2001	78,000
2002 and thereafter	80,000.

''(ii) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2007, the $80,000 amount in clause (i) shall be increased by an amount equal to the product of—

''(I) such dollar amount, and

''(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting '2006' for '1992' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $100, such increase shall be rounded to the next lowest multiple of $100.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1103. CERTAIN INDIVIDUALS EXEMPT FROM FOREIGN TAX CREDIT LIMITATION.

(a) GENERAL RULE.—Section 904 (relating to limitations on foreign tax credit) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

''(j) CERTAIN INDIVIDUALS EXEMPT.—

''(1) IN GENERAL.—In the case of an individual to whom this subsection applies for any taxable year—

''(A) the limitation of subsection (a) shall not apply,

''(B) no taxes paid or accrued by the individual during such taxable year may be deemed paid or accrued under subsection (c) in any other taxable year, and

''(C) no taxes paid or accrued by the individual during any other taxable year may be deemed paid or accrued under subsection (c) in such taxable year.

''(2) INDIVIDUALS TO WHOM SUBSECTION APPLIES.—This subsection shall apply to an individual for any taxable year if—

''(A) the entire amount of such individual's gross income for the taxable year from sources without the United States consists of qualified passive income,

''(B) the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year does not exceed $300 ($600 in the case of a joint return), and

''(C) such individual elects to have this subsection apply for the taxable year.

''(3) DEFINITIONS.—For purposes of this subsection—

''(A) QUALIFIED PASSIVE INCOME.—The term 'qualified passive income' means any item of gross income if—

''(i) such item of income is passive income (as defined in subsection (d)(2)(A) without regard to clause (iii) thereof), and

''(ii) such item of income is shown on a payee statement furnished to the individual.

''(B) CREDITABLE FOREIGN TAXES.—The term 'creditable foreign taxes' means any taxes for which a credit is allowable under section 901; except that such term shall not include any tax unless such tax is shown on a payee statement furnished to such individual.

''(C) PAYEE STATEMENT.—The term 'payee statement' has the meaning given to such term by section 6724(d)(2).

''(D) ESTATES AND TRUSTS NOT ELIGIBLE.—This subsection shall not apply to any estate or trust.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1997.

SEC. 1104. EXCHANGE RATE USED IN TRANSLATING FOREIGN TAXES.

(a) ACCRUED TAXES TRANSLATED BY USING AVERAGE RATE FOR YEAR TO WHICH TAXES RELATE.—

(1) IN GENERAL.—Subsection (a) of section 986 (relating to translation of foreign taxes) is amended to read as follows:

''(a) FOREIGN INCOME TAXES.—

''(1) TRANSLATION OF ACCRUED TAXES.—

''(A) IN GENERAL.—For purposes of determining the amount of the foreign tax credit, in the case of a taxpayer who takes foreign income taxes into account when accrued, the amount of any foreign income taxes (and any adjustment thereto) shall be translated into dollars by using the average exchange rate for the taxable year to which such taxes relate.

''(B) EXCEPTION FOR CERTAIN TAXES.—Subparagraph (A) shall not apply to any foreign income taxes—

''(i) paid after the date 2 years after the close of the taxable year to which such taxes relate, or

''(ii) paid before the beginning of the taxable year to which such taxes relate.

''(C) EXCEPTION FOR INFLATIONARY CURRENCIES.—Subparagraph (A) shall not apply to any foreign income taxes the liability for which is denominated in any inflationary currency (as determined under regulations).

''(D) CROSS REFERENCE.—

''For adjustments where tax is not paid within 2 years, see section 905(c).

''(2) TRANSLATION OF TAXES TO WHICH PARAGRAPH (1) DOES NOT APPLY.—For purposes of determining the amount of the foreign tax credit, in the case of any foreign income taxes to which subparagraph (A) of paragraph (1) does not apply—

''(A) such 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 such 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 the original payment of such foreign income taxes.

''(3) FOREIGN INCOME TAXES.—For purposes of this subsection, the term 'foreign income taxes' means any income, war profits, or excess profits taxes paid or accrued to any foreign country or to any possession of the United States.''.

(2) ADJUSTMENT WHEN NOT PAID WITHIN 2 YEARS AFTER YEAR TO WHICH TAXES RELATE.—Subsection (c) of section 905 is amended to read as follows:

''(c) ADJUSTMENTS TO ACCRUED TAXES.—

''(1) IN GENERAL.—If—

''(A) accrued taxes when paid differ from the amounts claimed as credits by the taxpayer,

''(B) accrued taxes are not paid before the date 2 years after the close of the taxable year to which such taxes relate, or

''(C) any tax paid is refunded in whole or in part,

the taxpayer shall notify the Secretary, who shall redetermine the amount of the tax for the year or years affected. The Secretary may prescribe adjustments to tax pools under sections 902 and 960 in lieu of the redetermination under the preceding sentence.

''(2) SPECIAL RULE FOR TAXES NOT PAID WITHIN 2 YEARS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), in making the redetermination under paragraph (1), no credit shall be allowed for accrued taxes not paid before the date referred to in subparagraph (B) of paragraph (1).

''(B) TAXES SUBSEQUENTLY PAID.—Any such taxes if subsequently paid shall be taken into account for the taxable year to which such taxes relate (and translated as provided in section 986(a)(2)(A)).

''(3) ADJUSTMENTS.—The amount of tax (if any) due on any redetermination under paragraph (1) shall be paid by the taxpayer on notice and demand by the Secretary, and the amount of tax overpaid (if any) shall be credited or refunded to the taxpayer in accordance with subchapter B of chapter 66 (section 6511 et seq.).

''(4) BOND REQUIREMENTS.—In the case of any tax accrued but not paid, the Secretary, as a condition precedent to the allowance of the credit provided in this subpart, may require the taxpayer to give a bond, with sureties satisfactory to and approved by the Secretary, in such sum as the Secretary may require, conditioned on the payment by the taxpayer of any amount of tax found due on any such redetermination. Any such bond shall contain such further conditions as the Secretary may require.

''(5) OTHER SPECIAL RULES.—In any redetermination under paragraph (1) by the Secretary of the amount of tax due from the taxpayer for the year or years affected by a refund, the amount of the taxes refunded for which credit has been allowed under this section shall be reduced by the amount of any tax described in section 901 imposed by the foreign country or possession of the United States with respect to such refund; but no credit under this subpart, or deduction under section 164, shall be allowed for any taxable year with respect to any such tax imposed on the refund. No interest shall be assessed or collected on any amount of tax due on any redetermination by the Secretary, resulting from a refund to the taxpayer, for any period before the receipt of such refund, except to the extent interest was paid by the foreign country or possession of the United States on such refund for such period.''.

(b) AUTHORITY TO USE AVERAGE RATES.—

(1) IN GENERAL.—Subsection (a) of section 986 (as amended by subsection (a)) is amended by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following new paragraph:

''(3) AUTHORITY TO PERMIT USE OF AVERAGE RATES.—To the extent prescribed in regulations, the average exchange rate for the period (specified in such regulations) during which the taxes or adjustment is paid may be used instead of the exchange rate as of the time of such payment.''.

(2) DETERMINATION OF AVERAGE RATES.—Subsection (c) of section 989 is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting '', and'', and by adding at the end thereof the following new paragraph:

''(6) setting forth procedures for determining the average exchange rate for any period.''.

(3) CONFORMING AMENDMENTS.—Subsection (b) of section 989 is amended by striking ''weighted'' each place it appears.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a)(1) and (b) shall apply to taxes paid or accrued in taxable years beginning after December 31, 1997.

(2) SUBSECTION (a)(2).—The amendment made by subsection (a)(2) shall apply to taxes which relate to taxable years beginning after December 31, 1997.

SEC. 1105. ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION FOR ALTERNATIVE MINIMUM TAX.

(a) GENERAL RULE.—Subsection (a) of section 59 (relating to alternative minimum tax foreign tax credit) is amended by adding at the end thereof the following new paragraph:

''(3) ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION.—

''(A) IN GENERAL.—In determining the alternative minimum tax foreign tax credit for any taxable year to which an election under this paragraph applies—

''(i) subparagraph (B) of paragraph (1) shall not apply, and

''(ii) the limitation of section 904 shall be based on the proportion which—

''(I) the taxpayer's taxable income (as determined for purposes of the regular tax) from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income), bears to

''(II) the taxpayer's entire alternative minimum taxable income for the taxable year.

''(B) ELECTION.—

''(i) IN GENERAL.—An election under this paragraph may be made only for the taxpayer's first taxable year which begins after December 31, 1997, and for which the taxpayer claims an alternative minimum tax foreign tax credit.

''(ii) ELECTION REVOCABLE ONLY WITH CONSENT.—An election under this paragraph, once made, shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1106. TREATMENT OF PERSONAL TRANSACTIONS BY INDIVIDUALS UNDER FOREIGN CURRENCY RULES.

(a) GENERAL RULE.—Subsection (e) of section 988 (relating to application to individuals) is amended to read as follows:

''(e) APPLICATION TO INDIVIDUALS.—

''(1) IN GENERAL.—The preceding provisions of this section shall not apply to any section 988 transaction entered into by an individual which is a personal transaction.

''(2) EXCLUSION FOR CERTAIN PERSONAL TRANSACTIONS.—If—

''(A) nonfunctional currency is disposed of by an individual in any transaction, and

''(B) such transaction is a personal transaction,

no gain shall be recognized for purposes of this subtitle by reason of changes in exchange rates after such currency was acquired by such individual and before such disposition. The preceding sentence shall not apply if the gain which would otherwise be recognized on the transaction exceeds $200.

''(3) PERSONAL TRANSACTIONS.—For purposes of this subsection, the term 'personal transaction' means any transaction entered into by an individual, except that such term shall not include any transaction to the extent that expenses properly allocable to such transaction meet the requirements of section 162 or 212 (other than that part of section 212 dealing with expenses incurred in connection with taxes).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1107. ALL NONCONTROLLED SECTION 902 CORPORATIONS WHICH ARE NOT PASSIVE FOREIGN INVESTMENT COMPANIES IN ONE FOREIGN TAX LIMITATION BASKET.

(a) IN GENERAL.—Subparagraph (E) of section 904(d)(2) (relating to noncontrolled section 902 corporations) is amended by adding at the end the following new clause:

''(iv) ALL NON-PFIC'S TREATED AS ONE.—All noncontrolled section 902 corporations which are not passive foreign investment companies (as defined in section 1297) shall be treated as one noncontrolled section 902 corporation for purposes of paragraph (1). The Secretary may prescribe regulations regarding the treatment of distributions out of earnings and profits for periods prior to the taxpayer's acquisition of such stock.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2001.

Subtitle B—Treatment of Controlled Foreign Corporations

SEC. 1111. GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.

(a) GENERAL RULE.—Section 964 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

''(e) GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.—

''(1) IN GENERAL.—If a controlled foreign corporation sells or exchanges stock in any other foreign corporation, gain recognized on such sale or exchange shall be included in the gross income of such controlled foreign corporation as a dividend to the same extent that it would have been so included under section 1248(a) if such controlled foreign corporation were a United States person. For purposes of determining the amount which would have been so includible, the determination of whether such other foreign corporation was a controlled foreign corporation shall be made without regard to the preceding sentence.

''(2) SAME COUNTRY EXCEPTION NOT APPLICABLE.—Clause (i) of section 954(c)(3)(A) shall not apply to any amount treated as a dividend by reason of paragraph (1).

''(3) CLARIFICATION OF DEEMED SALES.—For purposes of this subsection, a controlled foreign corporation shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such controlled foreign corporation is treated as having gain from the sale or exchange of such stock.''.

(b) AMENDMENT OF SECTION 904(d).—Clause (i) of section 904(d)(2)(E) is amended by striking ''and except as provided in regulations, the taxpayer was a United States shareholder in such corporation''.

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to gain recognized on transactions occurring after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to distributions after the date of the enactment of this Act.

SEC. 1112. MISCELLANEOUS MODIFICATIONS TO SUBPART F.

(a) SECTION 1248 GAIN TAKEN INTO ACCOUNT IN DETERMINING PRO RATA SHARE.—

(1) IN GENERAL.—Paragraph (2) of section 951(a) (defining pro rata share of subpart F

income) is amended by adding at the end thereof the following new sentence: ''For purposes of subparagraph (B), any gain included in the gross income of any person as a dividend under section 1248 shall be treated as a distribution received by such person with respect to the stock involved.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to dispositions after the date of the enactment of this Act.

(b) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.—

(1) IN GENERAL.—Section 961 (relating to adjustments to basis of stock in controlled foreign corporations and of other property) is amended by adding at the end thereof the following new subsection:

''(c) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.—Under regulations prescribed by the Secretary, if a United States shareholder is treated under section 958(a)(2) as owning any stock in a controlled foreign corporation which is actually owned by another controlled foreign corporation, adjustments similar to the adjustments provided by subsections (a) and (b) shall be made to the basis of such stock in the hands of such other controlled foreign corporation, but only for the purposes of determining the amount included under section 951 in the gross income of such United States shareholder (or any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder by reason of which such shareholder was treated as owning such stock, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary may prescribe by regulations).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply for purposes of determining inclusions for taxable years of United States shareholders beginning after December 31, 1997.

(c) CLARIFICATION OF TREATMENT OF BRANCH TAX EXEMPTIONS OR REDUCTIONS.—

(1) IN GENERAL.—Subsection (b) of section 952 is amended by adding at the end thereof the following new sentence: ''For purposes of this subsection, any exemption (or reduction) with respect to the tax imposed by section 884 shall not be taken into account.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

SEC. 1113. INDIRECT FOREIGN TAX CREDIT ALLOWED FOR CERTAIN LOWER TIER COMPANIES.

(a) SECTION 902 CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 902 (relating to deemed taxes increased in case of certain 2nd and 3rd tier foreign corporations) is amended to read as follows:

''(b) DEEMED TAXES INCREASED IN CASE OF CERTAIN LOWER TIER CORPORATIONS.—

''(1) IN GENERAL.—If—

''(A) any foreign corporation is a member of a qualified group, and

''(B) such foreign corporation owns 10 percent or more of the voting stock of another member of such group from which it receives dividends in any taxable year,

such foreign corporation shall be deemed to have paid the same proportion of such other member's post-1986 foreign income taxes as would be determined under subsection (a) if such foreign corporation were a domestic corporation.

''(2) QUALIFIED GROUP.—For purposes of paragraph (1), the term 'qualified group' means—

''(A) the foreign corporation described in subsection (a), and

''(B) any other foreign corporation if—

''(i) the domestic corporation owns at least 5 percent of the voting stock of such other foreign corporation indirectly through a chain of foreign corporations connected through stock ownership of at least 10 percent of their voting stock,

''(ii) the foreign corporation described in subsection (a) is the first tier corporation in such chain, and

''(iii) such other corporation is not below the sixth tier in such chain.

The term 'qualified group' shall not include any foreign corporation below the third tier in the chain referred to in clause (i) unless such foreign corporation is a controlled foreign corporation (as defined in section 957) and the domestic corporation is a United States shareholder (as defined in section 951(b)) in such foreign corporation. Paragraph (1) shall apply to those taxes paid by a member of the qualified group below the third tier only with respect to periods during which it was a controlled foreign corporation.''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 902(c)(3) is amended by adding ''or'' at the end of clause (i) and by striking clauses (ii) and (iii) and inserting the following new clause:

''(ii) the requirements of subsection (b)(2) are met with respect to such foreign corporation.''.

(B) Subparagraph (B) of section 902(c)(4) is amended by striking ''3rd foreign corporation'' and inserting ''sixth tier foreign corporation''.

(C) The heading for paragraph (3) of section 902(c) is amended by striking ''WHERE DOMESTIC CORPORATION ACQUIRES 10 PERCENT OF FOREIGN CORPORATION'' and inserting ''WHERE FOREIGN CORPORATION FIRST QUALIFIES''.

(D) Paragraph (3) of section 902(c) is amended by striking ''ownership'' each place it appears.

(b) SECTION 960 CREDIT.—Paragraph (1) of section 960(a) (relating to special rules for foreign tax credits) is amended to read as follows:

''(1) DEEMED PAID CREDIT.—For purposes of subpart A of this part, if there is included under section 951(a) in the gross income of a domestic corporation any amount attributable to earnings and profits of a foreign corporation which is a member of a qualified group (as defined in section 902(b)) with respect to the domestic corporation, then, except to the extent provided in regulations, section 902 shall be applied as if the amount so included were a dividend paid by such foreign corporation (determined by applying section 902(c) in accordance with section 904(d)(3)(B)).''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes of foreign corporations for taxable years of such corporations beginning after the date of enactment of this Act.

(2) SPECIAL RULE.—In the case of any chain of foreign corporations described in clauses (i) and (ii) of section 902(b)(2)(B) of the Internal Revenue Code of 1986 (as amended by this section), no liquidation, reorganization, or similar transaction in a taxable year beginning after the date of the enactment of this Act shall have the effect of permitting taxes to be taken into account under section 902 of the Internal Revenue Code of 1986 which could not have been taken into account under such section but for such transaction.

Subtitle C—Treatment of Passive Foreign Investment Companies

SEC. 1121. UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS NOT SUBJECT TO PFIC INCLUSION.

Section 1296 is amended by adding at the end the following new subsection:

''(e) EXCEPTION FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—

''(1) IN GENERAL.—For purposes of this part, a corporation shall not be treated with respect to a shareholder as a passive foreign investment company during the qualified portion of such shareholder's holding period with respect to stock in such corporation.

''(2) QUALIFIED PORTION.—For purposes of this subsection, the term 'qualified portion' means the portion of the shareholder's holding period—

''(A) which is after December 31, 1997, and

''(B) during which the shareholder is a United States shareholder (as defined in section 951(b)) of the corporation and the corporation is a controlled foreign corporation.

''(3) NEW HOLDING PERIOD IF QUALIFIED PORTION ENDS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), if the qualified portion of a shareholder's holding period with respect to any stock ends after December 31, 1997, solely for purposes of this part, the shareholder's holding period with respect to such stock shall be treated as beginning as of the first day following such period.

''(B) EXCEPTION.—Subparagraph (A) shall not apply if such stock was, with respect to such shareholder, stock in a passive foreign investment company at any time before the qualified portion of the shareholder's holding period with respect to such stock and no election under section 1298(b)(1) is made.''.

SEC. 1122. ELECTION OF MARK TO MARKET FOR MARKETABLE STOCK IN PASSIVE FOREIGN INVESTMENT COMPANY.

(a) IN GENERAL.—Part VI of subchapter P of chapter 1 is amended by redesignating subpart C as subpart D, by redesignating sections 1296 and 1297 as sections 1297 and 1298, respectively, and by inserting after subpart B the following new subpart:

''Subpart C—Election of Mark to Market For Marketable Stock

''Sec. 1296. Election of mark to market for marketable stock.

''SEC. 1296. ELECTION OF MARK TO MARKET FOR MARKETABLE STOCK.

''(a) GENERAL RULE.—In the case of marketable stock in a passive foreign investment company which is owned (or treated under subsection (g) as owned) by a United States person at the close of any taxable year of such person, at the election of such person—

''(1) If the fair market value of such stock as of the close of such taxable year exceeds its adjusted basis, such United States person shall include in gross income for such taxable year an amount equal to the amount of such excess.

''(2) If the adjusted basis of such stock exceeds the fair market value of such stock as of the close of such taxable year, such United States person shall be allowed a deduction for such taxable year equal to the lesser of—

''(A) the amount of such excess, or

''(B) the unreversed inclusions with respect to such stock.

''(b) BASIS ADJUSTMENTS.—

''(1) IN GENERAL.—The adjusted basis of stock in a passive foreign investment company—

''(A) shall be increased by the amount included in the gross income of the United States person under subsection (a)(1) with respect to such stock, and

''(B) shall be decreased by the amount allowed as a deduction to the United States person under subsection (a)(2) with respect to such stock.

''(2) SPECIAL RULE FOR STOCK CONSTRUCTIVELY OWNED.—In the case of stock in a passive foreign investment company which the United States person is treated as owning under subsection (g)—

''(A) the adjustments under paragraph (1) shall apply to such stock in the hands of the person actually holding such stock but only for purposes of determining the subsequent treatment under this chapter of the United States person with respect to such stock, and

''(B) similar adjustments shall be made to the adjusted basis of the property by reason of which the United States person is treated as owning such stock.

''(c) CHARACTER AND SOURCE RULES.—

''(1) ORDINARY TREATMENT.—

''(A) GAIN.—Any amount included in gross income under subsection (a)(1), and any gain on the sale or other disposition of marketable stock in a passive foreign investment company (with respect to which an election under this section is in effect), shall be treated as ordinary income.

''(B) LOSS.—Any—

''(i) amount allowed as a deduction under subsection (a)(2), and

''(ii) loss on the sale or other disposition of marketable stock in a passive foreign investment company (with respect to which an election under this section is in effect) to the extent that the amount of such loss does not exceed the unreversed inclusions with respect to such stock,

shall be treated as an ordinary loss. The amount so treated shall be treated as a deduction allowable in computing adjusted gross income.

''(2) SOURCE.—The source of any amount included in gross income under subsection (a)(1) (or allowed as a deduction under subsection (a)(2)) shall be determined in the same manner as if such amount were gain or loss (as the case may be) from the sale of stock in the passive foreign investment company.

''(d) UNREVERSED INCLUSIONS.—For purposes of this section, the term 'unreversed inclusions' means, with respect to any stock in a passive foreign investment company, the excess (if any) of—

''(1) the amount included in gross income of the taxpayer under subsection (a)(1) with respect to such stock for prior taxable years, over

''(2) the amount allowed as a deduction under subsection (a)(2) with respect to such stock for prior taxable years.

The amount referred to in paragraph (1) shall include any amount which would have been included in gross income under subsection (a)(1) with respect to such stock for any prior taxable year but for section 1291.

''(e) MARKETABLE STOCK.—For purposes of this section—

''(1) IN GENERAL.—The term 'marketable stock' means—

''(A) any stock which is regularly traded on—

''(i) a national securities exchange which is registered with the Securities and Exchange Commission or the national market system established pursuant to section 11A of the Securities and Exchange Act of 1934, or

''(ii) any exchange or other market which the Secretary determines has rules adequate to carry out the purposes of this part,

''(B) to the extent provided in regulations, stock in any foreign corporation which is comparable to a regulated investment company and which offers for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, and

''(C) to the extent provided in regulations, any option on stock described in subparagraph (A) or (B).

''(2) SPECIAL RULE FOR REGULATED INVESTMENT COMPANIES.—In the case of any regulated investment company which is offering for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, all stock in a passive foreign investment company which it owns directly or indirectly shall be treated as marketable stock for purposes of this section. Except as provided in regulations, similar treatment as marketable stock shall apply in the case of any other regulated investment company which publishes net asset valuations at least annually.

''(f) TREATMENT OF CONTROLLED FOREIGN CORPORATIONS WHICH ARE SHAREHOLDERS IN PASSIVE FOREIGN INVESTMENT COMPANIES.—In the case of a foreign corporation which is a controlled foreign corporation and which owns (or is treated under subsection (g) as owning) stock in a passive foreign investment company—

''(1) this section (other than subsection (c)(2)) shall apply to such foreign corporation in the same manner as if such corporation were a United States person, and

''(2) for purposes of subpart F of part III of subchapter N—

''(A) any amount included in gross income under subsection (a)(1) shall be treated as foreign personal holding company income described in section 954(c)(1)(A), and

''(B) any amount allowed as a deduction under subsection (a)(2) shall be treated as a deduction allocable to foreign personal holding company income so described.

''(g) STOCK OWNED THROUGH CERTAIN FOREIGN ENTITIES.—Except as provided in regulations—

''(1) IN GENERAL.—For purposes of this section, stock owned, directly or indirectly, by or for a foreign partnership or foreign trust or foreign estate shall be considered as being owned proportionately by its 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.

''(2) TREATMENT OF CERTAIN DISPOSITIONS.—In any case in which a United States person is treated as owning stock in a passive foreign investment company by reason of paragraph (1)—

''(A) any disposition by the United States person or by any other person which results in the United States person being treated as no longer owning such stock, and

''(B) any disposition by the person owning such stock,

shall be treated as a disposition by the United States person of the stock in the passive foreign investment company.

''(h) COORDINATION WITH SECTION 851(b).—For purposes of paragraphs (2) and (3) of section 851(b), any amount included in gross income under subsection (a) shall be treated as a dividend.

''(i) STOCK ACQUIRED FROM A DECEDENT.—In the case of stock of a passive foreign investment company which is acquired by bequest, devise, or inheritance (or by the decedent's estate) and with respect to which an election under this section was in effect as of the date of the decedent's death, notwithstanding section 1014, the basis of such stock in the hands of the person so acquiring it shall be the adjusted basis of such stock in the hands of the decedent immediately before his death (or, if lesser, the basis which would have been determined under section 1014 without regard to this subsection).

''(j) COORDINATION WITH SECTION 1291 FOR FIRST YEAR OF ELECTION.—

''(1) TAXPAYERS OTHER THAN REGULATED INVESTMENT COMPANIES.—

''(A) IN GENERAL.—If the taxpayer elects the application of this section with respect to any marketable stock in a corporation after the beginning of the taxpayer's holding period in such stock, and if the requirements of subparagraph (B) are not satisfied, section 1291 shall apply to—

''(i) any distributions with respect to, or disposition of, such stock in the first taxable year of the taxpayer for which such election is made, and

''(ii) any amount which, but for section 1291, would have been included in gross income under subsection (a) with respect to such stock for such taxable year in the same manner as if such amount were gain on the disposition of such stock.

''(B) REQUIREMENTS.—The requirements of this subparagraph are met if, with respect to each of such corporation's taxable years for which such corporation was a passive foreign investment company and which begin after December 31, 1986, and included any portion of the taxpayer's holding period in such stock, such corporation was treated as a qualified electing fund under this part with respect to the taxpayer.

''(2) SPECIAL RULES FOR REGULATED INVESTMENT COMPANIES.—

''(A) IN GENERAL.—If a regulated investment company elects the application of this section with respect to any marketable stock in a corporation after the beginning of the taxpayer's holding period in such stock, then, with respect to such company's first taxable year for which such company elects the application of this section with respect to such stock—

''(i) section 1291 shall not apply to such stock with respect to any distribution or disposition during, or amount included in gross income under this section for, such first taxable year, but

''(ii) such regulated investment company's tax under this chapter for such first taxable year shall be increased by the aggregate amount of interest which would have been determined under section 1291(c)(3) if section 1291 were applied without regard to this subparagraph.

Clause (ii) shall not apply if for the preceding taxable year the company elected to mark to market the stock held by such company as of the last day of such preceding taxable year.

''(B) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed to any regulated investment company for the increase in tax under subparagraph (A)(ii).

''(k) ELECTION.—This section shall apply to marketable stock in a passive foreign investment company which is held by a United States person only if such person elects to apply this section with respect to such stock. Such an election shall apply to the taxable year for which made and all subsequent taxable years unless—

''(1) such stock ceases to be marketable stock, or

''(2) the Secretary consents to the revocation of such election.

''(l) TRANSITION RULE FOR INDIVIDUALS BECOMING SUBJECT TO UNITED STATES TAX.—If any individual becomes a United States person in a taxable year beginning after December 31, 1997, solely for purposes of this section, the adjusted basis (before adjustments under subsection (b)) of any marketable stock in a passive foreign investment company owned by such individual on the first day of such taxable year shall be treated as being the greater of its fair market value on such first day or its adjusted basis on such first day.''.

(b) COORDINATION WITH INTEREST CHARGE, ETC.—

(1) Paragraph (1) of section 1291(d) is amended by adding at the end the following new flush sentence:

''Except as provided in section 1296(j), this section also shall not apply if an election under section 1296(k) is in effect for the taxpayer's taxable year.''.

(2) The subsection heading for subsection (d) of section 1291 is amended by striking ''SUBPART B'' and inserting ''SUBPARTS B AND C''.

(3) Subparagraph (A) of section 1291(a)(3) is amended to read as follows:

''(A) HOLDING PERIOD.—The taxpayer's holding period shall be determined under section 1223; except that—

''(i) for purposes of applying this section to an excess distribution, such holding period shall be treated as ending on the date of such distribution, and

''(ii) if section 1296 applied to such stock with respect to the taxpayer for any prior taxable year, such holding period shall be treated as beginning on the first day of the first taxable year beginning after the last taxable year for which section 1296 so applied.''.

(c) TREATMENT OF MARK-TO-MARKET GAIN UNDER SECTION 4982.—

(1) Subsection (e) of section 4982 is amended by adding at the end thereof the following new paragraph:

''(6) TREATMENT OF GAIN RECOGNIZED UNDER SECTION 1296.—For purposes of determining a regulated investment company's ordinary income—

''(A) notwithstanding paragraph (1)(C), section 1296 shall be applied as if such company's taxable year ended on October 31, and

''(B) any ordinary gain or loss from an actual disposition of stock in a passive foreign investment company during the portion of the calendar year after October 31 shall be taken into account in determining such regulated investment company's ordinary income for the following calendar year.

In the case of a 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.''.

(2) Subsection (b) of section 852 is amended by adding at the end thereof the following new paragraph:

''(10) SPECIAL RULE FOR CERTAIN LOSSES ON STOCK IN PASSIVE FOREIGN INVESTMENT COMPANY.—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 reduction in the value of any stock of a passive foreign investment company with respect to which an election under section 1296(k) is in effect occurring after October 31 of the taxable year, and any such reduction shall be treated as occurring on the first day of the following taxable year.''.

(3) Subsection (c) of section 852 is amended by inserting after ''October 31 of such year'' the following: '', without regard to any net reduction in the value of any stock of a passive foreign investment company with respect to which an election under section 1296(k) is in effect occurring after October 31 of such year,''.

(d) CONFORMING AMENDMENTS.—

(1) Sections 532(b)(4) and 542(c)(10) are each amended by striking ''section 1296'' and inserting ''section 1297''.

(2) Subsection (f) of section 551 is amended by striking ''section 1297(b)(5)'' and inserting ''section 1298(b)(5)''.

(3) Subsections (a)(1) and (d) of section 1293 are each amended by striking ''section 1297(a)'' and inserting ''section 1298(a)''.

(4) Paragraph (3) of section 1297(b), as redesignated by subsection (a), is hereby repealed.

(5) The table of sections for subpart D of part VI of subchapter P of chapter 1, as redesignated by subsection (a), is amended to read as follows:

''Sec. 1297. Passive foreign investment company.

''Sec. 1298. Special rules.''.

(6) The table of subparts for part VI of subchapter P of chapter 1 is amended by striking the last item and inserting the following new items:

''Subpart C. Election of mark to market for marketable stock.

''Subpart D. General provisions.''.

(e) CLARIFICATION OF GAIN RECOGNITION ELECTION.—The last sentence of section 1298(b)(1), as so redesignated, is amended by inserting ''(determined without regard to the preceding sentence)'' after ''investment company''.

SEC. 1123. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to—

(1) taxable years of United States persons beginning after December 31, 1997, and

(2) taxable years of foreign corporations ending with or within such taxable years of United States persons.

Subtitle D—Repeal of Excise Tax on Transfers to Foreign Entities

SEC. 1131. REPEAL OF EXCISE TAX ON TRANSFERS TO FOREIGN ENTITIES; RECOGNITION OF GAIN ON CERTAIN TRANSFERS TO FOREIGN TRUSTS AND ESTATES.

(a) REPEAL OF EXCISE TAX.—Chapter 5 (relating to transfers to avoid income tax) is hereby repealed.

(b) RECOGNITION OF GAIN ON CERTAIN TRANSFERS TO FOREIGN TRUSTS AND ESTATES.—Subpart F of part I of subchapter J of chapter 1 is amended by adding at the end the following new section:

''SEC. 684. RECOGNITION OF GAIN ON CERTAIN TRANSFERS TO CERTAIN FOREIGN TRUSTS AND ESTATES.

''(a) IN GENERAL.—In the case of any transfer of property by a United States person to a foreign estate or trust, for purposes of this subtitle, such transfer shall be treated as a sale or exchange for an amount equal to the fair market value of the property transferred, and the transferor shall recognize as gain the excess of—

''(1) the fair market value of the property so transferred, over

''(2) the adjusted basis (for purposes of determining gain) of such property in the hands of the transferor.

''(b) EXCEPTION.—Subsection (a) shall not apply to a transfer to a trust by a United States person if such person is treated as the owner of such trust under section 671.''.

(b) OTHER ANTI-AVOIDANCE PROVISIONS REPLACING REPEALED EXCISE TAX.—

(1) GAIN RECOGNITION ON EXCHANGES INVOLVING FOREIGN PERSONS.—Section 1035 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) EXCHANGES INVOLVING FOREIGN PERSONS.—To the extent provided in regulations, subsection (a) shall not apply to any exchange having the effect of transferring property to any person other than a United States person.''.

(2) TRANSFERS TO FOREIGN CORPORATIONS.—Section 367 is amended by adding at the end the following new subsection:

''(f) OTHER TRANSFERS.—To the extent provided in regulations, if a United States person transfers property to a foreign corporation as paid-in surplus or as a contribution to capital (in a transaction not otherwise described in this section), such foreign corporation shall not, for purposes of determining the extent to which gain shall be recognized on such transfer, be considered to be a corporation.''.

(3) CERTAIN TRANSFERS TO PARTNERSHIPS.—Section 721 is amended by adding at the end the following new subsection:

''(c) REGULATIONS RELATING TO TRANSFERS TO FOREIGN PERSONS.—The Secretary may provide by regulations that subsection (a) shall not apply to gain realized on the transfer of property to a partnership if such gain, when recognized, will be includible in the gross income of a person other than a United States person.''.

(4) REPEAL OF U.S. SOURCE TREATMENT OF DEEMED ROYALTIES.—Subparagraph (C) of section 367(d)(2) is amended to read as follows:

''(C) AMOUNTS RECEIVED TREATED AS ORDINARY INCOME.—For purposes of this chapter, any amount included in gross income by reason of this subsection shall be treated as ordinary income.''.

(5) TRANSFERS OF INTANGIBLES TO PARTNERSHIPS.—

(A) Subsection (d) of section 367 is amended by adding at the end the following new paragraph:

''(3) REGULATIONS RELATING TO TRANSFERS OF INTANGIBLES TO PARTNERSHIPS.—The Secretary may provide by regulations that the rules of paragraph (2) also apply to the transfer of intangible property by a United States person to a partnership in circumstances consistent with the purposes of this subsection.''.

(B) Section 721 is amended by adding at the end the following new subsection:

''(d) TRANSFERS OF INTANGIBLES.—

''For regulatory authority to treat intangibles transferred to a partnership as sold, see section 367(d)(3).''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (h) of section 814 is amended by striking ''or 1491''.

(2) Section 1057 (relating to election to treat transfer to foreign trust, etc., as taxable exchange) is hereby repealed.

(3) Section 6422 is amended by striking paragraph (5) and by redesignating paragraphs (6) through (13) as paragraphs (5) through (12), respectively.

(4) The table of chapters for subtitle A is amended by striking the item relating to chapter 5.

(5) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1057.

(6) The table of sections for subpart F of part I of subchapter J of chapter 1 is amended by adding at the end the following new item:

''Sec. 684. Recognition of gain on certain transfers to certain foreign trusts and estates.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle E—Information Reporting

SEC. 1141. CLARIFICATION OF APPLICATION OF RETURN REQUIREMENT TO FOREIGN PARTNERSHIPS.

(a) IN GENERAL.—Section 6031 (relating to return of partnership income) is amended by adding at the end the following new subsection:

''(e) FOREIGN PARTNERSHIPS.—

''(1) EXCEPTION FOR FOREIGN PARTNERSHIP.—Except as provided in paragraph (2), the preceding provisions of this section shall not apply to a foreign partnership.

''(2) CERTAIN FOREIGN PARTNERSHIPS REQUIRED TO FILE RETURN.—Except as provided in regulations prescribed by the Secretary, this section shall apply to a foreign partnership for any taxable year if for such year, such partnership has—

''(A) gross income derived from sources within the United States, or

''(B) gross income which is effectively connected with the conduct of a trade or business within the United States.

The Secretary may provide simplified filing procedures for foreign partnerships to which this section applies.''.

(b) SANCTION FOR FAILURE BY FOREIGN PARTNERSHIP TO COMPLY WITH SECTION 6031 TO INCLUDE DENIAL OF DEDUCTIONS.—Subsection (f) of section 6231 is amended—

(1) by striking ''LOSSES AND'' in the heading and inserting ''DEDUCTIONS, LOSSES, AND'', and

(2) by striking ''loss or'' each place it appears and inserting ''deduction, loss, or''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1142. CONTROLLED FOREIGN PARTNERSHIPS SUBJECT TO INFORMATION REPORTING COMPARABLE TO INFORMATION REPORTING FOR CONTROLLED FOREIGN CORPORATIONS.

(a) IN GENERAL.—So much of section 6038 (relating to information with respect to certain foreign corporations) as precedes paragraph (2) of subsection (a) is amended to read as follows:

''SEC. 6038. INFORMATION REPORTING WITH RESPECT TO CERTAIN FOREIGN CORPORATIONS AND PARTNERSHIPS.

''(a) REQUIREMENT.—

''(1) IN GENERAL.—Every United States person shall furnish, with respect to any foreign business entity which such person controls, such information as the Secretary may prescribe relating to—

''(A) the name, the principal place of business, and the nature of business of such entity, and the country under whose laws such entity is incorporated (or organized in the case of a partnership);

''(B) in the case of a foreign corporation, its post-1986 undistributed earnings (as defined in section 902(c));

''(C) a balance sheet for such entity listing assets, liabilities, and capital;

''(D) transactions between such entity and—

''(i) such person,

''(ii) any corporation or partnership which such person controls, and

''(iii) any United States person owning, at the time the transaction takes place—

''(I) in the case of a foreign corporation, 10 percent or more of the value of any class of stock outstanding of such corporation, and

''(II) in the case of a foreign partnership, at least a 10-percent interest in such partnership; and

''(E)(i) in the case of a foreign corporation, a description of the various classes of stock outstanding, and a list showing the name and address of, and number of shares held by, each United States person who is a shareholder of record owning at any time during the annual accounting period 5 percent or more in value of any class of stock outstanding of such foreign corporation, and

''(ii) information comparable to the information described in clause (i) in the case of a foreign partnership.

The Secretary may also require the furnishing of any other information which is similar or related in nature to that specified in the preceding sentence or which the Secretary determines to be appropriate to carry out the provisions of this title.''.

(b) DEFINITIONS.—

(1) IN GENERAL.—Subsection (e) of section 6038 (relating to definitions) is amended—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (4), respectively,

(B) by inserting before paragraph (2) (as so redesignated) the following new paragraph:

''(1) FOREIGN BUSINESS ENTITY.—The term 'foreign business entity' means a foreign corporation and a foreign partnership.'', and

(C) by inserting after paragraph (2) (as so redesignated) the following new paragraph:

''(3) PARTNERSHIP-RELATED DEFINITIONS.—

''(A) CONTROL.—A person is in control of a partnership if such person owns directly or indirectly more than a 50 percent interest in such partnership.

''(B) 50-PERCENT INTEREST.—For purposes of subparagraph (A), a 50-percent interest in a partnership is—

''(i) an interest equal to 50 percent of the capital interest, or 50 percent of the profits interest, in such partnership, or

''(ii) to the extent provided in regulations, an interest to which 50 percent of the deductions or losses of such partnership are allocated.

For purposes of the preceding sentence, rules similar to the rules of section 267(c) (other than paragraph (3)) shall apply, except so as to consider a United States person as owning such an interest which is owned by a person which is not a United States person.

''(C) 10-PERCENT INTEREST.—A 10-percent interest in a partnership is an interest which would be described in subparagraph (B) if '10 percent' were substituted for '50 percent' each place it appears.''.

(2) CLERICAL AMENDMENT.—The paragraph heading for paragraph (2) of section 6038(e) (as so redesignated) is amended by inserting ''OF CORPORATION'' after ''CONTROL''.

(c) MODIFICATION OF SANCTIONS ON PARTNERSHIPS AND CORPORATIONS FOR FAILURE TO FURNISH INFORMATION.—

(1) IN GENERAL.—Subsection (b) of section 6038 is amended—

(A) by striking ''$1,000'' each place it appears and inserting ''$10,000'', and

(B) by striking ''$24,000'' in paragraph (2) and inserting ''$50,000''.

(d) REPORTING BY 10-PERCENT PARTNERS.—Subsection (a) of section 6038 is amended by adding at the end the following new paragraph:

''(5) INFORMATION REQUIRED FROM 10-PERCENT PARTNER OF CONTROLLED FOREIGN PARTNERSHIP.—In the case of a foreign partnership which is controlled by United States persons holding at least 10-percent interests (but not by any one United States person), the Secretary may require each United States person who holds a 10-percent interest in such partnership to furnish information relating to such partnership, including information relating to such partner's ownership interests in the partnership and allocations to such partner of partnership items.''.

(e) TECHNICAL AMENDMENTS.—

(1) The following provisions of section 6038 are each amended by striking ''foreign corporation'' each place it appears and inserting ''foreign business entity'':

(A) Paragraphs (2) and (3) of subsection (a).

(B) Subsection (b).

(C) Subsection (c) other than paragraph (1)(B) thereof.

(D) Subsection (d).

(E) Subsection (e)(4) (as redesignated by subsection (b)).

(2) Subparagraph (B) of section 6038(c)(1) is amended by inserting ''in the case of a foreign business entity which is a foreign corporation,'' after ''(B)''.

(3) Paragraph (8) of section 318(b) is amended by striking ''6038(d)(1)'' and inserting ''6038(d)(2)''.

(4) Paragraph (4) of section 901(k) is amended by striking ''foreign corporation'' and inserting ''foreign corporation or partnership''.

(5) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6038 and inserting the following new item:

''Sec. 6038. Information reporting with respect to certain foreign corporations and partnerships.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to annual accounting periods of foreign partnerships beginning after the date of the enactment of this Act.

SEC. 1143. MODIFICATIONS RELATING TO RETURNS REQUIRED TO BE FILED BY REASON OF CHANGES IN OWNERSHIP INTERESTS IN FOREIGN PARTNERSHIP.

(a) NO RETURN REQUIRED UNLESS CHANGES INVOLVE 10-PERCENT INTEREST IN PARTNERSHIP.—

(1) IN GENERAL.—Subsection (a) of section 6046A (relating to returns as to interests in foreign partnerships) is amended by adding at the end the following new sentence: ''Paragraphs (1) and (2) shall apply to any acquisition or disposition only if the United States person directly or indirectly holds at least a 10-percent interest in such partnership either before or after such acquisition or disposition, and paragraph (3) shall apply to any change only if the change is equivalent to at least a 10-interest in such partnership.''.

(2) 10-PERCENT INTEREST.—Section 6046A is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

''(d) 10-PERCENT INTEREST.—For purposes of subsection (a), a 10-percent interest in a partnership is an interest described in section 6038(e)(3)(C).''.

(b) MODIFICATION OF PENALTY ON FAILURE TO REPORT CHANGES IN OWNERSHIP INTERESTS IN FOREIGN CORPORATIONS AND PARTNERSHIPS.—Subsection (a) of section 6679 (relating to failure to file returns, etc., with respect to foreign corporations or foreign partnerships) is amended to read as follows:

''(a) CIVIL PENALTY.—

''(1) IN GENERAL.—In addition to any criminal penalty provided by law, any person required to file a return under section 6035, 6046, or 6046A who fails to file such return at the time provided in such section, or who files a return which does not show the information required pursuant to such section, shall pay a penalty of $10,000, unless it is shown that such failure is due to reasonable cause.

''(2) INCREASE IN PENALTY WHERE FAILURE CONTINUES AFTER NOTIFICATION.—If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the United States person, such person shall pay a penalty (in addition to the amount required under paragraph (1)) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. The increase in any penalty under this paragraph shall not exceed $50,000.

''(3) REDUCED PENALTY FOR RETURNS RELATING TO FOREIGN PERSONAL HOLDING COMPANIES.—In the case of a return required under section 6035, paragraph (1) shall be applied by substituting '$1,000' for '$10,000', and paragraph (2) shall not apply.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers and changes after the date of the enactment of this Act.

SEC. 1144. TRANSFERS OF PROPERTY TO FOREIGN PARTNERSHIPS SUBJECT TO INFORMATION REPORTING COMPARABLE TO INFORMATION REPORTING FOR SUCH TRANSFERS TO FOREIGN CORPORATIONS.

(a) IN GENERAL.—Paragraph (1) of section 6038B(a) (relating to notice of certain transfers to foreign corporations) is amended to read as follows:

''(1) transfers property to—

''(A) a foreign corporation in an exchange described in section 332, 351, 354, 355, 356, or 361, or

''(B) a foreign partnership in a contribution described in section 721 or in any other contribution described in regulations prescribed by the Secretary,''.

(b) EXCEPTIONS.—Section 6038B is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

''(b) EXCEPTIONS FOR CERTAIN TRANSFERS TO FOREIGN PARTNERSHIPS; SPECIAL RULE.—

''(1) EXCEPTIONS.—Subsection (a)(1)(B) shall apply to a transfer by a United States person to a foreign partnership only if—

''(A) the United States person holds (immediately after the transfer) directly or indirectly at least a 10-percent interest (as defined in section 6046A(d)) in the partnership, or

''(B) the value of the property transferred (when added to the value of the property transferred by such person or any related person to such partnership or a related partnership during the 12-month period ending on the date of the transfer) exceeds $100,000.

For purposes of the preceding sentence, the value of any transferred property is its fair market value at the time of its transfer.

''(2) SPECIAL RULE.—If by reason of an adjustment under section 482 or otherwise, a contribution described in subsection (a)(1) is deemed to have been made, such contribution shall be treated for purposes of this section as having been made not earlier than the date specified by the Secretary.''.

(c) MODIFICATION OF PENALTY APPLICABLE TO FOREIGN CORPORATIONS AND PARTNERSHIPS.—Paragraph (1) of section 6038B(b) is amended by striking ''equal to'' and all that follows and inserting ''equal to 10 percent of the fair market value of the property at the time of the exchange (and, in the case of a contribution described in subsection (a)(1)(B), such person shall recognize gain as if the contributed property had been sold for such value at the time of such contribution).''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transfers made after the date of the enactment of this Act.

(2) ELECTION OF RETROACTIVE EFFECT.—Section 1494(c) of the Internal Revenue Code of 1986 shall not apply to any transfer after August 20, 1996, if the person otherwise required to file a return with respect to such transfer elects to apply the amendments made by this section to transfers after August 20, 1996. The Secretary of the Treasury or his delegate may prescribe simplified reporting under the preceding sentence.

SEC. 1145. EXTENSION OF STATUTE OF LIMITATION FOR FOREIGN TRANSFERS.

(a) IN GENERAL.—Paragraph (8) of section 6501(c) (relating to failure to notify Secretary under section 6038B) is amended to read as follows:

''(8) FAILURE TO NOTIFY SECRETARY OF CERTAIN FOREIGN TRANSFERS.—In the case of any information which is required to be reported to the Secretary under section 6038, 6038A, 6038B, 6046, 6046A, or 6048, the time for assessment of any tax imposed by this title with respect to any event or period to which such information relates shall not expire before the date which is 3 years after the date on which the Secretary is furnished the information required to be reported under such section.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to information the due date for the reporting of which is after the date of the enactment of this Act.

SEC. 1146. INCREASE IN FILING THRESHOLDS FOR RETURNS AS TO ORGANIZATION OF FOREIGN CORPORATIONS AND ACQUISITIONS OF STOCK IN SUCH CORPORATIONS.

(a) IN GENERAL.—Subsection (a) of section 6046 (relating to returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock) is amended to read as follows:

''(a) REQUIREMENT OF RETURN.—

''(1) IN GENERAL.—A return complying with the requirements of subsection (b) shall be made by—

''(A) each United States citizen or resident who becomes an officer or director of a foreign corporation if a United States person (as defined in section 7701(a)(30)) meets the stock ownership requirements of paragraph (2) with respect to such corporation,

''(B) each United States person—

''(i) who acquires stock which, when added to any stock owned on the date of such acquisition, meets the stock ownership requirements of paragraph (2) with respect to a foreign corporation, or

''(ii) who acquires stock which, without regard to stock owned on the date of such acquisition, meets the stock ownership requirements of paragraph (2) with respect to a foreign corporation,

''(C) each person (not described in subparagraph (B)) who is treated as a United States shareholder under section 953(c) with respect to a foreign corporation, and

''(D) each person who becomes a United States person while meeting the stock ownership requirements of paragraph (2) with respect to stock of a foreign corporation.

In the case of a foreign corporation with respect to which any person is treated as a United States shareholder under section 953(c), subparagraph (A) shall be treated as including a reference to each United States person who is an officer or director of such corporation.

''(2) STOCK OWNERSHIP REQUIREMENTS.—A person meets the stock ownership requirements of this paragraph with respect to any corporation if such person owns 10 percent or more of—

''(A) the total combined voting power of all classes of stock of such corporation entitled to vote, or

''(B) the total value of the stock of such corporation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 1998.

Subtitle F—Determination of Foreign or Domestic Status of Partnerships

SEC. 1151. DETERMINATION OF FOREIGN OR DOMESTIC STATUS OF PARTNERSHIPS.

(a) IN GENERAL.—Paragraph (4) of section 7701(a) is amended by inserting before the period ''unless, in the case of a partnership, the partnership is more properly treated as a foreign partnership under regulations prescribed by the Secretary''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle G—Other Simplification Provisions

SEC. 1161. TRANSITION RULE FOR CERTAIN TRUSTS.

(a) IN GENERAL.—Paragraph (3) of section 1907(a) of the Small Business Job Protection Act of 1996 is amended by adding at the end the following flush sentence:

''To the extent prescribed in regulations by the Secretary of the Treasury or his delegate, a trust which was in existence on August 20, 1996 (other than a trust treated as owned by the grantor under subpart E of part I of subchapter J of chapter 1 of the Internal Revenue Code of 1986), and which was treated as a United States person on the day before the date of the enactment of this Act may elect to continue to be treated as a United States person notwithstanding section 7701(a)(30)(E) of such Code.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 1907(a) of the Small Business Job Protection Act of 1996.

SEC. 1162. REPEAL OF STOCK AND SECURITIES SAFE HARBOR REQUIREMENT THAT PRINCIPAL OFFICE BE OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—The last sentence of clause (ii) of section 864(b)(2)(A) (relating to stock or securities) is amended by striking '', or in the case of a corporation'' and all that follows and inserting a period.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1997.

Subtitle H—Other Provisions

SEC. 1171. DEFINITION OF FOREIGN PERSONAL HOLDING COMPANY INCOME.

(a) INCOME FROM NOTIONAL PRINCIPAL CONTRACTS AND PAYMENTS IN LIEU OF DIVIDENDS.—

(1) IN GENERAL.—Paragraph (1) of section 954(c) (defining foreign personal holding company income) is amended by adding at the end the following new subparagraphs:

''(F) INCOME FROM NOTIONAL PRINCIPAL CONTRACTS.—Net income from notional principal contracts. Any item of income, gain, deduction, or loss from a notional principal contract entered into for purposes of hedging any item described in any preceding subparagraph shall not be taken into account for purposes of this subparagraph but shall be taken into account under such other subparagraph.

''(G) PAYMENTS IN LIEU OF DIVIDENDS.—Payments in lieu of dividends which are made pursuant to an agreement to which section 1058 applies.''.

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 954(c)(1) is amended—

(A) by striking the second sentence, and

(B) by striking ''also'' in the last sentence.

(b) EXCEPTION FOR DEALERS.—Paragraph (2) of section 954(c) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FOR DEALERS.—Except as provided in subparagraph (A), (E), or (G) of paragraph (1) or by regulations, in the case of a regular dealer in property (within the meaning of paragraph (1)(B)), forward contracts, option contracts, or similar financial instruments (including notional principal contracts and all instruments referenced to commodities), there shall not be taken into account in computing foreign personal holding income any item of income, gain, deduction, or loss from any transaction (including hedging transactions) entered into in the ordinary course of such dealer's trade or business as such a dealer.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1172. PERSONAL PROPERTY USED PREDOMINANTLY IN THE UNITED STATES TREATED AS NOT PROPERTY OF A LIKE KIND WITH RESPECT TO PROPERTY USED PREDOMINANTLY OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—Subsection (h) of section 1031 (relating to exchange of property held for productive use or investment) is amended to read as follows:

''(h) SPECIAL RULES FOR FOREIGN REAL AND PERSONAL PROPERTY.—For purposes of this section—

''(1) REAL PROPERTY.—Real property located in the United States and real property located outside the United States are not property of a like kind.

''(2) PERSONAL PROPERTY.—

''(A) IN GENERAL.—Personal property used predominantly within the United States and personal property used predominantly outside the United States are not property of a like kind.

''(B) PREDOMINANT USE.—Except as provided in subparagraph (C) and (D), the predominant use of any property shall be determined based on—

''(i) in the case of the property relinquished in the exchange, the 2-year period ending on the date of such relinquishment, and

''(ii) in the case of the property acquired in the exchange, the 2-year period beginning on the date of such acquisition.

''(C) PROPERTY HELD FOR LESS THAN 2 YEARS.—Except in the case of an exchange which is part of a transaction (or series of transactions) structured to avoid the purposes of this subsection—

''(i) only the periods the property was held by the person relinquishing the property (or any related person) shall be taken into account under subparagraph (B)(i), and

''(ii) only the periods the property was held by the person acquiring the property (or any related person) shall be taken into account under subparagraph (B)(ii).

''(D) SPECIAL RULE FOR CERTAIN PROPERTY.—Property described in any subparagraph of section 168(g)(4) shall be treated as used predominantly in the United States.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to transfers after June 8, 1997, in taxable years ending after such date.

(2) BINDING CONTRACTS.—The amendment made by this section shall not apply to any transfer pursuant to a written binding contract in effect on June 8, 1997, and at all times thereafter before the disposition of property. A contract shall not fail to meet the requirements of the preceding sentence solely because—

(A) it provides for a sale in lieu of an exchange, or

(B) the property to be acquired as replacement property was not identified under such contract before June 9, 1997.

SEC. 1173. HOLDING PERIOD REQUIREMENT FOR CERTAIN FOREIGN TAXES.

(a) IN GENERAL.—Section 901 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) MINIMUM HOLDING PERIOD FOR CERTAIN TAXES.—

''(1) WITHHOLDING TAXES.—

''(A) IN GENERAL.—In no event shall a credit be allowed under subsection (a) for any withholding tax on a dividend with respect to stock in a corporation if—

''(i) such stock is held by the recipient of the dividend for 15 days or less during the 30-day period beginning on the date which is 15 days before the date on which such share becomes ex-dividend with respect to such dividend, or

''(ii) to the extent that the recipient of the dividend is under an obligation (whether pursuant to a short sale or otherwise) to make related payments with respect to positions in substantially similar or related property.

''(B) WITHHOLDING TAX.—For purposes of this paragraph, the term 'withholding tax' includes any tax determined on a gross basis; but does not include any tax which is in the nature of a prepayment of a tax imposed on a net basis.

''(2) DEEMED PAID TAXES.—In the case of income, war profits, or excess profits taxes deemed paid under section 853, 902, or 960 through a chain of ownership of stock in 1 or more corporations, no credit shall be allowed under subsection (a) for such taxes if—

''(A) any stock of any corporation in such chain (the ownership of which is required to obtain credit under subsection (a) for such taxes) is held for less than the period described in paragraph (1)(A)(i), or

''(B) the corporation holding the stock is under an obligation referred to in paragraph (1)(A)(ii).

''(3) 45-DAY RULE IN THE CASE OF CERTAIN PREFERENCE DIVIDENDS.—In the case of stock having preference in dividends and dividends with respect to such stock which are attributable to a period or periods aggregating in excess of 366 days, paragraph (1)(A)(i) shall be applied—

''(A) by substituting '45 days' for '15 days' each place it appears, and

''(B) by substituting '90-day period' for '30-day period'.

''(4) EXCEPTION FOR CERTAIN TAXES PAID BY SECURITIES DEALERS.—

''(A) IN GENERAL.—Paragraphs (1) and (2) shall not apply to any qualified tax with respect to any security held in the active conduct in a foreign country of a securities business of any person—

''(i) who is registered as a securities broker or dealer under section 15(a) of the Securities Exchange Act of 1934,

''(ii) who is registered as a Government securities broker or dealer under section 15C(a) of such Act, or

''(iii) who is licensed or authorized in such foreign country to conduct securities activities in such country and is subject to bona fide regulation by a securities regulating authority of such country.

''(B) QUALIFIED TAX.—For purposes of subparagraph (A), the term 'qualified tax' means a tax paid to a foreign country (other than the foreign country referred to in subparagraph (A)) if—

''(i) the dividend to which such tax is attributable is subject to taxation on a net basis by the country referred to in subparagraph (A), and

''(ii) such country allows a credit against its net basis tax for the full amount of the tax paid to such other foreign country.

''(C) REGULATIONS.—The Secretary may prescribe such regulations as may be appropriate to prevent the abuse of the exception provided by this paragraph.

''(5) CERTAIN RULES TO APPLY.—For purposes of this subsection, the rules of paragraphs (3) and (4) of section 246(c) shall apply.

''(6) TREATMENT OF BONA FIDE SALES.—If a person's holding period is reduced by reason of the application of the rules of section 246(c)(4) to any contract for the bona fide sale of stock, the determination of whether such person's holding period meets the requirements of paragraph (2) shall be made as of the date such contract is entered into.

''(7) TAXES ALLOWED AS DEDUCTION, ETC.—Sections 275 and 78 shall not apply to any tax which is not allowable as a credit under subsection (a) by reason of this subsection.''.

(b) NOTICE OF WITHHOLDING TAXES PAID BY REGULATED INVESTMENT COMPANY.—Subsection (c) of section 853 (relating to foreign tax credit allowed to shareholders) is amended by adding at the end the following new sentence: ''Such notice shall also include the amount of such taxes which (without regard to the election under this section) would not be allowable as a credit under section 901(a) to the regulated investment company by reason of section 901(k).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dividends paid or accrued more than 30 days after the date of the enactment of this Act.

SEC. 1174. PENALTIES FOR FAILURE TO DISCLOSE POSITION THAT CERTAIN INTERNATIONAL TRANSPORTATION INCOME IS NOT INCLUDIBLE IN GROSS INCOME.

(a) IN GENERAL.—Section 883 is amended by adding at the end the following new subsection:

''(d) PENALTIES FOR FAILURE TO DISCLOSE POSITION THAT CERTAIN INTERNATIONAL TRANSPORTATION INCOME IS NOT INCLUDIBLE IN GROSS INCOME.—

''(1) IN GENERAL.—A taxpayer who, with respect to any tax imposed by this title, takes the position that any of its gross income derived from the international operation of 1 or more ships or aircraft is not includible in gross income by reason of paragraph (1) or (2) of subsection (a) or paragraph (1) or (2) of section 872(b) (or by reason of any applicable treaty) shall be entitled to such treatment only if such position is disclosed (in such manner as the Secretary may prescribe) on the return of tax for such tax (or any statement attached to such return).

''(2) ADDITIONAL PENALTIES FOR FAILING TO DISCLOSE POSITION.—If a taxpayer fails to meet the requirement of paragraph (1) for any taxable year with respect to the international operation of 1 or more ships or 1 or more aircraft—

''(A) the amount of the income from the international operation to which such failure relates—

''(i) which is from sources without the United States, and

''(ii) which is attributable to a fixed place of business in the United States,

shall be treated for purposes of this title as effectively connected with the conduct of a trade or business within the United States, and

''(B) no deductions or credits shall be allowed which are attributable to income from the international operation to which the failure relates.

''(3) REASONABLE CAUSE EXCEPTION.—This subsection shall not apply to a failure to disclose a position if it is shown that such failure is due to reasonable cause and not due to willful neglect.''.

(b) CONFORMING AMENDMENTS.—Paragraphs (1) and (2) of section 872(b), and paragraphs (1) and (2) of section 883(a), are each amended by striking ''Gross income'' each place it appears and inserting ''Except as provided in section 883(d), gross income''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

(2) COORDINATION WITH TREATIES.—The amendments made by this section shall not apply in any case where their application would be contrary to any treaty obligation of the United States.

(d) INFORMATION TO BE PROVIDED BY CUSTOMS SERVICE.—The United States Custom Service shall provide the Secretary of the Treasury or his delegate with such information as may be specified by such Secretary in order to enable such Secretary to determine whether ships which are not registered in the United States are engaged in transportation to or from the United States.

SEC. 1175. DENIAL OF TREATY BENEFITS FOR CERTAIN PAYMENTS THROUGH HYBRID ENTITIES.

A foreign person shall be entitled under any income tax treaty of the United States with a foreign country to any reduced rate of any withholding tax imposed by the Internal Revenue Code of 1986 on an item of income derived through any partnership or other pass-thru entity only to the extent that such item is treated for purposes of the taxation laws of such foreign country as an item of income of such person. The preceding sentence shall not apply if—

(1) the treaty contains a provision addressing the applicability of the treaty in the case of an item of income derived through a partnership, or

(2) the foreign country imposes tax on a distribution of such item of income from such partnership to such person.

SEC. 1176. INTEREST ON UNDERPAYMENTS NOT REDUCED BY FOREIGN TAX CREDIT CARRYBACKS.

(a) IN GENERAL.—Subsection (d) of section 6601 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) FOREIGN TAX CREDIT CARRYBACKS.—If any credit allowed for any taxable year is increased by reason of a carryback of tax paid or accrued to foreign countries or possessions of the United States, such increase shall not affect the computation of interest under this section for the period ending with the filing date for the taxable year in which such taxes were in fact paid or accrued, or, with respect to any portion of such credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such increase shall not affect the computation of interest under this section for the period ending with the filing date for such subsequent taxable year.''.

(b) CONFORMING AMENDMENT TO REFUNDS ATTRIBUTABLE TO FOREIGN TAX CREDIT CARRYBACKS.—

(1) IN GENERAL.—Subsection (f) of section 6611 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) FOREIGN TAX CREDIT CARRYBACKS.—For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from a carryback of tax paid or accrued to foreign countries or possessions of the United States, such overpayment shall be deemed not to have been made before the filing date for the taxable year in which such taxes were in fact paid or accrued, or, with respect to any portion of such credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made before the filing date for such subsequent taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (4) of section 6611(f) (as so redesignated) is amended—

(i) by striking ''PARAGRAPHS (1) AND (2)'' and inserting ''PARAGRAPHS (1), (2), AND (3)'', and

(ii) by striking ''paragraph (1) or (2)'' each place it appears and inserting ''paragraph (1), (2), or (3)''.

(B) Clause (ii) of section 6611(f)(4)(B) (as so redesignated) is amended by striking ''and'' at the end of subclause (I), by redesignating subclause (II) as subclause (III), and by inserting after subclause (I) the following new subclause:

''(II) in the case of a carryback of taxes paid or accrued to foreign countries or possessions of the United States, the taxable year in which such taxes were in fact paid or accrued (or, with respect to any portion of such carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such subsequent taxable year), and''.

(C) Subclause (III) of section 6611(f)(4)(B)(ii) (as so redesignated) is amended by inserting ''(as defined in paragraph (3)(B))'' after ''credit carryback'' the first place it appears.

(D) Section 6611 is amended by striking subsection (g) and by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to carrybacks arising in taxable years beginning after the date of the enactment of this Act.

SEC. 1177. CLARIFICATION OF PERIOD OF LIMITATIONS ON CLAIM FOR CREDIT OR REFUND ATTRIBUTABLE TO FOREIGN TAX CREDIT CARRYFORWARD.

(a) IN GENERAL.—Subparagraph (A) of section 6511(d)(3) is amended by striking ''for the year with respect to which the claim is made'' and inserting ''for the year in which such taxes were actually paid or accrued''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxes paid or accrued in taxable years beginning after the date of the enactment of this Act.

SEC. 1178. MISCELLANEOUS CLARIFICATIONS.

(a) ATTRIBUTION OF DEEMED PAID FOREIGN TAXES TO PRIOR DISTRIBUTIONS.—Subparagraph (B) of section 902(c)(2) is amended by striking ''deemed paid with respect to'' and inserting ''attributable to''.

(b) FINANCIAL SERVICES INCOME DETERMINED WITHOUT REGARD TO HIGH-TAXED INCOME.—Subclause (II) of section 904(d)(2)(C)(i) is amended by striking ''subclause (I)'' and inserting ''subclauses (I) and (III)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

TITLE XII—SIMPLIFICATION PROVISIONS RELATING TO INDIVIDUALS AND BUSINESSES

Subtitle A—Provisions Relating to Individuals

SEC. 1201. BASIC STANDARD DEDUCTION AND MINIMUM TAX EXEMPTION AMOUNT FOR CERTAIN DEPENDENTS.

(a) BASIC STANDARD DEDUCTION.—

(1) IN GENERAL.—Paragraph (5) of section 63(c) (relating to limitation on basic standard deduction in the case of certain dependents) is amended by striking ''shall not exceed'' and all that follows and inserting ''shall not exceed the greater of—

''(A) $500, or

''(B) the sum of $250 and such individual's earned income.''.

(2) CONFORMING AMENDMENT.—Paragraph (4) of section 63(c) is amended—

(A) by striking ''(5)(A)'' in the material preceding subparagraph (A) and inserting ''(5)'', and

(B) by striking ''by substituting'' and all that follows in subparagraph (B) and inserting ''by substituting for 'calendar year 1992' in subparagraph (B) thereof—

''(i) 'calendar year 1987' in the case of the dollar amounts contained in paragraph (2) or (5)(A) or subsection (f), and

''(ii) 'calendar year 1997' in the case of the dollar amount contained in paragraph (5)(B).''.

(b) MINIMUM TAX EXEMPTION AMOUNT.—Subsection (j) of section 59 is amended to read as follows:

''(j) TREATMENT OF UNEARNED INCOME OF MINOR CHILDREN.—

''(1) IN GENERAL.—In the case of a child to whom section 1(g) applies, the exemption amount for purposes of section 55 shall not exceed the sum of—

''(A) such child's earned income (as defined in section 911(d)(2)) for the taxable year, plus

''(B) $5,000.

''(2) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1998, the dollar amount in paragraph (1)(B) shall be increased by an amount equal to the product of—

''(A) such dollar amount, and

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting '1997' for '1992' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1202. INCREASE IN AMOUNT OF TAX EXEMPT FROM ESTIMATED TAX REQUIREMENTS.

(a) IN GENERAL.—Paragraph (1) of section 6654(e) (relating to exception where tax is small amount) is amended by striking ''$500'' and inserting ''$1,000''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1203. OPTIONAL METHODS FOR COMPUTING SECA TAX COMBINED.

(a) INTERNAL REVENUE CODE.—

(1) IN GENERAL.—Subsection (h) of section 1402 is amended to read as follows:

''(h) OPTIONAL METHOD FOR COMPUTING SELF-EMPLOYMENT INCOME.—

''(1) INDIVIDUALS.—In the case of any trade or business which is carried on by an individual—

''(A) if the gross income derived by him from such trade or business is not more than the upper limit for the taxable year, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be 66⅔ percent of such gross income, or

''(B) if the gross income derived by him from such trade or business is more than the upper limit for the taxable year and the net earnings from self-employment derived by him from such trade or business (computed under subsection (a) without regard to this sentence) are less than the lower limit for the taxable year, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be the lower limit for the taxable year.

''(2) MEMBER OF A PARTNERSHIP.—In the case of a member of a partnership carrying on any trade or business—

''(A) if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) applies) is not more than the upper limit for the taxable year, his distributive share of income described in section 702(a)(8) derived from such trade or business may, at his option, be deemed to be an amount equal to 66⅔ percent of his distributive share of such gross income (after such gross income has been so reduced), or

''(B) if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) applies) is more than the upper limit for the taxable year and his distributive share (whether or not distributed) of income described in section 702(a)(8) derived from such trade or business (computed under this subsection without regard to this sentence) is less than the lower limit for the taxable year, his distributive share of income described in section 702(a)(8) derived from such trade or business may, at his option, be deemed to be the lower limit for the taxable year.

''(3) UPPER AND LOWER LIMITS.—For purposes of this subsection—

''(A) LOWER LIMIT.—The lower limit for any taxable year is the sum of the amounts applicable under section 213(d) of the Social Security Act for calendar quarters ending with or within such taxable year.

''(B) UPPER LIMIT.—The upper limit for any taxable year is the amount equal to 150 percent of the lower limit for such taxable year.

''(4) DETERMINATION OF GROSS INCOME.—For purposes of this subsection, the term 'gross income' means—

''(A) in the case of any such trade or business in which the income is computed under a cash receipts and disbursements method, the gross receipts from such trade or business reduced by the cost or other basis of property which was purchased and sold in carrying on such trade or business, adjusted (after such reduction) in accordance with the provisions of paragraphs (1) through (7) and paragraph (9) of subsection (a), and

''(B) in the case of any such trade or business in which the income is computed under an accrual method, the gross income from such trade or business, adjusted in accordance with the provisions of paragraphs (1) through (7) and paragraph (9) of subsection (a).

''(5) INCOME DERIVED FROM MORE THAN 1 TRADE OR BUSINESS.—For purposes of this subsection, if an individual (including a member of a partnership) derives gross income from more than 1 such trade or business, such gross income (including his distributive share of the gross income of any partnership derived from any such trade or business) shall be deemed to have been derived from one trade or business.

''(6) ELECTION.—The option under this subsection shall be allowed for any taxable year only if elected on the first return filed for such taxable year.''.

(2) CONFORMING AMENDMENT.—Subsection (a) of section 1402 is amended by striking all that follows the first sentence following paragraph (15) and inserting ''For optional method of determining net earnings from self-employment, see subsection (h).''.

(b) SOCIAL SECURITY ACT.—Subsection (g) of section 211 of the Social Security Act is amended to read as follows:

''(g) OPTIONAL METHOD FOR COMPUTING SELF-EMPLOYMENT INCOME.—

''(1) INDIVIDUALS.—In the case of any trade or business which is carried on by an individual—

''(A) if the gross income derived by him from such trade or business is not more than the upper limit for the taxable year, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be 66⅔ percent of such gross income, or

''(B) if the gross income derived by him from such trade or business is more than the upper limit for the taxable year and the net earnings from self-employment derived by him from such trade or business (computed under subsection (a) without regard to this sentence) are less than the lower limit for the taxable year, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be the lower limit for the taxable year.

''(2) MEMBER OF A PARTNERSHIP.—In the case of a member of a partnership carrying on any trade or business—

''(A) if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) of the Internal Revenue Code of 1986 applies) is not more than the upper limit for the taxable year, his distributive share of income described in section 702(a)(8) of such Code derived from such trade or business may, at his option, be deemed to be an amount equal to 66⅔ percent of his distributive share of such gross income (after such gross income has been so reduced), or

''(B) if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) of such Code applies) is more than the upper limit for the taxable year and his distributive share (whether or not distributed) of income described in section 702(a)(8) of such Code derived from such trade or business (computed under this subsection without regard to this sentence) is less than the lower limit for the taxable year, his distributive share of income described in section 702(a)(8) of such Code derived from such trade or business may, at his option, be deemed to be the lower limit for the taxable year.

''(3) UPPER AND LOWER LIMITS.—For purposes of this subsection—

''(A) LOWER LIMIT.—The lower limit for any taxable year is the sum of the amounts applicable under section 213(d) for calendar quarters ending with or within such taxable year.

''(B) UPPER LIMIT.—The upper limit for any taxable year is the amount equal to 150 percent of the lower limit for such taxable year.

''(4) DETERMINATION OF GROSS INCOME.—For purposes of this subsection, the term 'gross income' means—

''(A) in the case of any such trade or business in which the income is computed under a cash receipts and disbursements method, the gross receipts from such trade or business reduced by the cost or other basis of property which was purchased and sold in carrying on such trade or business, adjusted (after such reduction) in accordance with the provisions of paragraphs (1) through (6) and paragraph (8) of subsection (a), and

''(B) in the case of any such trade or business in which the income is computed under an accrual method, the gross income from such trade or business, adjusted in accordance with the provisions of paragraphs (1) through (6) and paragraph (8) of subsection (a).

''(5) INCOME DERIVED FROM MORE THAN 1 TRADE OR BUSINESS.—For purposes of this subsection, if an individual (including a member of a partnership) derives gross income from more than 1 such trade or business, such gross income (including his distributive share of the gross income of any partnership derived from any such trade or business) shall be deemed to have been derived from one trade or business.

''(6) ELECTION.—The option under this subsection shall be allowed for any taxable year only if elected on the first return filed for such taxable year.''.

(2) CONFORMING AMENDMENT.—Subsection (a) of section 211 of the Social Security Act is amended by striking all that follows the first sentence following paragraph (15) and inserting ''For optional method of determining net earnings from self-employment, see subsection (g).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1204. TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.

(a) IN GENERAL.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.—

''(1) 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 and who receives qualified reimbursements for the expenses incurred by such employee for the use of a vehicle in performing such services—

''(A) the amount allowable as a deduction under this chapter for the use of a vehicle in performing such services shall be equal to the amount of such qualified reimbursements; and

''(B) such qualified reimbursements shall be treated as paid under a reimbursement or other expense allowance arrangement for purposes of section 62(a)(2)(A) (and section 62(c) shall not apply to such qualified reimbursements).

''(2) DEFINITION OF QUALIFIED REIMBURSEMENTS.—For purposes of this subsection, the term 'qualified reimbursements' means the amounts paid by the United States Postal Service to employees as an equipment maintenance allowance under the 1991 collective bargaining agreement between the United States Postal Service and the National Rural Letter Carriers' Association. Amounts paid as an equipment maintenance allowance by such Postal Service under later collective bargaining agreements that supersede the 1991 agreement shall be considered qualified reimbursements if such amounts do not exceed the amounts that would have been paid under the 1991 agreement, adjusted for changes in the Consumer Price Index (as defined in section 1(f)(5)) since 1991.''.

(b) TECHNICAL AMENDMENT.—Section 6008 of the Technical and Miscellaneous Revenue Act of 1988 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1205. TREATMENT OF TRAVELING EXPENSES OF CERTAIN FEDERAL EMPLOYEES ENGAGED IN CRIMINAL INVESTIGATIONS.

(a) IN GENERAL.—Subsection (a) of section 162 is amended by adding at the end the following new sentence: ''The preceding sentence shall not apply to any Federal employee during any period for which such employee is certified by the Attorney General (or the designee thereof) as traveling on behalf of the United States in temporary duty status to investigate, or provide support services for the investigation of, a Federal crime.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts paid or incurred with respect to taxable years ending after the date of the enactment of this Act.

SEC. 1206. PAYMENT OF TAX BY COMMERCIALLY ACCEPTABLE MEANS.

(a) GENERAL RULE.—Section 6311 is amended to read as follows:

''SEC. 6311. PAYMENT OF TAX BY COMMERCIALLY ACCEPTABLE MEANS.

''(a) AUTHORITY TO RECEIVE.—It shall be lawful for the Secretary to receive for internal revenue taxes (or in payment for internal revenue stamps) any commercially acceptable means that the Secretary deems appropriate to the extent and under the conditions provided in regulations prescribed by the Secretary.

''(b) ULTIMATE LIABILITY.—If a check, money order, or other method of payment, including payment by credit card, debit card, or charge card so received is not duly paid, or is paid and subsequently charged back to the Secretary, the person by whom such check, or money order, or other method of payment has been tendered shall remain liable for the payment of the tax or for the stamps, and for all legal penalties and additions, to the same extent as if such check, money order, or other method of payment had not been tendered.

''(c) LIABILITY OF BANKS AND OTHERS.—If any certified, treasurer's, or cashier's check (or other guaranteed draft), or any money order, or any other means of payment that has been guaranteed by a financial institution (such as a credit card, debit card, or

charge card transaction which has been guaranteed expressly by a financial institution) so received is not duly paid, the United States shall, in addition to its right to exact payment from the party originally indebted therefor, have a lien for—

''(1) the amount of such check (or draft) upon all assets of the financial institution on which drawn,

''(2) the amount of such money order upon all the assets of the issuer thereof, or

''(3) the guaranteed amount of any other transaction upon all the assets of the institution making such guarantee,

and such amount shall be paid out of such assets in preference to any other claims whatsoever against such financial institution, issuer, or guaranteeing institution, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such financial institution.

''(d) PAYMENT BY OTHER MEANS.—

''(1) AUTHORITY TO PRESCRIBE REGULATIONS.—The Secretary shall prescribe such regulations as the Secretary deems necessary to receive payment by commercially acceptable means, including regulations that—

''(A) specify which methods of payment by commercially acceptable means will be acceptable,

''(B) specify when payment by such means will be considered received,

''(C) identify types of nontax matters related to payment by such means that are to be resolved by persons ultimately liable for payment and financial intermediaries, without the involvement of the Secretary, and

''(D) ensure that tax matters will be resolved by the Secretary, without the involvement of financial intermediaries.

''(2) AUTHORITY TO ENTER INTO CONTRACTS.—Notwithstanding section 3718(f) of title 31, United States Code, the Secretary is authorized to enter into contracts to obtain services related to receiving payment by other means where cost beneficial to the Government.

''(3) SPECIAL PROVISIONS FOR USE OF CREDIT CARDS.—If use of credit cards is accepted as a method of payment of taxes pursuant to subsection (a)—

''(A) a payment of internal revenue taxes (or a payment for internal revenue stamps) by a person by use of a credit card shall not be subject to section 161 of the Truth-in-Lending Act (15 U.S.C. 1666), or to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying tax liability, rather than an error relating to the credit card account such as a computational error or numerical transposition in the credit card transaction or an issue as to whether the person authorized payment by use of the credit card,

''(B) a payment of internal revenue taxes (or a payment for internal revenue stamps) shall not be subject to section 170 of the Truth-in-Lending Act (15 U.S.C. 1666i), or to any similar provisions of State law,

''(C) a payment of internal revenue taxes (or a payment for internal revenue stamps) by a person by use of a debit card shall not be subject to section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), or to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying tax liability, rather than an error relating to the debit card account such as a computational error or numerical transposition in the debit card transaction or an issue as to whether the person authorized payment by use of the debit card,

''(D) the term 'creditor' under section 103(f) of the Truth-in-Lending Act (15 U.S.C. 1602(f)) shall not include the Secretary with respect to credit card transactions in payment of internal revenue taxes (or payment for internal revenue stamps), and

''(E) notwithstanding any other provision of law to the contrary, in the case of payment made by credit card or debit card transaction of an amount owed to a person as the result of the correction of an error under section 161 of the Truth-in-Lending Act (15 U.S.C. 1666) or section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), the Secretary is authorized to provide such amount to such person as a credit to that person's credit card or debit card account through the applicable credit card or debit card system.

''(e) CONFIDENTIALITY OF INFORMATION.—

''(1) IN GENERAL.—Except as otherwise authorized by this subsection, no person may use or disclose any information relating to credit or debit card transactions obtained pursuant to section 6103(k)(8) other than for purposes directly related to the processing of such transactions, or the billing or collection of amounts charged or debited pursuant thereto.

''(2) EXCEPTIONS.—

''(A) Debit or credit card issuers or others acting on behalf of such issuers may also use and disclose such information for purposes directly related to servicing an issuer's accounts.

''(B) Debit or credit card issuers or others directly involved in the processing of credit or debit card transactions or the billing or collection of amounts charged or debited thereto may also use and disclose such information for purposes directly related to—

''(i) statistical risk and profitability assessment;

''(ii) transferring receivables, accounts, or interest therein;

''(iii) auditing the account information;

''(iv) complying with Federal, State, or local law; and

''(v) properly authorized civil, criminal, or regulatory investigation by Federal, State, or local authorities.

''(3) PROCEDURES.—Use and disclosure of information under this paragraph shall be made only to the extent authorized by written procedures promulgated by the Secretary.

''(4) CROSS REFERENCE.—

''For provision providing for civil damages for violation of paragraph (1), see section 7431.''.

(b) SEPARATE APPROPRIATION REQUIRED FOR PAYMENT OF CREDIT CARD FEES.—No amount may be paid by the United States to a credit card issuer for the right to receive payments of internal revenue taxes by credit card without a separate appropriation therefor.

(c) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 64 is amended by striking the item relating to section 6311 and inserting the following:

''Sec. 6311. Payment of tax by commercially acceptable means.''.

(d) AMENDMENTS TO SECTIONS 6103 AND 7431 WITH RESPECT TO DISCLOSURE AUTHORIZATION.—

(1) Subsection (k) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph:

''(8) DISCLOSURE OF INFORMATION TO ADMINISTER SECTION 6311.—The Secretary may disclose returns or return information to financial institutions and others to the extent the Secretary deems necessary for the administration of section 6311. Disclosures of information for purposes other than to accept payments by checks or money orders shall be made only to the extent authorized by written procedures promulgated by the Secretary.''.

(2) Section 7431 (relating to civil damages for unauthorized disclosure of returns and return information) is amended by adding at the end the following new subsection:

''(g) SPECIAL RULE FOR INFORMATION OBTAINED UNDER SECTION 6103(k)(8).—For purposes of this section, any reference to section 6103 shall be treated as including a reference to section 6311(e).''.

(3) Section 6103(p)(3)(A) is amended by striking ''or (6)'' and inserting ''(6), or (8)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day 9 months after the date of the enactment of this Act.

Subtitle B—Provisions Relating to Businesses Generally

SEC. 1211. MODIFICATIONS TO LOOK-BACK METHOD FOR LONG-TERM CONTRACTS.

(a) LOOK-BACK METHOD NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 460 (relating to percentage of completion method) is amended by adding at the end the following new paragraph:

''(6) ELECTION TO HAVE LOOK-BACK METHOD NOT APPLY IN DE MINIMIS CASES.—

''(A) AMOUNTS TAKEN INTO ACCOUNT AFTER COMPLETION OF CONTRACT.—Paragraph (1)(B) shall not apply with respect to any taxable year (beginning after the taxable year in which the contract is completed) if—

''(i) the cumulative taxable income (or loss) under the contract as of the close of such taxable year, is within

''(ii) 10 percent of the cumulative look-back taxable income (or loss) under the contract as of the close of the most recent taxable year to which paragraph (1)(B) applied (or would have applied but for subparagraph (B)).

''(B) DE MINIMIS DISCREPANCIES.—Paragraph (1)(B) shall not apply in any case to which it would otherwise apply if—

''(i) the cumulative taxable income (or loss) under the contract as of the close of each prior contract year, is within

''(ii) 10 percent of the cumulative look-back income (or loss) under the contract as of the close of such prior contract year.

''(C) DEFINITIONS.—For purposes of this paragraph—

''(i) CONTRACT YEAR.—The term 'contract year' means any taxable year for which income is taken into account under the contract.

''(ii) LOOK-BACK INCOME OR LOSS.—The look-back income (or loss) is the amount which would be the taxable income (or loss) under the contract if the allocation method set forth in paragraph (2)(A) were used in determining taxable income.

''(iii) DISCOUNTING NOT APPLICABLE.—The amounts taken into account after the completion of the contract shall be determined without regard to any discounting under the 2nd sentence of paragraph (2).

''(D) CONTRACTS TO WHICH PARAGRAPH APPLIES.—This paragraph shall only apply if the taxpayer makes an election under this subparagraph. Unless revoked with the consent of the Secretary, such an election shall apply to all long-term contracts completed during the taxable year for which election is made or during any subsequent taxable year.''.

(b) MODIFICATION OF INTEREST RATE.—

(1) IN GENERAL.—Subparagraph (C) of section 460(b)(2) is amended by striking ''the overpayment rate established by section 6621'' and inserting ''the adjusted overpayment rate (as defined in paragraph (7))''.

(2) ADJUSTED OVERPAYMENT RATE.—Subsection (b) of section 460 is amended by adding at the end the following new paragraph:

''(7) ADJUSTED OVERPAYMENT RATE.—

''(A) IN GENERAL.—The adjusted overpayment rate for any interest accrual period is the overpayment rate in effect under section 6621 for the calendar quarter in which such interest accrual period begins.

''(B) INTEREST ACCRUAL PERIOD.—For purposes of subparagraph (A), the term 'interest accrual period' means the period—

''(i) beginning on the day after the return due date for any taxable year of the taxpayer, and

''(ii) ending on the return due date for the following taxable year.

For purposes of the preceding sentence, the term 'return due date' means the date prescribed for filing the return of the tax imposed by this chapter (determined without regard to extensions).''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to contracts completed in taxable years ending after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply for purposes of section 167(g) of the Internal Revenue Code of 1986 to property placed in service after September 13, 1995.

SEC. 1212. MINIMUM TAX TREATMENT OF CERTAIN PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) IN GENERAL.—Clause (i) of section 56(g)(4)(B) (relating to inclusion of items included for purposes of computing earnings and profits) is amended by adding at the end the following new sentence: ''In the case of any insurance company taxable under section 831(b), this clause shall not apply to any amount not described in section 834(b).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1997.

Subtitle C—Simplification Relating to Electing Large Partnerships

PART I—GENERAL PROVISIONS

SEC. 1221. SIMPLIFIED FLOW-THROUGH FOR ELECTING LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subchapter K (relating to partners and partnerships) is amended by adding at the end the following new part:

''PART IV—SPECIAL RULES FOR ELECTING LARGE PARTNERSHIPS

''Sec. 771. Application of subchapter to electing large partnerships.

''Sec. 772. Simplified flow-through.

''Sec. 773. Computations at partnership level.

''Sec. 774. Other modifications.

''Sec. 775. Electing large partnership defined.

''Sec. 776. Special rules for partnerships holding oil and gas properties.

''Sec. 777. Regulations.

''SEC. 771. APPLICATION OF SUBCHAPTER TO ELECTING LARGE PARTNERSHIPS.

''The preceding provisions of this subchapter to the extent inconsistent with the provisions of this part shall not apply to an electing large partnership and its partners.

''SEC. 772. SIMPLIFIED FLOW-THROUGH.

''(a) GENERAL RULE.—In determining the income tax of a partner of an electing large partnership, such partner shall take into account separately such partner's distributive share of the partnership's—

''(1) taxable income or loss from passive loss limitation activities,

''(2) taxable income or loss from other activities,

''(3) net capital gain (or net capital loss)—

''(A) to the extent allocable to passive loss limitation activities, and

''(B) to the extent allocable to other activities,

''(4) tax-exempt interest,

''(5) applicable net AMT adjustment separately computed for—

''(A) passive loss limitation activities, and

''(B) other activities,

''(6) general credits,

''(7) low-income housing credit determined under section 42,

''(8) rehabilitation credit determined under section 47,

''(9) foreign income taxes,

''(10) the credit allowable under section 29, and

''(11) other items to the extent that the Secretary determines that the separate treatment of such items is appropriate.

''(b) SEPARATE COMPUTATIONS.—In determining the amounts required under subsection (a) to be separately taken into account by any partner, this section and section 773 shall be applied separately with respect to such partner by taking into account such partner's distributive share of the items of income, gain, loss, deduction, or credit of the partnership.

''(c) TREATMENT AT PARTNER LEVEL.—

''(1) IN GENERAL.—Except as provided in this subsection, rules similar to the rules of section 702(b) shall apply to any partner's distributive share of the amounts referred to in subsection (a).

''(2) INCOME OR LOSS FROM PASSIVE LOSS LIMITATION ACTIVITIES.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(1) shall be treated as an item of income or loss (as the case may be) from the conduct of a trade or business which is a single passive activity (as defined in section 469). A similar rule shall apply to a partner's distributive share of amounts referred to in paragraphs (3)(A) and (5)(A) of subsection (a).

''(3) INCOME OR LOSS FROM OTHER ACTIVITIES.—

''(A) IN GENERAL.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(2) shall be treated as an item of income or expense (as the case may be) with respect to property held for investment.

''(B) DEDUCTIONS FOR LOSS NOT SUBJECT TO SECTION 67.—The deduction under section 212 for any loss described in subparagraph (A) shall not be treated as a miscellaneous itemized deduction for purposes of section 67.

''(4) TREATMENT OF NET CAPITAL GAIN OR LOSS.—For purposes of this chapter, any partner's distributive share of any gain or loss described in subsection (a)(3) shall be treated as a long-term capital gain or loss, as the case may be.

''(5) MINIMUM TAX TREATMENT.—In determining the alternative minimum taxable income of any partner, such partner's distributive share of any applicable net AMT adjustment shall be taken into account in lieu of making the separate adjustments provided in sections 56, 57, and 58 with respect to the items of the partnership. Except as provided in regulations, the applicable net AMT adjustment shall be treated, for purposes of section 53, as an adjustment or item of tax preference not specified in section 53(d)(1)(B)(ii).

''(6) GENERAL CREDITS.—A partner's distributive share of the amount referred to in paragraph (6) of subsection (a) shall be taken into account as a current year business credit.

''(d) OPERATING RULES.—For purposes of this section—

''(1) PASSIVE LOSS LIMITATION ACTIVITY.—The term 'passive loss limitation activity' means—

''(A) any activity which involves the conduct of a trade or business, and

''(B) any rental activity.

For purposes of the preceding sentence, the term 'trade or business' includes any activity treated as a trade or business under paragraph (5) or (6) of section 469(c).

''(2) TAX-EXEMPT INTEREST.—The term 'tax-exempt interest' means interest excludable from gross income under section 103.

''(3) APPLICABLE NET AMT ADJUSTMENT.—

''(A) IN GENERAL.—The applicable net AMT adjustment is—

''(i) with respect to taxpayers other than corporations, the net adjustment determined by using the adjustments applicable to individuals, and

''(ii) with respect to corporations, the net adjustment determined by using the adjustments applicable to corporations.

''(B) NET ADJUSTMENT.—The term 'net adjustment' means the net adjustment in the items attributable to passive loss activities or other activities (as the case may be) which would result if such items were determined with the adjustments of sections 56, 57, and 58.

''(4) TREATMENT OF CERTAIN SEPARATELY STATED ITEMS.—

''(A) EXCLUSION FOR CERTAIN PURPOSES.—In determining the amounts referred to in paragraphs (1) and (2) of subsection (a), any net capital gain or net capital loss (as the case may be), and any item referred to in subsection (a)(11), shall be excluded.

''(B) ALLOCATION RULES.—The net capital gain shall be treated—

''(i) as allocable to passive loss limitation activities to the extent the net capital gain does not exceed the net capital gain determined by only taking into account gains and losses from sales and exchanges of property used in connection with such activities, and

''(ii) as allocable to other activities to the extent such gain exceeds the amount allocated under clause (i).

A similar rule shall apply for purposes of allocating any net capital loss.

''(C) NET CAPITAL LOSS.—The term 'net capital loss' means the excess of the losses from sales or exchanges of capital assets over the gains from sales or exchange of capital assets.

''(5) GENERAL CREDITS.—The term 'general credits' means any credit other than the low-income housing credit, the rehabilitation credit, the foreign tax credit, and the credit allowable under section 29.

''(6) FOREIGN INCOME TAXES.—The term 'foreign income taxes' means taxes described in section 901 which are paid or accrued to foreign countries and to possessions of the United States.

''(e) SPECIAL RULE FOR UNRELATED BUSINESS TAX.—In the case of a partner which is an organization subject to tax under section 511, such partner's distributive share of any items shall be taken into account separately to the extent necessary to comply with the provisions of section 512(c)(1).

''(f) SPECIAL RULES FOR APPLYING PASSIVE LOSS LIMITATIONS.—If any person holds an interest in an electing large partnership other than as a limited partner—

''(1) paragraph (2) of subsection (c) shall not apply to such partner, and

''(2) such partner's distributive share of the partnership items allocable to passive loss limitation activities shall be taken into account separately to the extent necessary to comply with the provisions of section 469.

The preceding sentence shall not apply to any items allocable to an interest held as a limited partner.

''SEC. 773. COMPUTATIONS AT PARTNERSHIP LEVEL.

''(a) GENERAL RULE.—

''(1) TAXABLE INCOME.—The taxable income of an electing large partnership shall be computed in the same manner as in the case of an individual except that—

''(A) the items described in section 772(a) shall be separately stated, and

''(B) the modifications of subsection (b) shall apply.

''(2) ELECTIONS.—All elections affecting the computation of the taxable income of an electing large partnership or the computation of any credit of an electing large partnership shall be made by the partnership; except that the election under section 901, and any election under section 108, shall be made by each partner separately.

''(3) LIMITATIONS, ETC.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), all limitations and other provisions affecting the computation of the taxable income of an electing large partnership or the computation of any credit of an electing large partnership shall be applied at the partnership level (and not at the partner level).

''(B) CERTAIN LIMITATIONS APPLIED AT PARTNER LEVEL.—The following provisions shall be applied at the partner level (and not at the partnership level):

''(i) Section 68 (relating to overall limitation on itemized deductions).

''(ii) Sections 49 and 465 (relating to at risk limitations).

''(iii) Section 469 (relating to limitation on passive activity losses and credits).

''(iv) Any other provision specified in regulations.

''(4) COORDINATION WITH OTHER PROVISIONS.—Paragraphs (2) and (3) shall apply notwithstanding any other provision of this chapter other than this part.

''(b) MODIFICATIONS TO DETERMINATION OF TAXABLE INCOME.—In determining the taxable income of an electing large partnership—

''(1) CERTAIN DEDUCTIONS NOT ALLOWED.—The following deductions shall not be allowed:

''(A) The deduction for personal exemptions provided in section 151.

''(B) The net operating loss deduction provided in section 172.

''(C) The additional itemized deductions for individuals provided in part VII of subchapter B (other than section 212 thereof).

''(2) CHARITABLE DEDUCTIONS.—In determining the amount allowable under section 170, the limitation of section 170(b)(2) shall apply.

''(3) COORDINATION WITH SECTION 67.—In lieu of applying section 67, 70 percent of the amount of the miscellaneous itemized deductions shall be disallowed.

''(c) SPECIAL RULES FOR INCOME FROM DISCHARGE OF INDEBTEDNESS.—If an electing large partnership has income from the discharge of any indebtedness—

''(1) such income shall be excluded in determining the amounts referred to in section 772(a), and

''(2) in determining the income tax of any partner of such partnership—

''(A) such income shall be treated as an item required to be separately taken into account under section 772(a), and

''(B) the provisions of section 108 shall be applied without regard to this part.

''SEC. 774. OTHER MODIFICATIONS.

''(a) TREATMENT OF CERTAIN OPTIONAL ADJUSTMENTS, ETC.—In the case of an electing large partnership—

''(1) computations under section 773 shall be made without regard to any adjustment under section 743(b) or 108(b), but

''(2) a partner's distributive share of any amount referred to in section 772(a) shall be appropriately adjusted to take into account any adjustment under section 743(b) or 108(b) with respect to such partner.

''(b) CREDIT RECAPTURE DETERMINED AT PARTNERSHIP LEVEL.—

''(1) IN GENERAL.—In the case of an electing large partnership—

''(A) any credit recapture shall be taken into account by the partnership, and

''(B) the amount of such recapture shall be determined as if the credit with respect to which the recapture is made had been fully utilized to reduce tax.

''(2) METHOD OF TAKING RECAPTURE INTO ACCOUNT.—An electing large partnership shall take into account a credit recapture by reducing the amount of the appropriate current year credit to the extent thereof, and if such recapture exceeds the amount of such current year credit, the partnership shall be liable to pay such excess.

''(3) DISPOSITIONS NOT TO TRIGGER RECAPTURE.—No credit recapture shall be required by reason of any transfer of an interest in an electing large partnership.

''(4) CREDIT RECAPTURE.—For purposes of this subsection, the term 'credit recapture' means any increase in tax under section 42(j) or 50(a).

''(c) PARTNERSHIP NOT TERMINATED BY REASON OF CHANGE IN OWNERSHIP.—Subparagraph (B) of section 708(b)(1) shall not apply to an electing large partnership.

''(d) PARTNERSHIP ENTITLED TO CERTAIN CREDITS.—The following shall be allowed to an electing large partnership and shall not be taken into account by the partners of such partnership:

''(1) The credit provided by section 34.

''(2) Any credit or refund under section 852(b)(3)(D).

''(e) TREATMENT OF REMIC RESIDUALS.—For purposes of applying section 860E(e)(6) to any electing large partnership—

''(1) all interests in such partnership shall be treated as held by disqualified organizations,

''(2) in lieu of applying subparagraph (C) of section 860E(e)(6), the amount subject to tax under section 860E(e)(6) shall be excluded from the gross income of such partnership, and

''(3) subparagraph (D) of section 860E(e)(6) shall not apply.

''(f) SPECIAL RULES FOR APPLYING CERTAIN INSTALLMENT SALE RULES.—In the case of an electing large partnership—

''(1) the provisions of sections 453(l)(3) and 453A shall be applied at the partnership level, and

''(2) in determining the amount of interest payable under such sections, such partnership shall be treated as subject to tax under this chapter at the highest rate of tax in effect under section 1 or 11.

''SEC. 775. ELECTING LARGE PARTNERSHIP DEFINED.

''(a) GENERAL RULE.—For purposes of this part—

''(1) IN GENERAL.—The term 'electing large partnership' means, with respect to any partnership taxable year, any partnership if—

''(A) the number of persons who were partners in such partnership in the preceding partnership taxable year equaled or exceeded 100, and

''(B) such partnership elects the application of this part.

To the extent provided in regulations, a partnership shall cease to be treated as an electing large partnership for any partnership taxable year if in such taxable year fewer than 100 persons were partners in such partnership.

''(2) ELECTION.—The election under this subsection shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

''(b) SPECIAL RULES FOR CERTAIN SERVICE PARTNERSHIPS.—

''(1) CERTAIN PARTNERS NOT COUNTED.—For purposes of this section, the term 'partner' does not include any individual performing substantial services in connection with the activities of the partnership and holding an interest in such partnership, or an individual who formerly performed substantial services in connection with such activities and who held an interest in such partnership at the time the individual performed such services.

''(2) EXCLUSION.—For purposes of this part, an election under subsection (a) shall not be effective with respect to any partnership if substantially all the partners of such partnership—

''(A) are individuals performing substantial services in connection with the activities of such partnership or are personal service corporations (as defined in section 269A(b)) the owner-employees (as defined in section 269A(b)) of which perform such substantial services,

''(B) are retired partners who had performed such substantial services, or

''(C) are spouses of partners who are performing (or had previously performed) such substantial services.

''(3) SPECIAL RULE FOR LOWER TIER PARTNERSHIPS.—For purposes of this subsection, the activities of a partnership shall include the activities of any other partnership in which the partnership owns directly an interest in the capital and profits of at least 80 percent.

''(c) EXCLUSION OF COMMODITY POOLS.—For purposes of this part, an election under subsection (a) shall not be effective with respect to any partnership the principal activity of which is the buying and selling of commodities (not described in section 1221(1)), or options, futures, or forwards with respect to such commodities.

''(d) SECRETARY MAY RELY ON TREATMENT ON RETURN.—If, on the partnership return of any partnership, such partnership is treated as an electing large partnership, such treatment shall be binding on such partnership and all partners of such partnership but not on the Secretary.

''SEC. 776. SPECIAL RULES FOR PARTNERSHIPS HOLDING OIL AND GAS PROPERTIES.

''(a) COMPUTATION OF PERCENTAGE DEPLETION.—In the case of an electing large partnership, except as provided in subsection (b)—

''(1) the allowance for depletion under section 611 with respect to any partnership oil or gas property shall be computed at the partnership level without regard to any provision of section 613A requiring such allowance to be computed separately by each partner,

''(2) such allowance shall be determined without regard to the provisions of section 613A(c) limiting the amount of production for which percentage depletion is allowable and without regard to paragraph (1) of section 613A(d), and

''(3) paragraph (3) of section 705(a) shall not apply.

''(b) TREATMENT OF CERTAIN PARTNERS.—

''(1) IN GENERAL.—In the case of a disqualified person, the treatment under this chapter of such person's distributive share of any item of income, gain, loss, deduction, or credit attributable to any partnership oil or gas property shall be determined without regard to this part. Such person's distributive share of any such items shall be excluded for purposes of making determinations under sections 772 and 773.

''(2) DISQUALIFIED PERSON.—For purposes of paragraph (1), the term 'disqualified person' means, with respect to any partnership taxable year—

''(A) any person referred to in paragraph (2) or (4) of section 613A(d) for such person's taxable year in which such partnership taxable year ends, and

''(B) any other person if such person's average daily production of domestic crude oil and natural gas for such person's taxable year in which such partnership taxable year ends exceeds 500 barrels.

''(3) AVERAGE DAILY PRODUCTION.—For purposes of paragraph (2), a person's average daily production of domestic crude oil and natural gas for any taxable year shall be computed as provided in section 613A(c)(2)—

''(A) by taking into account all production of domestic crude oil and natural gas (including such person's proportionate share of any production of a partnership),

''(B) by treating 6,000 cubic feet of natural gas as a barrel of crude oil, and

''(C) by treating as 1 person all persons treated as 1 taxpayer under section 613A(c)(8) or among whom allocations are required under such section.

''SEC. 777. REGULATIONS.

''The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this part.''.

(b) CLERICAL AMENDMENT.—The table of parts for subchapter K of chapter 1 is amended by adding at the end the following new item:

''Part IV. Special rules for electing large partnerships.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1997.

SEC. 1222. SIMPLIFIED AUDIT PROCEDURES FOR ELECTING LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Chapter 63 is amended by adding at the end thereof the following new subchapter:

''Subchapter D—Treatment of electing large partnerships

''Part I. Treatment of partnership items and adjustments.

''Part II. Partnership level adjustments.

''Part III. Definitions and special rules.

''PART I—TREATMENT OF PARTNERSHIP ITEMS AND ADJUSTMENTS

''Sec. 6240. Application of subchapter.

''Sec. 6241. Partner's return must be consistent with partnership return.

''Sec. 6242. Procedures for taking partnership adjustments into account.

''SEC. 6240. APPLICATION OF SUBCHAPTER.

''(a) GENERAL RULE.—This subchapter shall only apply to electing large partnerships and partners in such partnerships.

''(b) COORDINATION WITH OTHER PARTNERSHIP AUDIT PROCEDURES.—

''(1) IN GENERAL.—Subchapter C of this chapter shall not apply to any electing large partnership other than in its capacity as a partner in another partnership which is not an electing large partnership.

''(2) TREATMENT WHERE PARTNER IN OTHER PARTNERSHIP.—If an electing large partnership is a partner in another partnership which is not an electing large partnership—

''(A) subchapter C of this chapter shall apply to items of such electing large partnership which are partnership items with respect to such other partnership, but

''(B) any adjustment under such subchapter C shall be taken into account in the manner provided by section 6242.

''SEC. 6241. PARTNER'S RETURN MUST BE CONSISTENT WITH PARTNERSHIP RETURN.

''(a) GENERAL RULE.—A partner of any electing large partnership shall, on the partner's return, treat each partnership item attributable to such partnership in a manner which is consistent with the treatment of such partnership item on the partnership return.

''(b) UNDERPAYMENT DUE TO INCONSISTENT TREATMENT ASSESSED AS MATH ERROR.—Any underpayment of tax by a partner by reason of failing to comply with the requirements of subsection (a) shall be assessed and collected in the same manner as if such underpayment were on account of a mathematical or clerical error appearing on the partner's return. Paragraph (2) of section 6213(b) shall not apply to any assessment of an underpayment referred to in the preceding sentence.

''(c) ADJUSTMENTS NOT TO AFFECT PRIOR YEAR OF PARTNERS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall apply without regard to any adjustment to the partnership item under part II.

''(2) CERTAIN CHANGES IN DISTRIBUTIVE SHARE TAKEN INTO ACCOUNT BY PARTNER.—

''(A) IN GENERAL.—To the extent that any adjustment under part II involves a change under section 704 in a partner's distributive share of the amount of any partnership item shown on the partnership return, such adjustment shall be taken into account in applying this title to such partner for the partner's taxable year for which such item was required to be taken into account.

''(B) COORDINATION WITH DEFICIENCY PROCEDURES.—

''(i) IN GENERAL.—Subchapter B shall not apply to the assessment or collection of any underpayment of tax attributable to an adjustment referred to in subparagraph (A).

''(ii) ADJUSTMENT NOT PRECLUDED.—Notwithstanding any other law or rule of law, nothing in subchapter B (or in any proceeding under subchapter B) shall preclude the assessment or collection of any underpayment of tax (or the allowance of any credit or refund of any overpayment of tax) attributable to an adjustment referred to in subparagraph (A) and such assessment or collection or allowance (or any notice thereof) shall not preclude any notice, proceeding, or determination under subchapter B.

''(C) PERIOD OF LIMITATIONS.—The period for—

''(i) assessing any underpayment of tax, or

''(ii) filing a claim for credit or refund of any overpayment of tax,

attributable to an adjustment referred to in subparagraph (A) shall not expire before the close of the period prescribed by section 6248 for making adjustments with respect to the partnership taxable year involved.

''(D) TIERED STRUCTURES.—If the partner referred to in subparagraph (A) is another partnership or an S corporation, the rules of this paragraph shall also apply to persons holding interests in such partnership or S corporation (as the case may be); except that, if such partner is an electing large partnership, the adjustment referred to in subparagraph (A) shall be taken into account in the manner provided by section 6242.

''(d) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

''For addition to tax in case of partner's disregard of requirements of this section, see part II of subchapter A of chapter 68.

''SEC. 6242. PROCEDURES FOR TAKING PARTNERSHIP ADJUSTMENTS INTO ACCOUNT.

''(a) ADJUSTMENTS FLOW THROUGH TO PARTNERS FOR YEAR IN WHICH ADJUSTMENT TAKES EFFECT.—

''(1) IN GENERAL.—If any partnership adjustment with respect to any partnership item takes effect (within the meaning of subsection (d)(2)) during any partnership taxable year and if an election under paragraph (2) does not apply to such adjustment, such adjustment shall be taken into account in determining the amount of such item for the partnership taxable year in which such adjustment takes effect. In applying this title to any person who is (directly or indirectly) a partner in such partnership during such partnership taxable year, such adjustment shall be treated as an item actually arising during such taxable year.

''(2) PARTNERSHIP LIABLE IN CERTAIN CASES.—If—

''(A) a partnership elects under this paragraph to not take an adjustment into account under paragraph (1),

''(B) a partnership does not make such an election but in filing its return for any partnership taxable year fails to take fully into account any partnership adjustment as required under paragraph (1), or

''(C) any partnership adjustment involves a reduction in a credit which exceeds the amount of such credit determined for the partnership taxable year in which the adjustment takes effect,

the partnership shall pay to the Secretary an amount determined by applying the rules of subsection (b)(4) to the adjustments not so taken into account and any excess referred to in subparagraph (C).

''(3) OFFSETTING ADJUSTMENTS TAKEN INTO ACCOUNT.—If a partnership adjustment requires another adjustment in a taxable year after the adjusted year and before the partnership taxable year in which such partnership adjustment takes effect, such other adjustment shall be taken into account under this subsection for the partnership taxable year in which such partnership adjustment takes effect.

''(4) COORDINATION WITH PART II.—Amounts taken into account under this subsection for any partnership taxable year shall continue to be treated as adjustments for the adjusted year for purposes of determining whether such amounts may be readjusted under part II.

''(b) PARTNERSHIP LIABLE FOR INTEREST AND PENALTIES.—

''(1) IN GENERAL.—If a partnership adjustment takes effect during any partnership taxable year and such adjustment results in an imputed underpayment for the adjusted year, the partnership—

''(A) shall pay to the Secretary interest computed under paragraph (2), and

''(B) shall be liable for any penalty, addition to tax, or additional amount as provided in paragraph (3).

''(2) DETERMINATION OF AMOUNT OF INTEREST.—The interest computed under this paragraph with respect to any partnership adjustment is the interest which would be determined under chapter 67—

''(A) on the imputed underpayment determined under paragraph (4) with respect to such adjustment,

''(B) for the period beginning on the day after the return due date for the adjusted year and ending on the return due date for the partnership taxable year in which such adjustment takes effect (or, if earlier, in the case of any adjustment to which subsection (a)(2) applies, the date on which the payment under subsection (a)(2) is made).

Proper adjustments in the amount determined under the preceding sentence shall be made for adjustments required for partnership taxable years after the adjusted year and before the year in which the partnership adjustment takes effect by reason of such partnership adjustment.

''(3) PENALTIES.—A partnership shall be liable for any penalty, addition to tax, or additional amount for which it would have been liable if such partnership had been an individual subject to tax under chapter 1 for the adjusted year and the imputed underpayment determined under paragraph (4) were an actual underpayment (or understatement) for such year.

''(4) IMPUTED UNDERPAYMENT.—For purposes of this subsection, the imputed underpayment determined under this paragraph

with respect to any partnership adjustment is the underpayment (if any) which would result—

''(A) by netting all adjustments to items of income, gain, loss, or deduction and by treating any net increase in income as an underpayment equal to the amount of such net increase multiplied by the highest rate of tax in effect under section 1 or 11 for the adjusted year, and

''(B) by taking adjustments to credits into account as increases or decreases (whichever is appropriate) in the amount of tax.

For purposes of the preceding sentence, any net decrease in a loss shall be treated as an increase in income and a similar rule shall apply to a net increase in a loss.

''(c) ADMINISTRATIVE PROVISIONS.—

''(1) IN GENERAL.—Any payment required by subsection (a)(2) or (b)(1)(A)—

''(A) shall be assessed and collected in the same manner as if it were a tax imposed by subtitle C, and

''(B) shall be paid on or before the return due date for the partnership taxable year in which the partnership adjustment takes effect.

''(2) INTEREST.—For purposes of determining interest, any payment required by subsection (a)(2) or (b)(1)(A) shall be treated as an underpayment of tax.

''(3) PENALTIES.—

''(A) IN GENERAL.—In the case of any failure by any partnership to pay on the date prescribed therefor any amount required by subsection (a)(2) or (b)(1)(A), there is hereby imposed on such partnership a penalty of 10 percent of the underpayment. For purposes of the preceding sentence, the term 'underpayment' means the excess of any payment required under this section over the amount (if any) paid on or before the date prescribed therefor.

''(B) ACCURACY-RELATED AND FRAUD PENALTIES MADE APPLICABLE.—For purposes of part II of subchapter A of chapter 68, any payment required by subsection (a)(2) shall be treated as an underpayment of tax.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) PARTNERSHIP ADJUSTMENT.—The term 'partnership adjustment' means any adjustment in the amount of any partnership item of an electing large partnership.

''(2) WHEN ADJUSTMENT TAKES EFFECT.—A partnership adjustment takes effect—

''(A) in the case of an adjustment pursuant to the decision of a court in a proceeding brought under part II, when such decision becomes final,

''(B) in the case of an adjustment pursuant to any administrative adjustment request under section 6251, when such adjustment is allowed by the Secretary, or

''(C) in any other case, when such adjustment is made.

''(3) ADJUSTED YEAR.—The term 'adjusted year' means the partnership taxable year to which the item being adjusted relates.

''(4) RETURN DUE DATE.—The term 'return due date' means, with respect to any taxable year, the date prescribed for filing the partnership return for such taxable year (determined without regard to extensions).

''(5) ADJUSTMENTS INVOLVING CHANGES IN CHARACTER.—Under regulations, appropriate adjustments in the application of this section shall be made for purposes of taking into account partnership adjustments which involve a change in the character of any item of income, gain, loss, or deduction.

''(e) PAYMENTS NONDEDUCTIBLE.—No deduction shall be allowed under subtitle A for any payment required to be made by an electing large partnership under this section.

''PART II—PARTNERSHIP LEVEL ADJUSTMENTS

''Subpart A. Adjustments by Secretary.
''Subpart B. Claims for adjustments by partnership.

''Subpart A—Adjustments by Secretary

''Sec. 6245. Secretarial authority.
''Sec. 6246. Restrictions on partnership adjustments.
''Sec. 6247. Judicial review of partnership adjustment.
''Sec. 6248. Period of limitations for making adjustments.

''SEC. 6245. SECRETARIAL AUTHORITY.

''(a) GENERAL RULE.—The Secretary is authorized and directed to make adjustments at the partnership level in any partnership item to the extent necessary to have such item be treated in the manner required.

''(b) NOTICE OF PARTNERSHIP ADJUSTMENT.—

''(1) IN GENERAL.—If the Secretary determines that a partnership adjustment is required, the Secretary is authorized to send notice of such adjustment to the partnership by certified mail or registered mail. Such notice shall be sufficient if mailed to the partnership at its last known address even if the partnership has terminated its existence.

''(2) FURTHER NOTICES RESTRICTED.—If the Secretary mails a notice of a partnership adjustment to any partnership for any partnership taxable year and the partnership files a petition under section 6247 with respect to such notice, in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact, the Secretary shall not mail another such notice to such partnership with respect to such taxable year.

''(3) AUTHORITY TO RESCIND NOTICE WITH PARTNERSHIP CONSENT.—The Secretary may, with the consent of the partnership, rescind any notice of a partnership adjustment mailed to such partnership. Any notice so rescinded shall not be treated as a notice of a partnership adjustment, for purposes of this section, section 6246, and section 6247, and the taxpayer shall have no right to bring a proceeding under section 6247 with respect to such notice. 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.

''SEC. 6246. RESTRICTIONS ON PARTNERSHIP ADJUSTMENTS.

''(a) GENERAL RULE.—Except as otherwise provided in this chapter, no adjustment to any partnership item may be made (and no levy or proceeding in any court for the collection of any amount resulting from such adjustment may be made, begun or prosecuted) before—

''(1) the close of the 90th day after the day on which a notice of a partnership adjustment was mailed to the partnership, and

''(2) if a petition is filed under section 6247 with respect to such notice, the decision of the court has become final.

''(b) PREMATURE ACTION MAY BE ENJOINED.—Notwithstanding section 7421(a), any action which violates subsection (a) may be enjoined in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action under this subsection unless a timely petition has been filed under section 6247 and then only in respect of the adjustments that are the subject of such petition.

''(c) EXCEPTIONS TO RESTRICTIONS ON ADJUSTMENTS.—

''(1) ADJUSTMENTS ARISING OUT OF MATH OR CLERICAL ERRORS.—

''(A) IN GENERAL.—If the partnership is notified that, on account of a mathematical or clerical error appearing on the partnership return, an adjustment to a partnership item is required, rules similar to the rules of paragraphs (1) and (2) of section 6213(b) shall apply to such adjustment.

''(B) SPECIAL RULE.—If an electing large partnership is a partner in another electing large partnership, any adjustment on account of such partnership's failure to comply with the requirements of section 6241(a) with respect to its interest in such other partnership shall be treated as an adjustment referred to in subparagraph (A), except that paragraph (2) of section 6213(b) shall not apply to such adjustment.

''(2) PARTNERSHIP MAY WAIVE RESTRICTIONS.—The partnership shall at any time (whether or not a notice of partnership adjustment has been issued) have the right, by a signed notice in writing filed with the Secretary, to waive the restrictions provided in subsection (a) on the making of any partnership adjustment.

''(d) LIMIT WHERE NO PROCEEDING BEGUN.—If no proceeding under section 6247 is begun with respect to any notice of a partnership adjustment during the 90-day period described in subsection (a), the amount for which the partnership is liable under section 6242 (and any increase in any partner's liability for tax under chapter 1 by reason of any adjustment under section 6242(a)) shall not exceed the amount determined in accordance with such notice.

''SEC. 6247. JUDICIAL REVIEW OF PARTNERSHIP ADJUSTMENT.

''(a) GENERAL RULE.—Within 90 days after the date on which a notice of a partnership adjustment is mailed to the partnership with respect to any partnership taxable year, the partnership may file a petition for a readjustment of the partnership items for such taxable year with—

''(1) the Tax Court,

''(2) the district court of the United States for the district in which the partnership's principal place of business is located, or

''(3) the Claims Court.

''(b) JURISDICTIONAL REQUIREMENT FOR BRINGING ACTION IN DISTRICT COURT OR CLAIMS COURT.—

''(1) IN GENERAL.—A readjustment petition under this section may be filed in a district court of the United States or the Claims Court only if the partnership filing the petition deposits with the Secretary, on or before the date the petition is filed, the amount for which the partnership would be liable under section 6242(b) (as of the date of the filing of the petition) if the partnership items were adjusted as provided by the notice of partnership adjustment. The court may by order provide that the jurisdictional requirements of this paragraph are satisfied where there has been a good faith attempt to satisfy such requirement and any shortfall of the amount required to be deposited is timely corrected.

''(2) INTEREST PAYABLE.—Any amount deposited under paragraph (1), while deposited, shall not be treated as a payment of tax for purposes of this title (other than chapter 67).

''(c) SCOPE OF JUDICIAL REVIEW.—A court with which a petition is filed in accordance with this section shall have jurisdiction to determine all partnership items of the partnership for the partnership taxable year to which the notice of partnership adjustment relates and the proper allocation of such items among the partners (and the applicability of any penalty, addition to tax, or additional amount for which the partnership may be liable under section 6242(b)).

''(d) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this section shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

''(e) EFFECT OF DECISION DISMISSING ACTION.—If an action brought under this section is dismissed other than by reason of a rescission under section 6245(b)(3), the decision of the court dismissing the action shall be considered as its decision that the notice of partnership adjustment is correct, and an appropriate order shall be entered in the records of the court.

''SEC. 6248. PERIOD OF LIMITATIONS FOR MAKING ADJUSTMENTS.

''(a) GENERAL RULE.—Except as otherwise provided in this section, no adjustment under this subpart to any partnership item for any partnership taxable year may be made after the date which is 3 years after the later of—

''(1) the date on which the partnership return for such taxable year was filed, or

''(2) the last day for filing such return for such year (determined without regard to extensions).

''(b) EXTENSION BY AGREEMENT.—The period described in subsection (a) (including an extension period under this subsection) may be extended by an agreement entered into by the Secretary and the partnership before the expiration of such period.

''(c) SPECIAL RULE IN CASE OF FRAUD, ETC.—

''(1) FALSE RETURN.—In the case of a false or fraudulent partnership return with intent to evade tax, the adjustment may be made at any time.

''(2) SUBSTANTIAL OMISSION OF INCOME.—If any partnership omits from gross income an amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in its return, subsection (a) shall be applied by substituting '6 years' for '3 years'.

''(3) NO RETURN.—In the case of a failure by a partnership to file a return for any taxable year, the adjustment may be made at any time.

''(4) RETURN FILED BY SECRETARY.—For purposes of this section, a return executed by the Secretary under subsection (b) of section 6020 on behalf of the partnership shall not be treated as a return of the partnership.

''(d) SUSPENSION WHEN SECRETARY MAILS NOTICE OF ADJUSTMENT.—If notice of a partnership adjustment with respect to any taxable year is mailed to the partnership, the running of the period specified in subsection (a) (as modified by the other provisions of this section) shall be suspended—

''(1) for the period during which an action may be brought under section 6247 (and, if a petition is filed under section 6247 with respect to such notice, until the decision of the court becomes final), and

''(2) for 1 year thereafter.

''Subpart B—Claims for Adjustments by Partnership

''Sec. 6251. Administrative adjustment requests.

''Sec. 6252. Judicial review where administrative adjustment request is not allowed in full.

''SEC. 6251. ADMINISTRATIVE ADJUSTMENT REQUESTS.

''(a) GENERAL RULE.—A partnership may file a request for an administrative adjustment of partnership items for any partnership taxable year at any time which is—

''(1) within 3 years after the later of—

''(A) the date on which the partnership return for such year is filed, or

''(B) the last day for filing the partnership return for such year (determined without regard to extensions), and

''(2) before the mailing to the partnership of a notice of a partnership adjustment with respect to such taxable year.

''(b) SECRETARIAL ACTION.—If a partnership files an administrative adjustment request under subsection (a), the Secretary may allow any part of the requested adjustments.

''(c) SPECIAL RULE IN CASE OF EXTENSION UNDER SECTION 6248.—If the period described in section 6248(a) is extended pursuant to an agreement under section 6248(b), the period prescribed by subsection (a)(1) shall not expire before the date 6 months after the expiration of the extension under section 6248(b).

''SEC. 6252. JUDICIAL REVIEW WHERE ADMINISTRATIVE ADJUSTMENT REQUEST IS NOT ALLOWED IN FULL.

''(a) IN GENERAL.—If any part of an administrative adjustment request filed under section 6251 is not allowed by the Secretary, the partnership may file a petition for an adjustment with respect to the partnership items to which such part of the request relates with—

''(1) the Tax Court,

''(2) the district court of the United States for the district in which the principal place of business of the partnership is located, or

''(3) the Claims Court.

''(b) PERIOD FOR FILING PETITION.—A petition may be filed under subsection (a) with respect to partnership items for a partnership taxable year only—

''(1) after the expiration of 6 months from the date of filing of the request under section 6251, and

''(2) before the date which is 2 years after the date of such request.

The 2-year period set forth in paragraph (2) shall be extended for such period as may be agreed upon in writing by the partnership and the Secretary.

''(c) COORDINATION WITH SUBPART A.—

''(1) NOTICE OF PARTNERSHIP ADJUSTMENT BEFORE FILING OF PETITION.—No petition may be filed under this section after the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates.

''(2) NOTICE OF PARTNERSHIP ADJUSTMENT AFTER FILING BUT BEFORE HEARING OF PETITION.—If the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates after the filing of a petition under this subsection but before the hearing of such petition, such petition shall be treated as an action brought under section 6247 with respect to such notice, except that subsection (b) of section 6247 shall not apply.

''(3) NOTICE MUST BE BEFORE EXPIRATION OF STATUTE OF LIMITATIONS.—A notice of a partnership adjustment for the partnership taxable year shall be taken into account under paragraphs (1) and (2) only if such notice is mailed before the expiration of the period prescribed by section 6248 for making adjustments to partnership items for such taxable year.

''(d) SCOPE OF JUDICIAL REVIEW.—Except in the case described in paragraph (2) of subsection (c), a court with which a petition is filed in accordance with this section shall have jurisdiction to determine only those partnership items to which the part of the request under section 6251 not allowed by the Secretary relates and those items with respect to which the Secretary asserts adjustments as offsets to the adjustments requested by the partnership.

''(e) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this subsection shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

''PART III—DEFINITIONS AND SPECIAL RULES

''Sec. 6255. Definitions and special rules.

''SEC. 6255. DEFINITIONS AND SPECIAL RULES.

''(a) DEFINITIONS.—For purposes of this subchapter—

''(1) ELECTING LARGE PARTNERSHIP.—The term 'electing large partnership' has the meaning given to such term by section 775.

''(2) PARTNERSHIP ITEM.—The term 'partnership item' has the meaning given to such term by section 6231(a)(3).

''(b) PARTNERS BOUND BY ACTIONS OF PARTNERSHIP, ETC.—

''(1) DESIGNATION OF PARTNER.—Each electing large partnership shall designate (in the manner prescribed by the Secretary) a partner (or other person) who shall have the sole authority to act on behalf of such partnership under this subchapter. In any case in which such a designation is not in effect, the Secretary may select any partner as the partner with such authority.

''(2) BINDING EFFECT.—An electing large partnership and all partners of such partnership shall be bound—

''(A) by actions taken under this subchapter by the partnership, and

''(B) by any decision in a proceeding brought under this subchapter.

''(c) PARTNERSHIPS HAVING PRINCIPAL PLACE OF BUSINESS OUTSIDE THE UNITED STATES.—For purposes of sections 6247 and 6252, a principal place of business located outside the United States shall be treated as located in the District of Columbia.

''(d) TREATMENT WHERE PARTNERSHIP CEASES TO EXIST.—If a partnership ceases to exist before a partnership adjustment under this subchapter takes effect, such adjustment shall be taken into account by the former partners of such partnership under regulations prescribed by the Secretary.

''(e) DATE DECISION BECOMES FINAL.—For purposes of this subchapter, the principles of section 7481(a) shall be applied in determining the date on which a decision of a district court or the Claims Court becomes final.

''(f) PARTNERSHIPS IN CASES UNDER TITLE 11 OF THE UNITED STATES CODE.—The running of any period of limitations provided in this subchapter on making a partnership adjustment (or provided by section 6501 or 6502 on the assessment or collection of any amount required to be paid under section 6242) shall, in a case under title 11 of the United States Code, be suspended during the period during which the Secretary is prohibited by reason of such case from making the adjustment (or assessment or collection) and—

''(1) for adjustment or assessment, 60 days thereafter, and

''(2) for collection, 6 months thereafter.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subchapter, including regulations—

''(1) to prevent abuse through manipulation of the provisions of this subchapter, and

''(2) providing that this subchapter shall not apply to any case described in section 6231(c)(1) (or the regulations prescribed thereunder) where the application of this subchapter to such a case would interfere with the effective and efficient enforcement of this title.

In any case to which this subchapter does not apply by reason of paragraph (2), rules similar to the rules of sections 6229(f) and 6255(f) shall apply.''.

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 63 is amended by adding at the end thereof the following new item:

''Subchapter D. Treatment of electing large partnerships.''.

SEC. 1223. DUE DATE FOR FURNISHING INFORMATION TO PARTNERS OF ELECTING LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subsection (b) of section 6031 (relating to copies to partners) is amended by adding at the end the following new sentence: ''In the case of an electing large partnership (as defined in section 775), such information shall be furnished on or before the first March 15 following the close of such taxable year.''.

(b) TREATMENT AS INFORMATION RETURN.—Section 6724 is amended by adding at the end the following new subsection:

''(e) SPECIAL RULE FOR CERTAIN PARTNERSHIP RETURNS.—If any partnership return under section 6031(a) is required under section 6011(e) to be filed on magnetic media or in other machine-readable form, for purposes of this part, each schedule required to be included with such return with respect to each partner shall be treated as a separate information return.''.

SEC. 1224. RETURNS MAY BE REQUIRED ON MAGNETIC MEDIA.

Paragraph (2) of section 6011(e) (relating to returns on magnetic media) is amended by adding at the end thereof the following new sentence:

''Notwithstanding the preceding sentence, the Secretary shall require partnerships having more than 100 partners to file returns on magnetic media.''.

SEC. 1225. TREATMENT OF PARTNERSHIP ITEMS OF INDIVIDUAL RETIREMENT ACCOUNTS.

Subsection (b) of section 6012 is amended by adding at the end thereof the following new paragraph:

''(6) IRA SHARE OF PARTNERSHIP INCOME.—In the case of a trust which is exempt from taxation under section 408(e), for purposes of this section, the trust's distributive share of items of gross income and gain of any partnership to which subchapter C or D of chapter 63 applies shall be treated as equal to the trust's distributive share of the taxable income of such partnership.''.

SEC. 1226. EFFECTIVE DATE.

The amendments made by this part shall apply to partnership taxable years ending on or after December 31, 1997.

PART II—PROVISIONS RELATED TO TEFRA PARTNERSHIP PROCEEDINGS

SEC. 1231. TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.

(a) IN GENERAL.—Subchapter C of chapter 63 is amended by adding at the end the following new section:

''SEC. 6234. DECLARATORY JUDGMENT RELATING TO TREATMENT OF ITEMS OTHER THAN PARTNERSHIP ITEMS WITH RESPECT TO AN OVERSHELTERED RETURN.

''(a) GENERAL RULE.—If—

''(1) a taxpayer files an oversheltered return for a taxable year,

''(2) the Secretary makes a determination with respect to the treatment of items (other than partnership items) of such taxpayer for such taxable year, and

''(3) the adjustments resulting from such determination do not give rise to a deficiency (as defined in section 6211) but would give rise to a deficiency if there were no net loss from partnership items,

the Secretary is authorized to send a notice of adjustment reflecting such determination to the taxpayer by certified or registered mail.

''(b) OVERSHELTERED RETURN.—For purposes of this section, the term 'oversheltered return' means an income tax return which—

''(1) shows no taxable income for the taxable year, and

''(2) shows a net loss from partnership items.

''(c) JUDICIAL REVIEW IN THE TAX COURT.—Within 90 days, or 150 days if the notice is addressed to a person outside the United States, after the day on which the notice of adjustment authorized in subsection (a) is mailed to the taxpayer, the taxpayer may file a petition with the Tax Court for redetermination of the adjustments. Upon the filing of such a petition, the Tax Court shall have jurisdiction to make a declaration with respect to all items (other than partnership items and affected items which require partner level determinations as described in section 6230(a)(2)(A)(i)) for the taxable year to which the notice of adjustment relates, in accordance with the principles of section 6214(a). Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

''(d) FAILURE TO FILE PETITION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if the taxpayer does not file a petition with the Tax Court within the time prescribed in subsection (c), the determination of the Secretary set forth in the notice of adjustment that was mailed to the taxpayer shall be deemed to be correct.

''(2) EXCEPTION.—Paragraph (1) shall not apply after the date that the taxpayer—

''(A) files a petition with the Tax Court within the time prescribed in subsection (c) with respect to a subsequent notice of adjustment relating to the same taxable year, or

''(B) files a claim for refund of an overpayment of tax under section 6511 for the taxable year involved.

If a claim for refund is filed by the taxpayer, then solely for purposes of determining (for the taxable year involved) the amount of any computational adjustment in connection with a partnership proceeding under this subchapter (other than under this section) or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), the items that are the subject of the notice of adjustment shall be presumed to have been correctly reported on the taxpayer's return during the pendency of the refund claim (and, if within the time prescribed by section 6532 the taxpayer commences a civil action for refund under section 7422, until the decision in the refund action becomes final).

''(e) LIMITATIONS PERIOD.—

''(1) IN GENERAL.—Any notice to a taxpayer under subsection (a) shall be mailed before the expiration of the period prescribed by section 6501 (relating to the period of limitations on assessment).

''(2) SUSPENSION WHEN SECRETARY MAILS NOTICE OF ADJUSTMENT.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year, the period of limitations on the making of assessments shall be suspended for the period during which the Secretary is prohibited from making the assessment (and, in any event, if a proceeding in respect of the notice of adjustment is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

''(3) RESTRICTIONS ON ASSESSMENT.—Except as otherwise provided in section 6851, 6852, or 6861, no assessment of a deficiency with respect to any tax imposed by subtitle A attributable to any item (other than a partnership item or any item affected by a partnership item) shall be made—

''(A) until the expiration of the applicable 90-day or 150-day period set forth in subsection (c) for filing a petition with the Tax Court, or

''(B) if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final.

''(f) FURTHER NOTICES OF ADJUSTMENT RESTRICTED.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year and the taxpayer files a petition with the Tax Court within the time prescribed in subsection (c), the Secretary may not mail another such notice to the taxpayer with respect to the same taxable year in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact.

''(g) COORDINATION WITH OTHER PROCEEDINGS UNDER THIS SUBCHAPTER.—

''(1) IN GENERAL.—The treatment of any item that has been determined pursuant to subsection (c) or (d) shall be taken into account in determining the amount of any computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), for the taxable year involved. Notwithstanding any other law or rule of law pertaining to the period of limitations on the making of assessments, for purposes of the preceding sentence, any adjustment made in accordance with this section shall be taken into account regardless of whether any assessment has been made with respect to such adjustment.

''(2) SPECIAL RULE IN CASE OF COMPUTATIONAL ADJUSTMENT.—In the case of a computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), the provisions of paragraph (1) shall apply only if the computational adjustment is made within the period prescribed by section 6229 for assessing any tax under subtitle A which is attributable to any partnership item or affected item for the taxable year involved.

''(3) CONVERSION TO DEFICIENCY PROCEEDING.—If—

''(A) after the notice referred to in subsection (a) is mailed to a taxpayer for a taxable year but before the expiration of the period for filing a petition with the Tax Court under subsection (c) (or, if a petition is filed with the Tax Court, before the Tax Court makes a declaration for that taxable year), the treatment of any partnership item for the taxable year is finally determined, or any such item ceases to be a partnership item pursuant to section 6231(b), and

''(B) as a result of that final determination or cessation, a deficiency can be determined with respect to the items that are the subject of the notice of adjustment,

the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition filed in respect of the notice shall be treated as an action brought under section 6213.

''(4) FINALLY DETERMINED.—For purposes of this subsection, the treatment of partnership items shall be treated as finally determined if—

''(A) the Secretary enters into a settlement agreement (within the meaning of section 6224) with the taxpayer regarding such items,

''(B) a notice of final partnership administrative adjustment has been issued and—

''(i) no petition has been filed under section 6226 and the time for doing so has expired, or

''(ii) a petition has been filed under section 6226 and the decision of the court has become final, or

''(C) the period within which any tax attributable to such items may be assessed against the taxpayer has expired.

''(h) SPECIAL RULES IF SECRETARY INCORRECTLY DETERMINES APPLICABLE PROCEDURE.—

''(1) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF ADJUSTMENT.—If the Secretary erroneously determines that

subchapter B does not apply to a taxable year of a taxpayer and consistent with that determination timely mails a notice of adjustment to the taxpayer pursuant to subsection (a) of this section, the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition that is filed in respect of the notice shall be treated as an action brought under section 6213.

''(2) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF DEFICIENCY.—If the Secretary erroneously determines that subchapter B applies to a taxable year of a taxpayer and consistent with that determination timely mails a notice of deficiency to the taxpayer pursuant to section 6212, the notice of deficiency shall be treated as a notice of adjustment under subsection (a) and any petition that is filed in respect of the notice shall be treated as an action brought under subsection (c).''.

(b) TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.—Section 6211 (defining deficiency) is amended by adding at the end the following new subsection:

''(c) COORDINATION WITH SUBCHAPTER C.—In determining the amount of any deficiency for purposes of this subchapter, adjustments to partnership items shall be made only as provided in subchapter C.''.

(c) CLERICAL AMENDMENT.—The table of sections for subchapter C of chapter 63 is amended by adding at the end the following new item:

''Sec. 6234. Declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 1232. PARTNERSHIP RETURN TO BE DETERMINATIVE OF AUDIT PROCEDURES TO BE FOLLOWED.

(a) IN GENERAL.—Section 6231 (relating to definitions and special rules) is amended by adding at the end the following new subsection:

''(g) PARTNERSHIP RETURN TO BE DETERMINATIVE OF WHETHER SUBCHAPTER APPLIES.—

''(1) DETERMINATION THAT SUBCHAPTER APPLIES.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter applies to such partnership for such year but such determination is erroneous, then the provisions of this subchapter are hereby extended to such partnership (and its items) for such taxable year and to partners of such partnership.

''(2) DETERMINATION THAT SUBCHAPTER DOES NOT APPLY.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter does not apply to such partnership for such year but such determination is erroneous, then the provisions of this subchapter shall not apply to such partnership (and its items) for such taxable year or to partners of such partnership.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 1233. PROVISIONS RELATING TO STATUTE OF LIMITATIONS.

(a) SUSPENSION OF STATUTE WHERE UNTIMELY PETITION FILED.—Paragraph (1) of section 6229(d) (relating to suspension where Secretary makes administrative adjustment) is amended by striking all that follows ''section 6226'' and inserting the following: ''(and, if a petition is filed under section 6226 with respect to such administrative adjustment, until the decision of the court becomes final), and''.

(b) SUSPENSION OF STATUTE DURING BANKRUPTCY PROCEEDING.—Section 6229 is amended by adding at the end the following new subsection:

''(h) SUSPENSION DURING PENDENCY OF BANKRUPTCY PROCEEDING.—If a petition is filed naming a partner as a debtor in a bankruptcy proceeding under title 11 of the United States Code, the running of the period of limitations provided in this section with respect to such partner shall be suspended—

''(1) for the period during which the Secretary is prohibited by reason of such bankruptcy proceeding from making an assessment, and

''(2) for 60 days thereafter.''.

(c) TAX MATTERS PARTNER IN BANKRUPTCY.—Section 6229(b) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

''(2) SPECIAL RULE WITH RESPECT TO DEBTORS IN TITLE 11 CASES.—Notwithstanding any other law or rule of law, if an agreement is entered into under paragraph (1)(B) and the agreement is signed by a person who would be the tax matters partner but for the fact that, at the time that the agreement is executed, the person is a debtor in a bankruptcy proceeding under title 11 of the United States Code, such agreement shall be binding on all partners in the partnership unless the Secretary has been notified of the bankruptcy proceeding in accordance with regulations prescribed by the Secretary.''.

(d) EFFECTIVE DATES.—

(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to partnership taxable years with respect to which the period under section 6229 of the Internal Revenue Code of 1986 for assessing tax has not expired on or before the date of the enactment of this Act.

(2) SUBSECTION (c).—The amendment made by subsection (c) shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 1234. EXPANSION OF SMALL PARTNERSHIP EXCEPTION.

(a) IN GENERAL.—Clause (i) of section 6231(a)(1)(B) (relating to exception for small partnerships) is amended to read as follows:

''(i) IN GENERAL.—The term 'partnership' shall not include any partnership having 10 or fewer partners each of whom is an individual (other than a nonresident alien), a C corporation, or an estate of a deceased partner. For purposes of the preceding sentence, a husband and wife (and their estates) shall be treated as 1 partner.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 1235. EXCLUSION OF PARTIAL SETTLEMENTS FROM 1-YEAR LIMITATION ON ASSESSMENT.

(a) IN GENERAL.—Subsection (f) of section 6229 (relating to items becoming nonpartnership items) is amended—

(1) by striking ''(f) ITEMS BECOMING NONPARTNERSHIP ITEMS.—If'' and inserting the following:

''(f) SPECIAL RULES.—

''(1) ITEMS BECOMING NONPARTNERSHIP ITEMS.—If'',

(2) by moving the text of such subsection 2 ems to the right, and

(3) by adding at the end the following new paragraph:

''(2) SPECIAL RULE FOR PARTIAL SETTLEMENT AGREEMENTS.—If a partner enters into a settlement agreement with the Secretary with respect to the treatment of some of the partnership items in dispute for a partnership taxable year but other partnership items for such year remain in dispute, the period of limitations for assessing any tax attributable to the settled items shall be determined as if such agreement had not been entered into.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to settlements entered into after the date of the enactment of this Act.

SEC. 1236. EXTENSION OF TIME FOR FILING A REQUEST FOR ADMINISTRATIVE ADJUSTMENT.

(a) IN GENERAL.—Section 6227 (relating to administrative adjustment requests) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

''(b) SPECIAL RULE IN CASE OF EXTENSION OF PERIOD OF LIMITATIONS UNDER SECTION 6229.—The period prescribed by subsection (a)(1) for filing of a request for an administrative adjustment shall be extended—

''(1) for the period within which an assessment may be made pursuant to an agreement (or any extension thereof) under section 6229(b), and

''(2) for 6 months thereafter.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 1237. AVAILABILITY OF INNOCENT SPOUSE RELIEF IN CONTEXT OF PARTNERSHIP PROCEEDINGS.

(a) IN GENERAL.—Subsection (a) of section 6230 is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE IN CASE OF ASSERTION BY PARTNER'S SPOUSE OF INNOCENT SPOUSE RELIEF.—

''(A) Notwithstanding section 6404(b), if the spouse of a partner asserts that section 6013(e) applies with respect to a liability that is attributable to any adjustment to a partnership item, then such spouse may file with the Secretary within 60 days after the notice of computational adjustment is mailed to the spouse a request for abatement of the assessment specified in such notice. Upon receipt of such request, the Secretary shall abate the assessment. Any reassessment of the tax with respect to which an abatement is made under this subparagraph shall be subject to the deficiency procedures prescribed by subchapter B. The period for making any such reassessment shall not expire before the expiration of 60 days after the date of such abatement.

''(B) If the spouse files a petition with the Tax Court pursuant to section 6213 with respect to the request for abatement described in subparagraph (A), the Tax Court shall only have jurisdiction pursuant to this section to determine whether the requirements of section 6013(e) have been satisfied. For purposes of such determination, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive.

''(C) Rules similar to the rules contained in subparagraphs (B) and (C) of paragraph (2) shall apply for purposes of this paragraph.''.

(b) CLAIMS FOR REFUND.—Subsection (c) of section 6230 is amended by adding at the end the following new paragraph:

''(5) RULES FOR SEEKING INNOCENT SPOUSE RELIEF.—

''(A) IN GENERAL.—The spouse of a partner may file a claim for refund on the ground that the Secretary failed to relieve the spouse under section 6013(e) from a liability that is attributable to an adjustment to a partnership item.

''(B) TIME FOR FILING CLAIM.—Any claim under subparagraph (A) shall be filed within

6 months after the day on which the Secretary mails to the spouse the notice of computational adjustment referred to in subsection (a)(3)(A).

''(C) SUIT IF CLAIM NOT ALLOWED.—If the claim under subparagraph (B) is not allowed, the spouse may bring suit with respect to the claim within the period specified in paragraph (3).

''(D) PRIOR DETERMINATIONS ARE BINDING.—For purposes of any claim or suit under this paragraph, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive.''.

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 6230(a) is amended by striking ''paragraph (2)'' and inserting ''paragraph (2) or (3)''.

(2) Subsection (a) of section 6503 is amended by striking ''section 6230(a)(2)(A)'' and inserting ''paragraph (2)(A) or (3) of section 6230(a)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 1238. DETERMINATION OF PENALTIES AT PARTNERSHIP LEVEL.

(a) IN GENERAL.—Section 6221 (relating to tax treatment determined at partnership level) is amended by striking ''item'' and inserting ''item (and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item)''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (f) of section 6226 is amended—

(A) by striking ''relates and'' and inserting ''relates,'', and

(B) by inserting before the period '', and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item''.

(2) Clause (i) of section 6230(a)(2)(A) is amended to read as follows:

''(i) affected items which require partner level determinations (other than penalties, additions to tax, and additional amounts that relate to adjustments to partnership items), or''.

(3)(A) Subparagraph (A) of section 6230(a)(3), as added by section 14317, is amended by inserting ''(including any liability for any penalty, addition to tax, or additional amount relating to such adjustment)'' after ''partnership item''.

(B) Subparagraph (B) of such section is amended by inserting ''(and the applicability of any penalties, additions to tax, or additional amounts)'' after ''partnership items''.

(C) Subparagraph (A) of section 6230(c)(5), as added by section 14317, is amended by inserting before the period ''(including any liability for any penalties, additions to tax, or additional amounts relating to such adjustment)''.

(D) Subparagraph (D) of section 6230(c)(5), as added by section 14317, is amended by inserting ''(and the applicability of any penalties, additions to tax, or additional amounts)'' after ''partnership items''.

(4) Paragraph (1) of section 6230(c) is amended by striking ''or'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', or'', and by adding at the end the following new subparagraph:

''(C) the Secretary erroneously imposed any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item.''.

(5) So much of subparagraph (A) of section 6230(c)(2) as precedes ''shall be filed'' is amended to read as follows:

''(A) UNDER PARAGRAPH (1) (A) OR (C).—Any claim under subparagraph (A) or (C) of paragraph (1)''.

(6) Paragraph (4) of section 6230(c) is amended by adding at the end the following: ''In addition, the determination under the final partnership administrative adjustment or under the decision of the court (whichever is appropriate) concerning the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item shall also be conclusive. Notwithstanding the preceding sentence, the partner shall be allowed to assert any partner level defenses that may apply or to challenge the amount of the computational adjustment.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 1239. PROVISIONS RELATING TO COURT JURISDICTION, ETC.

(a) TAX COURT JURISDICTION TO ENJOIN PREMATURE ASSESSMENTS OF DEFICIENCIES ATTRIBUTABLE TO PARTNERSHIP ITEMS.—Subsection (b) of section 6225 is amended by striking ''the proper court.'' and inserting ''the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action or proceeding under this subsection unless a timely petition for a readjustment of the partnership items for the taxable year has been filed and then only in respect of the adjustments that are the subject of such petition.''.

(b) JURISDICTION TO CONSIDER STATUTE OF LIMITATIONS WITH RESPECT TO PARTNERS.—Paragraph (1) of section 6226(d) is amended by adding at the end the following new sentence:

''Notwithstanding subparagraph (B), any person treated under subsection (c) as a party to an action shall be permitted to participate in such action (or file a readjustment petition under subsection (b) or paragraph (2) of this subsection) solely for the purpose of asserting that the period of limitations for assessing any tax attributable to partnership items has expired with respect to such person, and the court having jurisdiction of such action shall have jurisdiction to consider such assertion.''.

(c) TAX COURT JURISDICTION TO DETERMINE OVERPAYMENTS ATTRIBUTABLE TO AFFECTED ITEMS.—

(1) Paragraph (6) of section 6230(d) is amended by striking ''(or an affected item)''.

(2) Paragraph (3) of section 6512(b) is amended by adding at the end the following new sentence:

''In the case of a credit or refund relating to an affected item (within the meaning of section 6231(a)(5)), the preceding sentence shall be applied by substituting the periods under sections 6229 and 6230(d) for the periods under section 6511(b)(2), (c), and (d).''.

(d) VENUE ON APPEAL.—

(1) Paragraph (1) of section 7482(b) is amended by striking ''or'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting '', or'', and by inserting after subparagraph (E) the following new subparagraph:

''(F) in the case of a petition under section 6234(c)—

''(i) the legal residence of the petitioner if the petitioner is not a corporation, and

''(ii) the place or office applicable under subparagraph (B) if the petitioner is a corporation.''.

(2) The last sentence of section 7482(b)(1) is amended by striking ''or 6228(a)'' and inserting '', 6228(a), or 6234(c)''.

(e) OTHER PROVISIONS.—

(1) Subsection (c) of section 7459 is amended by striking ''or section 6228(a)'' and inserting '', 6228(a), or 6234(c)''.

(2) Subsection (o) of section 6501 is amended by adding at the end the following new paragraph:

''(3) For declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return, see section 6234.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 1240. TREATMENT OF PREMATURE PETITIONS FILED BY NOTICE PARTNERS OR 5-PERCENT GROUPS.

(a) IN GENERAL.—Subsection (b) of section 6226 (relating to judicial review of final partnership administrative adjustments) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) TREATMENT OF PREMATURE PETITIONS.—If—

''(A) a petition for a readjustment of partnership items for the taxable year involved is filed by a notice partner (or a 5-percent group) during the 90-day period described in subsection (a), and

''(B) no action is brought under paragraph (1) during the 60-day period described therein with respect to such taxable year which is not dismissed,

such petition shall be treated for purposes of paragraph (1) as filed on the last day of such 60-day period.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to petitions filed after the date of the enactment of this Act.

SEC. 1241. BONDS IN CASE OF APPEALS FROM CERTAIN PROCEEDING.

(a) IN GENERAL.—Subsection (b) of section 7485 (relating to bonds to stay assessment of collection) is amended—

(1) by inserting ''penalties,'' after ''any interest,'', and

(2) by striking ''aggregate of such deficiencies'' and inserting ''aggregate liability of the parties to the action''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 1242. SUSPENSION OF INTEREST WHERE DELAY IN COMPUTATIONAL ADJUSTMENT RESULTING FROM CERTAIN SETTLEMENTS.

(a) IN GENERAL.—Subsection (c) of section 6601 (relating to interest on underpayment, nonpayment, or extension of time for payment, of tax) is amended by adding at the end the following new sentence: ''In the case of a settlement under section 6224(c) which results in the conversion of partnership items to nonpartnership items pursuant to section 6231(b)(1)(C), the preceding sentence shall apply to a computational adjustment resulting from such settlement in the same manner as if such adjustment were a deficiency and such settlement were a waiver referred to in the preceding sentence.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to adjustments with respect to partnership taxable years beginning after the date of the enactment of this Act.

SEC. 1243. SPECIAL RULES FOR ADMINISTRATIVE ADJUSTMENT REQUESTS WITH RESPECT TO BAD DEBTS OR WORTHLESS SECURITIES.

(a) GENERAL RULE.—Section 6227 (relating to administrative adjustment requests) is amended by adding at the end the following new subsection:

''(e) REQUESTS WITH RESPECT TO BAD DEBTS OR WORTHLESS SECURITIES.—In the case of that portion of any request for an administrative adjustment which relates to the deductibility by the partnership under section 166 of a debt as a debt which became worthless, or under section 165(g) of a loss from worthlessness of a security, the period prescribed in subsection (a)(1) shall be 7 years from the last day for filing the partnership return for the year with respect to which such request is made (determined without regard to extensions).''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

(2) TREATMENT OF REQUESTS FILED BEFORE DATE OF ENACTMENT.—In the case of that portion of any request (filed before the date of the enactment of this Act) for an administrative adjustment which relates to the deductibility of a debt as a debt which became worthless or the deductibility of a loss from the worthlessness of a security—

(A) paragraph (2) of section 6227(a) of the Internal Revenue Code of 1986 shall not apply,

(B) the period for filing a petition under section 6228 of the Internal Revenue Code of 1986 with respect to such request shall not expire before the date 6 months after the date of the enactment of this Act, and

(C) such a petition may be filed without regard to whether there was a notice of the beginning of an administrative proceeding or a final partnership administrative adjustment.

PART III—PROVISION RELATING TO CLOSING OF PARTNERSHIP TAXABLE YEAR WITH RESPECT TO DECEASED PARTNER, ETC.

SEC. 1246. CLOSING OF PARTNERSHIP TAXABLE YEAR WITH RESPECT TO DECEASED PARTNER, ETC.

(a) GENERAL RULE.—Subparagraph (A) of section 706(c)(2) (relating to disposition of entire interest) is amended to read as follows:

''(A) DISPOSITION OF ENTIRE INTEREST.—The taxable year of a partnership shall close with respect to a partner whose entire interest in the partnership terminates (whether by reason of death, liquidation, or otherwise).''.

(b) CLERICAL AMENDMENT.—The paragraph heading for paragraph (2) of section 706(c) is amended to read as follows:

''(2) TREATMENT OF DISPOSITIONS.—''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1997.

Subtitle D—Provisions Relating to Real Estate Investment Trusts

SEC. 1251. CLARIFICATION OF LIMITATION ON MAXIMUM NUMBER OF SHAREHOLDERS.

(a) RULES RELATING TO DETERMINATION OF OWNERSHIP.—

(1) FAILURE TO ISSUE SHAREHOLDER DEMAND LETTER NOT TO DISQUALIFY REIT.—Section 857(a) (relating to requirements applicable to real estate investment trusts) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(2) SHAREHOLDER DEMAND LETTER REQUIREMENT; PENALTY.—Section 857 (relating to taxation of real estate investment trusts and their beneficiaries) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) REAL ESTATE INVESTMENT TRUSTS TO ASCERTAIN OWNERSHIP.—

''(1) IN GENERAL.—Each real estate investment trust shall each taxable year comply with regulations prescribed by the Secretary for the purposes of ascertaining the actual ownership of the outstanding shares, or certificates of beneficial interest, of such trust.

''(2) FAILURE TO COMPLY.—

''(A) IN GENERAL.—If a real estate investment trust fails to comply with the requirements of paragraph (1) for a taxable year, such trust shall pay (on notice and demand by the Secretary and in the same manner as tax) a penalty of $25,000.

''(B) INTENTIONAL DISREGARD.—If any failure under paragraph (1) is due to intentional disregard of the requirement under paragraph (1), the penalty under subparagraph (A) shall be $50,000.

''(C) FAILURE TO COMPLY AFTER NOTICE.—The Secretary may require a real estate investment trust to take such actions as the Secretary determines appropriate to ascertain actual ownership if the trust fails to meet the requirements of paragraph (1). If the trust fails to take such actions, the trust shall pay (on notice and demand by the Secretary and in the same manner as tax) an additional penalty equal to the penalty determined under subparagraph (A) or (B), whichever is applicable.

''(D) REASONABLE CAUSE.—No penalty shall be imposed under this paragraph with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect.''.

(b) COMPLIANCE WITH CLOSELY HELD PROHIBITION.—

(1) IN GENERAL.—Section 856 (defining real estate investment trust) is amended by adding at the end the following new subsection:

''(k) REQUIREMENT THAT ENTITY NOT BE CLOSELY HELD TREATED AS MET IN CERTAIN CASES.—A corporation, trust, or association—

''(1) which for a taxable year meets the requirements of section 857(f)(1), and

''(2) which does not know, or exercising reasonable diligence would not have known, whether the entity failed to meet the requirement of subsection (a)(6),

shall be treated as having met the requirement of subsection (a)(6) for the taxable year.''.

(2) CONFORMING AMENDMENT.—Paragraph (6) of section 856(a) is amended by inserting ''subject to the provisions of subsection (k),'' before ''which is not''.

SEC. 1252. DE MINIMIS RULE FOR TENANT SERVICES INCOME.

(a) IN GENERAL.—Paragraph (2) of section 856(d) (defining rents from real property) is amended by striking subparagraph (C) and the last sentence and inserting:

''(C) any impermissible tenant service income (as defined in paragraph (7)).''.

(b) IMPERMISSIBLE TENANT SERVICE INCOME.—Section 856(d) is amended by adding at the end the following new paragraph:

''(7) IMPERMISSIBLE TENANT SERVICE INCOME.—For purposes of paragraph (2)(C)—

''(A) IN GENERAL.—The term 'impermissible tenant service income' means, with respect to any real or personal property, any amount received or accrued directly or indirectly by the real estate investment trust for—

''(i) services furnished or rendered by the trust to the tenants of such property, or

''(ii) managing or operating such property.

''(B) DISQUALIFICATION OF ALL AMOUNTS WHERE MORE THAN DE MINIMIS AMOUNT.—If the amount described in subparagraph (A) with respect to a property for any taxable year exceeds 1 percent of all amounts received or accrued during such taxable year directly or indirectly by the real estate investment trust with respect to such property, the impermissible tenant service income of the trust with respect to the property shall include all such amounts.

''(C) EXCEPTIONS.—For purposes of subparagraph (A)—

''(i) services furnished or rendered, or management or operation provided, through an independent contractor from whom the trust itself does not derive or receive any income shall not be treated as furnished, rendered, or provided by the trust, and

''(ii) there shall not be taken into account any amount which would be excluded from unrelated business taxable income under section 512(b)(3) if received by an organization described in section 511(a)(2).

''(D) AMOUNT ATTRIBUTABLE TO IMPERMISSIBLE SERVICES.—For purposes of subparagraph (A), the amount treated as received for any service (or management or operation) shall not be less than 150 percent of the direct cost of the trust in furnishing or rendering the service (or providing the management or operation).

''(E) COORDINATION WITH LIMITATIONS.—For purposes of paragraphs (2) and (3) of subsection (c), amounts described in subparagraph (A) shall be included in the gross income of the corporation, trust, or association.''.

SEC. 1253. ATTRIBUTION RULES APPLICABLE TO TENANT OWNERSHIP.

Section 856(d)(5) (relating to constructive ownership of stock) is amended by adding at the end the following: ''For purposes of paragraph (2)(B), section 318(a)(3)(A) shall be applied under the preceding sentence in the case of a partnership by taking into account only partners who own (directly or indirectly) 25 percent or more of the capital interest, or the profits interest, in the partnership.''.

SEC. 1254. CREDIT FOR TAX PAID BY REIT ON RETAINED CAPITAL GAINS.

(a) GENERAL RULE.—Paragraph (3) of section 857(b) (relating to capital gains) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

''(D) TREATMENT BY SHAREHOLDERS OF UNDISTRIBUTED CAPITAL GAINS.—

''(i) Every shareholder of a real estate investment trust at the close of the trust's taxable year shall include, in computing his long-term capital gains in his return for his taxable year in which the last day of the trust's taxable year falls, such amount as the trust shall designate in respect of such shares in a written notice mailed to its shareholders at any time prior to the expiration of 60 days after the close of its taxable year (or mailed to its shareholders or holders of beneficial interests with its annual report for the taxable year), but the amount so includible by any shareholder shall not exceed that part of the amount subjected to tax in subparagraph (A)(ii) which he would have received if all of such amount had been distributed as capital gain dividends by the trust to the holders of such shares at the close of its taxable year.

''(ii) For purposes of this title, every such shareholder shall be deemed to have paid, for his taxable year under clause (i), the tax imposed by subparagraph (A)(ii) on the amounts required by this subparagraph to be included in respect of such shares in computing his long-term capital gains for that year; and such shareholders shall be allowed credit or refund as the case may be, for the tax so deemed to have been paid by him.

''(iii) The adjusted basis of such shares in the hands of the holder shall be increased with respect to the amounts required by this subparagraph to be included in computing his long-term capital gains, by the difference between the amount of such includible gains and the tax deemed paid by such shareholder in respect of such shares under clause (ii).

''(iv) In the event of such designation, the tax imposed by subparagraph (A)(ii) shall be paid by the real estate investment trust within 30 days after the close of its taxable year.

''(v) The earnings and profits of such real estate investment trust, and the earnings and profits of any such shareholder which is a corporation, shall be appropriately adjusted in accordance with regulations prescribed by the Secretary.

''(vi) As used in this subparagraph, the terms 'shares' and 'shareholders' shall include beneficial interests and holders of beneficial interests, respectively.''.

(b) CONFORMING AMENDMENTS.—

(1) Clause (i) of section 857(b)(7)(A) is amended by striking ''subparagraph (B)'' and inserting ''subparagraph (B) or (D)''.

(2) Clause (iii) of section 852(b)(3)(D) is amended by striking ''by 65 percent'' and all that follows and inserting ''by the difference between the amount of such includible gains and the tax deemed paid by such shareholder in respect of such shares under clause (ii).''.

SEC. 1255. REPEAL OF 30-PERCENT GROSS INCOME REQUIREMENT.

(a) GENERAL RULE.—Subsection (c) of section 856 (relating to limitations) is amended—

(1) by adding ''and'' at the end of paragraph (3),

(2) by striking paragraphs (4) and (8), and

(3) by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (G) of section 856(c)(5), as redesignated by subsection (a), is amended by striking ''and such agreement shall be treated as a security for purposes of paragraph (4)(A)''.

(2) Paragraph (5) of section 857(b) is amended by striking ''section 856(c)(7)'' and inserting ''section 856(c)(6)''.

(3) Subparagraph (C) of section 857(b)(6) is amended by striking ''section 856(c)(6)(B)'' and inserting ''section 856(c)(5)(B)''.

SEC. 1256. MODIFICATION OF EARNINGS AND PROFITS RULES FOR DETERMINING WHETHER REIT HAS EARNINGS AND PROFITS FROM NON-REIT YEAR.

Subsection (d) of section 857 is amended by adding at the end the following new paragraph:

''(3) DISTRIBUTIONS TO MEET REQUIREMENTS OF SUBSECTION (a)(2)(B).—Any distribution which is made in order to comply with the requirements of subsection (a)(2)(B)—

''(A) shall be treated for purposes of this subsection and subsection (a)(2)(B) as made from the earliest accumulated earnings and profits (other than earnings and profits to which subsection (a)(2)(A) applies) rather than the most recently accumulated earnings and profits, and

''(B) to the extent treated under subparagraph (A) as made from accumulated earnings and profits, shall not be treated as a distribution for purposes of subsection (b)(2)(B).''.

SEC. 1257. TREATMENT OF FORECLOSURE PROPERTY.

(a) GRACE PERIODS.—

(1) INITIAL PERIOD.—Paragraph (2) of section 856(e) (relating to special rules for foreclosure property) is amended by striking ''on the date which is 2 years after the date the trust acquired such property'' and inserting ''as of the close of the 3d taxable year following the taxable year in which the trust acquired such property''.

(2) EXTENSION.—Paragraph (3) of section 856(e) is amended—

(A) by striking ''or more extensions'' and inserting ''extension'', and

(B) by striking the last sentence and inserting: ''Any such extension shall not extend the grace period beyond the close of the 3d taxable year following the last taxable year in the period under paragraph (2).''.

(b) REVOCATION OF ELECTION.—Paragraph (5) of section 856(e) is amended by striking the last sentence and inserting: ''A real estate investment trust may revoke any such election for a taxable year by filing the revocation (in the manner provided by the Secretary) on or before the due date (including any extension of time) for filing its return of tax under this chapter for the taxable year. If a trust revokes an election for any property, no election may be made by the trust under this paragraph with respect to the property for any subsequent taxable year.''.

(c) CERTAIN ACTIVITIES NOT TO DISQUALIFY PROPERTY.—Paragraph (4) of section 856(e) is amended by adding at the end the following new flush sentence:

''For purposes of subparagraph (C), property shall not be treated as used in a trade or business by reason of any activities of the real estate investment trust with respect to such property to the extent that such activities would not result in amounts received or accrued, directly or indirectly, with respect to such property being treated as other than rents from real property.''.

SEC. 1258. PAYMENTS UNDER HEDGING INSTRUMENTS.

Section 856(c)(5)(G) (relating to treatment of certain interest rate agreements), as redesignated by section 1255, is amended to read as follows:

''(G) TREATMENT OF CERTAIN HEDGING INSTRUMENTS.—Except to the extent provided by regulations, any—

''(i) payment to a real estate investment trust under an interest rate swap or cap agreement, option, futures contract, forward rate agreement, or any similar financial instrument, entered into by the trust in a transaction to reduce the interest rate risks with respect to any indebtedness incurred or to be incurred by the trust to acquire or carry real estate assets, and

''(ii) gain from the sale or other disposition of any such investment,

shall be treated as income qualifying under paragraph (2).''.

SEC. 1259. EXCESS NONCASH INCOME.

Section 857(e)(2) (relating to determination of amount of excess noncash income) is amended—

(1) by striking subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting a comma,

(3) by redesignating subparagraph (C) (as amended by paragraph (2)) as subparagraph (B), and

(4) by adding at the end the following new subparagraphs:

''(C) the amount (if any) by which—

''(i) the amounts includible in gross income with respect to instruments to which section 860E(a) or 1272 applies, exceed

''(ii) the amount of money and the fair market value of other property received during the taxable year under such instruments, and

''(D) amounts includible in income by reason of cancellation of indebtedness.''.

SEC. 1260. PROHIBITED TRANSACTION SAFE HARBOR.

Clause (iii) of section 857(b)(6)(C) (relating to certain sales not to constitute prohibited transactions) is amended by striking ''(other than foreclosure property)'' in subclauses (I) and (II) and inserting ''(other than sales of foreclosure property or sales to which section 1033 applies)''.

SEC. 1261. SHARED APPRECIATION MORTGAGES.

(a) BANKRUPTCY SAFE HARBOR.—Section 856(j) (relating to treatment of shared appreciation mortgages) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) COORDINATION WITH 4-YEAR HOLDING PERIOD.—

''(A) IN GENERAL.—For purposes of section 857(b)(6)(C), if a real estate investment trust is treated as having sold secured property under paragraph (3)(A), the trust shall be treated as having held such property for at least 4 years if—

''(i) the secured property is sold or otherwise disposed of pursuant to a case under title 11 of the United States Code,

''(ii) the seller is under the jurisdiction of the court in such case, and

''(iii) the disposition is required by the court or is pursuant to a plan approved by the court.

''(B) EXCEPTION.—Subparagraph (A) shall not apply if—

''(i) the secured property was acquired by the trust with the intent to evict or foreclose, or

''(ii) the trust knew or had reason to know that default on the obligation described in paragraph (5)(A) would occur.''.

(b) CLARIFICATION OF DEFINITION OF SHARED APPRECIATION PROVISION.—Clause (ii) of section 856(j)(5)(A) is amended by inserting before the period ''or appreciation in value as of any specified date''.

SEC. 1262. WHOLLY OWNED SUBSIDIARIES.

Section 856(i)(2) (defining qualified REIT subsidiary) is amended by striking ''at all times during the period such corporation was in existence''.

SEC. 1263. EFFECTIVE DATE.

The amendments made by this part shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle E—Provisions Relating to Regulated Investment Companies

SEC. 1271. REPEAL OF 30-PERCENT GROSS INCOME LIMITATION.

(a) GENERAL RULE.—Subsection (b) of section 851 (relating to limitations) is amended by striking paragraph (3), by adding ''and'' at the end of paragraph (2), and by redesignating paragraph (4) as paragraph (3).

(b) TECHNICAL AMENDMENTS.—

(1) The material following paragraph (3) of section 851(b) (as redesignated by subsection (a)) is amended—

(A) by striking out ''paragraphs (2) and (3)'' and inserting ''paragraph (2)'', and

(B) by striking out the last sentence thereof.

(2) Subsection (c) of section 851 is amended by striking ''subsection (b)(4)'' each place it appears (including the heading) and inserting ''subsection (b)(3)''.

(3) Subsection (d) of section 851 is amended by striking ''subsections (b)(4)'' and inserting ''subsections (b)(3)''.

(4) Paragraph (1) of section 851(e) is amended by striking ''subsection (b)(4)'' and inserting ''subsection (b)(3)''.

(5) Paragraph (4) of section 851(e) is amended by striking ''subsections (b)(4)'' and inserting ''subsections (b)(3)''.

(6) Section 851 is amended by striking subsection (g) and redesignating subsection (h) as subsection (g).

(7) Subsection (g) of section 851 (as redesignated by paragraph (6)) is amended by striking paragraph (3).

(8) Section 817(h)(2) is amended—

(A) by striking ''851(b)(4)'' in subparagraph (A) and inserting ''851(b)(3)'', and

(B) by striking ''851(b)(4)(A)(i)'' in subparagraph (B) and inserting ''851(b)(3)(A)(i)''.

(9) Section 1092(f)(2) is amended by striking ''Except for purposes of section 851(b)(3), the'' and inserting ''The''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable

years ending after the date of the enactment of this Act.

Subtitle F—Taxpayer Protections

SEC. 1281. REASONABLE CAUSE EXCEPTION FOR CERTAIN PENALTIES.

(a) INFORMATION ON DEDUCTIBLE EMPLOYEE CONTRIBUTIONS.—Subsection (g) of section 6652 (relating to information required in connection with deductible employee contributions) is amended by adding at the end the following new sentence: ''No penalty shall be imposed under this subsection on any failure which is shown to be due to reasonable cause and not willful neglect.''.

(b) REPORTS ON STATUS AS QUALIFIED SMALL BUSINESS.—Subsection (k) of section 6652 (relating to failure to make reports required under section 1202) is amended by adding at the end the following new sentence: ''No penalty shall be imposed under this subsection on any failure which is shown to be due to reasonable cause and not willful neglect.''.

(c) RETURNS OF PERSONAL HOLDING COMPANY TAX BY FOREIGN CORPORATIONS.—Section 6683 (relating to failure of foreign corporation to file return of personal holding company tax) is amended by adding at the end the following new sentence: ''No penalty shall be imposed under this section on any failure which is shown to be due to reasonable cause and not willful neglect.''.

(d) FAILURE TO MAKE REQUIRED PAYMENTS.—Subparagraph (A) of section 7519(f)(4) is amended by adding at the end the following new sentence: ''No penalty shall be imposed under this subparagraph on any failure which is shown to be due to reasonable cause and not willful neglect.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1282. CLARIFICATION OF PERIOD FOR FILING CLAIMS FOR REFUNDS.

(a) IN GENERAL.—Paragraph (3) of section 6512(b) (relating to overpayment determined by Tax Court) is amended by adding at the end the following flush sentence:

''In a case described in subparagraph (B) where the date of the mailing of the notice of deficiency is during the third year after the due date (with extensions) for filing the return of tax and no return was filed before such date, the applicable period under subsections (a) and (b)(2) of section 6511 shall be 3 years.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to claims for credit or refund for taxable years ending after the date of the enactment of this Act.

SEC. 1283. REPEAL OF AUTHORITY TO DISCLOSE WHETHER PROSPECTIVE JUROR HAS BEEN AUDITED.

(a) IN GENERAL.—Subsection (h) of section 6103 (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by striking paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 6103(p) is amended by striking ''(h)(6)'' each place it appears and inserting ''(h)(5)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to judicial proceedings commenced after the date of the enactment of this Act.

SEC. 1284. CLARIFICATION OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Subsection (a) of section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new sentence: ''For purposes of this chapter, the term 'return' means the return required to be filed by the taxpayer (and does not include a return of any person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1285. AWARDING OF ADMINISTRATIVE COSTS.

(a) RIGHT TO APPEAL TAX COURT DECISION.—Subsection (f) of section 7430 (relating to right of appeal) is amended by adding at the end the following new paragraph:

''(3) APPEAL OF TAX COURT DECISION.—An order of the Tax Court disposing of a petition under paragraph (2) shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order.''.

(b) PERIOD FOR APPLYING TO IRS FOR COSTS.—Subsection (b) of section 7430 (relating to limitations) is amended by adding at the end the following new paragraph:

''(5) PERIOD FOR APPLYING TO IRS FOR ADMINISTRATIVE COSTS.—An award may be made under subsection (a) by the Internal Revenue Service for reasonable administrative costs only if the prevailing party files an application with the Internal Revenue Service for such costs before the 91st day after the date on which the final decision of the Internal Revenue Service as to the determination of the tax, interest, or penalty is mailed to such party.''.

(c) PERIOD FOR PETITIONING OF TAX COURT FOR REVIEW OF DENIAL OF COSTS.—Paragraph (2) of section 7430(f) (relating to right of appeal) is amended—

(1) by striking ''appeal to'' and inserting ''the filing of a petition for review with'', and

(2) by adding at the end the following new sentence: ''If the Secretary sends by certified or registered mail a notice of such decision to the petitioner, no proceeding in the Tax Court may be initiated under this paragraph unless such petition is filed before the 91st day after the date of such mailing.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to civil actions or proceedings commenced after the date of the enactment of this Act.

SEC. 1286. PENALTY FOR UNAUTHORIZED INSPECTION OF TAX RETURNS OR TAX RETURN INFORMATION.

(a) IN GENERAL.—Part I of subchapter A of chapter 75 (relating to crimes, other offenses, and forfeitures) is amended by adding after section 7213 the following new section:

''SEC. 7213A. UNAUTHORIZED INSPECTION OF RETURNS OR RETURN INFORMATION.

''(a) PROHIBITIONS.—

''(1) FEDERAL EMPLOYEES AND OTHER PERSONS.—It shall be unlawful for—

''(A) any officer or employee of the United States, or

''(B) any person described in section 6103(n) or an officer or employee of any such person,

willfully to inspect, except as authorized in this title, any return or return information.

''(2) STATE AND OTHER EMPLOYEES.—It shall be unlawful for any person (not described in paragraph (1)) willfully to inspect, except as authorized in this title, any return or return information acquired by such person or another person under a provision of section 6103 referred to in section 7213(a)(2).

''(b) PENALTY.—

''(1) IN GENERAL.—Any violation of subsection (a) shall be punishable upon conviction by a fine in any amount not exceeding $1,000, or imprisonment of not more than 1 year, or both, together with the costs of prosecution.

''(2) FEDERAL OFFICERS OR EMPLOYEES.—An officer or employee of the United States who is convicted of any violation of subsection (a) shall, in addition to any other punishment, be dismissed from office or discharged from employment.

''(c) DEFINITIONS.—For purposes of this section, the terms 'inspect', 'return', and 'return information' have the respective meanings given such terms by section 6103(b).''.

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 7213(a) is amended by inserting ''(5),'' after ''(m)(2), (4),''.

(2) The table of sections for part I of subchapter A of chapter 75 is amended by inserting after the item relating to section 7213 the following new item:

''Sec. 7213A. Unauthorized inspection of returns or return information.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to violations occurring on and after the date of the enactment of this Act.

SEC. 1287. CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION OF RETURNS AND RETURN INFORMATION; NOTIFICATION OF UNLAWFUL INSPECTION OR DISCLOSURE.

(a) CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION.—Subsection (a) of section 7431 is amended—

(1) by striking ''DISCLOSURE'' in the headings for paragraphs (1) and (2) and inserting ''INSPECTION OR DISCLOSURE'', and

(2) by striking ''discloses'' in paragraphs (1) and (2) and inserting ''inspects or discloses''.

(b) NOTIFICATION OF UNLAWFUL INSPECTION OR DISCLOSURE.—Section 7431 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

''(e) NOTIFICATION OF UNLAWFUL INSPECTION AND DISCLOSURE.—If any person is criminally charged by indictment or information with inspection or disclosure of a taxpayer's return or return information in violation of—

''(1) paragraph (1) or (2) of section 7213(a),

''(2) section 7213A(a), or

''(3) subparagraph (B) of section 1030(a)(2) of title 18, United States Code,

the Secretary shall notify such taxpayer as soon as practicable of such inspection or disclosure.''.

(c) NO DAMAGES FOR INSPECTION REQUESTED BY TAXPAYER.—Subsection (b) of section 7431 is amended to read as follows:

''(b) EXCEPTIONS.—No liability shall arise under this section with respect to any inspection or disclosure—

''(1) which results from a good faith, but erroneous, interpretation of section 6103, or

''(2) which is requested by the taxpayer.''.

(d) CONFORMING AMENDMENTS.—

(1) Subsections (c)(1)(A), (c)(1)(B)(i), and (d) of section 7431 are each amended by inserting ''inspection or'' before ''disclosure''.

(2) Clause (ii) of section 7431(c)(1)(B) is amended by striking ''willful disclosure or a disclosure'' and inserting ''willful inspection or disclosure or an inspection or disclosure''.

(3) Subsection (f) of section 7431, as redesignated by subsection (b), is amended to read as follows:

''(f) DEFINITIONS.—For purposes of this section, the terms 'inspect', 'inspection', 'return', and 'return information' have the respective meanings given such terms by section 6103(b).''.

(4) The section heading for section 7431 is amended by inserting ''**INSPECTION OR**'' before ''**DISCLOSURE**''.

(5) The table of sections for subchapter B of chapter 76 is amended by inserting ''inspection or'' before ''disclosure'' in the item relating to section 7431.

(6) Paragraph (2) of section 7431(g), as redesignated by subsection (b), is amended by

striking ''any use'' and inserting ''any inspection or use''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to inspections and disclosures occurring on and after the date of the enactment of this Act.

TITLE XIII—SIMPLIFICATION PROVISIONS RELATING TO ESTATE AND GIFT TAXES

SEC. 1301. GIFTS TO CHARITIES EXEMPT FROM GIFT TAX FILING REQUIREMENTS.

(a) IN GENERAL.—Section 6019 is amended by striking ''or'' at the end of paragraph (1), by adding ''or'' at the end of paragraph (2), and by inserting after paragraph (2) the following new paragraph:

''(3) a transfer with respect to which a deduction is allowed under section 2522, except that this paragraph shall apply with respect to a transfer of property (other than a transfer described in section 2522(d)) only if the entire value of such property is allowed as a deduction under section 2522,''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to gifts made after the date of the enactment of this Act.

SEC. 1302. CLARIFICATION OF WAIVER OF CERTAIN RIGHTS OF RECOVERY.

(a) AMENDMENT TO SECTION 2207A.—Paragraph (2) of section 2207A(a) (relating to right of recovery in the case of certain marital deduction property) is amended to read as follows:

''(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property.''.

(b) AMENDMENT TO SECTION 2207B.—Paragraph (2) of section 2207B(a) (relating to right of recovery where decedent retained interest) is amended to read as follows:

''(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the estates of decedents dying after the date of the enactment of this Act.

SEC. 1303. TRANSITIONAL RULE UNDER SECTION 2056A.

(a) GENERAL RULE.—In the case of any trust created under an instrument executed before the date of the enactment of the Revenue Reconciliation Act of 1990, such trust shall be treated as meeting the requirements of paragraph (1) of section 2056A(a) of the Internal Revenue Code of 1986 if the trust instrument requires that all trustees of the trust be individual citizens of the United States or domestic corporations.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall take effect as if included in the provisions of section 11702(g) of the Revenue Reconciliation Act of 1990.

SEC. 1304. CLARIFICATIONS RELATING TO DISCLAIMERS.

(a) PARTIAL TRANSFER-TYPE DISCLAIMERS PERMITTED.—Paragraph (3) of section 2518(c) (relating to certain transfers treated as disclaimers) is amended by inserting ''(or an undivided portion of such interest)'' after ''entire interest in the property''.

(b) RETENTION OF INTEREST BY DECEDENT'S SPOUSE PERMITTED IN TRANSFER-TYPE DISCLAIMERS.—Paragraph (3) of section 2518(c) is amended by adding at the end the following new flush sentence:

''For purposes of the preceding sentence, a written transfer by the spouse of the decedent of property to a trust shall not fail to be treated as a transfer of such spouse's interest in such property by reason of such spouse having an interest in such trust.''.

(c) DISCLAIMERS ARE EFFECTIVE FOR INCOME TAX PURPOSES.—Subsection (a) of section 2518 is amended by inserting ''and subtitle A'' after ''this subtitle'' each place it appears.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers creating an interest in the person disclaiming, and disclaimers, made after the date of the enactment of this Act.

SEC. 1305. INCREASE OF AMOUNT OF LAPSE OF GENERAL POWER OF APPOINTMENT NOT TREATED AS RELEASE FOR PURPOSES OF ESTATE AND GIFT TAX (5 OR 5 POWER).

(a) ESTATE TAX.—Subparagraph (A) of section 2041(b)(2) (relating to lapse of power) is amended by striking ''$5,000'' and inserting ''$10,000''.

(b) GIFT TAX.—Paragraph (1) of section 2514(e) (relating to lapse of power) is amended by striking ''$5,000'' and inserting ''$10,000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1306. TREATMENT FOR ESTATE TAX PURPOSES OF SHORT-TERM OBLIGATIONS HELD BY NONRESIDENT ALIENS.

(a) IN GENERAL.—Subsection (b) of section 2105 is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by inserting after paragraph (3) the following new paragraph:

''(4) obligations which would be original issue discount obligations as defined in section 871(g)(1) but for subparagraph (B)(i) thereof, if any interest thereon (were such interest received by the decedent at the time of his death) would not be effectively connected with the conduct of a trade or business within the United States.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 1307. CERTAIN REVOCABLE TRUSTS TREATED AS PART OF ESTATE.

(a) IN GENERAL.—Subpart A of part I of subchapter J (relating to estates, trusts, beneficiaries, and decedents) is amended by adding at the end the following new section:

''SEC. 646. CERTAIN REVOCABLE TRUSTS TREATED AS PART OF ESTATE.

''(a) GENERAL RULE.—For purposes of this subtitle, if both the executor (if any) of an estate and the trustee of a qualified revocable trust elect the treatment provided in this section, such trust shall be treated and taxed as part of such estate (and not as a separate trust) for all taxable years of the estate ending after the date of the decedent's death and before the applicable date.

''(b) DEFINITIONS.—For purposes of subsection (a)—

''(1) QUALIFIED REVOCABLE TRUST.—The term 'qualified revocable trust' means any trust (or portion thereof) which was treated under section 676 as owned by the decedent of the estate referred to in subsection (a) by reason of a power in the grantor (determined without regard to section 672(e)).

''(2) APPLICABLE DATE.—The term 'applicable date' means—

''(A) if no return of tax imposed by chapter 11 is required to be filed, the date which is 2 years after the date of the decedent's death, and

''(B) if such a return is required to be filed, the date which is 6 months after the date of the final determination of the liability for tax imposed by chapter 11.

''(c) ELECTION.—The election under subsection (a) shall be made not later than the time prescribed for filing the return of tax imposed by this chapter for the first taxable year of the estate (determined with regard to extensions) and, once made, shall be irrevocable.''.

(b) COMPARABLE TREATMENT UNDER GENERATION-SKIPPING TAX.—Paragraph (1) of section 2652(b) is amended by adding at the end the following new sentence: ''Such term shall not include any trust during any period the trust is treated as part of an estate under section 646.''.

(c) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by adding at the end the following new item:

''Sec. 646. Certain revocable trusts treated as part of estate.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to estates of decedents dying after the date of the enactment of this Act.

SEC. 1308. DISTRIBUTIONS DURING FIRST 65 DAYS OF TAXABLE YEAR OF ESTATE.

(a) IN GENERAL.—Subsection (b) of section 663 (relating to distributions in first 65 days of taxable year) is amended by inserting ''an estate or'' before ''a trust'' each place it appears.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 663(b) is amended by striking ''the fiduciary of such trust'' and inserting ''the executor of such estate or the fiduciary of such trust (as the case may be)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1309. SEPARATE SHARE RULES AVAILABLE TO ESTATES.

(a) IN GENERAL.—Subsection (c) of section 663 (relating to separate shares treated as separate trusts) is amended—

(1) by inserting before the last sentence the following new sentence: ''Rules similar to the rules of the preceding provisions of this subsection shall apply to treat substantially separate and independent shares of different beneficiaries in an estate having more than 1 beneficiary as separate estates.'', and

(2) by inserting ''or estates'' after ''trusts'' in the last sentence.

(b) CONFORMING AMENDMENT.—The subsection heading of section 663(c) is amended by inserting ''ESTATES OR'' before ''TRUSTS''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 1310. EXECUTOR OF ESTATE AND BENEFICIARIES TREATED AS RELATED PERSONS FOR DISALLOWANCE OF LOSSES, ETC.

(a) DISALLOWANCE OF LOSSES.—Subsection (b) of section 267 (relating to losses, expenses, and interest with respect to transactions between related taxpayers) is amended by striking ''or'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ''; or'', and by adding at the end the following new paragraph:

''(13) Except in the case of a sale or exchange in satisfaction of a pecuniary bequest, an executor of an estate and a beneficiary of such estate.''.

(b) ORDINARY INCOME FROM GAIN FROM SALE OF DEPRECIABLE PROPERTY.—Subsection (b) of section 1239 is amended by striking the period at the end of paragraph (2) and inserting '', and'' and by adding at the end the following new paragraph:

''(3) except in the case of a sale or exchange in satisfaction of a pecuniary bequest, an executor of an estate and a beneficiary of such estate.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1311. LIMITATION ON TAXABLE YEAR OF ESTATES.

(a) IN GENERAL.—Section 645 (relating to taxable year of trusts) is amended to read as follows:

"SEC. 645. TAXABLE YEAR OF ESTATES AND TRUSTS.

''(a) ESTATES.—For purposes of this subtitle, the taxable year of an estate shall be a year ending on October 31, November 30, or December 31.

''(b) TRUSTS.—

''(1) IN GENERAL.—For purposes of this subtitle, the taxable year of any trust shall be the calendar year.

''(2) EXCEPTION FOR TRUSTS EXEMPT FROM TAX AND CHARITABLE TRUSTS.—Paragraph (1) shall not apply to a trust exempt from taxation under section 501(a) or to a trust described in section 4947(a)(1).''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part I of subchapter J of chapter 1 is amended by striking the item relating to section 645 and inserting the following new item:

''Sec. 645. Taxable year of estates and trusts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 1312. TREATMENT OF FUNERAL TRUSTS.

(a) IN GENERAL.—Subpart F of part I of subchapter J of chapter 1 is amended by adding at the end the following new section:

"SEC. 684. TREATMENT OF FUNERAL TRUSTS.

''(a) IN GENERAL.—In the case of a qualified funeral trust—

''(1) subparts B, C, D, and E shall not apply, and

''(2) no deduction shall be allowed by section 642(b).

''(b) QUALIFIED FUNERAL TRUST.—For purposes of this subsection, the term 'qualified funeral trust' means any trust (other than a foreign trust) if—

''(1) the trust arises as a result of a contract with a person engaged in the trade or business of providing funeral or burial services or property necessary to provide such services,

''(2) the sole purpose of the trust is to hold, invest, and reinvest funds in the trust and to use such funds solely to make payments for such services or property for the benefit of the beneficiaries of the trust,

''(3) the only beneficiaries of such trust are individuals who have entered into contracts described in paragraph (1) to have such services or property provided at their death,

''(4) the only contributions to the trust are contributions by or for the benefit of such beneficiaries,

''(5) the trustee elects the application of this subsection, and

''(6) the trust would (but for the election described in paragraph (5)) be treated as owned by the beneficiaries under subpart E.

''(c) DOLLAR LIMITATION ON CONTRIBUTIONS.—

''(1) IN GENERAL.—The term 'qualified funeral trust' shall not include any trust which accepts aggregate contributions by or for the benefit of an individual in excess of $7,000.

''(2) RELATED TRUSTS.—For purposes of paragraph (1), all trusts having trustees which are related persons shall be treated as 1 trust. For purposes of the preceding sentence, persons are related if—

''(A) the relationship between such persons is described in section 267 or 707(b),

''(B) such persons are treated as a single employer under subsection (a) or (b) of section 52, or

''(C) the Secretary determines that treating such persons as related is necessary to prevent avoidance of the purposes of this section.

''(3) INFLATION ADJUSTMENT.—In the case of any contract referred to in subsection (b)(1) which is entered into during any calendar year after 1998, the dollar amount referred to paragraph (1) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any dollar amount after being increased under the preceding sentence is not a multiple of $100, such dollar amount shall be rounded to the nearest multiple of $100.

''(d) APPLICATION OF RATE SCHEDULE.—Section 1(e) shall be applied to each qualified funeral trust by treating each beneficiary's interest in each such trust as a separate trust.

''(e) TREATMENT OF AMOUNTS REFUNDED TO BENEFICIARY ON CANCELLATION.—No gain or loss shall be recognized to a beneficiary described in subsection (b)(3) of any qualified funeral trust by reason of any payment from such trust to such beneficiary by reason of cancellation of a contract referred to in subsection (b)(1). If any payment referred to in the preceding sentence consists of property other than money, the basis of such property in the hands of such beneficiary shall be the same as the trust's basis in such property immediately before the payment.

''(f) SIMPLIFIED REPORTING.—The Secretary may prescribe rules for simplified reporting of all trusts having a single trustee.''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart F of part I of subchapter J of chapter 1 is amended by adding at the end the following new item:

''Sec. 684. Treatment of funeral trusts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1313. ADJUSTMENTS FOR GIFTS WITHIN 3 YEARS OF DECEDENT'S DEATH.

(a) GENERAL RULE.—Section 2035 is amended to read as follows:

"SEC. 2035. ADJUSTMENTS FOR CERTAIN GIFTS MADE WITHIN 3 YEARS OF DECEDENT'S DEATH.

''(a) INCLUSION OF CERTAIN PROPERTY IN GROSS ESTATE.—If—

''(1) the decedent made a transfer (by trust or otherwise) of an interest in any property, or relinquished a power with respect to any property, during the 3-year period ending on the date of the decedent's death, and

''(2) the value of such property (or an interest therein) would have been included in the decedent's gross estate under section 2036, 2037, 2038, or 2042 if such transferred interest or relinquished power had been retained by the decedent on the date of his death,

the value of the gross estate shall include the value of any property (or interest therein) which would have been so included.

''(b) INCLUSION OF GIFT TAX ON GIFTS MADE DURING 3 YEARS BEFORE DECEDENT'S DEATH.—The amount of the gross estate (determined without regard to this subsection) shall be increased by the amount of any tax paid under chapter 12 by the decedent or his estate on any gift made by the decedent or his spouse during the 3-year period ending on the date of the decedent's death.

''(c) OTHER RULES RELATING TO TRANSFERS WITHIN 3 YEARS OF DEATH.—

''(1) IN GENERAL.—For purposes of—

''(A) section 303(b) (relating to distributions in redemption of stock to pay death taxes),

''(B) section 2032A (relating to special valuation of certain farms, etc., real property), and

''(C) subchapter C of chapter 64 (relating to lien for taxes),

the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, during the 3-year period ending on the date of the decedent's death.

''(2) COORDINATION WITH SECTION 6166.—An estate shall be treated as meeting the 35 percent of adjusted gross estate requirement of section 6166(a)(1) only if the estate meets such requirement both with and without the application of paragraph (1).

''(3) MARITAL AND SMALL TRANSFERS.—Paragraph (1) shall not apply to any transfer (other than a transfer with respect to a life insurance policy) made during a calendar year to any donee if the decedent was not required by section 6019 (other than by reason of section 6019(2)) to file any gift tax return for such year with respect to transfers to such donee.

''(d) EXCEPTION.—Subsection (a) shall not apply to any bona fide sale for an adequate and full consideration in money or money's worth.

''(e) TREATMENT OF CERTAIN TRANSFERS FROM REVOCABLE TRUSTS.—For purposes of this section and section 2038, any transfer from any portion of a trust during any period that such portion was treated under section 676 as owned by the decedent by reason of a power in the grantor (determined without regard to section 672(e)) shall be treated as a transfer made directly by the decedent.''.

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by striking ''gifts'' in the item relating to section 2035 and inserting ''certain gifts''.

(c) 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.

SEC. 1314. CLARIFICATION OF TREATMENT OF SURVIVOR ANNUITIES UNDER QUALIFIED TERMINABLE INTEREST RULES.

(a) IN GENERAL.—Subparagraph (C) of section 2056(b)(7) is amended by inserting ''(or, in the case of an interest in an annuity arising under the community property laws of a State, included in the gross estate of the decedent under section 2033)'' after ''section 2039''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 1315. TREATMENT UNDER QUALIFIED DOMESTIC TRUST RULES OF FORMS OF OWNERSHIP WHICH ARE NOT TRUSTS.

(a) IN GENERAL.—Subsection (c) of section 2056A (defining qualified domestic trust) is amended by adding at the end the following new paragraph:

''(3) TRUST.—To the extent provided in regulations prescribed by the Secretary, the term 'trust' includes other arrangements which have substantially the same effect as a trust.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 1316. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.

(a) GENERAL RULE.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:

''(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.—The Secretary shall

prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor, but—

''(A) the notice of election, as filed, does not contain all required information, or

''(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 1317. AUTHORITY TO WAIVE REQUIREMENT OF UNITED STATES TRUSTEE FOR QUALIFIED DOMESTIC TRUSTS.

(a) IN GENERAL.—Subparagraph (A) of section 2056A(a)(1) is amended by inserting ''except as provided in regulations prescribed by the Secretary,'' before ''requires''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

TITLE XIV—SIMPLIFICATION PROVISIONS RELATING TO EXCISE TAXES, TAX-EXEMPT BONDS, AND OTHER MATTERS

Subtitle A—Excise Tax Simplification

PART I—EXCISE TAXES ON HEAVY TRUCKS AND LUXURY CARS

SEC. 1401. INCREASE IN DE MINIMIS LIMIT FOR AFTER-MARKET ALTERATIONS FOR HEAVY TRUCKS AND LUXURY CARS.

(a) IN GENERAL.—Sections 4003(a)(3)(C) and 4051(b)(2)(B) (relating to exceptions) are each amended by striking ''$200'' and inserting ''$1,000''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to installations on vehicles sold after the date of the enactment of this Act.

SEC. 1402. CREDIT FOR TIRE TAX IN LIEU OF EXCLUSION OF VALUE OF TIRES IN COMPUTING PRICE.

(a) IN GENERAL.—Subsection (e) of section 4051 is amended to read as follows:

''(e) CREDIT AGAINST TAX FOR TIRE TAX.—If—

''(1) tires are sold on or in connection with the sale of any article, and

''(2) tax is imposed by this subchapter on the sale of such tires,

there shall be allowed as a credit against the tax imposed by this subchapter an amount equal to the tax (if any) imposed by section 4071 on such tires.''.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 4052(b)(1) is amended by striking clause (iii), by adding ''and'' at the end of clause (ii), and by redesignating clause (iv) as clause (iii).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1998.

PART II—PROVISIONS RELATED TO DISTILLED SPIRITS, WINES, AND BEER

SEC. 1411. CREDIT OR REFUND FOR IMPORTED BOTTLED DISTILLED SPIRITS RETURNED TO DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Section 5008(c)(1) (relating to distilled spirits returned to bonded premises) is amended by striking ''withdrawn from bonded premises on payment or determination of tax'' and inserting ''on which tax has been determined or paid''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1412. AUTHORITY TO CANCEL OR CREDIT EXPORT BONDS WITHOUT SUBMISSION OF RECORDS.

(a) IN GENERAL.—Section 5175(c) (relating to cancellation of credit of export bonds) is amended by striking ''on the submission of'' and all that follows and inserting ''if there is such proof of exportation as the Secretary may by regulations require.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1413. REPEAL OF REQUIRED MAINTENANCE OF RECORDS ON PREMISES OF DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Section 5207(c) (relating to preservation and inspection) is amended by striking ''shall be kept on the premises where the operations covered by the record are carried on and''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1414. FERMENTED MATERIAL FROM ANY BREWERY MAY BE RECEIVED AT A DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Section 5222(b)(2) (relating to receipt) is amended to read as follows:

''(2) beer conveyed without payment of tax from brewery premises, beer which has been lawfully removed from brewery premises upon determination of tax, or''.

(b) CLARIFICATION OF AUTHORITY TO PERMIT REMOVAL OF BEER WITHOUT PAYMENT OF TAX FOR USE AS DISTILLING MATERIAL.—Section 5053 (relating to exemptions) is amended by redesignating subsection (f) as subsection (i) and by inserting after subsection (e) the following new subsection:

''(f) REMOVAL FOR USE AS DISTILLING MATERIAL.—Subject to such regulations as the Secretary may prescribe, beer may be removed from a brewery without payment of tax to any distilled spirits plant for use as distilling material.''.

(c) CLARIFICATION OF REFUND AND CREDIT OF TAX.—Section 5056 (relating to refund and credit of tax, or relief from liability) is amended—

(1) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) BEER RECEIVED AT A DISTILLED SPIRITS PLANT.—Any tax paid by any brewer on beer produced in the United States may be refunded or credited to the brewer, without interest, or if the tax has not been paid, the brewer may be relieved of liability therefor, under regulations as the Secretary may prescribe, if such beer is received on the bonded premises of a distilled spirits plant pursuant to the provisions of section 5222(b)(2), for use in the production of distilled spirits.'', and

(2) by striking ''or rendering unmerchantable'' in subsection (d) (as so redesignated) and inserting ''rendering unmerchantable, or receipt on the bonded premises of a distilled spirits plant''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1415. REPEAL OF REQUIREMENT FOR WHOLESALE DEALERS IN LIQUORS TO POST SIGN.

(a) IN GENERAL.—Section 5115 (relating to sign required on premises) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 5681(a) is amended by striking '', and every wholesale dealer in liquors,'' and by striking ''section 5115(a) or''.

(2) Section 5681(c) is amended—

(A) by striking ''or wholesale liquor establishment, on which no sign required by section 5115(a) or'' and inserting ''on which no sign required by'', and

(B) by striking ''or wholesale liquor establishment, or who'' and inserting ''or who''.

(3) The table of sections for subpart D of part II of subchapter A of chapter 51 is amended by striking the item relating to section 5115.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1416. REFUND OF TAX TO WINE RETURNED TO BOND NOT LIMITED TO UNMERCHANTABLE WINE.

(a) IN GENERAL.—Section 5044(a) (relating to refund of tax on unmerchantable wine) is amended by striking ''as unmerchantable''.

(b) CONFORMING AMENDMENTS.—

(1) Section 5361 is amended by striking ''unmerchantable''.

(2) The section heading for section 5044 is amended by striking ''UNMERCHANTABLE''.

(3) The item relating to section 5044 in the table of sections for subpart C of part I of subchapter A of chapter 51 is amended by striking ''unmerchantable''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1417. USE OF ADDITIONAL AMELIORATING MATERIAL IN CERTAIN WINES.

(a) IN GENERAL.—Section 5384(b)(2)(D) (relating to ameliorated fruit and berry wines) is amended by striking ''loganberries, currants, or gooseberries,'' and inserting ''any fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry)''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1418. DOMESTICALLY PRODUCED BEER MAY BE WITHDRAWN FREE OF TAX FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.

(a) IN GENERAL.—Section 5053 (relating to exemptions), as amended by section 1414(b), is amended by inserting after subsection (f) the following new subsection:

''(g) REMOVALS FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.—

''(1) IN GENERAL.—Subject to such regulations as the Secretary may prescribe—

''(A) beer may be withdrawn from the brewery without payment of tax for transfer to any customs bonded warehouse for entry pending withdrawal therefrom as provided in subparagraph (B), and

''(B) beer entered into any customs bonded warehouse under subparagraph (A) may be withdrawn for consumption in the United States by, and for the official and family use of, such foreign governments, organizations, and individuals as are entitled to withdraw imported beer from such warehouses free of tax.

Beer transferred to any customs bonded warehouse under subparagraph (A) shall be entered, stored, and accounted for in such warehouse under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported beer.

''(2) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (3) of section 5362(e) shall apply for purposes of this subsection.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on

the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1419. BEER MAY BE WITHDRAWN FREE OF TAX FOR DESTRUCTION.

(a) IN GENERAL.—Section 5053 (relating to exemptions), as amended by section 1418(a), is amended by inserting after subsection (g) the following new subsection:

''(h) REMOVALS FOR DESTRUCTION.—Subject to such regulations as the Secretary may prescribe, beer may be removed from the brewery without payment of tax for destruction.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1420. AUTHORITY TO ALLOW DRAWBACK ON EXPORTED BEER WITHOUT SUBMISSION OF RECORDS.

(a) IN GENERAL.—The first sentence of section 5055 (relating to drawback of tax on beer) is amended by striking ''found to have been paid'' and all that follows and inserting ''paid on such beer if there is such proof of exportation as the Secretary may by regulations require.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1421. TRANSFER TO BREWERY OF BEER IMPORTED IN BULK WITHOUT PAYMENT OF TAX.

(a) IN GENERAL.—Part II of subchapter G of chapter 51 is amended by adding at the end the following new section:

''SEC. 5418. BEER IMPORTED IN BULK.

''Beer imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a brewery without payment of the internal revenue tax imposed on such beer. The proprietor of a brewery to which such beer is transferred shall become liable for the tax on the beer withdrawn from customs custody under this section upon release of the beer from customs custody, and the importer, or the person bringing such beer into the United States, shall thereupon be relieved of the liability for such tax.''.

(b) CLERICAL AMENDMENT.—The table of sections for such part II is amended by adding at the end the following new item:

''Sec. 5418. Beer imported in bulk.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1422. TRANSFER TO BONDED WINE CELLARS OF WINE IMPORTED IN BULK WITHOUT PAYMENT OF TAX.

(a) IN GENERAL.—Part II of subchapter F of chapter 51 is amended by inserting after section 5363 the following new section:

''SEC. 5364. WINE IMPORTED IN BULK.

''Wine imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a bonded wine cellar without payment of the internal revenue tax imposed on such wine. The proprietor of a bonded wine cellar to which such wine is transferred shall become liable for the tax on the wine withdrawn from customs custody under this section upon release of the wine from customs custody, and the importer, or the person bringing such wine into the United States, shall thereupon be relieved of the liability for such tax.''.

(b) CLERICAL AMENDMENT.—The table of sections for such part II is amended by inserting after the item relating to section 5363 the following new item:

''Sec. 5364. Wine imported in bulk.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

PART III—OTHER EXCISE TAX PROVISIONS

SEC. 1431. AUTHORITY TO GRANT EXEMPTIONS FROM REGISTRATION REQUIREMENTS.

(a) IN GENERAL.—Section 4222(b)(2) (relating to export) is amended—

(1) by striking ''in the case of any sale or resale for export,'', and

(2) by striking ''EXPORT'' and inserting ''UNDER REGULATIONS''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 1432. REPEAL OF EXPIRED PROVISIONS.

(a) PIGGY-BACK TRAILERS.—Section 4051 (relating to imposition of tax on heavy trucks and trailers sold at retail) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) DEEP SEABED MINING.—

(1) IN GENERAL.—Subchapter F of chapter 36 (relating to tax on removal of hard mineral resources from deep seabed) is hereby repealed.

(2) CONFORMING AMENDMENT.—The table of subchapters for chapter 36 is amended by striking the item relating to subchapter F.

(c) OZONE-DEPLETING CHEMICALS.—

(1) Paragraph (1) of section 4681(b) is amended by striking subparagraphs (B) and (C) and inserting the following new subparagraph:

''(B) BASE TAX AMOUNT.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during any calendar year after 1995 shall be $5.35 increased by 45 cents for each year after 1995.''.

(2) Subsection (g) of section 4682 is amended to read as follows:

''(g) CHEMICALS USED AS PROPELLANTS IN METERED-DOSE INHALERS.—

''(1) EXEMPTION FROM TAX.—

''(A) IN GENERAL.—No tax shall be imposed by section 4681 on—

''(i) any use of any substance as a propellant in metered-dose inhalers, or

''(ii) any qualified sale by the manufacturer, producer, or importer of any substance.

''(B) QUALIFIED SALE.—For purposes of subparagraph (A), the term 'qualified sale' means any sale by the manufacturer, producer, or importer of any substance—

''(i) for use by the purchaser as a propellant in metered dose inhalers, or

''(ii) for resale by the purchaser to a 2d purchaser for such use by the 2d purchaser.

The preceding sentence shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

''(2) OVERPAYMENTS.—If any substance on which tax was paid under this subchapter is used by any person as a propellant in metered-dose inhalers, credit or refund without interest shall be allowed to such person in an amount equal to the tax so paid. Amounts payable under the preceding sentence with respect to uses during the taxable year shall be treated as described in section 34(a) for such year unless claim thereof has been timely filed under this paragraph.''.

Subtitle B—Tax-Exempt Bond Provisions

SEC. 1441. REPEAL OF $100,000 LIMITATION ON UNSPENT PROCEEDS UNDER 1-YEAR EXCEPTION FROM REBATE.

Subclause (I) of section 148(f)(4)(B)(ii) (relating to additional period for certain bonds) is amended by striking ''the lesser of 5 percent of the proceeds of the issue or $100,000'' and inserting ''5 percent of the proceeds of the issue''.

SEC. 1442. EXCEPTION FROM REBATE FOR EARNINGS ON BONA FIDE DEBT SERVICE FUND UNDER CONSTRUCTION BOND RULES.

Subparagraph (C) of section 148(f)(4) is amended by adding at the end the following new clause:

''(xvii) TREATMENT OF BONA FIDE DEBT SERVICE FUNDS.—If the spending requirements of clause (ii) are met with respect to the available construction proceeds of a construction issue, then paragraph (2) shall not apply to earnings on a bona fide debt service fund for such issue.''.

SEC. 1443. REPEAL OF DEBT SERVICE-BASED LIMITATION ON INVESTMENT IN CERTAIN NONPURPOSE INVESTMENTS.

Subsection (d) of section 148 (relating to special rules for reasonably required reserve or replacement fund) is amended by striking paragraph (3).

SEC. 1444. REPEAL OF EXPIRED PROVISIONS.

(a) Paragraph (2) of section 148(c) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(b) Paragraph (4) of section 148(f) is amended by striking subparagraph (E).

SEC. 1445. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to bonds issued after the date of the enactment of this Act.

Subtitle C—Tax Court Procedures

SEC. 1451. OVERPAYMENT DETERMINATIONS OF TAX COURT.

(a) APPEAL OF ORDER.—Paragraph (2) of section 6512(b) (relating to jurisdiction to enforce) is amended by adding at the end the following new sentence: ''An order of the Tax Court disposing of a motion under this paragraph shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order.''.

(b) DENIAL OF JURISDICTION REGARDING CERTAIN CREDITS AND REDUCTIONS.—Subsection (b) of section 6512 (relating to overpayment determined by Tax Court) is amended by adding at the end the following new paragraph:

''(4) DENIAL OF JURISDICTION REGARDING CERTAIN CREDITS AND REDUCTIONS.—The Tax Court shall have no jurisdiction under this subsection to restrain or review any credit or reduction made by the Secretary under section 6402.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1452. REDETERMINATION OF INTEREST PURSUANT TO MOTION.

(a) IN GENERAL.—Subsection (c) of section 7481 (relating to jurisdiction over interest determinations) is amended to read as follows:

''(c) JURISDICTION OVER INTEREST DETERMINATIONS.—

''(1) IN GENERAL.—Notwithstanding subsection (a), if, within 1 year after the date the decision of the Tax Court becomes final under subsection (a) in a case to which this subsection applies, the taxpayer files a motion in the Tax Court for a redetermination of the amount of interest involved, then the Tax Court may reopen the case solely to determine whether the taxpayer has made an overpayment of such interest or the Secretary has made an underpayment of such interest and the amount thereof.

''(2) CASES TO WHICH THIS SUBSECTION APPLIES.—This subsection shall apply where—

''(A)(i) an assessment has been made by the Secretary under section 6215 which includes interest as imposed by this title, and

''(ii) the taxpayer has paid the entire amount of the deficiency plus interest claimed by the Secretary, and

''(B) the Tax Court finds under section 6512(b) that the taxpayer has made an overpayment.

''(3) SPECIAL RULES.—If the Tax Court determines under this subsection that the taxpayer has made an overpayment of interest or that the Secretary has made an underpayment of interest, then that determination shall be treated under section 6512(b)(1) as a determination of an overpayment of tax. An order of the Tax Court redetermining interest, when entered upon the records of the court, shall be reviewable in the same manner as a decision of the Tax Court.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 1453. APPLICATION OF NET WORTH REQUIREMENT FOR AWARDS OF LITIGATION COSTS.

(a) IN GENERAL.—Paragraph (4) of section 7430(c) (defining prevailing party) is amended by adding at the end thereof the following new subparagraph:

''(D) SPECIAL RULES FOR APPLYING NET WORTH REQUIREMENT.—In applying the requirements of section 2412(d)(2)(B) of title 28, United States Code, for purposes of subparagraph (A)(iii) of this paragraph—

''(i) the net worth limitation in clause (i) of such section shall apply to—

''(I) an estate but shall be determined as of the date of the decedent's death, and

''(II) a trust but shall be determined as of the last day of the taxable year involved in the proceeding, and

''(ii) individuals filing a joint return shall be treated as 1 individual for purposes of clause (i) of such section, except in the case of a spouse relieved of liability under section 6013(e).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to proceedings commenced after the date of the enactment of this Act.

SEC. 1454. PROCEEDINGS FOR DETERMINATION OF EMPLOYMENT STATUS.

(a) IN GENERAL.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7435 as section 7436 and by inserting after section 7434 the following new section:

''SEC. 7435. PROCEEDINGS FOR DETERMINATION OF EMPLOYMENT STATUS.

''(a) CREATION OF REMEDY.—If, in connection with an audit of any person, there is an actual controversy involving a determination by the Secretary as part of an examination that—

''(1) one or more individuals performing services for such person are employees of such person for purposes of subtitle C, or

''(2) such person is not entitled to the treatment under subsection (a) of section 530 of the Revenue Act of 1978 with respect to such an individual,

upon the filing of an appropriate pleading, the Tax Court may determine whether such a determination by the Secretary is correct. Any such determination by the Tax Court shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

''(b) LIMITATIONS.—

''(1) PETITIONER.—A pleading may be filed under this section only by the person for whom the services are performed.

''(2) TIME FOR FILING ACTION.—If the Secretary sends by certified or registered mail notice to the petitioner of a determination by the Secretary described in subsection (a), no proceeding may be initiated under this section with respect to such determination unless the pleading is filed before the 91st day after the date of such mailing.

''(3) NO ADVERSE INFERENCE FROM TREATMENT WHILE ACTION IS PENDING.—If, during the pendency of any proceeding brought under this section, the petitioner changes his treatment for employment tax purposes of any individual whose employment status as an employee is involved in such proceeding (or of any individual holding a substantially similar position) to treatment as an employee, such change shall not be taken into account in the Tax Court's determination under this section.

''(c) SMALL CASE PROCEDURES.—

''(1) IN GENERAL.—At the option of the petitioner, concurred in by the Tax Court or a division thereof before the hearing of the case, proceedings under this section may (notwithstanding the provisions of section 7453) be conducted subject to the rules of evidence, practice, and procedure applicable under section 7463 if the amount of employment taxes placed in dispute is $10,000 or less for each calendar quarter involved.

''(2) FINALITY OF DECISIONS.—A decision entered in any proceeding conducted under this subsection shall not be reviewed in any other court and shall not be treated as a precedent for any other case not involving the same petitioner and the same determinations.

''(3) CERTAIN RULES TO APPLY.—Rules similar to the rules of the last sentence of subsection (a), and subsections (c), (d), and (e), of section 7463 shall apply to proceedings conducted under this subsection.

''(d) SPECIAL RULES.—

''(1) RESTRICTIONS ON ASSESSMENT AND COLLECTION PENDING ACTION, ETC.—The principles of subsections (a), (b), and (d) of section 6213, section 6214(a), section 6503(a), and section 6512 shall apply to proceedings brought under this section in the same manner as if the Secretary's determination described in subsection (a) were a notice of deficiency.

''(2) AWARDING OF COSTS AND CERTAIN FEES.—Section 7430 shall apply to proceedings brought under this section.

''(e) EMPLOYMENT TAX.—The term 'employment tax' means any tax imposed by subtitle C.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 6511 is amended by adding at the end the following new paragraph:

''(7) SPECIAL PERIOD OF LIMITATION WITH RESPECT TO SELF-EMPLOYMENT TAX IN CERTAIN CASES.—If—

''(A) the claim for credit or refund relates to an overpayment of the tax imposed by chapter 2 (relating to the tax on self-employment income) attributable to Tax Court determination in a proceeding under section 7435, and

''(B) the allowance of a credit or refund of such overpayment is otherwise prevented by the operation of any law or rule of law other than section 7122 (relating to compromises),

such credit or refund may be allowed or made if claim therefor is filed on or before the last day of the second year after the calendar year in which such determination becomes final.''.

(2) Sections 7453 and 7481(b) are each amended by striking ''section 7463'' and inserting ''section 7435(c) or 7463''.

(3) The table of sections for subchapter B of chapter 76 is amended by striking the last item and inserting the following:

''Sec. 7435. Proceedings for determination of employment status.

''Sec. 7436. Cross references.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle D—Other Provisions

SEC. 1461. EXTENSION OF DUE DATE OF FIRST QUARTER ESTIMATED TAX PAYMENT BY PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Paragraph (3) of section 6655(g) is amended by adding at the end the following new sentence: ''In the case of a private foundation, subsection (c)(2) shall be applied by substituting 'May 15' for 'April 15'.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for purposes of determining underpayments of estimated tax for taxable years beginning after the date of the enactment of this Act.

SEC. 1462. CLARIFICATION OF AUTHORITY TO WITHHOLD PUERTO RICO INCOME TAXES FROM SALARIES OF FEDERAL EMPLOYEES.

(a) IN GENERAL.—Subsection (c) of section 5517 of title 5, United States Code, is amended by striking ''or territory or possession'' and inserting '', territory, possession, or commonwealth''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1998.

SEC. 1463. CERTAIN NOTICES DISREGARDED UNDER PROVISION INCREASING INTEREST RATE ON LARGE CORPORATE UNDERPAYMENTS.

(a) GENERAL RULE.—Subparagraph (B) of section 6621(c)(2) (defining applicable date) is amended by adding at the end the following new clause:

''(iii) EXCEPTION FOR LETTERS OR NOTICES INVOLVING SMALL AMOUNTS.—For purposes of this paragraph, any letter or notice shall be disregarded if the amount of the deficiency or proposed deficiency (or the assessment or proposed assessment) set forth in such letter or notice is not greater than $100,000 (determined by not taking into account any interest, penalties, or additions to tax).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for purposes of determining interest for periods after December 31, 1997.

TITLE XV—TECHNICAL AMENDMENTS RELATED TO SMALL BUSINESS JOB PROTECTION ACT OF 1996 AND OTHER LEGISLATION

SEC. 1501. AMENDMENTS RELATED TO SMALL BUSINESS JOB PROTECTION ACT OF 1996.

(a) AMENDMENTS RELATED TO SUBTITLE A.—

(1) AMENDMENT RELATED TO SECTION 1116.—Paragraph (1) of section 6050R(c) is amended by striking ''name and address'' and inserting ''name, address, and phone number of the information contact''.

(2) AMENDMENT TO SECTION 1116.—Paragraphs (1) and (2)(C) of section 1116(b) of the Small Business Job Protection Act of 1996 shall each be applied as if the reference to chapter 68 were a reference to chapter 61.

(b) AMENDMENT RELATED TO SUBTITLE B.—Subsection (c) of section 52 is amended by striking ''targeted jobs credit'' and inserting ''work opportunity credit''.

(c) AMENDMENTS RELATED TO SUBTITLE C.—

(1) AMENDMENT RELATED TO SECTION 1302.—Subparagraph (B) of section 1361(e)(1) is amended by striking ''and'' at the end of clause (i), striking the period at the end of clause (ii) and inserting '', and'', and adding at the end the following new clause:

''(iii) any charitable remainder annuity trust or charitable remainder unitrust (as defined in section 664(d)).''.

(2) EFFECTIVE DATE FOR SECTION 1307.—

(A) Notwithstanding section 1317 of the Small Business Job Protection Act of 1996, the amendments made by subsections (a) and (b) of section 1307 of such Act shall apply to determinations made after December 31, 1996.

(B) In no event shall the 120-day period referred to in section 1377(b)(1)(B) of the Internal Revenue Code of 1986 (as added by such section 1307) expire before the end of the 120-day period beginning on the date of the enactment of this Act.

(3) AMENDMENT RELATED TO SECTION 1308.—Subparagraph (A) of section 1361(b)(3) is amended by striking ''For purposes of this title'' and inserting ''Except as provided in regulations prescribed by the Secretary, for purposes of this title''.

(4) AMENDMENTS RELATED TO SECTION 1316.—

(A) Paragraph (2) of section 512(e) is amended by striking ''within the meaning of section 1012'' and inserting ''as defined in section 1361(e)(1)(C)''.

(B) Paragraph (7) of section 1361(c) is redesignated as paragraph (6).

(C) Subparagraph (B) of section 1361(b)(1) is amended by striking ''subsection (c)(7)'' and inserting ''subsection (c)(6)''.

(D) Paragraph (1) of section 512(e) is amended by striking ''section 1361(c)(7)'' and inserting ''section 1361(e)(6)''.

(d) AMENDMENTS RELATED TO SUBTITLE D.—

(1) AMENDMENTS RELATED TO SECTION 1421.—

(A) Subsection (i) of section 408 is amended in the last sentence by striking ''30 days'' and inserting ''31 days''.

(B) Subparagraph (H) of section 408(k)(6) is amended by striking ''if the terms of such pension'' and inserting ''of an employer if the terms of simplified employee pensions of such employer''.

(C)(i) Subparagraph (B) of section 408(l)(2) is amended—

(I) by inserting ''and the issuer of an annuity established under such an arrangement'' after ''under subsection (p)'', and

(II) in clause (i), by inserting ''or issuer'' after ''trustee''.

(ii) Paragraph (2) of section 6693(c) is amended—

(I) by inserting ''or issuer'' after ''trustee'', and

(II) in the heading, by inserting ''AND ISSUER'' after ''trustee''.

(D) Subsection (p) of section 408 is amended by adding at the end the following new paragraph:

''(8) COORDINATION WITH MAXIMUM LIMITATION UNDER SUBSECTION (a).—In the case of any simple retirement account, subsections (a)(1) and (b)(2) shall be applied by substituting 'the sum of the dollar amount in effect under paragraph (2)(A)(ii) of this subsection and the employer contribution required under subparagraph (A)(iii) or (B)(i) of paragraph (2) of this subsection, whichever is applicable' for '$2,000'.''.

(E) Clause (i) of section 408(p)(2)(D) is amended by adding at the end the following new sentence: ''If only individuals other than employees described in subparagraph (A) or (B) of section 410(b)(3) are eligible to participate in such arrangement, then the preceding sentence shall be applied without regard to any qualified plan in which only employees so described are eligible to participate.''.

(F) Subparagraph (D) of section 408(p)(2) is amended by adding at the end the following new clause:

''(iii) GRACE PERIOD.—In the case of an employer who establishes and maintains a plan under this subsection for 1 or more years and who fails to meet the requirements of this subparagraph for any subsequent year due to any acquisition, disposition, or similar transaction involving another such employer, rules similar to the rules of section 410(b)(6)(C) shall apply for purposes of this subparagraph.''.

(G) Paragraph (5) of section 408(p) is amended in the text preceding subparagraph (A) by striking ''simplified'' and inserting ''simple''.

(2) AMENDMENTS RELATED TO SECTION 1422.—

(A) Clause (ii) of section 401(k)(11)(D) is amended by striking the period and inserting ''if such plan allows only contributions required under this paragraph.''.

(B) Paragraph (11) of section 401(k) is amended by adding at the end the following new subparagraph:

''(E) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust the $6,000 amount under subparagraph (B)(i)(I) at the same time and in the same manner as under section 408(p)(2)(E).''.

(C) Subparagraph (A) of section 404(a)(3) is amended—

(i) in clause (i), by striking ''not in excess of'' and all that follows and inserting the following: ''not in excess of the greater of—

''(I) 15 percent of the compensation otherwise paid or accrued during the taxable year to the beneficiaries under the stock bonus or profit-sharing plan, or

''(II) the amount such employer is required to contribute to such trust under section 401(k)(11) for such year.'', and

(ii) in clause (ii), by striking ''15 percent'' and all that follows and inserting the following ''the amount described in subclause (I) or (II) of clause (i), whichever is greater, with respect to such taxable year.''.

(D) Subparagraph (B) of section 401(k)(11) is amended by adding at the end the following new clause:

''(iii) ADMINISTRATIVE REQUIREMENTS.—

''(I) IN GENERAL.—Rules similar to the rules of subparagraphs (B) and (C) of section 408(p)(5) shall apply for purposes of this subparagraph.

''(II) NOTICE OF ELECTION PERIOD.—The requirements of this subparagraph shall not be treated as met with respect to any year unless the employer notifies each employee eligible to participate, within a reasonable period of time before the 60th day before the beginning of such year (and, for the first year the employee is so eligible, the 60th day before the first day such employee is so eligible), of the rules similar to the rules of section 408(p)(5)(C) which apply by reason of subclause (I).''.

(3) AMENDMENT RELATED TO SECTION 1433.—The heading of paragraph (11) of section 401(m) is amended by striking ''ALTERNATIVE'' and inserting ''ADDITIONAL ALTERNATIVE''.

(4) AMENDMENT RELATED TO SECTION 1462.—The paragraph (7) of section 414(q) added by section 1462 of the Small Business Job Protection Act of 1996 is redesignated as paragraph (9).

(5) CLARIFICATION OF SECTION 1450.—

(A) Section 403(b)(11) of the Internal Revenue Code of 1986 shall not apply with respect to a distribution from a contract described in section 1450(b)(1) of such Act to the extent that such distribution is not includible in income by reason of section 403(b)(8) of such Code (determined after the application of section 1450(b)(2) of such Act).

(B) This paragraph shall apply as if included in section 1450 of the Small Business Job Protection Act of 1996.

(e) AMENDMENT RELATED TO SUBTITLE E.—Subparagraph (A) of section 956(b)(1) is amended by inserting ''to the extent such amount was accumulated in prior taxable years'' after ''section 316(a)(1)''.

(f) AMENDMENTS RELATED TO SUBTITLE F.—

(1) AMENDMENTS RELATED TO SECTION 1601.—

(A) The heading of section 30A is amended to read as follows:

''SEC. 30A. PUERTO RICO ECONOMIC ACTIVITY CREDIT.''.

(B) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended in the item relating to section 30A by striking ''Puerto Rican'' and inserting ''Puerto Rico''.

(C) Paragraph (1) of section 55(c) is amended by striking ''Puerto Rican'' and inserting ''Puerto Rico''.

(2) AMENDMENTS RELATED TO SECTION 1606.—

(A) Clause (ii) of section 9503(c)(2)(A) is amended by striking ''(or with respect to qualified diesel-powered highway vehicles purchased before January 1, 1999)''.

(B) Subparagraph (A) of section 9503(e)(5) is amended by striking ''; except that'' and all that follows and inserting a period.

(3) AMENDMENTS RELATED TO SECTION 1607.—

(A) Subsection (f) of section 4001 (relating to phasedown of tax on luxury passenger automobiles) is amended—

(i) by inserting ''and section 4003(a)'' after ''subsection (a)'', and

(ii) by inserting '', each place it appears,'' before ''the percentage''.

(B) Subsection (g) of section 4001 (relating to termination) is amended by striking ''tax imposed by this section'' and inserting ''taxes imposed by this section and section 4003'' and by striking ''or use'' and inserting '', use, or installation''.

(4) AMENDMENTS RELATED TO SECTION 1609.—

(A) Subsection (l) of section 4041 is amended—

(i) by inserting ''or a fixed-wing aircraft'' after ''helicopter'', and

(ii) in the heading, by striking ''HELICOPTER''.

(B) The last sentence of section 4041(a)(2) is amended by striking ''section 4081(a)(2)(A)'' and inserting ''section 4081(a)(2)(A)(i)''.

(C) Subsection (b) of section 4092 is amended by striking ''section 4041(c)(4)'' and inserting ''section 4041(c)(2)''.

(D) Subsection (g) of section 4261 (as redesignated by title X) is amended by inserting ''on that flight'' after ''dedicated''.

(E) Paragraph (1) of section 1609(h) of such Act is amended by striking ''paragraph (3)(A)(i)'' and inserting ''paragraph (3)(A)''.

(F) Paragraph (4) of section 1609(h) of such Act is amended by inserting before the period ''or exclusively for the use described in section 4092(b) of such Code''.

(5) AMENDMENTS RELATED TO SECTION 1616.—

(A) Subparagraph (A) of section 593(e)(1) is amended by inserting ''(and, in the case of an S corporation, the accumulated adjustments account, as defined in section 1368(e)(1))'' after ''1951,''.

(B) Paragraph (7) of section 1374(d) is amended by adding at the end the following new sentence: ''For purposes of applying this section to any amount includible in income by reason of section 593(e), the preceding sentence shall be applied without regard to the phrase '10-year'.''.

(6) AMENDMENTS RELATED TO SECTION 1621.—

(A) Subparagraph (A) of section 860L(b)(1) is amended in the text preceding clause (i) by striking ''after the startup date'' and inserting ''on or after the startup date''.

(B) Paragraph (2) of section 860L(d) is amended by striking ''section 860I(c)(2)'' and inserting ''section 860I(b)(2)''.

(C) Subparagraph (B) of section 860L(e)(2) is amended by inserting ''other than foreclosure property'' after ''any permitted asset''.

(D) Subparagraph (A) of section 860L(e)(3) is amended by striking ''if the FASIT'' and all that follows and inserting the following new flush text after clause (ii):

''if the FASIT were treated as a REMIC and permitted assets (other than cash or cash equivalents) were treated as qualified mortgages.''.

(E)(i) Paragraph (3) of section 860L(e) is amended by adding at the end the following new subparagraph:

''(D) INCOME FROM DISPOSITIONS OF FORMER HEDGE ASSETS.—Paragraph (2)(A) shall not apply to income derived from the disposition of—

''(i) an asset which was described in subsection (c)(1)(D) when first acquired by the FASIT but on the date of such disposition was no longer described in subsection (c)(1)(D)(ii), or

''(ii) a contract right to acquire an asset described in clause (i).''.

(ii) Subparagraph (A) of section 860L(e)(2) is amended by inserting ''except as provided in paragraph (3),'' before ''the receipt''.

(g) AMENDMENTS RELATED TO SUBTITLE G.—

(1) EXTENSION OF PERIOD FOR CLAIMING REFUNDS FOR ALCOHOL FUELS.—Notwithstanding section 6427(i)(3)(C) of the Internal Revenue Code of 1986, a claim filed under section 6427(f) of such Code for any period after September 30, 1995, and before October 1, 1996, shall be treated as timely filed if filed before the 60th day after the date of the enactment of this Act.

(2) AMENDMENTS TO SECTIONS 1703 AND 1704.—Sections 1703(n)(8) and 1704(j)(4)(B) of the Small Business Job Protection Act of 1996 shall each be applied as if such sections referred to section 1702 instead of section 1602.

(h) AMENDMENTS RELATED TO SUBTITLE H.—

(1) AMENDMENTS RELATED TO SECTION 1806.—

(A) Subparagraph (B) of section 529(e)(1) is amended by striking ''subsection (c)(2)(C)'' and inserting ''subsection (c)(3)(C)''.

(B) Subparagraph (C) of section 529(e)(1) is amended by inserting ''(or agency or instrumentality thereof)'' after ''local government''.

(C) Paragraph (2) of section 1806(c) of the Small Business Job Protection Act of 1996 is amended by striking so much of the first sentence as follows subparagraph (B)(ii) and inserting the following:

''then such program (as in effect on August 20, 1996) shall be treated as a qualified State tuition program with respect to contributions (and earnings allocable thereto) pursuant to contracts entered into under such program before the first date on which such program meets such requirements (determined without regard to this paragraph) and the provisions of such program (as so in effect) shall apply in lieu of section 529(b) of the Internal Revenue Code of 1986 with respect to such contributions and earnings.''.

(2) AMENDMENTS RELATED TO SECTION 1807.—

(A) Paragraph (2) of section 23(a) is amended to read as follows:

''(2) YEAR CREDIT ALLOWED.—The credit under paragraph (1) with respect to any expense shall be allowed—

''(A) in the case of any expense paid or incurred before the taxable year in which such adoption becomes final, for the taxable year following the taxable year during which such expense is paid or incurred, and

''(B) in the case of an expense paid or incurred during or after the taxable year in which such adoption becomes final, for the taxable year in which such expense is paid or incurred.''.

(B) Subparagraph (B) of section 23(b)(2) is amended by striking ''determined—'' and all that follows and inserting the following: ''determined without regard to sections 911, 931, and 933.''.

(C) Paragraph (1) of section 137(b) (relating to adoption assistance programs) is amended by striking ''amount excludable from gross income'' and inserting ''of the amounts paid or expenses incurred which may be taken into account''.

(D)(i) Subparagraph (C) of section 414(n)(3) is amended by inserting ''137,'' after ''132,''.

(ii) Paragraph (2) of section 414(t) is amended by inserting ''137,'' after ''132,''.

(iii) Paragraph (1) of section 6039D(d) is amended by striking ''or 129'' and inserting ''129, or 137''.

(i) AMENDMENTS RELATED TO SUBTITLE I.—

(1) AMENDMENT RELATED TO SECTION 1901.—Subsection (b) of section 6048 is amended in the heading by striking ''GRANTOR'' and inserting ''OWNER''.

(2) AMENDMENTS RELATED TO SECTION 1903.—Clauses (ii) and (iii) of section 679(a)(3)(C) are each amended by inserting '', owner,'' after ''grantor''.

(3) AMENDMENTS RELATED TO SECTION 1907.—

(A) Clause (ii) of section 7701(a)(30)(E) is amended by striking ''fiduciaries'' and inserting ''persons''.

(B) Subsection (b) of section 641 is amended by adding at the end the following new sentence: ''For purposes of this subsection, a foreign trust or foreign estate shall be treated as a nonresident alien individual who is not present in the United States at any time.''.

(4) EFFECTIVE DATE RELATED TO SUBTITLE I.—The Secretary of the Treasury may by regulations or other administrative guidance provide that the amendments made by section 1907(a) of the Small Business Job Protection Act of 1996 shall not apply to a trust with respect to a reasonable period beginning on the date of the enactment of such Act, if—

(A) such trust is in existence on August 20, 1996, and is a United States person for purposes of the Internal Revenue Code of 1986 on such date (determined without regard to such amendments),

(B) no election is in effect under section 1907(a)(3)(B) of such Act with respect to such trust,

(C) before the expiration of such reasonable period, such trust makes the modifications necessary to be treated as a United States person for purposes of such Code (determined with regard to such amendments), and

(D) such trust meets such other conditions as the Secretary may require.

(j) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect as if included in the provisions of the Small Business Job Protection Act of 1996 to which they relate.

(2) CERTAIN ADMINISTRATIVE REQUIREMENTS WITH RESPECT TO CERTAIN PENSION PLANS.—The amendment made by subsection (d)(2)(D) shall apply to calendar years beginning after the date of the enactment of this Act.

SEC. 1502. AMENDMENTS RELATED TO HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996.

(a) AMENDMENTS RELATED TO SECTION 301.—

(1) Paragraph (2) of section 26(b) is amended by striking ''and'' at the end of subparagraph (N), by striking the period at the end of subparagraph (O) and inserting '', and'', and by adding at the end the following new subparagraph:

''(P) section 220(f)(4) (relating to additional tax on medical savings account distributions not used for qualified medical expenses).''.

(2) Paragraph (3) of section 220(c) is amended by striking subparagraph (A) and redesignating subparagraphs (B) through (D) as subparagraphs (A) through (C), respectively.

(3) Subparagraph (C) of section 220(d)(2) is amended by striking ''an eligible individual'' and inserting ''described in clauses (i) and (ii) of subsection (c)(1)(A)''.

(4) Subsection (a) of section 6693 is amended by adding at the end the following new sentence:

''This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(X).''.

(5) Paragraph (4) of section 4975(d) is amended by striking ''if, with respect to such transaction'' and all that follows and inserting the following: ''if section 220(e)(2) applies to such transaction.''.

(b) AMENDMENT RELATED TO SECTION 321.—Subparagraph (B) of section 7702B(c)(2) is amended in the last sentence by inserting ''described in subparagraph (A)(i)'' after ''chronically ill individual''.

(c) AMENDMENT RELATED TO SECTION 322.—Subparagraph (B) of section 162(l)(2) is amended by adding at the end the following new sentence: ''The preceding sentence shall be applied separately with respect to—

''(i) plans which include coverage for qualified long-term care services (as defined in section 7702B(c)) or are qualified long-term care insurance contracts (as defined in section 7702B(b)), and

''(ii) plans which do not include such coverage and are not such contracts.''.

(d) AMENDMENTS RELATED TO SECTION 323.—

(1) Paragraph (1) of section 6050Q(b) is amended by inserting '', address, and phone number of the information contact'' after ''name''.

(2)(A) Paragraph (2) of section 6724(d) is amended by striking so much as follows subparagraph (Q) and precedes the last sentence, and inserting the following new subparagraphs:

''(R) section 6050R(c) (relating to returns relating to certain purchases of fish),

''(S) section 6051 (relating to receipts for employees),

''(T) section 6052(b) (relating to returns regarding payment of wages in the form of group-term life insurance),

''(U) section 6053(b) or (c) (relating to reports of tips),

''(V) section 6048(b)(1)(B) (relating to foreign trust reporting requirements),

''(W) section 4093(c)(4)(B) (relating to certain purchasers of diesel and aviation fuels),

''(X) section 408(i) (relating to reports with respect to individual retirement plans) to any person other than the Secretary with respect to the amount of payments made to such person, or

''(Y) section 6047(d) (relating to reports by plan administrators) to any person other than the Secretary with respect to the amount of payments made to such person.''.

(B) Subsection (e) of section 6652 is amended in the last sentence by striking ''section 6724(d)(2)(X)'' and inserting ''section 6724(d)(2)(Y)''.

(e) AMENDMENT RELATED TO SECTION 325.—Clauses (ii) and (iii) of section 7702B(g)(4)(B) are each amended by striking ''Secretary'' and inserting ''appropriate State regulatory agency''.

(f) AMENDMENTS RELATED TO SECTION 501.—

(1) Paragraph (4) of section 264(a) is amended by striking subparagraph (A) and all that follows through ''by the taxpayer.'' and inserting the following:

''(A) is or was an officer or employee, or

''(B) is or was financially interested in,

any trade or business carried on (currently or formerly) by the taxpayer.''.

(2) The last 2 sentences of section 264(d)(2)(B)(ii) are amended to read as follows:

''For purposes of subclause (II), the term 'applicable period' means the 12-month period beginning on the date the policy is issued (and each successive 12-month period thereafter) unless the taxpayer elects a number of months (not greater than 12) other than such 12-month period to be its applicable period. Such an election shall be made not later than the 90th day after the date of the enactment of this sentence and, if made, shall apply to the taxpayer's first taxable year ending on or after October 13, 1995, and all subsequent taxable years unless revoked with the consent of the Secretary.''.

(3) Subparagraph (B) of section 264(d)(4) is amended by striking ''the employer'' and inserting ''the taxpayer''.

(4) Subsection (c) of section 501 of the Health Insurance Portability and Accountability Act of 1996 is amended by striking paragraph (3).

(5) Paragraph (2) of section 501(d) of such Act is amended by striking ''no additional premiums'' and all that follows and inserting the following: ''a lapse occurring by reason of no additional premiums being received under the contract after October 13, 1995.''.

(g) AMENDMENTS RELATED TO SECTION 511.—

(1) Subparagraph (B) of section 877(d)(2) is amended by striking ''the 10-year period described in subsection (a)'' and inserting ''the 10-year period beginning on the date the individual loses United States citizenship''.

(2) Subparagraph (D) of section 877(d)(2) is amended by adding at the end the following new sentence: ''In the case of any exchange occurring during such 5 years, any gain recognized under this subparagraph shall be recognized immediately after such loss of citizenship.''.

(3) Paragraph (3) of section 877(d) is amended by inserting ''and the period applicable under paragraph (2)'' after ''subsection (a)''.

(4) Subparagraph (A) of section 877(d)(4) is amended—

(A) by inserting ''during the 10-year period beginning on the date the individual loses United States citizenship'' after ''contributes property'' in clause (i),

(B) by inserting ''immediately before such contribution'' after ''from such property'', and

(C) by striking ''during the 10-year period referred to in subsection (a),''.

(5) Subparagraph (C) of section 2501(a)(3) is amended by striking ''decedent'' and inserting ''donor''.

(6)(A) Clause (i) of section 2107(c)(2)(A) is amended by striking ''such foreign country in respect of property included in the gross estate'' and inserting ''such foreign country''.

(B) Subparagraph (C) of section 2107(c)(2) is amended to read as follows:

''(C) PROPORTIONATE SHARE.—In the case of property which is included in the gross estate solely by reason of subsection (b), such property's proportionate share is the percentage which the value of such property bears to the total value of all property included in the gross estate solely by reason of subsection (b).''.

(h) AMENDMENTS RELATED TO SECTION 512.—

(1) Subpart A of part III of subchapter A of chapter 61 is amended by redesignating the section 6039F added by section 512 of the Health Insurance Portability and Accountability Act of 1996 as section 6039G and by moving such section 6039G to immediately after the section 6039F added by section 1905 of the Small Business Job Protection Act of 1996.

(2) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking the item relating to the section 6039F related to information on individuals losing United States citizenship and inserting after the item relating to the section 6039F related to notice of large gifts received from foreign persons the following new item:

''Sec. 6039G. Information on individuals losing United States citizenship.''.

(3) Paragraph (1) of section 877(e) is amended by striking ''6039F'' and inserting ''6039G''.

(i) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Health Insurance Portability and Accountability Act of 1996 to which such amendments relate.

SEC. 1503. AMENDMENTS RELATED TO TAXPAYER BILL OF RIGHTS 2.

(a) AMENDMENT RELATED TO SECTION 1311.—Subsection (b) of section 4962 is amended by striking ''subchapter A or C'' and inserting ''subchapter A, C, or D''.

(b) AMENDMENTS RELATED TO SECTION 1312.—

(1)(A) Paragraph (10) of section 6033(b) is amended by striking all that precedes subparagraph (A) and inserting the following:

''(10) the respective amounts (if any) of the taxes imposed on the organization, or any organization manager of the organization, during the taxable year under any of the following provisions (and the respective amounts (if any) of reimbursements paid by the organization during the taxable year with respect to taxes imposed on any such organization manager under any of such provisions):''.

(B) Subparagraph (C) of section 6033(b)(10) is amended by adding at the end the following: ''except to the extent that, by reason of section 4962, the taxes imposed under such section are not required to be paid or are credited or refunded,''.

(2) Paragraph (11) of section 6033(b) is amended to read as follows:

''(11) the respective amounts (if any) of—

''(A) the taxes imposed with respect to the organization on any organization manager, or any disqualified person, during the taxable year under section 4958 (relating to taxes on private excess benefit from certain charitable organizations), and

''(B) reimbursements paid by the organization during the taxable year with respect to taxes imposed under such section,

except to the extent that, by reason of section 4962, the taxes imposed under such section are not required to be paid or are credited or refunded,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Taxpayer Bill of Rights 2 to which such amendments relate.

SEC. 1504. MISCELLANEOUS PROVISIONS.

(a) AMENDMENTS RELATED TO ENERGY POLICY ACT OF 1992.—

(1) Paragraph (1) of section 263(a) is amended by striking ''or'' at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting ''; or'', and by adding at the end the following new subparagraph:

''(H) expenditures for which a deduction is allowed under section 179A.''.

(2) Subparagraph (B) of section 312(k)(3) is amended—

(A) by striking ''179'' in the heading and the first place it appears in the text and inserting ''179 or 179A'', and

(B) by striking ''179'' the last place it appears and inserting ''179 or 179A, as the case may be''.

(3) Paragraphs (2)(C) and (3)(C) of section 1245(a) are each amended by inserting ''179A,'' after ''179,''.

(4) The amendments made by this subsection shall take effect as if included in the amendments made by section 1913 of the Energy Policy Act of 1992.

(b) AMENDMENTS RELATED TO URUGUAY ROUND AGREEMENTS ACT.—

(1) Paragraph (1) of section 6621(a) is amended in the last sentence by striking ''subsection (c)(3))'' and inserting ''subsection (c)(3), applied by substituting 'overpayment' for 'underpayment')''.

(2) Subclause (II) of section 412(m)(5)(E)(ii) is amended by striking ''clause (i)'' and inserting ''subclause (I)''.

(3) Subparagraph (A) of section 767(d)(3) of the Uruguay Round Agreements Act is amended in the last sentence by striking ''(except that'' and all that follows through ''into account)''.

(4) The amendments made by this subsection shall take effect as if included in the sections of the Uruguay Round Agreements Act to which they relate.

(c) AMENDMENT RELATED TO OMNIBUS BUDGET RECONCILIATION ACT OF 1993.—

(1) Paragraph (6) of section 168(j) (defining Indian reservation) is amended by adding at the end the following new flush sentence:

''For purposes of the preceding sentence, such section 3(d) shall be applied by treating the term 'former Indian reservations in Oklahoma' as including only lands which are within the jurisdictional area of an Oklahoma Indian tribe (as determined by the Secretary of the Interior) and are recognized by such Secretary as eligible for trust land status under 25 CFR Part 151 (as in effect on the date of the enactment of this sentence).''.

(2) The amendment made by paragraph (1) shall apply as if included in the amendments made by section 13321 of the Omnibus Budget Reconciliation Act of 1993, except that such amendment shall not apply—

(A) with respect to property (with an applicable recovery period under section 168(j) of the Internal Revenue Code of 1986 of 6 years or less) held by the taxpayer if the taxpayer claimed the benefits of section 168(j) of such Code with respect to such property on a return filed before March 18, 1997, but only if such return is the first return of tax filed for the taxable year in which such property was placed in service, or

(B) with respect to wages for which the taxpayer claimed the benefits of section 45A of such Code for a taxable year on a return filed before March 18, 1997, but only if such return was the first return of tax filed for such taxable year.

(d) AMENDMENT RELATED TO TAX REFORM ACT OF 1986.—Paragraph (3) of section 1059(d) is amended by striking ''subsection (a)(2)'' and inserting ''subsection (a)''.

(e) AMENDMENT RELATED TO TAX REFORM ACT OF 1984.—

(1) Section 267(f) is amended by adding at the end the following new paragraph:

''(4) DETERMINATION OF RELATIONSHIP RESULTING IN DISALLOWANCE OF LOSS, FOR PURPOSES OF OTHER PROVISIONS.—For purposes of any other section of this title which refers to a relationship which would result in a disallowance of losses under this section, deferral under paragraph (2) shall be treated as disallowance.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in section 174(b) of the Tax Reform Act of 1984.

(f) CLERICAL AMENDMENTS.—

(1) Clause (iii) of section 163(j)(2)(B) is amended by striking ''clause (i)'' and inserting ''clause (ii)''.

(2) Paragraph (1) of section 665(d) is amended in the last sentence by striking ''or 669(d) and (e)''.

(3) Subsection (g) of section 1441 (relating to cross reference) is amended by striking ''one-half'' and inserting ''85 percent''.

(4) Paragraph (1) of section 2523(g) is amended by striking ''qualified remainder trust'' and inserting ''qualified charitable remainder trust''.

(5) Subsection (d) of section 9502 is amended by redesignating the paragraph added by section 806 of the Federal Aviation Reauthorization Act of 1996 as paragraph (6).

The CHAIRMAN pro tempore. No other amendment is in order except the further amendment numbered 1 in the CONGRESSIONAL RECORD. That amendment may be offered only by the gentleman from New York [Mr. RANGEL] or

his designee, shall be considered as read, shall be debatable for 1 hour, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. RANGEL

Mr. RANGEL. Mr. Chairman, I offer an amendment in the nature of a substitute No. 1, pursuant to the rule.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute No. 1 offered by Mr. RANGEL:

Strike all after enacting clause, and insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Revenue Reconciliation Act of 1997''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

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TITLE II—PUBLIC-PRIVATE EDUCATION PARTNERSHIPS

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Sec. 401. Exemption from tax for gain on sale of principal residence.
Sec. 402. Capital loss deduction allowed with respect to sale or exchange of principal residence.

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Sec. 411. Lifetime capital gains rate reduction for nontradable property.

TITLE V—ESTATE TAX RELIEF

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Sec. 721. Welfare to work credit.

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Sec. 731. Credit for qualified equity investments in community development financial institutions.

TITLE VIII—OTHER TAX RELIEF

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Sec. 901. Tax incentives for revitalization of the District of Columbia.

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Sec. 1075. Limitation on property for which income forecast method may be used.
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Sec. 1078. Treatment of exception from installment sales rules for sales of property by a manufacturer to a dealer.

SEC. 2. MODIFICATIONS OF CERTAIN REQUIREMENTS.

(a) MODIFICATION OF DEPOSIT OF AIRLINE TICKET TAX REVENUES.—Deposits of taxes imposed by section 4261 of the Internal Revenue Code of 1986 which (but for this subsection) would be required to be made on or after July 1, 2001, and before October 1, 2001, shall be made on October 10, 2001.

(b) MODIFICATION OF ESTIMATED TAX PROVISIONS.—Subparagraph (C) of section 6654(d)(1) of the Internal Revenue Code of 1986 shall not apply in determining the amount of any

required installment for a taxable year beginning in calendar year 2001.

TITLE I—TAX INCENTIVES FOR HIGHER EDUCATION

SEC. 101. HOPE SCHOLARSHIP CREDITS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 23 the following new section:

"SEC. 24. HOPE SCHOLARSHIP CREDITS.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the amount equal to the sum of—

''(1) the 100-Percent Hope Scholarship Credit, and

''(2) the 20-Percent Hope Scholarship Credit.

''(b) AMOUNT OF CREDITS.—For purposes of this section—

''(1) HOPE CREDIT.—

''(A) IN GENERAL.—The 100-Percent Hope Scholarship Credit is the amount of the qualified higher education expenses paid by the taxpayer during the taxable year for education furnished to an individual during any academic period beginning in such taxable year, but only if this paragraph applies to such individual for such taxable year.

''(B) DOLLAR LIMITATION.—The amount of the 100-Percent Hope Scholarship Credit determined under this paragraph with respect to any individual shall not exceed—

''(i) $1,100 for taxable years beginning in 1997, 1998, or 1999,

''(ii) $1,200 for taxable years beginning in 2000, or

''(iii) $1,500 for taxable years beginning in 2001 or thereafter.

''(C) 100-PERCENT HOPE SCHOLARSHIP CREDIT ALLOWED FOR ONLY 2 TAXABLE YEARS.—This paragraph shall apply for a taxable year with respect to the qualified higher education expenses of an individual only if the taxpayer elects to have this section apply with respect to such individual for such year. An election under this subparagraph shall not take effect with respect to an individual for any taxable year if an election under this subparagraph (by the taxpayer or any other individual) is in effect with respect to such individual for any 2 prior taxable years.

''(D) 100-PERCENT HOPE SCHOLARSHIP CREDIT ALLOWED ONLY FOR FIRST 2 YEARS OF POSTSECONDARY EDUCATION.—This paragraph shall not apply for a taxable year with respect to the qualified higher education expenses of an individual if the individual has completed (before the beginning of such taxable year) the first 2 years of postsecondary education at an institution of higher education.

''(2) 20-PERCENT HOPE SCHOLARSHIP CREDIT.—

''(A) IN GENERAL.—The 20-Percent Hope Scholarship Credit is 20 percent of the qualified higher education expenses paid by the taxpayer during the taxable year for education furnished to an individual during any academic period beginning in such taxable year. Education expenses with respect to an individual for whom a Hope credit is determined for the taxable year shall not be taken into account under this paragraph.

''(B) DOLLAR LIMITATION.—The amount of qualified higher education expenses taken into account under subparagraph (A) for any taxable year shall not exceed—

''(i) $4,000 for taxable years beginning in 1997, 1998, or 1999,

''(ii) $5,000 for taxable years beginning in 2000,

''(iii) $7,500 for taxable years beginning in 2001, or

''(iv) $10,000 for taxable years beginning in 2002 or thereafter.

''(3) CREDIT ALLOWED FOR YEAR ONLY IF INDIVIDUAL IS AT LEAST ½ TIME STUDENT FOR PORTION OF YEAR.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified higher education expenses of an individual unless such individual is an eligible student for at least one academic period which begins during such year.

''(c) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(1) IN GENERAL.—The amount which would (but for this section) be allowed as a credit under subsection (a) for the taxable year shall be reduced (but not below zero) by the amount determined under paragraph (2).

''(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph is the amount which bears the same ratio to the credit which would be so allowed as—

''(A) the excess of—

''(i) the taxpayer's modified adjusted gross income for such taxable year, over

''(ii) $50,000 ($80,000 in the case of a joint return), bears to

''(B) $20,000.

''(3) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED HIGHER EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition and fees required for the enrollment or attendance of—

''(i) the taxpayer,

''(ii) the taxpayer's spouse, or

''(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151,

at an institution of higher education.

''(B) EXCEPTION FOR EDUCATION INVOLVING SPORTS, ETC.—Such term does not include expenses with respect to any course or other education involving sports, games, or hobbies, unless such course or other education is part of the individual's degree program.

''(C) EXCEPTION FOR NONACADEMIC FEES.—Such term does not include student activity fees, athletic fees, insurance expenses, or other expenses unrelated to an individual's academic course of instruction.

''(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution—

''(A) which is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section, and

''(B) which is eligible to participate in a program under title IV of such Act.

''(3) ELIGIBLE STUDENT.—The term 'eligible student' means, with respect to any academic period, a student who—

''(A) meets the requirements of section 484(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1)), as in effect on the date of the enactment of this section, and

''(B) is carrying at least ½ the normal full-time work load for the course of study the student is pursuing.

''(e) TREATMENT OF EXPENSES PAID BY DEPENDENT.—If a deduction under section 151 with respect to an individual is allowed to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins—

''(1) no credit shall be allowed under subsection (a) to such individual for such individual's taxable year, and

''(2) qualified higher education expenses paid by such individual during such individual's taxable year shall be treated for purposes of this section as paid by such other taxpayer.

''(f) TREATMENT OF CERTAIN PREPAYMENTS.—If qualified higher education expenses are paid by the taxpayer during a taxable year for an academic period which begins during the first 3 months following such taxable year, such academic period shall be treated for purposes of this section as beginning during such taxable year.

''(g) SPECIAL RULES.—

''(1) DENIAL OF CREDIT IF INDIVIDUAL CONVICTED OF DRUG OFFENSE.—No credit shall be allowed under subsection (a) with respect to the qualified higher education expenses of an individual for any taxable year if the individual has been convicted before the end of such year of a Federal or State felony offense consisting of the possession or distribution of a controlled substance.

''(2) DENIAL OF CREDIT IF INDIVIDUAL FAILS TO MAKE SATISFACTORY ACADEMIC PROGRESS.—If—

''(A) if a credit is allowable under this section with respect to the qualified higher education expenses of an individual for any taxable year, and

''(B) such individual failed to make satisfactory academic progress described in section 484(c) of the Higher Education Act of 1965 during such year,

no credit shall be allowed under subsection (a) with respect to qualified higher education expenses of such individual for a succeeding taxable year.

''(3) NO DOUBLE BENEFIT.—No credit shall be allowed under subsection (a) for any taxable year for any expense for which a deduction is allowed under any other provision of this chapter.

''(4) IDENTIFICATION REQUIREMENT.—No credit shall be allowed under subsection (a) to a taxpayer with respect to the qualified higher education expenses of an individual unless the taxpayer includes the name and taxpayer identification number of such individual on the return of tax for the taxable year.

''(5) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS.—The amount of qualified higher education expenses otherwise taken into account under subsection (b) with respect to an individual for an academic period shall be reduced (before the application of any dollar limitation under this section) by the sum of—

''(A) any amounts paid for the benefit of such individual which are allocable to such period as—

''(i) a qualified scholarship which is excludable from gross income under section 117,

''(ii) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or under chapter 1606 of title 10, United States Code,

''(iii) a payment which is excludable from gross income under section 127, or

''(iv) a payment (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for such individual's educational expenses, or attributable to such individual's enrollment at an institution of higher education, which is excludable from gross income under any law of the United States, and

''(B) the amount excludable from gross income under section 135 which is allocable to such expenses with respect to such individual for such period.

''(6) NO CREDIT FOR MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

''(7) NONRESIDENT ALIENS.—If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall

apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

''(h) INFLATION ADJUSTMENTS.—

''(1) DOLLAR LIMITATION ON AMOUNT OF CREDIT.—

''(A) IN GENERAL.—In the case of a taxable year beginning after 2001, each applicable dollar amount contained in subsection (b) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2000' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

''(2) INCOME LIMITS.—

''(A) IN GENERAL.—In the case of a taxable year beginning after 2000, the $50,000 and $80,000 amounts in subsection (c)(2) shall each be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $5,000, such amount shall be rounded to the next lowest multiple of $5,000.

''(i) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations providing for a recapture of credit allowed under this section in cases where there is a refund in a subsequent taxable year of any amount which was taken into account in determining the amount of such credit.''

(b) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Paragraph (2) of section 6213(g) (relating to the definition of mathematical or clerical errors) is amended by striking ''and'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', and'', and by inserting after subparagraph (H) the following new subparagraph:

''(I) an omission of a correct TIN required under section 24(g)(4) (relating to higher education tuition and fees) to be included on a return.''

(c) RETURNS RELATING TO HIGHER EDUCATION EXPENSES.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6050R the following new section:

''SEC. 6050S. RETURNS RELATING TO HIGHER EDUCATION EXPENSES.

''(a) IN GENERAL.—Any person—

''(1) which is an institution of higher education which receives payments for qualified higher education expenses with respect to any individual for any calendar year, or

''(2) which is engaged in a trade or business which, in the course of such trade or business makes payments during any calendar year to any individual which constitute reimbursements or refunds (or similar amounts) of qualified higher education expenses of such individual,

shall make the return described in subsection (b) with respect to the individual at such time as the Secretary may by regulations prescribe.

''(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

''(1) is in such form as the Secretary may prescribe,

''(2) contains—

''(A) the name, address, and TIN of the individual with respect to whom payments described in subsection (a) were received from (or were paid to),

''(B) the name, address, and TIN of any individual certified by the individual described in subparagraph (A) as the taxpayer who will claim the individual as a dependent for purposes of the deduction allowable under section 151 for any taxable year ending with or within the calendar year,

''(C) the—

''(i) aggregate amount of payments for qualified higher education expenses received with respect to the individual described in subparagraph (A) during the calendar year, and

''(ii) aggregate amount of reimbursements or refunds (or similar amounts) paid to such individual during the calendar year, and

''(D) such other information as the Secretary may prescribe.

''(c) APPLICATION TO GOVERNMENTAL UNITS.—For purposes of this section—

''(1) a governmental unit or any agency or instrumentality thereof shall be treated as a person, and

''(2) any return required under subsection (a) by such governmental entity shall be made by the officer or employee appropriately designated for the purpose of making such return.

''(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return under subparagraph (A) or (B) of subsection (b)(2) a written statement showing—

''(1) the name, address, and phone number of the information contact of the person required to make such return, and

''(2) the aggregate amounts described in subparagraph (C) of subsection (b)(2).

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

''(e) DEFINITIONS.—For purposes of this section, the terms 'institution of higher education' and 'qualified higher education expenses' have the respective meanings given such terms by section 24.

''(f) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section. No penalties shall be imposed under section 6724 with respect to any return or statement required under this section until such time as such regulations are issued.''

(2) ASSESSABLE PENALTIES.—Section 6724(d) (relating to definitions) is amended—

(A) in paragraph (1)(B) by redesignating clauses (x) through (xv) as clauses (xi) through (xvi), respectively, and by inserting after clause (ix) of such paragraph the following new clause:

''(x) section 6050S (relating to returns relating to payments for qualified higher education expenses),'', and

(B) in paragraph (2) by striking ''or'' at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph and inserting '', or'', and by adding at the end the following new subparagraph:

''(Z) section 6050S(d) (relating to returns relating to qualified higher education expenses).''

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050R the following new item:

''Sec. 6050S. Returns relating to higher education expenses.''

(d) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 23 the following new item:

''Sec. 24. Hope scholarship credits.''

(e) CREDIT ALLOWED AGAINST MINIMUM TAX.—Section 26 is amended by adding at the end the following new subsection:

''(c) SCHOLARSHIP CREDITS ALLOWED AGAINST MINIMUM TAX.—Subsection (a) shall not apply to the credit allowable under section 24, but the amount of the credit allowed by that section shall not exceed the sum of—

''(1) the regular tax liability for the taxable year reduced by the sum of the credits allowable under this subpart (other than section 24), and

''(2) the minimum tax imposed by section 55.''

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid after December 31, 1996 (in taxable years ending after such date), for education furnished in academic periods beginning after June 30, 1997.

SEC. 102. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE PROGRAMS.

(a) PERMANENT EXTENSION.—Section 127 (relating to exclusion for educational assistance programs) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) REPEAL OF LIMITATION ON GRADUATE EDUCATION.—The last sentence of section 127(c)(1) is amended by striking '', and such term 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''.

(c) EFFECTIVE DATES.—

(1) EXTENSION.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1996.

(2) GRADUATE EDUCATION.—The amendment made by subsection (b) shall apply with respect to expenses relating to courses beginning after June 30, 1997.

TITLE II—PUBLIC-PRIVATE EDUCATION PARTNERSHIPS

SEC. 201. PURPOSE.

The purpose of this title is to facilitate the establishment of working partnerships of public school educators, businesses, labor, and community groups to—

(1) enhance the academic curriculum for education and training below the postsecondary level,

(2) increase graduation and employment rates,

(3) better prepare students for the rigors of college and the increasingly complex workforce, and

(4) promote the global leadership position of the United States economy,

by providing a no-cost source of capital to eligible local education agencies for the cost of establishing specialized academies in distressed areas (referred to as ''education zones'').

SEC. 202. INCENTIVES FOR EDUCATION ZONES.

(a) IN GENERAL.—Part III of subchapter U of chapter 1 (relating to additional incentives for empowerment zones), as amended by subsection (b), is amended by inserting after subpart B the following new subpart:

''Subpart C—Incentives for Education Zones

''Sec. 1397B. Credit to holders of qualified zone academy bonds.''

''SEC. 1397B. CREDIT TO HOLDERS OF QUALIFIED ZONE ACADEMY BONDS.

''(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a qualified zone academy bond on the credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year the amount determined under subsection (b).

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any qualified zone academy bond is the amount equal to the product of—

''(A) the credit rate determined by the Secretary under paragraph (2) for the month in which such bond was issued, multiplied by

''(B) the face amount of the bond held by the taxpayer on the credit allowance date.

''(2) DETERMINATION.—During each calendar month, the Secretary shall determine a credit rate which shall apply to bonds issued during the following calendar month. The credit rate for any month is the percentage which the Secretary estimates will permit the issuance of qualified zone academy bonds without discount and without interest cost to the issuer.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(2) the sum of the credits allowable under part IV of subchapter A (other than subpart C thereof, relating to refundable credits).

''(d) QUALIFIED ZONE ACADEMY BOND.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified zone academy bond' means any bond issued as part of an issue if—

''(A) 95 percent or more of the proceeds of such issue are to be used for a qualified purpose with respect to a qualified zone academy established by an eligible local education agency,

''(B) the bond is issued by a State or local government within the jurisdiction of which such academy is located,

''(C) the issuer—

''(i) designates such bond for purposes of this section,

''(ii) certifies that it has written assurances that the private business contribution requirement of paragraph (2) will be met with respect to such academy, and

''(iii) certifies that it has the written approval of the eligible local education agency for such bond issuance, and

''(D) the term of each bond which is part of such issue does not exceed the maximum term permitted under paragraph (3).

''(2) PRIVATE BUSINESS CONTRIBUTION REQUIREMENT.—

''(A) IN GENERAL.—For purposes of paragraph (1), the private business contribution requirement of this paragraph is met with respect to any issue if the eligible local education agency that established the qualified zone academy has written commitments from private entities to make qualified contributions having a present value (as of the date of issuance of the issue) of not less than 10 percent of the proceeds of the issue.

''(B) QUALIFIED CONTRIBUTIONS.—For purposes of subparagraph (A), the term 'qualified contribution' means any contribution (of a type and quality acceptable to the eligible local education agency) of—

''(i) equipment for use in the qualified zone academy (including state-of-the-art technology and vocational equipment),

''(ii) technical assistance in developing curriculum or in training teachers in order to promote appropriate market driven technology in the classroom,

''(iii) services of employees as volunteer mentors,

''(iv) internships, field trips, or other educational opportunities outside the academy for students, or

''(v) any other property or service specified by the eligible local education agency.

''(3) TERM REQUIREMENT.—During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of the bond. Such present value shall be determined using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

''(4) QUALIFIED ZONE ACADEMY.—

''(A) IN GENERAL.—The term 'qualified zone academy' means any public school (or academic program within a public school) which is established by and operated under the supervision of an eligible local education agency to provide education or training below the postsecondary level if—

''(i) such public school or program (as the case may be) is designed in cooperation with business to enhance the academic curriculum, increase graduation and employment rates, and better prepare students for the rigors of college and the increasingly complex workforce,

''(ii) students in such public school or program (as the case may be) will be subject to the same academic standards and assessments as other students educated by the eligible local education agency,

''(iii) the comprehensive education plan of such public school or program is approved by the eligible local education agency, and

''(iv)(I) such public school is located in an empowerment zone or enterprise community (including any such zone or community designated after the date of the enactment of this section), or

''(II) there is a reasonable expectation (as of the date of issuance of the bonds) that at least 35 percent of the students attending such school or participating in such program (as the case may be) will be eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act.

''(B) ELIGIBLE LOCAL EDUCATION AGENCY.—The term 'eligible local education agency' means any local education agency as defined in section 14101 of the Elementary and Secondary Education Act of 1965.

''(5) QUALIFIED PURPOSE.—The term 'qualified purpose' means, with respect to any qualified zone academy—

''(A) constructing or renovating the public school facility in which the academy is established,

''(B) providing equipment for use at such academy,

''(C) developing course materials for education to be provided at such academy, and

''(D) training teachers and other school personnel in such academy.

''(e) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(1) NATIONAL LIMITATION.—There is a national zone academy bond limitation for each calendar year. Such limitation is $10,000,000,000 for 1998, 1999, 2000, 2001, and 2002, and zero thereafter.

''(2) ALLOCATION OF LIMITATION.—The national zone academy bond limitation for a calendar year shall be allocated by the Secretary among the States on the basis of their respective populations of individuals below the poverty line (as defined by the Office of Management and Budget). The limitation amount allocated to a State under the preceding sentence shall be allocated by the State education agency to qualified zone academies within such State.

''(3) DESIGNATION SUBJECT TO LIMITATION AMOUNT.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (d)(1) with respect to any qualified zone academy shall not exceed the limitation amount allocated to such academy under paragraph (2) for such calendar year.

''(4) CARRYOVER OF USED LIMITATION.—If for any calendar year—

''(A) the limitation amount for any State, exceeds

''(B) the amount of bonds issued during such year which are designated under subsection (d)(1) with respect to qualified zone academies within such State,

the limitation amount for such State for the following calendar year shall be increased by the amount of such excess.

''(f) OTHER DEFINITIONS.—For purposes of this section—

''(1) CREDIT ALLOWANCE DATE.—The term 'credit allowance date' means, with respect to any issue, the last day of the 1-year period beginning on the date of issuance of such issue and the last day of each successive 1-year period thereafter.

''(2) BOND.—The term 'bond' includes any obligation.

''(3) STATE.—The term 'State' includes the District of Columbia and any possession of the United States.

''(g) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section.''

(b) CONFORMING AMENDMENTS.—

(1) Subchapter U of chapter 1 (as in effect before the amendment made by subsection (a)) is amended by redesignating subpart C as subpart D, and by redesignating sections 1397B, 1397C, and 1397D as sections 1397D, 1397E, and 1397F, respectively.

(2) Subsection (b) of section 1394 is amended—

(A) by striking ''section 1397C'' in paragraph (2) and inserting ''section 1397E'', and

(B) by striking ''section 1397B'' in paragraph (3) and inserting ''section 1397D''.

(3) The table of subparts for part III of subchapter U of chapter 1 is amended by striking the last item and inserting the following:

''Subpart C. Incentives for education zones.

''Subpart D. General provisions.''

(4) The table of sections for subpart D of such part III, as so redesignated, is amended to read as follows:

''Sec. 1397D. Enterprise zone business defined.

''Sec. 1397E. Qualified zone property defined.''

(5) The table of sections for part IV of subchapter U of chapter 1 is amended to read as follows:

''Sec. 1397F. Regulations.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 1997.

TITLE III—FAMILY TAX RELIEF

SEC. 301. CREDIT FOR FAMILIES WITH YOUNG CHILDREN.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) is amended by inserting after section 34 the following new section:

"SEC. 34A. FAMILIES WITH YOUNG CHILDREN.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to $500 multiplied by the number of eligible children of the taxpayer for the taxable year.

''(2) PHASE-IN OF CREDIT.—In the case of taxable years beginning before January 1, 2001, paragraph (1) shall be applied by substituting '$300' for '$500'.

''(b) PHASEOUT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit allowed under subsection (a) shall be reduced (but not below zero) by the amount determined under paragraph (2).

''(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph equals the amount which bears the same ratio to the credit (determined without regard to this subsection) as—

''(A) the excess of—

''(i) the taxpayer's adjusted gross income for such taxable year, over

''(ii) $60,000, bears to

''(B) $15,000.

Any amount determined under this paragraph which is not a multiple of $10 shall be rounded to the next lowest $10.

''(3) ADJUSTED GROSS INCOME.—For purposes of this subsection, adjusted gross income of any taxpayer shall be increased by any amount excluded from gross income under section 911, 931, or 933.

''(c) ELIGIBLE CHILD.—For purposes of this section, the term 'eligible child' means any child (as defined in section 151(c)(3)) of the taxpayer—

''(1) who has not attained age 18 as of the close of the calendar year in which the taxable year of the taxpayer begins,

''(2) who is a dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151 for such taxable year, and

''(3) whose TIN is included on the taxpayer's return for such taxable year.

''(d) LIMITATION BASED ON AMOUNT OF TAX.—

''(1) IN GENERAL.—The credit allowed by subsection (a) for the taxable year shall not exceed the sum of—

''(A) the tax imposed by this chapter for the taxable year (reduced by the sum of the other credits allowable under this part against such tax other than under this subpart, relating to refundable credits), and

''(B) the taxpayer's social security taxes for such taxable year.

''(2) SOCIAL SECURITY TAXES.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The term 'social security taxes' means, with respect to any taxpayer for any taxable year—

''(i) the amount of the taxes imposed by sections 3101 and 3201(a) on amounts received by the taxpayer during the calendar year in which the taxable year begins,

''(ii) ½ of the amount of the taxes imposed by section 1401 on the self-employment income of the taxpayer for the taxable year, and

''(iii) ½ of the amount of the taxes imposed by section 3211(a)(1) on amounts received by the taxpayer during the calendar year in which the taxable year begins.

''(B) COORDINATION WITH SPECIAL REFUND OF SOCIAL SECURITY TAXES.—The term 'social security taxes' shall not include any taxes to the extent the taxpayer is entitled to a special refund of such taxes under section 6413(c).

''(C) SPECIAL RULE.—Any amounts paid pursuant to an agreement under section 3121(l) (relating to agreements entered into by American employers with respect to foreign affiliates) which are equivalent to the taxes referred to in subparagraph (A)(i) shall be treated as taxes referred to in such subparagraph.

''(e) INFLATION ADJUSTMENTS.—In the case of a taxable year beginning in a calendar year after 2000—

''(1) IN GENERAL.—The $500 and $60,000 amounts contained in subsections (a)(1) and (b)(2) shall each be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) INCREASE IN PHASEOUT RANGE.—If the dollar amount in effect under subsection (a)(1) for any taxable year exceeds $500, subsection (b)(2)(B) shall be applied by substituting an amount equal to 30 times such dollar amount for '$15,000'.

''(3) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $100, such amount shall be rounded to the next lowest multiple of $100.

''(f) SPECIAL RULES.—

''(1) AMOUNT OF CREDIT MAY BE DETERMINED UNDER TABLES.—The amount of the credit allowed by this section may be determined under tables prescribed by the Secretary.

''(2) CERTAIN OTHER RULES APPLY.—Rules similar to the rules of subsections (c)(1)(E) and (F), (d), and (e) of section 32 shall apply for purposes of this section.''

(b) CLERICAL AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 34 the following new item:

''Sec. 34A. Families with young children.''

(c) CONFORMING AMENDMENT.—Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period '', or from section 34A of such Code''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

TITLE IV—CAPITAL GAINS RELIEF

Subtitle A—Exemption From Tax for Gain on Sale of Principal Residence

SEC. 401. EXEMPTION FROM TAX FOR GAIN ON SALE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Section 121 (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended to read as follows:

"SEC. 121. EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

''(a) EXCLUSION.—Gross income shall not include gain from the sale or exchange of property if, during the 5-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence for periods aggregating 2 years or more.

''(b) LIMITATIONS.—

''(1) DOLLAR LIMITATION.—The amount of gain excluded from gross income under subsection (a) with respect to any sale or exchange shall not exceed $250,000 ($500,000 in the case of a joint return where both spouses meet the use requirement of subsection (a)).

''(2) APPLICATION TO ONLY 1 SALE OR EXCHANGE EVERY 2 YEARS.—

''(A) IN GENERAL.—Subsection (a) shall not apply to any sale or exchange by the taxpayer if, during the 2-year period ending on the date of such sale or exchange, there was any other sale or exchange by the taxpayer to which subsection (a) applied.

''(B) PRIOR SALES BY SPOUSE NOT TAKEN INTO ACCOUNT.—If, but for this subparagraph, subsection (a) would not apply to a sale or exchange by a married individual filing a joint return solely by reason of a prior sale or exchange by such individual's spouse—

''(i) subparagraph (A) shall be applied without regard to the sale or exchange by such individual's spouse or any ownership or use by such spouse, but

''(ii) the amount of gain excluded from gross income under subsection (a) with respect to the sale or exchange by such individual shall not exceed $250,000.

''(C) PRE-EFFECTIVE DATE SALES NOT TAKEN INTO ACCOUNT.—Subparagraph (A) shall be applied without regard to any sale or exchange before May 7, 1997.

''(c) EXCLUSION FOR TAXPAYERS FAILING TO MEET CERTAIN REQUIREMENTS.—

''(1) IN GENERAL.—In the case of a sale or exchange to which this subsection applies, the ownership and use requirements of subsection (a) shall not apply and subsection (b)(2) shall not apply; but the amount of gain excluded from gross income under subsection (a) with respect to such sale of exchange shall not exceed—

''(A) the amount which bears the same ratio to the amount which would be so excluded if such requirements had been met, as

''(B) the shorter of—

''(i) the aggregate periods, during the 5-year period ending on the date of such sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence, or

''(ii) the period after the date of the most recent prior sale or exchange by the taxpayer or his spouse to which subsection (a) applied and before the date of such sale or exchange,

bears to 2 years.

''(2) SALES AND EXCHANGES TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any sale or exchange if—

''(A) subsection (a) would not (but for this subsection) apply to such sale or exchange by reason of—

''(i) a failure to meet the ownership and use requirements of subsection (a), or

''(ii) subsection (b)(2), and

''(B) such sale or exchange is by reason of a change in place of employment, health, or other unforeseen circumstances.

''(d) SPECIAL RULES.—

''(1) JOINT RETURNS.—For purposes of this section, if a husband and wife make a joint return for the taxable year of the sale or exchange of property, both spouses shall be treated as meeting the ownership requirement of subsection (a) with respect to such property if either spouse meets such requirement.

''(2) PROPERTY OF DECEASED SPOUSE.—For purposes of this section, in the case of an unmarried individual whose spouse is deceased on the date of the sale or exchange of property, the period such unmarried individual owned such property shall include the period such deceased spouse held such property before death.

''(3) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—For purposes of this section, if the taxpayer holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), then—

''(A) the holding requirements of subsection (a) shall be applied to the holding of such stock, and

''(B) the use requirements of subsection (a) shall be applied to the house or apartment which the taxpayer was entitled to occupy as such stockholder.

''(4) INVOLUNTARY CONVERSIONS.—

''(A) IN GENERAL.—For purposes of this section, the destruction, theft, seizure, requisition, or condemnation of property shall be treated as the sale of such property.

''(B) APPLICATION OF SECTION 1033.—In applying section 1033 (relating to involuntary conversions), the amount realized from the sale or exchange of property shall be treated as being the amount determined without regard to this section, reduced by the amount of gain not included in gross income pursuant to this section.

''(C) PROPERTY ACQUIRED AFTER INVOLUNTARY CONVERSION.—If the basis of the property sold or exchanged is determined (in whole or in part) under section 1033(b) (relating to basis of property acquired through involuntary conversion), then the holding and use by the taxpayer of the converted property shall be treated for purposes of this section as holding and use by the taxpayer of the property sold or exchanged.

''(5) RECOGNITION OF GAIN ATTRIBUTABLE TO DEPRECIATION.—Subsection (a) shall not apply to so much of the gain from the sale of any property as does not exceed the portion of the depreciation adjustments (as defined in section 1250(b)(3)) attributable to periods after December 31, 1996, in respect of such property.

''(6) DETERMINATION OF USE DURING PERIODS OF OUT-OF-RESIDENCE CARE.—In the case of a taxpayer who—

''(A) becomes physically or mentally incapable of self-care, and

''(B) owns property and uses such property as the taxpayer's principal residence during the 5-year period described in subsection (a) for periods aggregating at least 1 year,

then the taxpayer shall be treated as using such property as the taxpayer's principal residence during any time during such 5-year period in which the taxpayer owns the property and resides in any facility (including a nursing home) licensed by a State or political subdivision to care for an individual in the taxpayer's condition.

''(7) DETERMINATION OF MARITAL STATUS.—In the case of any sale or exchange, for purposes of this section—

''(A) the determination of whether an individual is married shall be made as of the date of the sale or exchange, and

''(B) an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

''(e) ELECTION TO HAVE SECTION NOT APPLY.—This section shall not apply to any sale or exchange with respect to which the taxpayer elects not to have this section apply.

''(f) RESIDENCES ACQUIRED IN ROLLOVERS UNDER SECTION 1034.—For purposes of this section, in the case of property the acquisition of which by the taxpayer resulted under section 1034 (as in effect on the day before the date of the enactment of this sentence) in the nonrecognition of any part of the gain realized on the sale or exchange of another residence, in determining the period for which the taxpayer has owned and used such property as the taxpayer's principal residence, there shall be included the aggregate periods for which such other residence (and each prior residence taken into account under section 1223(7) in determining the holding period of such property) had been so owned and used.''

(b) REPEAL OF NONRECOGNITION OF GAIN ON ROLLOVER OF PRINCIPAL RESIDENCE.—Section 1034 (relating to rollover of gain on sale of principal residence) is hereby repealed.

(c) CONFORMING AMENDMENTS.—

(1) The following provisions of the Internal Revenue Code of 1986 are each amended by striking ''section 1034'' and inserting ''section 121'': sections 25(e)(7), 56(e)(1)(A), 56(e)(3)(B)(i), 143(i)(1)(C)(i)(I), 163(h)(4)(A)(i)(I), 280A(d)(4)(A), 464(f)(3)(B)(i), 1033(k)(3), 1274(c)(3)(B), 6334(a)(13), and 7872(f)(11)(A).

(2) Paragraph (4) of section 32(c) is amended by striking ''(as defined in section 1034(h)(3))'' and by adding at the end the following new sentence: ''For purposes of the preceding sentence, the term 'extended active duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.''

(3) Subparagraph (A) of 143(m)(6) is amended by inserting ''(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1997)'' after ''1034(e)''.

(4) Subsection (e) of section 216 is amended by striking ''such exchange qualifies for nonrecognition of gain under section 1034(f)'' and inserting ''such dwelling unit is used as his principal residence (within the meaning of section 121)''.

(5) Section 512(a)(3)(D) is amended by inserting ''(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1997)'' after ''1034''.

(6) Paragraph (7) of section 1016(a) is amended by inserting ''(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1997)'' after ''1034'' and by inserting ''(as so in effect)'' after ''1034(e)''.

(7) Paragraph (3) of section 1033(k) is amended to read as follows:

''(3) For exclusion from gross income of gain from involuntary conversion of principal residence, see section 121.''

(8) Subsection (e) of section 1038 is amended to read as follows:

''(e) PRINCIPAL RESIDENCES.—If—

''(1) subsection (a) applies to a reacquisition of real property with respect to the sale of which gain was not recognized under section 121 (relating to gain on sale of principal residence), and

''(2) within 1 year after the date of the reacquisition of such property by the seller, such property is resold by him,

then, under regulations prescribed by the Secretary, subsections (b), (c), and (d) of this section shall not apply to the reacquisition of such property and, for purposes of applying section 121, the resale of such property shall be treated as a part of the transaction constituting the original sale of such property.''

(9) Paragraph (7) of section 1223 is amended by inserting ''(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1997)'' after ''1034''.

(10) Section 1250(d)(7) is amended to read as follows:

''(7) PRINCIPAL RESIDENCE.—Subsection (a) shall not apply to a disposition to the extent that gain from the disposition is excluded from gross income under section 121.''

(11) Paragraph (2) of section 6212(c) is amended by striking subparagraph (C) and by redesignating the succeeding subparagraphs accordingly.

(12) Section 6504 is amended by striking paragraph (4) and by redesignating the succeeding paragraphs accordingly.

(13) The item relating to section 121 in the table of sections for part III of subchapter B of chapter 1 is amended to read as follows:

''Sec. 121. Exclusion of gain from sale of principal residence.''

(14) The table of sections for part III of subchapter O of chapter 1 is amended by striking the item relating to section 1034.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to sales and exchanges on or after May 7, 1997.

(2) TRANSITIONAL RULE.—At the election of the taxpayer, the amendments made by this section shall not apply to—

(A) a sale or exchange on or before the date of the enactment of this Act, or

(B) a sale or exchange after such date of enactment, if—

(i) such sale or exchange is pursuant to a contract which was binding on such date, and at all times thereafter before such sale or exchange, or

(ii) without regard to such amendments, gain would not be recognized under section 1034 of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act) on such sale or exchange by reason of a new residence acquired on or before such date.

SEC. 402. CAPITAL LOSS DEDUCTION ALLOWED WITH RESPECT TO SALE OR EXCHANGE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Subsection (c) of section 165 (relating to limitation on losses of individuals) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ''; and'', and by adding at the end the following new paragraph:

''(4) losses (not in excess of $250,000) arising from the sale or exchange of the principal residence (within the meaning of section 121) of the taxpayer.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales and exchanges on or after May 7, 1997, in taxable years ending after such date.

Subtitle B—Lifetime Capital Gains Rate Reduction for Nontradable Property

SEC. 411. LIFETIME CAPITAL GAINS RATE REDUCTION FOR NONTRADABLE PROPERTY.

(a) IN GENERAL.—Subsection (h) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

''(h) MAXIMUM CAPITAL GAINS RATE.—If a taxpayer has a net capital gain for any taxable year, the tax imposed by this section for such taxable year shall not exceed the sum of—

''(1) a tax computed at the rates and in the manner as if this subsection had not been enacted on the greater of—

''(A) taxable income reduced by the amount of the net capital gain, or

''(B) the amount of taxable income taxed at a rate below 18 percent, plus

''(2) the sum of—

''(A) 18 percent of the lifetime qualified net capital gain (or if lesser, the amount of taxable income in excess of the amount taxed under paragraph (1)), plus

''(B) 28 percent of the excess of the net capital gain (or if lesser, the amount of taxable income in excess of the amount taxed under paragraph (1)) over the lifetime qualified net capital gain for the taxable year.

For purposes of the preceding sentence, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer elects to take into account as investment income for the taxable year under section 163(d)(4)(B)(iii). In the case of a taxpayer only subject to tax under this section at the 15 percent rate, the amount of the tax under paragraph (1)(B) on net capital gain shall be determined at a rate of 7.5 percent.''

(b) DEFINITION.—Section 1 is amended by adding at the end thereof the following new subsection:

''(i) LIFETIME QUALIFIED NET CAPITAL GAIN

''(1) IN GENERAL.—For purposes of subsection (h), the lifetime qualified net capital gain is the qualified net gain for the taxable year.

''(2) LIMITATION.—

''(A) IN GENERAL.—The amount of the qualified net gain taken into account under paragraph (1) for any taxable year shall not exceed $600,000 reduced by the aggregate amount of the qualified net gain taken into account under this subsection by the taxpayer for prior taxable years.

''(B) SPECIAL RULE FOR JOINT RETURNS.—The amount of the qualified net gain taken into account under this subsection on a joint return for any taxable year shall be allocated equally between the spouses for purposes of determining the limitation under subparagraph (A) for any succeeding taxable year.

''(3) QUALIFIED NET GAIN.—For purposes of paragraph (1), the term 'qualified net gain' means the lesser of—

''(A) the net capital gain for the taxable year, or

''(B) the net capital gain for the taxable year determined by only taking into account gains and losses from sales and exchanges on or after May 7, 1997, of qualified assets.

A taxpayer may elect for any taxable year not to take into account under this subsection all (or any portion) of the qualified net gain for such taxable year. Such an election, once made, shall be irrevocable.

''(4) QUALIFIED ASSETS.—For purposes of this subsection, the term 'qualified assets' means any property held for more than 3 years other than—

''(A) stock or securities for which there is a market on an established securities market or otherwise, and

''(B) property (other than stock or securities) of a kind regularly traded on an established market.

Such term shall not include any qualified small business stock (as defined in section 1202) nor the principal residence of the taxpayer.

''(5) SUBSECTION NOT TO APPLY TO CERTAIN INDIVIDUALS.—This subsection shall not apply to any individual who has not attained age 25 before the close of the taxable year.

''(6) SUBSECTION NOT TO APPLY TO CERTAIN TAXPAYERS.—This subsection shall not apply to—

''(A) a married individual (within the meaning of section 7703) filing a separate return for the taxable year, or

''(B) an estate or trust.

''(7) SPECIAL RULES.—

''(A) TREATMENT OF CERTAIN SALES OF INTERESTS IN PARTNERSHIPS, ETC.—For purposes of this subsection, any gain from the sale or exchange of a qualified asset which is an interest in a partnership, S corporation, or trust shall not be treated as gain from the sale or exchange of a qualified asset to the extent such gain is attributable to unrealized appreciation in the value of property described in subparagraph (A) or (B) of paragraph (4) which is held by such entity. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

''(B) SPECIAL RULE FOR PASS-THRU ENTITIES.—

''(i) IN GENERAL.—In applying this subsection with respect to any pass-thru entity—

''(I) the determination of when the sale or exchange occurs shall be made at the entity level, and

''(II) any gain attributable to such entity shall in no event be treated as gain from sale or exchange of a qualified asset if interests in such entity are described in subparagraph (A) or (B) of paragraph (4).

''(ii) PASS-THRU ENTITY DEFINED.—For purposes of clause (i), the term 'pass-thru-entity' means—

''(I) a regulated investment company,

''(II) a real estate investment trust,

''(III) an S corporation,

''(IV) a partnership,

''(V) an estate or trust, and

''(VI) a common trust fund.''

(c) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

''(12) SPECIAL RULE FOR COLLECTIBLES.—

''(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

''(B) TREATMENT OF CERTAIN SALES OF INTERESTS IN PARTNERSHIPS, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

''(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof).''

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: ''For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles).''

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end thereof the following: ''and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)''.

(d) MINIMUM TAX TREATMENT.—Clause (i) of section 55(b)(1)(A) is amended to read as follows:

''(i) IN GENERAL.—In the case of a taxpayer other than a corporation, the tentative minimum tax for the taxable year is the sum of—

''(I) 18 percent of so much of the taxable excess as does not exceed the lifetime qualified net capital gain for the taxable year,

''(II) 26 percent of so much of the ordinary taxable excess as does not exceed $175,000, plus

''(III) 28 percent of so much of the ordinary taxable excess as exceeds $175,000.

For purposes of the preceding sentence, the term 'ordinary taxable excess' means the taxable excess reduced by the lifetime qualified net capital gain. The amount determined under this clause shall be reduced by the alternative minimum tax foreign tax credit for the taxable year.''

(e) EFFECTIVE DATE.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending on or after May 7, 1997.

TITLE V—ESTATE TAX RELIEF

SEC. 501. FAMILY-OWNED BUSINESS EXCLUSION.

(a) IN GENERAL.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2033 the following new section:

''SEC. 2033A. FAMILY-OWNED BUSINESS EXCLUSION.

''(a) IN GENERAL.—In the case of an estate of a decedent to which this section applies, the value of the gross estate shall not include the lesser of—

''(1) the adjusted value of the qualified family-owned business interests of the decedent otherwise includible in the estate, or

''(2) $400,000, increased by the amount (if any) of the limitation under this paragraph not claimed by the estate of a previously deceased spouse of the decedent.

''(b) ESTATES TO WHICH SECTION APPLIES.—

''(1) IN GENERAL.—This section shall apply to an estate if—

''(A) the decedent was (at the date of the decedent's death) a citizen or resident of the United States,

''(B) the sum of—

''(i) the adjusted value of the qualified family-owned business interests described in paragraph (2), plus

''(ii) the amount of the gifts of such interests determined under paragraph (3),

exceeds 50 percent of the adjusted gross estate, and

''(C) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which—

''(i) such interests were owned by the decedent or a member of the decedent's family, and

''(ii) there was material participation (within the meaning of section 2032A(e)(6)) by the decedent or a member of the decedent's family in the operation of the business to which such interests relate.

''(2) INCLUDIBLE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—The qualified family-owned business interests described in this paragraph are the interests which—

''(A) are included in determining the value of the gross estate (without regard to this section), and

''(B) are acquired by any qualified heir from, or passed to any qualified heir from, the decedent (within the meaning of section 2032A(e)(9)).

''(3) INCLUDIBLE GIFTS OF INTERESTS.—The amount of the gifts of qualified family-owned business interests determined under this paragraph is the excess of—

''(A) the sum of—

''(i) the amount of such gifts from the decedent to members of the decedent's family taken into account under subsection 2001(b)(1)(B), plus

''(ii) the amount of such gifts otherwise excluded under section 2503(b),

to the extent such interests are continuously held by members of such family (other than the decedent's spouse) between the date of the gift and the date of the decedent's death, over

''(B) the amount of such gifts from the decedent to members of the decedent's family otherwise included in the gross estate.

''(c) ADJUSTED GROSS ESTATE.—For purposes of this section, the term 'adjusted gross estate' means the value of the gross estate (determined without regard to this section)—

''(1) reduced by any amount deductible under paragraph (3) or (4) of section 2053(a), and

''(2) increased by the excess of—

''(A) the sum of—

''(i) the amount of gifts determined under subsection (b)(3),

''(ii) the amount (if more than de minimis) of other transfers from the decedent to the decedent's spouse (at the time of the transfer) within 10 years of the date of the decedent's death, plus

''(iii) the amount of other gifts (not included under clause (i) or (ii)) from the decedent within 3 years of such date, other than gifts to members of the decedent's family otherwise excluded under section 2503(b), over

''(B) the sum of the amounts described in clauses (i), (ii), and (iii) of subparagraph (A) which are otherwise includible in the gross estate.

For purposes of the preceding sentence, the Secretary may provide that de minimis gifts to persons other than members of the decedent's family shall not be taken into account.

''(d) ADJUSTED VALUE OF THE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—For purposes of this section, the adjusted value of any qualified family-owned business interest is the value of such interest for purposes of this chapter (determined without regard to this section), reduced by the excess of—

''(1) any amount deductible under paragraph (3) or (4) of section 2053(a), over

''(2) the sum of—

''(A) any indebtedness on any qualified residence of the decedent the interest on which is deductible under section 163(h)(3),

''(B) any indebtedness to the extent the taxpayer establishes that the proceeds of such indebtedness were used for the payment of educational and medical expenses of the decedent, the decedent's spouse, or the decedent's dependents (within the meaning of section 152), plus

''(C) any indebtedness not described in clause (i) or (ii), to the extent such indebtedness does not exceed $10,000.

''(e) QUALIFIED FAMILY-OWNED BUSINESS INTEREST.—

''(1) IN GENERAL.—For purposes of this section, the term 'qualified family-owned business interest' means—

''(A) an interest as a proprietor in a trade or business carried on as a proprietorship, or

''(B) an interest in an entity carrying on a trade or business, if—

''(i) at least—

''(I) 50 percent of such entity is owned (directly or indirectly) by the decedent and members of the decedent's family,

''(II) 70 percent of such entity is so owned by members of 2 families, or

''(III) 90 percent of such entity is so owned by members of 3 families, and

''(ii) for purposes of subclause (II) or (III) of clause (i), at least 30 percent of such entity is so owned by the decedent and members of the decedent's family.

''(2) LIMITATION.—Such term shall not include—

''(A) any interest in a trade or business the principal place of business of which is not located in the United States,

''(B) any interest in an entity, if the stock or debt of such entity or a controlled group (as defined in section 267(f)(1)) of which such entity was a member was readily tradable on an established securities market or secondary market (as defined by the Secretary) at any time within 3 years of the date of the decedent's death,

''(C) any interest in a trade or business not described in section 542(c)(2), if more than 35 percent of the adjusted ordinary gross income of such trade or business for the taxable year which includes the date of the decedent's death would qualify as personal holding company income (as defined in section 543(a)), or

''(D) that portion of an interest in a trade or business that is attributable to—

''(i) cash or marketable securities, or both, in excess of the reasonably expected day-to-day working capital needs of such trade or business, and

''(ii) any other assets of the trade or business (other than assets used in the active conduct of a trade or business described in section 542(c)(2)), the income of which is described in section 543(a) or in subparagraph (B), (C), (D), or (E) of section 954(c)(1) (determined by substituting 'trade or business' for 'controlled foreign corporation').

''(3) RULES REGARDING OWNERSHIP.—

''(A) OWNERSHIP OF ENTITIES.—For purposes of paragraph (1)(B)—

''(i) CORPORATIONS.—Ownership of a corporation shall be determined by the holding of stock possessing the appropriate percentage of the total combined voting power of all classes of stock entitled to vote and the appropriate percentage of the total value of shares of all classes of stock.

''(ii) PARTNERSHIPS.—Ownership of a partnership shall be determined by the owning of the appropriate percentage of the capital interest in such partnership.

''(B) OWNERSHIP OF TIERED ENTITIES.—For purposes of this section, if by reason of holding an interest in a trade or business, a decedent, any member of the decedent's family, any qualified heir, or any member of any qualified heir's family is treated as holding an interest in any other trade or business—

''(i) such ownership interest in the other trade or business shall be disregarded in determining if the ownership interest in the first trade or business is a qualified family-owned business interest, and

''(ii) this section shall be applied separately in determining if such interest in any other trade or business is a qualified family-owned business interest.

''(C) INDIVIDUAL OWNERSHIP RULES.—For purposes of this section, an interest owned, directly or indirectly, by or for an entity described in paragraph (1)(B) shall be considered as being owned proportionately by or for the entity's shareholders, partners, or beneficiaries. A person shall be treated as a beneficiary of any trust only if such person has a present interest in such trust.

''(f) TAX TREATMENT OF FAILURE TO MATERIALLY PARTICIPATE IN BUSINESS OR DISPOSITIONS OF INTERESTS.—

''(1) IN GENERAL.—There is imposed an additional estate tax if, within 10 years after the date of the decedent's death and before the date of the qualified heir's death—

''(A) the material participation requirements described in section 2032A(c)(6)(B) are not met with respect to the qualified family-owned business interest which was acquired (or passed) from the decedent,

''(B) the qualified heir disposes of any portion of a qualified family-owned business interest (other than by a disposition to a member of the qualified heir's family or through a qualified conservation contribution under section 170(h)),

''(C) the qualified heir loses United States citizenship (within the meaning of section 877) or with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) occurs, and such heir does not comply with the requirements of subsection (g), or

''(D) the principal place of business of a trade or business of the qualified family-owned business interest ceases to be located in the United States.

''(2) ADDITIONAL ESTATE TAX.—

''(A) IN GENERAL.—The amount of the additional estate tax imposed by paragraph (1) shall be equal to—

''(i) the applicable percentage of the adjusted tax difference attributable to the qualified family-owned business interest (as determined under rules similar to the rules of section 2032A(c)(2)(B)), plus

''(ii) interest on the amount determined under clause (i) at the underpayment rate established under section 6621 for the period beginning on the date the estate tax liability was due under this chapter and ending on the date such additional estate tax is due.

''(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined under the following table:

''If the event described in paragraph (1) occurs in the following year of material participation:	**The applicable percentage is:**
1 through 6	100
7	80
8	60
9	40
10	20.

''(g) SECURITY REQUIREMENTS FOR NONCITIZEN QUALIFIED HEIRS.—

''(1) IN GENERAL.—Except upon the application of subparagraph (F) or (M) of subsection (h)(3), if a qualified heir is not a citizen of the United States, any interest under this section passing to or acquired by such heir (including any interest held by such heir at a time described in subsection (f)(1)(C)) shall be treated as a qualified family-owned business interest only if the interest passes or is acquired (or is held) in a qualified trust.

''(2) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

''(A) which is organized under, and governed by, the laws of the United States or a State, and

''(B) except as otherwise provided in regulations, with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

''(h) OTHER DEFINITIONS AND APPLICABLE RULES.—For purposes of this section—

''(1) QUALIFIED HEIR.—The term 'qualified heir'—

''(A) has the meaning given to such term by section 2032A(e)(1), and

''(B) includes any active employee of the trade or business to which the qualified family-owned business interest relates if such employee has been employed by such trade or business for a period of at least 10 years before the date of the decedent's death.

''(2) MEMBER OF THE FAMILY.—The term 'member of the family' has the meaning given to such term by section 2032A(e)(2).

''(3) APPLICABLE RULES.—Rules similar to the following rules shall apply:

''(A) Section 2032A(b)(4) (relating to decedents who are retired or disabled).

''(B) Section 2032A(b)(5) (relating to special rules for surviving spouses).

''(C) Section 2032A(c)(2)(D) (relating to partial dispositions).

''(D) Section 2032A(c)(3) (relating to only 1 additional tax imposed with respect to any 1 portion).

''(E) Section 2032A(c)(4) (relating to due date).

''(F) Section 2032A(c)(5) (relating to liability for tax; furnishing of bond).

''(G) Section 2032A(c)(7) (relating to no tax if use begins within 2 years; active management by eligible qualified heir treated as material participation).

''(H) Section 2032A(e)(10) (relating to community property).

''(I) Section 2032A(e)(14) (relating to treatment of replacement property acquired in section 1031 or 1033 transactions).

''(J) Section 2032A(f) (relating to statute of limitations).

''(K) Section 6166(b)(3) (relating to farmhouses and certain other structures taken into account).

''(L) Subparagraphs (B), (C), and (D) of section 6166(g)(1) (relating to acceleration of payment).

''(M) Section 6324B (relating to special lien for additional estate tax).''

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by inserting after the item relating to section 2033 the following new item:

''Sec. 2033A. Family-owned business exclusion.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1997.

TITLE VI—EXTENSION OF EXPIRING PROVISIONS

SEC. 601. RESEARCH CREDIT.

(a) IN GENERAL.—Section 41(h)(1) is amended—

(1) by striking ''May 31, 1997'' and inserting ''May 31, 1998'', and

(2) by striking the last sentence.

(b) CONFORMING AMENDMENT.—Section 45C(b)(1)(D) is amended by striking ''1997'' and inserting ''1998''.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after May 31, 1997.

SEC. 602. ORPHAN DRUG CREDIT MADE PERMANENT.

(a) IN GENERAL.—Subsection (e) of section 45C is hereby repealed.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts paid or incurred in taxable years ending after May 31, 1997.

SEC. 603. CONTRIBUTIONS OF APPRECIATED STOCK.

(a) IN GENERAL.—Clause (ii) of section 170(e)(5)(D) is amended by striking ''May 31, 1997'' and inserting ''May 31, 1998''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contributions made after May 31, 1997.

SEC. 604. EXTENSION AND MODIFICATION OF WORK OPPORTUNITY CREDIT.

(a) EXTENSION OF CREDIT.—Subparagraph (B) of section 51(c)(4) (relating to termination) is amended by striking ''September 30, 1997'' and inserting ''September 30, 1998''.

(b) PERCENTAGE OF WAGES ALLOWED AS CREDIT.—

(1) IN GENERAL.—Subsection (a) of section 51 (relating to determination of amount) is amended by striking ''35 percent'' and inserting ''40 percent''.

(2) APPLICATION OF CREDIT FOR INDIVIDUALS PERFORMING FEWER THAN 400 HOURS OF SERVICES.—Paragraph (3) of section 51(i) is amended to read as follows:

''(3) INDIVIDUALS NOT MEETING MINIMUM EMPLOYMENT PERIODS.—

''(A) REDUCTION OF CREDIT FOR INDIVIDUALS PERFORMING FEWER THAN 400 HOURS OF SERVICES.—In the case of an individual who has completed at least 120 hours, but less than 400 hours, of services performed for the employer, subsection (a) shall be applied by substituting '25 percent' for '40 percent'.

''(B) DENIAL OF CREDIT FOR INDIVIDUALS PERFORMING FEWER THAN 120 HOURS OF SERVICES.—No wages shall be taken into account under subsection (a) with respect to any individual unless such individual has completed at least 120 hours of services performed for the employer.''

(c) MODIFICATION OF ELIGIBILITY REQUIREMENT BASED ON PERIOD ON WELFARE.—Subparagraph (A) of section 51(d)(2) (defining qualified IV–A recipient) is amended by striking all that follows ''a IV–A program'' and inserting ''for any 9 months during the 18-month period ending on the hiring date.''

(d) CERTAIN OLDER FOOD STAMP RECIPIENTS TREATED AS MEMBERS OF TARGETED GROUP.—Paragraph (8) of section 51(d) (defining qualified food stamp recipient) is amended to read as follows:

''(8) QUALIFIED FOOD STAMP RECIPIENT.—

''(A) IN GENERAL.—The term 'qualified food stamp recipient' means any individual who is certified by the designated local agency—

''(i) as having attained age 18 but not age 25 on the hiring date, and

''(ii) as being a member of a family receiving assistance under a food stamp program under the Food Stamp Act of 1977 for the 6-month period ending on the hiring date.

''(B) CERTAIN OLDER RECIPIENTS.—The term 'qualified food stamp recipient' includes any individual who is certified by the designated local agency—

''(i) as having attained age 18 but not age 50 on the hiring date,

''(ii) as being a recipient of benefits under the food stamp program who is affected by section 6(o) of the Food Stamp Act of 1977 but who has not been made ineligible for refusing to work in accordance with section 6(o)(2)(A) of such Act, or failing to comply with the requirements of a work program under subparagraph (B), (C), or (D) of section 6(o)(2)(A) of such Act, and

''(iii) as having a hiring date which is not more than 1 year after the date of such cessation.

''(C) TERMINATION.—In lieu of applying subsection (c)(4), this subsection shall not apply to amounts paid or incurred with respect to an individual who begins work for the employer after September 30, 2000.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

TITLE VII—EMPOWERMENT ZONES, ETC.

Subtitle A—Empowerment Zones

SEC. 701. ADDITIONAL EMPOWERMENT ZONES WITH CURRENT LAW BENEFITS.

(a) IN GENERAL.—Paragraph (2) of section 1391(b) (relating to designations of empowerment zones and enterprise communities) is amended—

(1) by striking ''9'' and inserting ''11'',

(2) by striking ''6'' and inserting ''8'', and

(3) by striking ''750,000'' and inserting ''1,000,000''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, except that designations of new empowerment zones made pursuant to such amendments shall be made during the 180-day period beginning on the date of the enactment of this Act.

SEC. 702. DESIGNATION OF ADDITIONAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) IN GENERAL.—Section 1391 (relating to designation procedure for empowerment zones and enterprise communities) is amended by adding at the end the following new subsection:

''(g) ADDITIONAL DESIGNATIONS PERMITTED.—

''(1) IN GENERAL.—In addition to the areas designated under subsection (a)—

''(A) ENTERPRISE COMMUNITIES.—The appropriate Secretaries may designate in the aggregate an additional 80 nominated areas as enterprise communities under this section, subject to the availability of eligible nominated areas. Of that number, not more than 50 may be designated in urban areas and not more than 30 may be designated in rural areas.

''(B) EMPOWERMENT ZONES.—The appropriate Secretaries may designate in the aggregate an additional 20 nominated areas as empowerment zones under this section, subject to the availability of eligible nominated areas. Of that number, not more than 15 may be designated in urban areas and not more than 5 may be designated in rural areas.

''(2) PERIOD DESIGNATIONS MAY BE MADE.—A designation may be made under this subsection after the date of the enactment of this subsection and before January 1, 1999.

''(3) MODIFICATIONS TO ELIGIBILITY CRITERIA, ETC.—

''(A) POVERTY RATE REQUIREMENT.—

''(i) IN GENERAL.—A nominated area shall be eligible for designation under this subsection only if the poverty rate for each population census tract within the nominated area is not less than 20 percent and the poverty rate for at least 90 percent of the population census tracts within the nominated area is not less than 25 percent.

''(ii) TREATMENT OF CENSUS TRACTS WITH SMALL POPULATIONS.—A population census tract with a population of less than 2,000 shall be treated as having a poverty rate of not less than 25 percent if—

''(I) more than 75 percent of such tract is zoned for commercial or industrial use, and

''(II) such tract is contiguous to 1 or more other population census tracts which have a poverty rate of not less than 25 percent (determined without regard to this clause).

''(iii) EXCEPTION FOR DEVELOPABLE SITES.—Clause (i) shall not apply to up to 3 noncontiguous parcels in a nominated area which may be developed for commercial or industrial purposes. The aggregate area of noncontiguous parcels to which the preceding sentence applies with respect to any nominated area shall not exceed 1,000 acres (2,000 acres in the case of an empowerment zone).

''(iv) CERTAIN PROVISIONS NOT TO APPLY.—Section 1392(a)(4) (and so much of paragraphs (1) and (2) of section 1392(b) as relate to section 1392(a)(4)) shall not apply to an area nominated for designation under this subsection.

''(v) SPECIAL RULE FOR RURAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.—The Secretary of Agriculture may designate not more than 1 empowerment zone, and not more than 5 enterprise communities, in rural areas without regard to clause (i) if such areas satisfy emigration criteria specified by the Secretary of Agriculture.

''(B) SIZE LIMITATION.—

''(i) IN GENERAL.—The parcels described in subparagraph (A)(iii) shall not be taken into account in determining whether the requirement of subparagraph (A) or (B) of section 1392(a)(3) is met.

''(ii) SPECIAL RULE FOR RURAL AREAS.—If a population census tract (or equivalent division under section 1392(b)(4)) in a rural area exceeds 1,000 square miles or includes a substantial amount of land owned by the Federal, State, or local government, the nominated area may exclude such excess square mileage or governmentally owned land and the exclusion of that area will not be treated as violating the continuous boundary requirement of section 1392(a)(3)(B).

''(C) AGGREGATE POPULATION LIMITATION.—The aggregate population limitation under the last sentence of subsection (b)(2) shall not apply to a designation under paragraph (1)(B).

''(D) PREVIOUSLY DESIGNATED ENTERPRISE COMMUNITIES MAY BE INCLUDED.—Subsection (e)(5) shall not apply to any enterprise community designated under subsection (a) that is also nominated for designation under this subsection.

''(E) INDIAN RESERVATIONS MAY BE NOMINATED.—

''(i) IN GENERAL.—Section 1393(a)(4) shall not apply to an area nominated for designation under this subsection.

''(ii) SPECIAL RULE.—An area in an Indian reservation shall be treated as nominated by a State and a local government if it is nominated by the reservation governing body (as determined by the Secretary of Interior).''

(b) EMPLOYMENT CREDIT NOT TO APPLY TO NEW EMPOWERMENT ZONES.—Section 1396 (relating to empowerment zone employment credit) is amended by adding at the end the following new subsection:

''(e) CREDIT NOT TO APPLY TO EMPOWERMENT ZONES DESIGNATED UNDER SECTION 1391(g).—This section shall be applied without regard to any empowerment zone designated under section 1391(g).''

(c) INCREASED EXPENSING UNDER SECTION 179 NOT TO APPLY IN DEVELOPABLE SITES.—Section 1397A (relating to increase in expensing under section 179) is amended by adding at the end the following new subsection:

''(c) LIMITATION.—For purposes of this section, qualified zone property shall not include any property substantially all of the use of which is in any parcel described in section 1391(g)(3)(A)(iii).''

(d) SET ASIDE FOR AREAS WITH EMPLOYMENT LOSSES IN FINANCIAL SERVICE INDUSTRIES.—Section 1391 is amended by adding at the end the following new subsection:

''(g) SET ASIDE FOR AREAS WITH EMPLOYMENT LOSSES IN FINANCIAL SERVICE INDUSTRIES.—

''(1) IN GENERAL.—At least 3 of the additional empowerment zones authorized under this section by reason of the enactment of the Revenue Reconciliation Act of 1997 shall be nominated areas described in paragraph (2).

''(2) DESCRIPTION.—A nominated area is described in this paragraph if—

''(A) at least 12 percent of the wages attributable to private, nonagricultural employment in the area during 1989, and subject to tax under section 3301 during such year, were in the financial institution and real estate sectors, and

''(B) the employment in such area in such sectors for the calendar year preceding the calendar year in which such area is nominated for designation is 10 percent (or, if lesser, 5,000 full-time equivalent jobs) less than such employment during 1989.

The requirement of subparagraph (B) shall not be met if substantially all of such decline in employment is attributable to 1 employer. Data for the labor market area which includes the nominated area may be used for purposes of this paragraph if data is not separately available for the nominated area.

''(3) CENTRAL BUSINESS DISTRICT ELIGIBLE.—Subparagraph (D) of section 1392(a)(3) shall not apply to a nominated area described in paragraph (2).

''(4) FINANCIAL SERVICES BUSINESSES ELIGIBLE.—For purposes of this part, the term 'enterprise zone business' includes any entity (or portion of an entity) if substantially all the activities of such entity (or portion thereof) consists of engaging in a banking, insurance, financing, or similar business in an empowerment zone designated by reason of this subsection.''

(e) CONFORMING AMENDMENTS.—

(1) Subsections (e) and (f) of section 1391 are each amended by striking ''subsection (a)'' and inserting ''this section''.

(2) Section 1391(c) is amended by striking ''this section'' and inserting ''subsection (a)''.

SEC. 703. VOLUME CAP NOT TO APPLY TO ENTERPRISE ZONE FACILITY BONDS WITH RESPECT TO NEW EMPOWERMENT ZONES.

(a) IN GENERAL.—Section 1394 (relating to tax-exempt enterprise zone facility bonds) is amended by adding at the end the following new subsection:

''(f) BONDS FOR EMPOWERMENT ZONES DESIGNATED UNDER SECTION 1391(g).—

''(1) IN GENERAL.—In the case of a new empowerment zone facility bond—

''(A) such bond shall not be treated as a private activity bond for purposes of section 146, and

''(B) subsection (c) of this section shall not apply.

''(2) LIMITATION ON AMOUNT OF BONDS.—

''(A) IN GENERAL.—Paragraph (1) shall apply to a new empowerment zone facility bond only if such bond is designated for purposes of this subsection by the local government which nominated the area to which such bond relates.

''(B) LIMITATION ON BONDS DESIGNATED.—The aggregate face amount of bonds which may be designated under subparagraph (A) with respect to any empowerment zone shall not exceed—

''(i) $60,000,000 if such zone is in a rural area,

''(ii) $130,000,000 if such zone is in an urban area and the zone has a population of less than 100,000, and

''(iii) $230,000,000 if such zone is in an urban area and the zone has a population of at least 100,000.

''(C) SPECIAL RULES.—

''(i) COORDINATION WITH LIMITATION IN SUBSECTION (c).—Bonds to which paragraph (1) applies shall not be taken into account in applying the limitation of subsection (c) to other bonds.

''(ii) CURRENT REFUNDING NOT TAKEN INTO ACCOUNT.—In the case of a refunding (or series of refundings) of a bond designated under this paragraph, the refunding obligation shall be treated as designated under this paragraph (and shall not be taken into account in applying subparagraph (B)) if—

''(I) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

''(II) the refunded bond is redeemed not later than 90 days after the date of issuance of the refunding bond.

''(3) NEW EMPOWERMENT ZONE FACILITY BOND.—For purposes of this subsection, the term 'new empowerment zone facility bond' means any bond which would be described in subsection (a) if only empowerment zones designated under section 1391(g) were taken into account under sections 1397B and 1397C.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 704. MODIFICATIONS TO ENTERPRISE ZONE FACILITY BOND RULES FOR ALL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) MODIFICATIONS RELATING TO ENTERPRISE ZONE BUSINESS.—Paragraph (3) of section 1394(b) (defining enterprise zone business) is amended to read as follows:

''(3) ENTERPRISE ZONE BUSINESS.—

''(A) IN GENERAL.—Except as modified in this paragraph, the term 'enterprise zone business' has the meaning given such term by section 1397B.

''(B) MODIFICATIONS.—In applying section 1397B for purposes of this section—

''(i) BUSINESSES IN ENTERPRISE COMMUNITIES ELIGIBLE.—References in section 1397B to empowerment zones shall be treated as including references to enterprise communities.

''(ii) WAIVER OF REQUIREMENTS DURING STARTUP PERIOD.—A business shall not fail to be treated as an enterprise zone business during the startup period if—

''(I) as of the beginning of the startup period, it is reasonably expected that such business will be an enterprise zone business (as defined in section 1397B as modified by this paragraph) at the end of such period, and

''(II) such business makes bona fide efforts to be such a business.

''(iii) REDUCED REQUIREMENTS AFTER TESTING PERIOD.—A business shall not fail to be treated as an enterprise zone business for any taxable year beginning after the testing period by reason of failing to meet any requirement of subsection (b) or (c) of section 1397B if at least 35 percent of the employees of such business for such year are residents of an empowerment zone or an enterprise community. The preceding sentence shall not apply to any business which is not a qualified business by reason of paragraph (1), (4), or (5) of section 1397B(d).

''(C) DEFINITIONS RELATING TO SUBPARAGRAPH (B).—For purposes of subparagraph (B)—

''(i) STARTUP PERIOD.—The term 'startup period' means, with respect to any property being provided for any business, the period before the first taxable year beginning more than 2 years after the later of—

''(I) the date of issuance of the issue providing such property, or

''(II) the date such property is first placed in service after such issuance (or, if earlier, the date which is 3 years after the date described in subclause (I)).

''(ii) TESTING PERIOD.—The term 'testing period' means the first 3 taxable years beginning after the startup period.

''(D) PORTIONS OF BUSINESS MAY BE ENTERPRISE ZONE BUSINESS.—The term 'enterprise zone business' includes any trades or businesses which would qualify as an enterprise zone business (determined after the modifications of subparagraph (B)) if such trades or businesses were separately incorporated.''

(b) MODIFICATIONS RELATING TO QUALIFIED ZONE PROPERTY.—Paragraph (2) of section 1394(b) (defining qualified zone property) is amended to read as follows:

''(2) QUALIFIED ZONE PROPERTY.—The term 'qualified zone property' has the meaning given such term by section 1397C; except that—

''(A) the references to empowerment zones shall be treated as including references to enterprise communities, and

''(B) section 1397C(a)(2) shall be applied by substituting 'an amount equal to 15 percent of the adjusted basis' for 'an amount equal to the adjusted basis'.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 705. MODIFICATIONS TO ENTERPRISE ZONE BUSINESS DEFINITION FOR ALL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) IN GENERAL.—Section 1397B (defining enterprise zone business) is amended—

(1) by striking ''80 percent'' in subsections (b)(2) and (c)(1) and inserting ''50 percent'',

(2) by striking ''substantially all'' each place it appears in subsections (b) and (c) and inserting ''a substantial portion'',

(3) by striking '', and exclusively related to,'' in subsections (b)(4) and (c)(3),

(4) by adding at the end of subsection (d)(2) the following new flush sentence:

''For purposes of subparagraph (B), the lessor of the property may rely on a lessee's certification that such lessee is an enterprise zone business.'',

(5) by striking ''substantially all'' in subsection (d)(3) and inserting ''at least 50 percent'', and

(6) by adding at the end the following new subsection:

''(f) TREATMENT OF BUSINESSES STRADDLING CENSUS TRACT LINES.—For purposes of this section, if—

''(1) a business entity or proprietorship uses real property located within an empowerment zone,

''(2) the business entity or proprietorship also uses real property located outside the empowerment zone,

''(3) the amount of real property described in paragraph (1) is substantial compared to the amount of real property described in paragraph (2), and

''(4) the real property described in paragraph (2) is contiguous to part or all of the real property described in paragraph (1),

then all the services performed by employees, all business activities, all tangible property, and all intangible property of the business entity or proprietorship that occur in or is located on the real property described in paragraphs (1) and (2) shall be treated as occurring or situated in an empowerment zone.''

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning on or after the date of the enactment of this Act.

(2) SPECIAL RULE FOR ENTERPRISE ZONE FACILITY BONDS.—For purposes of section 1394(b) of the Internal Revenue Code of 1986, the amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

Subtitle B—Brownfields

SEC. 711. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by adding at the end the following new section:

''SEC. 198. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

''(a) IN GENERAL.—A taxpayer may elect to treat any qualified environmental remediation expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction for the taxable year in which it is paid or incurred.

''(b) QUALIFIED ENVIRONMENTAL REMEDIATION EXPENDITURE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified environmental remediation expenditure' means any expenditure—

''(A) which is otherwise chargeable to capital account, and

''(B) which is paid or incurred in connection with the abatement or control of hazardous substances at a qualified contaminated site.

''(2) SPECIAL RULE FOR EXPENDITURES FOR DEPRECIABLE PROPERTY.—Such term shall not include any expenditure for the acquisition of property of a character subject to the allowance for depreciation which is used in connection with the abatement or control of hazardous substances at a qualified contaminated site; except that the portion of the allowance under section 167 for such property which is otherwise allocated to such site shall be treated as a qualified environmental remediation expenditure.

''(c) QUALIFIED CONTAMINATED SITE.—For purposes of this section—

''(1) QUALIFIED CONTAMINATED SITE.—

''(A) IN GENERAL.—The term 'qualified contaminated site' means any area—

''(i) which is held by the taxpayer for use in a trade or business or for the production of income, or which is property described in section 1221(1) in the hands of the taxpayer,

''(ii) which is within a targeted area, and

''(iii) at or on which there has been a release (or threat of release) or disposal of any hazardous substance.

''(B) TAXPAYER MUST RECEIVE STATEMENT FROM STATE ENVIRONMENTAL AGENCY.—An area shall be treated as a qualified contaminated site with respect to expenditures paid or incurred during any taxable year only if the taxpayer receives a statement from the appropriate agency of the State in which such area is located that such area meets the requirements of clauses (ii) and (iii) of subparagraph (A).

''(C) APPROPRIATE STATE AGENCY.— For purposes of subparagraph (B), the appropriate agency of a State is the agency designated by the Administrator of the Environmental Protection Agency for purposes of this section. If no agency of a State is designated under the preceding sentence, the appropriate agency for such State shall be the Environmental Protection Agency.

''(2) TARGETED AREA.—

''(A) IN GENERAL.—The term 'targeted area' means—

''(i) any population census tract with a poverty rate of not less than 20 percent,

''(ii) a population census tract with a population of less than 2,000 if—

''(I) more than 75 percent of such tract is zoned for commercial or industrial use, and

''(II) such tract is contiguous to 1 or more other population census tracts which meet the requirement of clause (i) without regard to this clause,

''(iii) any empowerment zone or enterprise community (and any supplemental zone designated on December 21, 1994), and

''(iv) any site announced before February 1, 1997, as being included as a brownfields pilot project of the Environmental Protection Agency.

''(B) NATIONAL PRIORITIES LISTED SITES NOT INCLUDED.—Such term shall not include any site which is on, or proposed for, the national priorities list under section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this section).

''(C) CERTAIN RULES TO APPLY.—For purposes of this paragraph the rules of sections 1392(b)(4) and 1393(a)(9) shall apply.

''(d) HAZARDOUS SUBSTANCE.—For purposes of this section—

''(1) IN GENERAL.—The term 'hazardous substance' means—

''(A) any substance which is a hazardous substance as defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and

''(B) any substance which is designated as a hazardous substance under section 102 of such Act.

''(2) EXCEPTION.—Such term shall not include any substance with respect to which a removal or remedial action is not permitted under section 104 of such Act by reason of subsection (a)(3) thereof.

''(e) DEDUCTION RECAPTURED AS ORDINARY INCOME ON SALE, ETC.—Solely for purposes of section 1245, in the case of property to which a qualified environmental remediation expenditure would have been capitalized but for this section—

''(1) the deduction allowed by this section for such expenditure shall be treated as a deduction for depreciation, and

''(2) such property (if not otherwise section 1245 property) shall be treated as section 1245 property solely for purposes of applying section 1245 to such deduction.

''(f) COORDINATION WITH OTHER PROVISIONS.—Sections 280B and 468 shall not apply to amounts which are treated as expenses under this section.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''

(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 198. Expensing of environmental remediation costs.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 712. USE OF REDEVELOPMENT BONDS FOR ENVIRONMENTAL REMEDIATION.

(a) ENVIRONMENTAL REMEDIATION INCLUDED AS REDEVELOPMENT PURPOSE.—Subparagraph (A) of section 144(c)(3) (relating to redevelopment purposes) is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) costs incurred in connection with abatement or control of hazardous substances at a qualified contaminated site (as defined in section 198(c)) if such costs are incurred pursuant to an environmental remediation plan which was approved by the Administrator of the Environmental Protection Agency or by the head of any State or local government agency designated by the Administrator to carry out the Administrator's functions under this clause.''

(b) CERTAIN REQUIREMENTS NOT TO APPLY TO REDEVELOPMENT BONDS FOR ENVIRONMENTAL REMEDIATION.—Subsection (c) of section 144 is amended by adding at the end the following new paragraph:

''(9) CERTAIN REQUIREMENTS NOT TO APPLY TO REDEVELOPMENT BONDS FOR ENVIRONMENTAL REMEDIATION.—In the case of any bond issued as part of an issue 95 percent or more of the proceeds of which are to finance costs referred to in paragraph (3)(A)(v)—

''(A) paragraph (2)(A)(i) shall not apply,

''(B) paragraph (2)(A)(ii) shall not apply to any issue issued by the governing body described in paragraph (4)(A) with respect to the area which includes the site,

''(C) the requirement of paragraph (2)(B)(ii) shall be treated as met if—

''(i) the payment of the principal and interest on such issue is secured by taxes imposed by a governmental unit, or

''(ii) such issue is approved by the applicable elected representative (as defined in section 147(f)(2)(E)) of the governmental unit which issued such issue (or on behalf of which such issue was issued),

''(D) subparagraphs (C) and (D) of paragraph (2) shall not apply,

''(E) subparagraphs (C) and (D) of paragraph (4) shall not apply, and

''(F) if the real property referred to in clause (iii) of paragraph (3)(A) is 1 or more dwelling units, such clause shall apply only if the requirements of section 142(d) or 143 (as the case may be) are met with respect to such units.''

(c) PENALTY FOR FAILURE TO SATISFACTORILY COMPLETE REMEDIATION PLAN.—Subsection (b) of section 150 is amended by adding at the end thereof the following new paragraph:

''(7) QUALIFIED CONTAMINATED SITE REMEDIATION BONDS.—In the case of financing provided for costs described in section 144(c)(3)(A)(v), no deduction shall be allowed under this chapter for interest on such financing during any period during which there is a determination by the Administrator of the Environmental Protection Agency (or by the head of any State or local government agency designated by the Administrator to carry out the Administrator's functions under this paragraph) that the remediation plan under which such costs were incurred was not satisfactorily completed.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

Subtitle C—Welfare to Work Credit

SEC. 721. WELFARE TO WORK CREDIT.

(a) ADDITIONAL TEMPORARY INCENTIVES FOR EMPLOYING LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—Section 51 (relating to amount of work opportunity credit) is amended by inserting after subsection (d) the following new subsection:

''(e) ADDITIONAL TEMPORARY INCENTIVES FOR EMPLOYING LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—

''(1) TREATMENT AS MEMBER OF TARGETED GROUP.—A long-term family assistance recipient shall be treated for purposes of this section as a member of a targeted group.

''(2) MODIFICATION TO PERCENTAGE AND YEARS OF CREDIT.—In the case of a long-term family assistance recipient, the amount of the work opportunity credit determined under this section for the taxable year shall be equal to the sum of—

''(A) 50 percent of the qualified first-year wages, and

''(B) 50 percent of the qualified second-year wages.

''(3) MODIFICATION TO AMOUNT OF WAGES TAKEN INTO ACCOUNT.—In the case of a long-term family assistance recipient—

''(A) $10,000 OF WAGES MAY BE TAKEN INTO ACCOUNT.—In lieu of applying subsection (b)(3), the amount of the qualified first-year wages, and the amount of qualified second-year wages, which may be taken into account with respect to any individual shall not exceed $10,000 per year.

''(B) CERTAIN AMOUNTS TREATED AS WAGES.—The term 'wages' includes amounts paid or incurred by the employer which are excludable from such recipient's gross income under—

''(i) section 105 (relating to amounts received under accident and health plans),

''(ii) section 106 (relating to contributions by employer to accident and health plans),

''(iii) section 127 (relating to educational assistance programs) or would be so excludable but for section 127(d), but only to the extent paid or incurred to a person not related to the employer, or

''(iv) section 129 (relating to dependent care assistance programs).

The amount treated as wages by clause (i) or (ii) for any period shall be based on the reasonable cost of coverage for the period, but shall not exceed the applicable premium for the period under section 4980B(f)(4).

''(C) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—If such recipient is an employee to which subparagraph (A) or (B) of subsection (h)(1) applies—

''(i) such subparagraph (A) shall be applied by substituting '$10,000' for '$6,000', and

''(ii) such subparagraph (B) shall be applied by substituting '$825' for '$500'.

''(D) TERMINATION.—In lieu of applying subsection (c)(4), this subsection shall not apply to amounts paid or incurred with respect to an individual who begins work for the employer after September 30, 2000.

''(4) LONG-TERM FAMILY ASSISTANCE RECIPIENT.—For purposes of this subsection, the term 'long-term family assistance recipient' means any individual who is certified by the designated local agency—

''(A) as being a member of a family receiving assistance under a IV-A program (as defined in subsection (d)(2)(B)) for at least the 18-month period ending on the hiring date,

''(B)(i) as being a member of a family receiving such assistance for any 18-month period beginning after the date of the enactment of this subsection, and

''(ii) as having a hiring date which is not more than 2 years after the end of the earliest such 18-month period, or

''(C)(i) as being a member of a family which ceased to be eligible after the date of the enactment of this subsection for such assistance by reason of any limitation imposed by Federal or State law on the maximum period such assistance is payable to a family, and

''(ii) as having a hiring date which is not more than 2 years after the date of such cessation.

''(5) QUALIFIED SECOND-YEAR WAGES.—For purposes of this subsection, the term 'qualified second-year wages' means, with respect to any individual, the qualified wages attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such individual determined under subsection (b)(2).''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to individuals who begin work for the employer after the date of the enactment of this Act.

Subtitle D—Community Development Financial Institutions

SEC. 731. CREDIT FOR QUALIFIED EQUITY INVESTMENTS IN COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

''SEC. 45E. QUALIFIED EQUITY INVESTMENTS IN COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS.

''(a) GENERAL RULE.—For purposes of section 38, the community development financial institution investment credit for any taxable year is an amount equal to the applicable percentage of the qualified equity investment made by the taxpayer during the taxable year.

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the term 'applicable percentage' means, with respect to any investment, 25 percent, or, if the CDFI Fund establishes a lower percentage with respect to such investment for purposes of this section, such lower percentage.

''(c) QUALIFIED EQUITY INVESTMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified equity investment' means any stock or partnership interest in a community development financial institution (as defined in section 103 of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702))—

''(A) if such institution is designated for purposes of this section by the CDFI Fund,

''(B) if such stock or partnership interest is acquired by the taxpayer at its original issue from the institution (directly or through an underwriter) in exchange for money or other property, and

''(C) to the extent the amount of such investment is designated for such purposes by such Fund.

Rules similar to the rules of section 1202(c)(3) shall apply for purposes of subparagraph (B).

''(2) CRITERIA FOR DESIGNATING INSTITUTIONS.—Designations under paragraph (1)(A) shall be made in accordance with criteria established by the CDFI Fund. In establishing such criteria, the CDFI Fund shall take into account the requirements and criteria set forth in sections 105(b) and 107 of such Act.

''(3) CDFI FUND.—The term 'CDFI Fund' means the Community Development Financial Institutions Fund established by section 104 of such Act.

''(d) LIMITATION ON AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of credit determined under this section for any qualified equity investment shall not exceed the credit amount allocated to such investment by the CDFI Fund.

''(2) OVERALL LIMITATION.—The aggregate credit amount which may be allocated by the CDFI Fund under this section shall not exceed $100,000,000.

''(e) RECAPTURE OF CREDIT WHERE DISPOSITION OF EQUITY INVESTMENT WITHIN 5 YEARS.—

''(1) IN GENERAL.—If the taxpayer disposes of any investment with respect to which a credit was determined under subsection (a) (or any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such investment) before the end of the 5-year period beginning on the date such investment was made, the tax imposed by this chapter for the taxable year in which such disposition occurs shall be increased by the aggregate decrease in tax of the taxpayer resulting from the credit determined under this subsection (a) with respect to such investment.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to any gift, transfer, or transaction described in paragraph (1), (2), or (3) of section 1245(b).

''(3) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as a tax imposed by this chapter for purposes of—

''(A) determining the amount of any credit allowable under this chapter, and

''(B) determining the amount of the tax imposed by section 55.

''(f) BASIS REDUCTION.—The basis of any qualified equity investment shall be reduced by the amount of any credit determined under this section with respect to such investment.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section. Such regulations may provide for the recapture of the credit under this section with respect to investments in institutions which cease to satisfy the criteria established by the CDFI Fund for designation under subsection (c)(1)(A).

''(h) TERMINATION.—This section shall not apply to any investment made after December 31, 2006.''

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 is amended by striking ''plus'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', plus'', and by adding at the end the following new paragraph:

''(13) the community development financial institution investment credit determined under section 45E(a).''

(c) CREDIT ALLOWED AGAINST REGULAR AND MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULES FOR COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION INVESTMENT CREDIT.—

''(A) IN GENERAL.—In the case of the community development financial institution investment credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) 75 percent of the tentative minimum tax shall be substituted for the tentative minimum tax under subparagraph (A) thereof, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the community development financial institution investment credit).

''(B) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION INVESTMENT CREDIT.—For purposes of this subsection, the term 'community development financial institution investment credit' means the credit allowable under subsection (a) by reason of section 45E(a).''

(2) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) is amended by inserting ''and the community development financial institution investment credit'' after ''employment credit''.

(d) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 is amended by adding at the end the following new paragraph:

''(9) NO CARRYBACK OF COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION INVESTMENT CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit under section 45E may be carried back to a taxable year ending before the date of the enactment of section 45E.''

(e) DEDUCTION FOR UNUSED CREDIT.—Subsection (c) of section 196 is amended by striking ''and'' at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting '', and'', and by adding at the end the following new paragraph:

''(8) the community development financial institution investment credit determined under section 45E(a).''

(f) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45E. Qualified equity investments in community development financial institutions.''

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to investments made after the date of the enactment of this Act.

TITLE VIII—OTHER TAX RELIEF

SEC. 801. SUSPENSION OF STATUTE OF LIMITATIONS ON FILING REFUND CLAIMS DURING PERIODS OF DISABILITY.

(a) IN GENERAL.—Section 6511 (relating to limitations on credit or refund) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) RUNNING OF PERIODS OF LIMITATION SUSPENDED WHILE TAXPAYER IS FINANCIALLY DISABLED.—

''(1) IN GENERAL.—In the case of an individual, the running of the periods specified in subsections (a), (b), and (c) shall be suspended during any period of such individual's life that such individual is financially disabled.

''(2) FINANCIALLY DISABLED.—

''(A) IN GENERAL.—For purposes of paragraph (1), an individual is financially disabled if such individual is unable to manage his financial affairs by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. An individual shall not be considered to have such an impairment unless proof of the existence thereof is furnished in such form and manner as the Secretary may require.

''(B) EXCEPTION WHERE INDIVIDUAL HAS GUARDIAN, ETC.—An individual shall not be treated as financially disabled during any period that such individual's spouse or any other person is authorized to act on behalf of such individual in financial matters.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to claims for credit or refund for periods ending after the date of the enactment of this Act.

SEC. 802. MODIFICATIONS OF PUERTO RICO ECONOMIC ACTIVITY CREDIT.

(a) EXTENSION OF CREDIT.—Section 30A(g) (relating to application of credit) is amended by striking '', and before January 1, 2006''.

(b) TAXPAYERS OTHER THAN EXISTING CLAIMANTS ELIGIBLE FOR CREDIT.—Section 30A(a)(2) (defining qualified domestic corporation) is amended to read as follows:

''(2) QUALIFIED DOMESTIC CORPORATION.—For purposes of paragraph (1), the term 'qualified domestic corporation' means a domestic corporation with respect to which section 936(a)(4)(B) does not apply for the taxable year.''

(c) REPEAL OF BASE PERIOD CAP.—Section 30A(a)(1) is amended by striking the last sentence.

(d) CONFORMING AMENDMENTS.—

(1) Section 30A(a)(3) is amended to read as follows:

''(3) SEPARATE APPLICATION.—For purposes of determining the amount of the credit allowed under this section, this section (and so much of section 936 as relates to this section) shall be applied separately with respect to Puerto Rico.''

(2) Section 30A(e)(1) is amended by inserting ''but not including subsection (j) thereof'' after ''thereunder''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 803. TREATMENT OF SOFTWARE AS FSC EXPORT PROPERTY.

(a) IN GENERAL.—Section 927(a)(2)(B) (relating to excluded property) is amended by inserting ''computer software,'' after ''other than''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to software licenses granted after the date of the enactment of this Act in taxable years ending after such date.

(2) EXCEPTION FOR EXISTING LICENSES.—The amendment made by this section shall not apply to software licenses granted by a licensor after the date of the enactment of this Act if, on such date, the person to whom the license is granted (or any related person) held a substantially similar license granted by the licensor (or any related person).

TITLE IX—INCENTIVES FOR THE DISTRICT OF COLUMBIA

SEC. 901. TAX INCENTIVES FOR REVITALIZATION OF THE DISTRICT OF COLUMBIA.

(a) IN GENERAL.—Chapter 1 is amended by adding at the end the following new subchapter:

''Subchapter W—Incentives for Revitalization of the District of Columbia

''Sec. 1400A. Employment credit.
''Sec. 1400B. Additional expensing.
''Sec. 1400C. Tax-exempt economic development bonds.
''Sec. 1400D. Credit for equity investments in and loans to District of Columbia businesses.
''Sec. 1400E. Definitions.
''Sec. 1400F. Status of Economic Development Corporation for District of Columbia.

''SEC. 1400A. EMPLOYMENT CREDIT.

''(a) AMOUNT OF CREDIT.—For purposes of section 38, the amount of the District of Columbia employment credit determined under this section for the taxable year shall be equal to 40 percent of the qualified first-year wages for such year.

''(b) QUALIFIED FIRST-YEAR WAGES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified first-year wages' means wages paid or incurred by the employer during the taxable year which are attributable to services rendered by an employee of the employer—

''(A) during the 1-year period beginning on the day the employee begins work for the employer, and

''(B) while the employee is a qualified District employee.

''(2) ONLY FIRST $10,000 OF WAGES TAKEN INTO ACCOUNT.—The amount of the qualified first-year wages which may be taken into account with respect to any individual for all taxable years of an employer shall not exceed $10,000.

''(3) COORDINATION WITH WORK OPPORTUNITY CREDIT.—The amount of the credit determined under this section with respect to qualified first-year wages of an individual shall be reduced by the amount of the work opportunity credit determined under section 51 with respect to such wages.

''(c) QUALIFIED DISTRICT EMPLOYEE.—For purposes of this section—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified District employee' means any employee of an employer if—

''(A) the principal place of abode of such employee throughout the 1-year period described in subsection (b)(1)(A)—

''(i) is within the District of Columbia, and

''(ii) in the case of an individual who is not a member of a targeted group (within the meaning of section 51(d)), is within a population census tract having a poverty rate of at least 15 percent,

''(B)(i) substantially all of the services performed during such period by such employee for such employer are performed within the District of Columbia in a trade or business of the employer, or

''(ii) the principal place of business of the employer is within the District of Columbia, and

''(C) in the case of an individual who is not a member of a targeted group (within the meaning of section 51(d)), as of the beginning of such period it is reasonable to expect that the compensation to be paid to such individual for services performed during such period for the employer will be less than $28,500.

''(2) CERTAIN PERSONS NOT ELIGIBLE.—The term 'qualified District employee' shall not include—

''(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1) (relating to related individuals),

''(B) any individual described in section 51(i)(2) (relating to nonqualifying rehires), determined by treating qualified District employees as members of a targeted group,

''(C) any 5-percent owner (as defined in section 416(i)(1)(B)),

''(D) any individual employed by the employer unless such individual—

''(i) is employed by the employer for at least 180 days, or

''(ii) has completed at least 400 hours of services performed for the employer, and

''(E) any individual employed by the employer at any facility described in section 144(c)(6)(B).

Rules similar to the rules of section 1396(d)(3) shall apply for purposes of subparagraph (D).

''(d) DEFINITION AND SPECIAL RULES.—For purposes of this section—

''(1) WAGES.—The term 'wages' has the same meaning as when used in section 51, including amounts treated as wages by section 51(e)(3)(B); except that subsections (c)(4) and (e)(3)(D) shall not apply.

''(2) CONTROLLED GROUPS.—All employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer, and the credit (if any) determined under this section with respect to each such employer shall be its proportionate share of the wages giving rise to such credit.

''(3) CERTAIN OTHER RULES MADE APPLICABLE.—Rules similar to the rules of subsections (j) and (k) of section 51, and subsections (c), (d), and (e) of section 52, shall apply.

''(4) CERTIFICATION OF PRINCIPAL PLACE OF ABODE.—An individual shall not be treated as meeting the requirement of subsection

(c)(1)(A) unless requirements similar to the requirements of section 51(d)(11) are met.

''(5) COST-OF-LIVING ADJUSTMENT OF $28,500 LIMIT.—In the case of any period during a calendar year after 1997, the dollar amount contained in subsection (c)(1)(C) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1996' for 'calendar year 1992' in subparagraph (B) thereof.

''(6) OTHER INCENTIVES.—

''(A) EXTENSION OF ADDITIONAL TEMPORARY INCENTIVE FOR EMPLOYING LONG-TERM FAMILY ASSISTANCE RECIPIENTS RESIDING IN THE DISTRICT OF COLUMBIA.—In the case of a long-term family assistance recipient (as defined in section 51(e)(4)), section 51(e)(3)(D) shall be applied by substituting 'September 30, 2002' for 'September 30, 2000' if—

''(i) such individual's principal place of abode is within the District of Columbia during the period described in section 51(e)(3), and

''(ii) the requirement of clause (i) or (ii) of subsection (c)(1)(B) is met during such period with respect to such individual.

''(B) EXTENSION OF WORK OPPORTUNITY CREDIT.—In the case of wages paid to a member of a targeted group (within the meaning of section 51(d)) while such member's principal place of abode is within the District of Columbia, section 51(c)(4)(B) shall be applied by substituting 'September 30, 2002' for 'September 30, 1998'.

''(e) APPLICATION OF SECTION.—This section shall apply with respect to individuals who begin work for the employer on and after the date of the enactment of this section and before October 1, 2002.

''SEC. 1400B. ADDITIONAL EXPENSING.

''(a) GENERAL RULE.—In the case of a qualified District business, for purposes of section 179—

''(1) the limitation under section 179(b)(1) shall be increased by the lesser of—

''(A) $20,000, or

''(B) the cost of section 179 property which is qualified District property placed in service during the taxable year, and

''(2) the amount taken into account under section 179(b)(2) with respect to any section 179 property which is qualified District property shall be 50 percent of the cost thereof.

''(b) RECAPTURE.—Rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified District property which ceases to be used in the District of Columbia by a District business.

''(c) COORDINATION WITH SECTION 1397A.—In no event shall qualified District property be treated as qualified zone property for purposes of section 1397A.

''(d) APPLICATION OF SECTION.—This section shall apply to property placed in service after December 31, 1997, and before January 1, 2002.

''SEC. 1400C. TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.

''(a) IN GENERAL.—For purposes of part IV of subchapter B of this chapter (relating to tax exemption requirements for State and local bonds), the term 'exempt facility bond' includes any bond issued as part of an issue 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of which are to be used to provide any District facility.

''(b) DISTRICT FACILITY.—For purposes of this section, the term 'District facility' means any District property the principal user of which is a qualified District business, and any land which is functionally related and subordinate to such property.

''(c) LIMITATION ON AMOUNT OF BONDS.—Subsection (a) shall not apply to any issue if the aggregate amount of outstanding District facility bonds allocable to any person (taking into account such issue) exceeds $15,000,000.

''(d) CERTAIN RULES TO APPLY.—

''(1) IN GENERAL.—Rules similar to the rules of subsections (c)(2), (d), and (e) of section 1394, and subparagraphs (B)(ii), (C), and (D) of section 1394(b)(3), shall apply for purposes of this section.

''(2) REQUIREMENTS AFTER TESTING PERIOD.—A business shall not fail to be treated as a qualified District business for purposes of this section for any taxable year beginning after the testing period (as defined in section 1394(b)(3)(C)) by reason of failing to meet any requirement of subsection (b) or (c) of section 1397B. The preceding sentence shall not apply to any business which is not a qualified business by reason of paragraph (1), (4), or (5) of section 1397B(d).

''(e) APPLICATION OF SECTION.—This section shall apply to bonds issued after the date of the enactment of this section and before January 1, 2003.

''SEC. 1400D. CREDIT FOR EQUITY INVESTMENTS IN AND LOANS TO DISTRICT OF COLUMBIA BUSINESSES.

''(a) GENERAL RULE.—For purposes of section 38, the District investment credit determined under this section for any taxable year is—

''(1) the qualified lender credit for such year, and

''(2) the qualified equity investment credit for such year.

''(b) QUALIFIED LENDER CREDIT.—For purposes of this section—

''(1) IN GENERAL.—The qualified lender credit for any taxable year is the amount of credit specified for such year by the Economic Development Corporation with respect to qualified District loans made by the taxpayer.

''(2) LIMITATION.—In no event may the qualified lender credit with respect to any loan exceed 25 percent of the cost of the property purchased with the proceeds of the loan.

''(3) QUALIFIED DISTRICT LOAN.—For purposes of paragraph (1), the term 'qualified district loan' means any loan for the purchase (as defined in section 179(d)(2)) of property to which section 168 applies (or would apply but for section 179) (or land which is functionally related and subordinate to such property) and substantially all of the use of which is in the District of Columbia and is in the active conduct of a trade or business in the District of Columbia. A rule similar to the rule of section 1397C(a)(2) shall apply for purposes of the preceding sentence.

''(c) QUALIFIED EQUITY INVESTMENT CREDIT.—

''(1) IN GENERAL.—For purposes of this section, the qualified equity investment credit determined under this section for any taxable year is an amount equal to the percentage specified by the Economic Development Corporation (but not greater than 25 percent) of the aggregate amount paid in cash by the taxpayer during the taxable year for the purchase of District business investments.

''(2) DISTRICT BUSINESS INVESTMENT.—For purposes of this subsection, the term 'District business investment' means—

''(A) any District business stock, and

''(B) any District partnership interest.

''(3) DISTRICT BUSINESS STOCK.—For purposes of this subsection—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'District business stock' means any stock in a domestic corporation if—

''(i) such stock is acquired by the taxpayer at its original issue (directly or through an underwriter) in exchange for cash, and

''(ii) as of the time such stock was issued, such corporation was engaged in a trade or business in the District of Columbia (or, in the case of a new corporation, such corporation was being organized for purposes of engaging in such a trade or business).

''(B) REDEMPTIONS.—A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this paragraph.

''(4) QUALIFIED DISTRICT PARTNERSHIP INTEREST.—For purposes of this subsection, the term 'qualified District partnership interest' means any interest in a partnership if—

''(A) such interest is acquired by the taxpayer from the partnership solely in exchange for cash, and

''(B) as of the time such interest was acquired, such partnership was engaging in a trade or business in the District of Columbia (or, in the case of a new partnership, such partnership was being organized for purposes of engaging in such a trade or business).

''(5) DISPOSITIONS OF DISTRICT BUSINESS INVESTMENTS.—

''(A) IN GENERAL.—If a taxpayer disposes of any District business investment (or any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such investment) before the end of the 5-year period beginning on the date such investment was acquired by the taxpayer, the taxpayer's tax imposed by this chapter for the taxable year in which such distribution occurs shall be increased by the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero any credit determined under this section with respect to such investment.

''(B) EXCEPTIONS.—Subparagraph (A) shall not apply to any gift, transfer, or transaction described in paragraph (1), (2), or (3) of section 1245(b).

''(C) SPECIAL RULE.—Any increase in tax under subparagraph (A) shall not be treated as a tax imposed by this chapter for purposes of—

''(i) determining the amount of any credit allowable under this chapter, and

''(ii) determining the amount of the tax imposed by section 55.

''(6) BASIS REDUCTION.—For purposes of this title, the basis of any District business investment shall be reduced by the amount of the credit determined under this section with respect to such investment.

''(d) LIMITATION ON AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the District investment credit determined under this section with respect to any taxpayer for any taxable year shall not exceed the credit amount allocated to such taxpayer for such taxable year by the Economic Development Corporation.

''(2) OVERALL LIMITATION.—The aggregate credit amount which may be allocated by the Economic Development Corporation under this section shall not exceed $95,000,000.

''(3) CRITERIA FOR ALLOCATING CREDIT AMOUNTS.—The allocation of credit amounts under this section shall be made in accordance with criteria established by the Economic Development Corporation. In establishing such criteria, such Corporation shall take into account—

''(A) the degree to which the business receiving the loan or investment will provide job opportunities for low and moderate income residents of the District of Columbia, and

''(B) whether such business is within a population census tract in the District of Columbia having a poverty rate of at least 15 percent.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section.

''(f) APPLICATION OF SECTION.—This section shall apply to any credit amount allocated

for taxable years beginning after December 31, 1997, and before January 1, 2003.

"SEC. 1400E. DEFINITIONS.

''(a) QUALIFIED DISTRICT BUSINESS.—For purposes of this subchapter, the term 'qualified District business' means a corporation, partnership, or proprietorship which would be a qualified business entity (as defined in section 1397B) or a qualified proprietorship (as defined in such section) if—

''(1) the District of Columbia were an empowerment zone (and there were no other empowerment zones or enterprise communities), and

''(2) section 1397B(b)(1) did not apply.

''(b) QUALIFIED DISTRICT PROPERTY.—For purposes of this subchapter, the term 'qualified District property' means any property which would be qualified zone property (as defined in section 1397C) if—

''(1) the District of Columbia were an empowerment zone (and there were no other empowerment zones or enterprise communities),

''(2) paragraph (1)(A) of section 1397C(a) referred to the date of the enactment of this section,

''(3) paragraph (1)(B) of section 1397C(a) did not apply, and

''(4) paragraph (2) of section 1397C(a) were applied by substituting 'an amount equal to 15 percent of the adjusted basis' for 'an amount equal to the adjusted basis'.

''(c) ECONOMIC DEVELOPMENT CORPORATION.—For purposes of this subchapter, the term 'Economic Development Corporation' means the Economic Development Corporation hereafter established by law for the District of Columbia.

"SEC. 1400F. STATUS OF ECONOMIC DEVELOPMENT CORPORATION FOR DISTRICT OF COLUMBIA.

''(a) IN GENERAL.—For purposes of this title and the Social Security Act, the Economic Development Corporation is an agency of the District of Columbia.

''(b) BOND AUTHORITY.—The Economic Development Corporation shall be allocated 50 percent of the private activity bond volume cap allocated to the District of Columbia under section 146. Notwithstanding section 146(e), the District of Columbia may not alter the allocation under the preceding sentence.''

(b) CREDITS MADE PART OF GENERAL BUSINESS CREDIT.—

(1) Subsection (b) of section 38 is amended by striking ''plus'' at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting a comma, and by adding at the end the following new paragraphs:

''(14) the District of Columbia employment credit determined under section 1400A(a), plus

''(15) the District investment credit determined under section 1400D(a).''

(2) Subsection (d) of section 39 is amended by adding at the end the following new paragraph:

''(10) NO CARRYBACK OF DISTRICT OF COLUMBIA EMPLOYMENT AND INVESTMENT CREDITS BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit under section 1400A or 1400D may be carried back to a taxable year ending before the date of the enactment of such sections.''

(3) Subsection (c) of section 196 is amended by striking ''and'' at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting a comma, and by adding at the end the following new paragraphs:

''(9) the District of Columbia employment credit determined under section 1400A(a), and

''(10) the District investment credit determined under section 1400D(a).''

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by adding at the end the following new item:

''Subchapter W. Incentives for revitalization of the District of Columbia.''

(d) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

TITLE X—REVENUES

Subtitle A—Financial Products

SEC. 1001. CONSTRUCTIVE SALES TREATMENT FOR APPRECIATED FINANCIAL POSITIONS.

(a) IN GENERAL.—Part IV of subchapter P of chapter 1 is amended by adding at the end the following new section:

"SEC. 1259. CONSTRUCTIVE SALES TREATMENT FOR APPRECIATED FINANCIAL POSITIONS.

''(a) IN GENERAL.—If there is a constructive sale of an appreciated financial position—

''(1) the taxpayer shall recognize gain as if such position were sold, assigned, or otherwise terminated at its fair market value on the date of such constructive sale (and any gain shall be taken into account for the taxable year which includes such date), and

''(2) for purposes of applying this title for periods after the constructive sale—

''(A) proper adjustment shall be made in the amount of any gain or loss subsequently realized with respect to such position for any gain taken into account by reason of paragraph (1), and

''(B) the holding period of such position shall be determined as if such position were originally acquired on the date of such constructive sale.

''(b) APPRECIATED FINANCIAL POSITION.—For purposes of this section—

''(1) IN GENERAL.—Except as provided in paragraph (2), the term 'appreciated financial position' means any position with respect to any stock, debt instrument, or partnership interest if there would be gain were such position sold, assigned, or otherwise terminated at its fair market value.

''(2) EXCEPTIONS.—The term 'appreciated financial position' shall not include—

''(A) any position with respect to straight debt (as defined in section 1361(c)(5)(B) without regard to clause (iii) thereof), and

''(B) any position which is marked to market under any provision of this title or the regulations thereunder.

''(3) POSITION.—The term 'position' means an interest, including a futures or forward contract, short sale, or option.

''(c) CONSTRUCTIVE SALE.—For purposes of this section—

''(1) IN GENERAL.—A taxpayer shall be treated as having made a constructive sale of an appreciated financial position if the taxpayer (or a related person)—

''(A) enters into a short sale of the same or substantially identical property,

''(B) enters into an offsetting notional principal contract with respect to the same or substantially identical property,

''(C) enters into a futures or forward contract to deliver the same or substantially identical property,

''(D) in the case of an appreciated financial position that is a short sale or a contract described in subparagraph (B) or (C) with respect to any property, acquires the same or substantially identical property, or

''(E) to the extent prescribed by the Secretary in regulations, enters into 1 or more other transactions (or acquires 1 or more positions) that have substantially the same effect as a transaction described in any of the preceding subparagraphs.

''(2) EXCEPTION FOR SALES OF NONPUBLICLY TRADED PROPERTY.—The term 'constructive sale' shall not include any contract for sale of any stock, debt instrument, or partnership interest which is not a marketable security (as defined in section 453(f)) if the contract settles within 1 year after the date such contract is entered into.

''(3) EXCEPTION FOR CERTAIN CLOSED TRANSACTIONS.—In applying this section, there shall be disregarded any transaction (which would otherwise be treated as a constructive sale) during the taxable year if—

''(A) such transaction is closed before the end of the 30th day after the close of such taxable year, and

''(B) in the case of a transaction which is closed during the 90-day period ending on such 30th day—

''(i) the taxpayer holds the appreciated financial position throughout the 60-day period beginning on the date such transaction is closed, and

''(ii) at no time during such 60-day period is the taxpayer's risk of loss with respect to such position reduced by reason of a circumstance which would be described in section 246(c)(4) if references to stock included references to such position.

''(4) RELATED PERSON.—A person is related to another person with respect to a transaction if—

''(A) the relationship is described in section 267 or 707(b), and

''(B) such transaction is entered into with a view toward avoiding the purposes of this section.

''(d) OTHER DEFINITIONS.—For purposes of this section—

''(1) FORWARD CONTRACT.—The term 'forward contract' means a contract to deliver a substantially fixed amount of property for a substantially fixed price.

''(2) OFFSETTING NOTIONAL PRINCIPAL CONTRACT.—The term 'offsetting notional principal contract' means, with respect to any property, an agreement which includes—

''(A) a requirement to pay (or provide credit for) all or substantially all of the investment yield (including appreciation) on such property for a specified period, and

''(B) a right to be reimbursed for (or receive credit for) all or substantially all of any decline in the value of such property.

''(e) SPECIAL RULES.—

''(1) TREATMENT OF SUBSEQUENT SALE OF POSITION WHICH WAS DEEMED SOLD.—If—

''(A) there is a constructive sale of any appreciated financial position,

''(B) such position is subsequently disposed of, and

''(C) at the time of such disposition, the transaction resulting in the constructive sale of such position is open with respect to the taxpayer or any related person,

solely for purposes of determining whether the taxpayer has entered into a constructive sale of any other appreciated financial position held by the taxpayer, the taxpayer shall be treated as entering into such transaction immediately after such disposition. For purposes of the preceding sentence, an assignment or other termination shall be treated as a disposition.

''(2) CERTAIN TRUST INSTRUMENTS TREATED AS STOCK.—For purposes of this section, an interest in a trust which is actively traded (within the meaning of section 1092(d)(1)) shall be treated as stock.

''(3) MULTIPLE POSITIONS IN PROPERTY.—If a taxpayer holds multiple positions in property, the determination of whether a specific transaction is a constructive sale and, if so, which appreciated financial position is deemed sold shall be made in the same manner as actual sales.

''(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''

(b) ELECTION OF MARK TO MARKET FOR SECURITIES TRADERS AND FOR TRADERS AND DEALERS IN COMMODITIES.—Subsection (d) of section 475 (relating to mark to market accounting method for dealers in securities) is amended by adding at the end the following new paragraph:

''(4) ELECTION OF MARK TO MARKET FOR SECURITIES TRADERS AND FOR TRADERS AND DEALERS IN COMMODITIES.—

''(A) IN GENERAL.—In the case of a person—

''(i) who is engaged in a trade or business to which this paragraph applies, and

''(ii) who elects to be treated as a dealer in securities for purposes of this section with respect to such trade or business,

subsections (a), (b)(3), (c)(3), and (e) and the preceding provisions of this subsection (or, in the case of a dealer in commodities, this section) shall apply to all commodities and securities held by such person in any trade or business with respect to which such election is in effect in the same manner as if such person were a dealer in securities and all references to securities included references to commodities.

''(B) APPLICATION OF PARAGRAPH.—This paragraph shall apply to any active trade or business—

''(i) as a trader in securities, or

''(ii) as a trader or dealer in commodities.

''(C) EXCEPTION FOR CERTAIN HOLDINGS OF TRADERS.—In the case of a trader in securities or commodities, subsection (a) shall not apply to any security or commodity (to which subsection (a) would otherwise apply solely by reason of this paragraph) if such security or commodity is clearly identified in the trader's records (before the close of the day applicable under subsection (b)(2)) as being held other than in a trade or business to which the election under subparagraph (A) is in effect. A security or commodity so identified shall be treated as described in subsection (b)(1).

''(D) COMMODITY.—For purposes of this paragraph, the term 'commodities' includes only commodities of a kind customarily dealt in on an organized commodity exchange.

''(E) ELECTION.—An election under this paragraph may be made separately for each trade or business and without the consent of the Secretary. Such an election, once made, shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.''

(c) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter P of chapter 1 is amended by adding at the end the following new item:

''Sec. 1259. Constructive sales treatment for appreciated financial positions.''

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to any constructive sale after June 8, 1997.

(2) EXCEPTION FOR SALES OF POSITIONS, ETC. HELD BEFORE JUNE 9, 1997.—A constructive sale before June 9, 1997, and the property to which the position involved in the transaction relates, shall not be taken into account in determining whether any other constructive sale after June 8, 1997, has occurred if, within before the close of the 30-day period beginning on the date of the enactment of this Act, such position and property are clearly identified in the taxpayer's records as offsetting. The preceding sentence shall cease to apply as of the date the taxpayer ceases to hold such position or property.

(3) SPECIAL RULE.—In the case of a decedent dying after June 8, 1997, if—

(A) there was a constructive sale on or before such date of any appreciated financial position,

(B) the transaction resulting in such constructive sale of such position remains open (with respect to the decedent or any related person) for not less than 2 years after the date of such transaction (whether such period is before or after such date), and

(C) such transaction is not closed within the 30-day period beginning on the date of the enactment of this Act,

then, for purposes of such Code, such position (and any property related thereto, as determined under the principles of section 1259(d)(1) of such Code (as so added)) shall be treated as property constituting rights to receive an item of income in respect of a decedent under section 691 of such Code.

(4) ELECTION OF SECURITIES TRADERS, AND FOR TRADERS AND DEALERS IN COMMODITIES, TO BE TREATED AS DEALERS IN SECURITIES.—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to taxable years ending after the date of the enactment of this Act.

(B) 4-YEAR SPREAD OF ADJUSTMENTS.—In the case of a taxpayer who elects under section 475(d)(4) of the Internal Revenue Code of 1986 (as added by this section) to change its method of accounting for its first taxable year ending after the date of the enactment of this Act, the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 4-taxable year period beginning with such first taxable year.

SEC. 1002. LIMITATION ON EXCEPTION FOR INVESTMENT COMPANIES UNDER SECTION 351.

(a) IN GENERAL.—Paragraph (1) of section 351(e) (relating to exceptions) is amended by adding at the end the following: ''For purposes of the preceding sentence, the term 'investment company' includes any company if more than 80 percent of the value of the assets of such company (other than assets held in the ordinary course of a trade or business for sale to customers) is attributable to—

''(A) money,

''(B) any financial instrument (as defined in section 731(c)(2)(C)),

''(C) any foreign currency,

''(D) any interest in a real estate investment trust, a common trust fund, a regulated investment company, or a publicly traded partnership (as defined in section 7704(b)),

''(E) any interest described in clause (iv), (v), or (vi) of section 731(c)(2)(B) (or which would be so described without regard to any reference to active trading or marketability),

''(F) any other asset specified in regulations prescribed by the Secretary, or

''(G) any combination of the foregoing.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to transfers after June 8, 1997, in taxable years ending after such date.

(2) BINDING CONTRACTS.—The amendment made by subsection (a) shall not apply to any transfer pursuant to a written binding contract in effect on June 8, 1997, that provides for the transfer of a fixed amount of property, and at all times thereafter before such transfer.

SEC. 1003. MODIFICATION OF RULES FOR ALLOCATING INTEREST EXPENSE TO TAX-EXEMPT INTEREST.

(a) PRO RATA ALLOCATION RULES APPLICABLE TO CORPORATIONS.—

(1) IN GENERAL.—Paragraph (1) of section 265(b) is amended by striking ''In the case of a financial institution'' and inserting ''In the case of a corporation''.

(2) ONLY OBLIGATIONS ACQUIRED AFTER JUNE 8, 1997, TAKEN INTO ACCOUNT.—Subparagraph (A) of section 265(b)(2) is amended by striking ''August 7, 1986'' and inserting ''June 8, 1997 (August 7, 1986, in the case of a financial institution)''.

(3) SMALL ISSUER EXCEPTION NOT TO APPLY.—Subparagraph (A) of section 265(b)(3) is amended by striking ''Any qualified'' and inserting ''In the case of a financial institution, any qualified''.

(4) EXCEPTION FOR CERTAIN BONDS ACQUIRED ON SALE OF GOODS OR SERVICES.—Subparagraph (B) of section 265(b)(4) is amended by adding at the end the following new sentence: ''In the case of a taxpayer other than a financial institution, such term shall not include a nonsaleable obligation acquired by such taxpayer in the ordinary course of business as payment for goods or services provided by such taxpayer to any State or local government.''

(5) LOOK-THRU RULES FOR PARTNERSHIPS.—Paragraph (6) of section 265(b) is amended by adding at the end the following new subparagraph:

''(C) LOOK-THRU RULES FOR PARTNERSHIPS.—In the case of a corporation which is a partner in a partnership, such corporation shall be treated for purposes of this subsection as holding directly its allocable share of the assets of the partnership.''

(6) APPLICATION OF PRO RATA DISALLOWANCE ON AFFILIATED GROUP BASIS.—Subsection (b) of section 265 is amended by adding at the end the following new paragraph:

''(7) APPLICATION OF DISALLOWANCE ON AFFILIATED GROUP BASIS.—

''(A) IN GENERAL.—For purposes of this subsection, all members of an affiliated group filing a consolidated return under section 1501 shall be treated as 1 taxpayer.

''(B) TREATMENT OF INSURANCE COMPANIES.—This subsection shall not apply to an insurance company, and subparagraph (A) shall be applied without regard to any member of an affiliated group which is an insurance company.''

(6) DE MINIMIS EXCEPTION FOR NONFINANCIAL INSTITUTIONS.—Subsection (b) of section 265 is amended by adding at the end the following new paragraph:

''(8) DE MINIMIS EXCEPTION FOR NONFINANCIAL INSTITUTIONS.—In the case of a corporation, paragraph (1) shall not apply for any taxable year if the amount described in paragraph (2)(A) with respect to such corporation does not exceed the lesser of—

''(A) 2 percent of the amount described in paragraph (2)(B), or

''(B) $1,000,000.

The preceding sentence shall not apply to a financial institution or to a dealer in tax-exempt obligations.''

(7) CLERICAL AMENDMENT.—The subsection heading for section 265(b) is amended by striking ''FINANCIAL INSTITUTIONS'' and inserting ''CORPORATIONS''.

(b) APPLICATION OF SECTION 265(a)(2) WITH RESPECT TO CONTROLLED GROUPS.—Paragraph (2) of section 265(a) is amended after ''obligations'' by inserting ''held by the taxpayer (or any corporation which is a member of a controlled group (as defined in section 267(f)(1)) which includes the taxpayer)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1004. GAINS AND LOSSES FROM CERTAIN TERMINATIONS WITH RESPECT TO PROPERTY.

(a) APPLICATION OF CAPITAL TREATMENT TO PROPERTY OTHER THAN PERSONAL PROPERTY.—

(1) IN GENERAL.—Paragraph (1) of section 1234A (relating to gains and losses from certain terminations) is amended by striking

''personal property (as defined in section 1092(d)(1))'' and inserting ''property''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to terminations more than 30 days after the date of the enactment of this Act.

(b) APPLICATION OF CAPITAL TREATMENT, ETC. TO OBLIGATIONS ISSUED BY NATURAL PERSONS.—

(1) IN GENERAL.—Section 1271(b) is amended to read as follows:

''(b) EXCEPTION FOR CERTAIN OBLIGATIONS.—

''(1) IN GENERAL.—This section shall not apply to—

''(A) any obligation issued by a natural person before June 9, 1997, and

''(B) any obligation issued before July 2, 1982, by an issuer which is not a corporation and is not a government or political subdivision thereof.

''(2) TERMINATION.—Paragraph (1) shall not apply to any obligation purchased (within the meaning of section 179(d)(2)) after June 8, 1997.''

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act.

SEC. 1005. DETERMINATION OF ORIGINAL ISSUE DISCOUNT WHERE POOLED DEBT OBLIGATIONS SUBJECT TO ACCELERATION.

(a) IN GENERAL.—Subparagraph (C) of section 1272(a)(6) (relating to debt instruments to which the paragraph applies) is amended by striking ''or'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting '', or'', and by inserting after clause (i) the following:

''(iii) any pool of debt instruments the yield on which may be reduced by reason of prepayments (or to the extent provided in regulations, by reason of other events).

To the extent provided in regulations prescribed by the Secretary, in the case of a small business engaged in the trade or business of selling tangible personal property at retail, clause (iii) shall not apply to debt instruments incurred in the ordinary course of such trade or business while held by such business.''

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for its first taxable year beginning after the date of the enactment of this Act—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 4-taxable year period beginning with such first taxable year.

SEC. 1006. DENIAL OF INTEREST DEDUCTIONS ON CERTAIN DEBT INSTRUMENTS.

(a) IN GENERAL.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) DISALLOWANCE OF DEDUCTION ON CERTAIN DEBT INSTRUMENTS OF CORPORATIONS.—

''(1) IN GENERAL.—No deduction shall be allowed under this chapter for any interest paid or accrued on a disqualified debt instrument.

''(2) DISQUALIFIED DEBT INSTRUMENT.—For purposes of this subsection, the term 'disqualified debt instrument' means any indebtedness of a corporation which is payable in equity of the issuer or a related party.

''(3) SPECIAL RULES FOR AMOUNTS PAYABLE IN EQUITY.—For purposes of paragraph (2), indebtedness shall be treated as payable in equity of the issuer or a related party only if—

''(A) a substantial amount of the principal or interest is required to be paid or converted, or at the option of the issuer or a related party is payable in, or convertible into, such equity,

''(B) a substantial amount of the principal or interest is required to be determined, or at the option of the issuer or a related party is determined, by reference to the value of such equity, or

''(C) the indebtedness is part of an arrangement which is reasonably expected to result in a transaction described in subparagraph (A) or (B).

For purposes of subparagraphs (A) and (B), principal or interest shall be treated as required to be so paid, converted, or determined if it may be required at the option of the holder or a related party and there is a substantial certainty the option will be exercised.

''(4) RELATED PARTY.—For purposes of this subsection, a person is a related party with respect to another person if such person bears a relationship to such other person described in section 267(b) or 707(b).

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations preventing avoidance of this subsection through the use of an issuer other than a corporation.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to disqualified debt instruments issued after June 8, 1997.

(2) TRANSITION RULE.—The amendment made by this section shall not apply to any instrument issued after June 8, 1997, if such instrument is—

(A) issued pursuant to a written agreement which was binding on such date and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission required solely by reason of the distribution.

Subtitle B—Corporate Organizations and Reorganizations

SEC. 1011. TAX TREATMENT OF CERTAIN EXTRAORDINARY DIVIDENDS.

(a) TREATMENT OF EXTRAORDINARY DIVIDENDS IN EXCESS OF BASIS.—Paragraph (2) of section 1059(a) (relating to corporate shareholder's recognition of gain attributable to nontaxed portion of extraordinary dividends) is amended to read as follows:

''(2) AMOUNTS IN EXCESS OF BASIS.—If the nontaxed portion of such dividends exceeds such basis, such excess shall be treated as gain from the sale or exchange of such stock for the taxable year in which the extraordinary dividend is received.''

(b) TREATMENT OF REDEMPTIONS WHERE OPTIONS INVOLVED.—Paragraph (1) of section 1059(e) (relating to treatment of partial liquidations and non-pro rata redemptions) is amended to read as follows:

''(1) TREATMENT OF PARTIAL LIQUIDATIONS AND CERTAIN REDEMPTIONS.—Except as otherwise provided in regulations—

''(A) REDEMPTIONS.—In the case of any redemption of stock—

''(i) which is part of a partial liquidation (within the meaning of section 302(e)) of the redeeming corporation,

''(ii) which is not pro rata as to all shareholders, or

''(iii) which would not have been treated (in whole or in part) as a dividend if any options had not been taken into account under section 318(a)(4),

any amount treated as a dividend with respect to such redemption shall be treated as an extraordinary dividend to which paragraphs (1) and (2) of subsection (a) apply without regard to the period the taxpayer held such stock. In the case of a redemption described in clause (iii), only the basis in the stock redeemed shall be taken into account under subsection (a).

''(B) REORGANIZATIONS, ETC.—An exchange described in section 356(a)(1) which is treated as a dividend under section 356(a)(2) shall be treated as a redemption of stock for purposes of applying subparagraph (A).''

(c) TIME FOR REDUCTION.—Paragraph (1) of section 1059(d) is amended to read as follows:

''(1) TIME FOR REDUCTION.—Any reduction in basis under subsection (a)(1) shall be treated as occurring at the beginning of the ex-dividend date of the extraordinary dividend to which the reduction relates.''

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after May 3, 1995.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution made pursuant to the terms of—

(A) a written binding contract in effect on May 3, 1995, and at all times thereafter before such distribution, or

(B) a tender offer outstanding on May 3, 1995.

(3) CERTAIN DIVIDENDS NOT PURSUANT TO CERTAIN REDEMPTIONS.—In determining whether the amendment made by subsection (a) applies to any extraordinary dividend other than a dividend treated as an extraordinary dividend under section 1059(e)(1) of the Internal Revenue Code of 1986 (as amended by this Act), paragraphs (1) and (2) shall be applied by substituting ''September 13, 1995'' for ''May 3, 1995''.

SEC. 1012. APPLICATION OF SECTION 355 TO DISTRIBUTIONS FOLLOWED BY ACQUISITIONS AND TO INTRAGROUP TRANSACTIONS.

(a) DISTRIBUTIONS FOLLOWED BY ACQUISITIONS.—Section 355 (relating to distribution of stock and securities of a controlled corporation) is amended by adding at the end the following new subsection:

''(e) RECOGNITION OF GAIN WHERE CERTAIN DISTRIBUTIONS OF STOCK OR SECURITIES ARE FOLLOWED BY ACQUISITION.—

''(1) GENERAL RULE.—If there is a distribution to which this subsection applies, the following rules shall apply:

''(A) ACQUISITION OF CONTROLLED CORPORATION.—If there is an acquisition described in paragraph (2)(A)(ii) with respect to any controlled corporation, any stock or securities in the controlled corporation shall not be treated as qualified property for purposes of subsection (c)(2) of this section or section 361(c)(2).

''(B) ACQUISITION OF DISTRIBUTING CORPORATION.—If there is an acquisition described in paragraph (2)(A)(ii) with respect to the distributing corporation, the controlled corporation shall recognize gain in an amount equal to the amount of net gain which would be recognized if all the assets of the distributing corporation (immediately after the distribution) were sold (at such time) for fair market value. Any gain recognized under the preceding sentence shall be treated as long-term capital gain and shall be taken into account for the taxable year which includes the day after the date of such distribution.

''(2) DISTRIBUTIONS TO WHICH SUBSECTION APPLIES.—

''(A) IN GENERAL.—This subsection shall apply to any distribution—

''(i) to which this section (or so much of section 356 as relates to this section) applies, and

''(ii) which is part of a plan (or series of related transactions) pursuant to which 1 or more persons acquire directly or indirectly stock representing a 50-percent or greater interest in the distributing corporation or any controlled corporation.

''(B) PLAN PRESUMED TO EXIST IN CERTAIN CASES.—If 1 or more persons acquire directly or indirectly stock representing a 50-percent or greater interest in the distributing corporation or any controlled corporation during the 4-year period beginning on the date which is 2 years before the date of the distribution, such acquisition shall be treated as pursuant to a plan described in subparagraph (A)(ii) unless it is established that the distribution and the acquisition are not pursuant to a plan or series of related transactions.

''(C) COORDINATION WITH SUBSECTION (d).—This subsection shall not apply to any distribution to which subsection (d) applies.

''(3) SPECIAL RULES RELATING TO ACQUISITIONS.—

''(A) CERTAIN ACQUISITIONS NOT TAKEN INTO ACCOUNT.—Except as provided in regulations, the following acquisitions shall not be treated as described in paragraph (2)(A)(ii):

''(i) The acquisition of stock in any controlled corporation by the distributing corporation.

''(ii) The acquisition by a person of stock in any controlled corporation by reason of holding stock in the distributing corporation.

''(iii) The acquisition by a person of stock in any successor corporation of the distributing corporation or any controlled corporation by reason of holding stock in such distributing or controlled corporation.

''(iv) The acquisition of stock in a corporation if shareholders owning directly or indirectly a 50-percent or greater interest in the distributing corporation or any controlled corporation before such acquisition own indirectly a 50-percent or greater interest in such distributing or controlled corporation after such acquisition.

This subparagraph shall not apply to any acquisition if the stock held before the acquisition was acquired pursuant to a plan described in subparagraph (A)(ii).

''(B) ASSET ACQUISITIONS.—Except as provided in regulations, for purposes of this subsection, if the assets of the distributing corporation or any controlled corporation are acquired by a successor corporation in a transaction described in subparagraph (A), (C), or (D) of section 368(a)(1) or any other transaction specified in regulations by the Secretary, the shareholders (immediately before the acquisition) of the corporation acquiring such assets shall be treated as acquiring stock in the corporation from which the assets were acquired.

''(4) DEFINITION AND SPECIAL RULES.—For purposes of this subsection—

''(A) 50-PERCENT OR GREATER INTEREST.—The term '50-percent or greater interest' has the meaning given such term by subsection (d)(4).

''(B) DISTRIBUTIONS IN TITLE 11 OR SIMILAR CASE.—Paragraph (1) shall not apply to any distribution made in a title 11 or similar case (as defined in section 368(a)(3)).

''(C) AGGREGATION AND ATTRIBUTION RULES.—

''(i) AGGREGATION.—The rules of paragraph (7)(A) of subsection (d) shall apply.

''(ii) ATTRIBUTION.—Section 355(d)(8)(A) shall apply in determining whether a person holds stock or securities in any corporation.

''(D) SUCCESSORS AND PREDECESSORS.—For purposes of this subsection, any reference to a controlled corporation or a distributing corporation shall include a reference to any predecessor or successor of such corporation.

''(E) STATUTE OF LIMITATIONS.—If there is an acquisition to which paragraph (1) (A) or (B) applies—

''(i) the statutory period for the assessment of any deficiency attributable to any part of the gain recognized under this subsection by reason of such acquisition shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) that such acquisition occurred, and

''(ii) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations—

''(A) providing for the application of this subsection where there is more than 1 controlled corporation,

''(B) treating 2 or more distributions as 1 distribution where necessary to prevent the avoidance of such purposes, and

''(C) providing for the application of rules similar to the rules of subsection (d)(6) where appropriate for purposes of paragraph (2)(B).''

(b) SECTION 355 NOT TO APPLY TO CERTAIN INTRAGROUP TRANSACTIONS.—Section 355, as amended by subsection (a), is amended by adding at the end the following new subsection:

''(f) SECTION NOT TO APPLY TO CERTAIN INTRAGROUP TRANSACTIONS.—Except as provided in regulations, this section shall not apply to the distribution of stock from 1 member of an affiliated group filing a consolidated return to another member of such group, and the Secretary shall provide proper adjustments for the treatment of such distribution, including (if necessary) adjustments to—

''(1) the adjusted basis of any stock which—

''(A) is in a corporation which is a member of such group, and

''(B) is held by another member of such group, and

''(2) the earnings and profits of any member of such group.''

(c) DETERMINATION OF CONTROL IN CERTAIN DIVISIVE TRANSACTIONS.—

(1) SECTION 351 TRANSACTIONS.—Section 351(c) (relating to special rule) is amended to read as follows:

''(c) SPECIAL RULES WHERE DISTRIBUTION TO SHAREHOLDERS.—

''(1) IN GENERAL.—In determining control for purposes of this section—

''(A) the fact that any corporate transferor distributes part or all of the stock in the corporation which it receives in the exchange to its shareholders shall not be taken into account, and

''(B) if the requirements of section 355 are met with respect to such distribution, the shareholders shall be treated as in control of such corporation immediately after the exchange if the shareholders hold at least a 50-percent interest in such corporation immediately after the distribution.

''(2) 50-PERCENT INTEREST.—For purposes of this subsection, the term '50-percent interest' means stock possessing 50 percent of the total combined voting power of all classes of stock entitled to vote and 50 percent of the total value of shares of all classes of stock.''

(2) D REORGANIZATIONS.—Section 368(a)(2)(H) (relating to special rule for determining whether certain transactions are qualified under paragraph (1)(D)) is amended to read as follows:

''(H) SPECIAL RULES FOR DETERMINING WHETHER CERTAIN TRANSACTIONS ARE QUALIFIED UNDER PARAGRAPH (1)(D).—For purposes of determining whether a transaction qualifies under paragraph (1)(D)—

''(i) in the case of a transaction with respect to which the requirements of subparagraphs (A) and (B) of section 354(b)(1) are met, the term 'control' has the meaning given such term by section 304(c), and

''(ii) in the case of a transaction with respect to which the requirements of section 355 are met, the shareholders described in paragraph (1)(D) shall be treated as having control of the corporation to which the assets are transferred if such shareholders hold a 50-percent or greater interest (as defined in section 351(c)(2)) in such corporation immediately after the transfer.''

(d) EFFECTIVE DATES.—

(1) SECTION 355 RULES.—The amendments made by subsections (a) and (b) shall apply to distributions after April 16, 1997.

(2) DIVISIVE TRANSACTIONS.—The amendments made by subsection (c) shall apply to transfers after the date of the enactment of this Act.

(3) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution after April 16, 1997, if such distribution is—

(A) made pursuant to a written agreement which was binding on such date and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission required solely by reason of the distribution.

This subparagraph shall not apply to any written agreement, ruling request, or public announcement or filing unless it identifies the unrelated acquirer of the distributing corporation or of any controlled corporation, whichever is applicable.

SEC. 1013. TAX TREATMENT OF REDEMPTIONS INVOLVING RELATED CORPORATIONS.

(a) STOCK PURCHASES BY RELATED CORPORATIONS.—The last sentence of section 304(a)(1) (relating to acquisition by related corporation other than subsidiary) is amended to read as follows: ''To the extent that such distribution is treated as a distribution to which section 301 applies, the transferor and the acquiring corporation shall be treated in the same manner as if the transferor had transferred the stock so acquired to the acquiring corporation in exchange for stock of the acquiring corporation in a transaction to which section 351(a) applies, and then the acquiring corporation had redeemed the stock it was treated as issuing in such transaction.''

(b) COORDINATION WITH SECTION 1059.—Clause (iii) of section 1059(e)(1)(A), as amended by this title, is amended to read as follows:

''(iii) which would not have been treated (in whole or in part) as a dividend if—

''(I) any options had not been taken into account under section 318(a)(4), or

''(II) section 304(a) had not applied,''.

(c) SPECIAL RULE FOR ACQUISITIONS BY FOREIGN CORPORATIONS.—Section 304(b) (relating to special rules for application of subsection (a)) is amended by adding at the end the following new paragraph:

''(5) ACQUISITIONS BY FOREIGN CORPORATIONS.—

''(A) IN GENERAL.—In the case of any acquisition to which subsection (a) applies in which the acquiring corporation is a foreign corporation, the only earnings and profits

taken into account under paragraph (2)(A) shall be those earnings and profits—

''(i) which are attributable (under regulations prescribed by the Secretary) to stock of the acquiring corporation owned (within the meaning of section 958(a)) by a corporation or individual which is—

''(I) a United States shareholder (within the meaning of section 951(b)) of the acquiring corporation, and

''(II) the transferor or a person who bears a relationship to the transferor described in section 267(b) or 707(b), and

''(ii) which were accumulated during the period or periods such stock was owned by such person while the acquiring corporation was a controlled foreign corporation.

''(B) APPLICATION OF SECTION 1248.—For purposes of subparagraph (A), the rules of section 1248(d) shall apply except to the extent otherwise provided by the Secretary.

''(C) REGULATIONS.—The Secretary shall prescribe such regulations as are appropriate to carry out the purposes of this paragraph.''

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions and acquisitions after June 8, 1997.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution or acquisition after June 8, 1997, if such distribution or acquisition is—

(A) made pursuant to a written agreement which was binding on such date and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described in a public announcement or filing with the Securities and Exchange Commission on or before such date.

SEC. 1014. MODIFICATION OF HOLDING PERIOD APPLICABLE TO DIVIDENDS RECEIVED DEDUCTION.

(a) IN GENERAL.—Subparagraph (A) of section 246(c)(1) is amended to read as follows:

''(A) which is held by the taxpayer for 45 days or less during the 90-day period beginning on the date which is 45 days before the date on which such share becomes ex-dividend with respect to such dividend, or''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 246(c) is amended to read as follows:

''(2) 90-DAY RULE IN THE CASE OF CERTAIN PREFERENCE DIVIDENDS.—In the case of stock having preference in dividends, if the taxpayer receives dividends with respect to such stock which are attributable to a period or periods aggregating in excess of 366 days, paragraph (1)(A) shall be applied—

''(A) by substituting '90 days' for '45 days' each place it appears, and

''(B) by substituting '180-day period' for '90-day period'.''

(2) Paragraph (3) of section 246(c) is amended by adding ''and'' at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dividends received or accrued after the 30th day after the date of the enactment of this Act.

Subtitle C—Other Corporate Provisions

SEC. 1021. REGISTRATION AND OTHER PROVISIONS RELATING TO CONFIDENTIAL CORPORATE TAX SHELTERS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

''(d) CERTAIN CONFIDENTIAL ARRANGEMENTS TREATED AS TAX SHELTERS.—

''(1) IN GENERAL.—For purposes of this section, the term 'tax shelter' includes any entity, plan, arrangement, or transaction—

''(A) a significant purpose of the structure of which is the avoidance or evasion of Federal income tax for a direct or indirect participant which is a corporation,

''(B) which is offered to any potential participant under conditions of confidentiality, and

''(C) for which the tax shelter promoters may receive fees in excess of $100,000 in the aggregate.

''(2) CONDITIONS OF CONFIDENTIALITY.—For purposes of paragraph (1)(B), an offer is under conditions of confidentiality if—

''(A) the potential participant to whom the offer is made (or any other person acting on behalf of such participant) has an understanding or agreement with or for the benefit of any promoter of the tax shelter that such participant (or such other person) will limit disclosure of the tax shelter or any significant tax features of the tax shelter, or

''(B) any promoter of the tax shelter—

''(i) claims, knows, or has reason to know,

''(ii) knows or has reason to know that any other person (other than the potential participant) claims, or

''(iii) causes another person to claim,

that the tax shelter (or any aspect thereof) is proprietary to any person other than the potential participant or is otherwise protected from disclosure to or use by others.

For purposes of this subsection, the term 'promoter' means any person or any related person (within the meaning of section 267 or 707) who participates in the organization, management, or sale of the tax shelter.

''(3) PERSONS OTHER THAN PROMOTER REQUIRED TO REGISTER IN CERTAIN CASES.—

''(A) IN GENERAL.—If—

''(i) the requirements of subsection (a) are not met with respect to any tax shelter (as defined in paragraph (1)) by any tax shelter promoter, and

''(ii) no tax shelter promoter is a United States person,

then each United States person who discussed participation in such shelter shall register such shelter under subsection (a).

''(B) EXCEPTION.—Subparagraph (A) shall not apply to a United States person who discussed participation in a tax shelter if—

''(i) such person notified the promoter in writing (not later than the close of the 90th day after the day on which such discussions began) that such person would not participate in such shelter, and

''(ii) such person does not participate in such shelter.

''(4) OFFER TO PARTICIPATE TREATED AS OFFER FOR SALE.—For purposes of subsections (a) and (b), an offer to participate in a tax shelter (as defined in paragraph (1)) shall be treated as an offer for sale.''

(b) PENALTY.—Subsection (a) of section 6707 (relating to failure to furnish information regarding tax shelters) is amended by adding at the end the following new paragraph:

''(3) CONFIDENTIAL ARRANGEMENTS.—

''(A) IN GENERAL.—In the case of a tax shelter (as defined in section 6111(d)), the penalty imposed under paragraph (1) shall be an amount equal to the greater of—

''(i) 50 percent of the fees paid to all promoters of the tax shelter with respect to offerings made before the date such shelter is registered under section 6111, or

''(ii) $10,000.

Clause (i) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in paragraph (1).

''(B) SPECIAL RULE FOR PARTICIPANTS REQUIRED TO REGISTER SHELTER.—In the case of a person required to register such a tax shelter by reason of section 6111(d)(3)—

''(i) such person shall be required to pay the penalty under paragraph (1) only if such person actually participated in such shelter,

''(ii) the amount of such penalty shall be determined by taking into account under subparagraph (A)(i) only the fees paid by such person, and

''(iii) such penalty shall be in addition to the penalty imposed on any other person for failing to register such shelter.''

(c) MODIFICATIONS TO SUBSTANTIAL UNDERSTATEMENT PENALTY.—

(1) RESTRICTION ON REASONABLE BASIS FOR CORPORATE UNDERSTATEMENT OF INCOME TAX.—Subparagraph (B) of section 6662(d)(2) is amended by adding at the end the following new flush sentence:

''For purposes of clause (ii)(II), in no event shall a corporation be treated as having a reasonable basis for its tax treatment of an item attributable to a multiple-party financing transaction if such treatment does not clearly reflect the income of the corporation.''

(2) MODIFICATION TO DEFINITION OF TAX SHELTER.—Clause (iii) of section 6662(d)(2)(C) is amended by striking ''the principal purpose'' and inserting ''a significant purpose''.

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6707(a) is amended by striking ''The penalty'' and inserting ''Except as provided in paragraph (3), the penalty''.

(2) Subparagraph (A) of section 6707(a)(1) is amended by striking ''paragraph (2)'' and inserting ''paragraph (2) or (3), as the case may be''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to any tax shelter (as defined in section 6111(d) of the Internal Revenue Code of 1986, as amended by this section) interests in which are offered to potential participants after the Secretary of the Treasury prescribes guidance with respect to meeting requirements added by such amendments.

(2) MODIFICATIONS TO SUBSTANTIAL UNDERSTATEMENT PENALTY.—The amendments made by subsection (c) shall apply to items with respect to transactions entered into after the date of the enactment of this Act.

SEC. 1022. CERTAIN PREFERRED STOCK TREATED AS BOOT.

(a) SECTION 351.—Section 351 (relating to transfer to corporation controlled by transferor) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) NONQUALIFIED PREFERRED STOCK NOT TREATED AS STOCK.—

''(1) IN GENERAL.—For purposes of subsections (a) and (b), the term 'stock' shall not include nonqualified preferred stock.

''(2) NONQUALIFIED PREFERRED STOCK.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The term 'nonqualified preferred stock' means preferred stock if—

''(i) the holder of such stock has the right to require the issuer or a related person to redeem or purchase the stock,

''(ii) the issuer or a related person is required to redeem or purchase such stock,

''(iii) the issuer or a related person has the right to redeem or purchase the stock and, as of the issue date, it is more likely than not that such right will be exercised, or

''(iv) the dividend rate on such stock varies in whole or in part (directly or indirectly) with reference to interest rates, commodity prices, or other similar indices.

''(B) LIMITATIONS.—Clauses (i), (ii), and (iii) of subparagraph (A) shall apply only if the

right or obligation referred to therein may be exercised within the 20-year period beginning on the issue date of such stock and such right or obligation is not subject to a contingency which, as of the issue date, makes remote the likelihood of the redemption or purchase.

''(C) EXCEPTIONS FOR CERTAIN RIGHTS OR OBLIGATIONS.—

''(i) IN GENERAL.—A right or obligation shall not be treated as described in clause (i), (ii), or (iii) of subparagraph (A) if—

''(I) it may be exercised only upon the death, disability, or mental incompetency of the holder, or

''(II) in the case of a right or obligation to redeem or purchase stock transferred in connection with the performance of services for the issuer or a related person (and which represents reasonable compensation), it may be exercised only upon the holder's separation from service from the issuer or a related person.

''(ii) EXCEPTION.—Clause (i)(I) shall not apply if the stock relinquished in the exchange, or the stock acquired in the exchange is in—

''(I) a corporation if any class of stock in such corporation or a related party is readily tradable on an established securities market or otherwise, or

''(II) any other corporation if such exchange is part of a transaction or series of transactions in which such corporation is to become a corporation described in subclause (I).

''(3) DEFINITIONS.—For purposes of this subsection—

''(A) PREFERRED STOCK.—The term 'preferred stock' means stock which is limited and preferred as to dividends and does not participate (including through a conversion privilege) in corporate growth to any significant extent.

''(B) RELATED PERSON.—A person shall be treated as related to another person if they bear a relationship to such other person described in section 267(b) or 707(b).

''(4) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection and sections 354(a)(2)(C), 355(a)(3)(D), and 356(e). The Secretary may also prescribe regulations, consistent with the treatment under this subsection and such sections, for the treatment of nonqualified preferred stock under other provisions of this title.''

(b) SECTION 354.—Paragraph (2) of section 354(a) (relating to exchanges of stock and securities in certain reorganizations) is amended by adding at the end the following new subparagraph:

''(C) NONQUALIFIED PREFERRED STOCK.—

''(i) IN GENERAL.—Nonqualified preferred stock (as defined in section 351(g)(2)) received in exchange for stock other than nonqualified preferred stock (as so defined) shall not be treated as stock or securities.

''(ii) RECAPITALIZATIONS OF FAMILY-OWNED CORPORATIONS.—

''(I) IN GENERAL.—Clause (i) shall not apply in the case of a recapitalization under section 368(a)(1)(E) of a family-owned corporation.

''(II) FAMILY-OWNED CORPORATION.—For purposes of this clause, except as provided in regulations, the term 'family-owned corporation' means any corporation which is described in clause (i) of section 447(d)(2)(C) throughout the 8-year period beginning on the date which is 5 years before the date of the recapitalization. For purposes of the preceding sentence, stock shall not be treated as owned by a family member during any period described in section 355(d)(6)(B).''

(c) SECTION 355.—Paragraph (3) of section 355(a) is amended by adding at the end the following new subparagraph:

''(D) NON QUALIFIED PREFERRED STOCK.—Nonqualified preferred stock (as defined in section 351(g)(2)) received in a distribution with respect to stock other than nonqualified preferred stock (as so defined) shall not be treated as stock or securities.''

(d) SECTION 356.—Section 356 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

''(e) NONQUALIFIED PREFERRED STOCK TREATED AS OTHER PROPERTY.—For purposes of this section—

''(1) IN GENERAL.—Except as provided in paragraph (2), the term 'other property' includes nonqualified preferred stock (as defined in section 351(g)(2)).

''(2) EXCEPTION.—The term 'other property' does not include nonqualified preferred stock (as so defined) to the extent that, under section 354 or 355, such preferred stock would be permitted to be received without the recognition of gain.''

(e) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 354(a)(2) and subparagraph (C) of section 355(a)(3)(C) are each amended by inserting ''(including nonqualified preferred stock, as defined in section 351(g)(2))'' after ''stock''.

(2) Subparagraph (A) of section 354(a)(3) and subparagraph (A) of section 355(a)(4) are each amended by inserting ''nonqualified preferred stock and'' after ''including''.

(3) Section 1036 is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

''(b) NONQUALIFIED PREFERRED STOCK NOT TREATED AS STOCK.—For purposes of this section, nonqualified preferred stock (as defined in section 351(g)(2)) shall be treated as property other than stock.''

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transactions after June 8, 1997.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any transaction after June 8, 1997, if such transaction is—

(A) made pursuant to a written agreement which was binding on such date and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission required solely by reason of the distribution.

Subtitle D—Administrative Provisions

SEC. 1031. REPORTING OF CERTAIN PAYMENTS MADE TO ATTORNEYS.

(a) IN GENERAL.—Section 6045 (relating to returns of brokers) is amended by adding at the end the following new subsection:

''(f) RETURN REQUIRED IN THE CASE OF PAYMENTS TO ATTORNEYS.—

''(1) IN GENERAL.—Any person engaged in a trade or business and making a payment (in the course of such trade or business) to which this subsection applies shall file a return under subsection (a) and a statement under subsection (b) with respect to such payment.

''(2) APPLICATION OF SUBSECTION.—

''(A) IN GENERAL.—This subsection shall apply to any payment to an attorney in connection with legal services (whether or not such services are performed for the payor).

''(B) EXCEPTION.—This subsection shall not apply to the portion of any payment which is required to be reported under section 6041(a) (or would be so required but for the dollar limitation contained therein) or section 6051.''

(b) REPORTING OF ATTORNEYS' FEES PAYABLE TO CORPORATIONS.—The regulations providing an exception under section 6041 of the Internal Revenue Code of 1986 for payments made to corporations shall not apply to payments of attorneys' fees.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 1997.

SEC. 1032. DECREASE OF THRESHOLD FOR REPORTING PAYMENTS TO CORPORATIONS PERFORMING SERVICES FOR FEDERAL AGENCIES.

(a) IN GENERAL.—Subsection (d) of section 6041A (relating to returns regarding payments of remuneration for services and direct sales) is amended by adding at the end the following new paragraph:

''(3) PAYMENTS TO CORPORATIONS BY FEDERAL EXECUTIVE AGENCIES.—

''(A) IN GENERAL.—Notwithstanding any regulation prescribed by the Secretary before the date of the enactment of this paragraph, subsection (a) shall apply to remuneration paid to a corporation by any Federal executive agency (as defined in section 6050M(b)).

''(B) EXCEPTION.—Subparagraph (A) shall not apply to—

''(i) services under contracts described in section 6050M(e)(3) with respect to which the requirements of section 6050M(e)(2) are met, and

''(ii) such other services as the Secretary may specify in regulations prescribed after the date of the enactment of this paragraph.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns the due date for which (determined without regard to any extension) is more than 90 days after the date of the enactment of this Act.

SEC. 1033. DISCLOSURE OF RETURN INFORMATION FOR ADMINISTRATION OF CERTAIN VETERANS PROGRAMS.

(a) GENERAL RULE.—Subparagraph (D) of section 6103(l)(7) (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended by striking ''Clause (viii) shall not apply after September 30, 1998.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 1034. CONTINUOUS LEVY ON CERTAIN PAYMENTS.

(a) IN GENERAL.—Section 6331 (relating to levy and distraint) is amended—

(1) by redesignating subsection (h) as subsection (i), and

(2) by inserting after subsection (g) the following new subsection:

''(h) CONTINUING LEVY ON CERTAIN PAYMENTS.—

''(1) IN GENERAL.—The effect of a levy on specified payments to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released. Notwithstanding section 6334, such levy shall attach up to 15 percent of any salary or pension payment due to the taxpayer.

''(2) SPECIFIED PAYMENTS.—For the purposes of paragraph (1), the term 'specified payments' means—

''(A) Federal payments other than payments for which eligibility is based on the income or assets (or both) of a payee,

''(B) payments described in subsection (a)(4) (relating to unemployment benefits), and

''(C) payments described in subsection (a)(11) (relating to certain public assistance payments).''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to levies

issued after the date of the enactment of this Act.

SEC. 1035. RETURNS OF BENEFICIARIES OF ESTATES AND TRUSTS REQUIRED TO FILE RETURNS CONSISTENT WITH ESTATE OR TRUST RETURN OR TO NOTIFY SECRETARY OF INCONSISTENCY.

(a) DOMESTIC ESTATES AND TRUSTS.—Section 6034A (relating to information to beneficiaries of estates and trusts) is amended by adding at the end the following new subsection:

''(c) BENEFICIARY'S RETURN MUST BE CONSISTENT WITH ESTATE OR TRUST RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.—

''(1) IN GENERAL.—A beneficiary of any estate or trust to which subsection (a) applies shall, on such beneficiary's return, treat any reported item in a manner which is consistent with the treatment of such item on the applicable entity's return.

''(2) NOTIFICATION OF INCONSISTENT TREATMENT.—

''(A) IN GENERAL.—In the case of any reported item, if—

''(i)(I) the applicable entity has filed a return but the beneficiary's treatment on such beneficiary's return is (or may be) inconsistent with the treatment of the item on the applicable entity's return, or

''(II) the applicable entity has not filed a return, and

''(ii) the beneficiary files with the Secretary a statement identifying the inconsistency,

paragraph (1) shall not apply to such item.

''(B) BENEFICIARY RECEIVING INCORRECT INFORMATION.—A beneficiary shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a reported item if the beneficiary—

''(i) demonstrates to the satisfaction of the Secretary that the treatment of the reported item on the beneficiary's return is consistent with the treatment of the item on the statement furnished under subsection (a) to the beneficiary by the applicable entity, and

''(ii) elects to have this paragraph apply with respect to that item.

''(3) EFFECT OF FAILURE TO NOTIFY.—In any case—

''(A) described in subparagraph (A)(i)(I) of paragraph (2), and

''(B) in which the beneficiary does not comply with subparagraph (A)(ii) of paragraph (2),

any adjustment required to make the treatment of the items by such beneficiary consistent with the treatment of the items on the applicable entity's return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

''(4) DEFINITIONS.—For purposes of this subsection—

''(A) REPORTED ITEM.—The term 'reported item' means any item for which information is required to be furnished under subsection (a).

''(B) APPLICABLE ENTITY.—The term 'applicable entity' means the estate or trust of which the taxpayer is the beneficiary.

''(5) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—For addition to tax in the case of a beneficiary's negligence in connection with, or disregard of, the requirements of this section, see part II of subchapter A of chapter 68.''

(b) FOREIGN TRUSTS.—Subsection (d) of section 6048 (relating to information with respect to certain foreign trusts) is amended by adding at the end the following new paragraph:

''(5) UNITED STATES PERSON'S RETURN MUST BE CONSISTENT WITH TRUST RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.—Rules similar to the rules of section 6034A(c) shall apply to items reported by a trust under subsection (b)(1)(B) and to United States persons referred to in such subsection.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns of beneficiaries and owners filed after the date of the enactment of this Act.

Subtitle E—Excise and Employment Tax Provisions

SEC. 1041. EXTENSION AND MODIFICATION OF AIRPORT AND AIRWAY TRUST FUND TAXES.

(a) FUEL TAXES.—

(1) AVIATION FUEL.—Clause (ii) of section 4091(b)(3)(A) is amended by striking ''September 30, 1997'' and inserting ''September 30, 2007''.

(2) AVIATION GASOLINE.—Subparagraph (B) of section 4081(d)(2) is amended by striking ''September 30, 1997'' and inserting ''September 30, 2007''.

(3) NONCOMMERCIAL AVIATION.—Subparagraph (B) of section 4041(c)(3) is amended by striking ''September 30, 1997'' and inserting ''September 30, 2007''.

(b) TICKET TAXES.—

(1) PERSONS.—Clause (ii) of section 4261(g)(1)(A) is amended by striking ''September 30, 1997'' and inserting ''September 30, 2007''.

(2) PROPERTY.—Clause (ii) of section 4271(d)(1)(A) is amended by striking ''September 30, 1997'' and inserting ''September 30, 2007''.

(c) MODIFICATIONS TO TAX ON TRANSPORTATION OF PERSONS BY AIR.—Subsection (c) of section 4261 (relating to use of international travel facilities) is amended to read as follows:

''(c) USE OF INTERNATIONAL TRAVEL FACILITIES.—

''(1) IN GENERAL.—There is hereby imposed a tax of $10 on any amount paid (whether within or without the United States) for any transportation of any person by air, if such transportation begins or ends in the United States.

''(2) EXCEPTION FOR TRANSPORTATION ENTIRELY TAXABLE UNDER SUBSECTION (a).—This subsection shall not apply to any transportation all of which is taxable under subsection (a) (determined without regard to sections 4281 and 4282).

''(3) SPECIAL RULE FOR ALASKA AND HAWAII.—In any case in which the tax imposed by paragraph (1) applies to a domestic segment, such tax shall apply only on departure.

''(4) INFLATION ADJUSTMENT.—

''(A) IN GENERAL.—In the case of transportation beginning in a calendar year after 1998, the dollar amount contained in paragraph (1) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of 10 cents, such increase shall be rounded to the nearest multiple of 10 cents.''

(d) EFFECTIVE DATES.—

(1) FUEL TAXES.—The amendment made by subsection (a) shall apply take effect on October 1, 1997.

(2) TICKET TAXES.—

(A) IN GENERAL.—The amendments made by subsections (b) and (c) shall apply to transportation beginning on or after October 1, 1997.

(B) TREATMENT OF AMOUNTS PAID FOR TICKETS PURCHASED BEFORE DATE OF ENACTMENT.—The amendments made by subsection (c) shall not apply to amounts paid for a ticket purchased before the date of the enactment of this Act for a specified flight beginning on or after October 1, 1997.

SEC. 1042. CREDIT FOR TIRE TAX IN LIEU OF EXCLUSION OF VALUE OF TIRES IN COMPUTING PRICE.

(a) IN GENERAL.—Subsection (e) of section 4051 is amended to read as follows:

''(e) CREDIT AGAINST TAX FOR TIRE TAX.—If—

''(1) tires are sold on or in connection with the sale of any article, and

''(2) tax is imposed by this subchapter on the sale of such tires,

there shall be allowed as a credit against the tax imposed by this subchapter an amount equal to the tax (if any) imposed by section 4071 on such tires.''

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 4052(b)(1) is amended by striking clause (iii), by adding ''and'' at the end of clause (ii), and by redesignating clause (iv) as clause (iii).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1998.

SEC. 1043. RESTORATION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES.

Paragraph (3) of section 4081(d) is amended by inserting before the period '', and before the date of the enactment of the Revenue Reconciliation Act of 1997''.

SEC. 1044. REINSTATEMENT OF OIL SPILL LIABILITY TRUST FUND TAX.

(a) IN GENERAL.—Paragraph (1) of section 4611(f) is amended by striking ''December 31, 1989, and before January 1, 1995'' and inserting ''December 31, 1997''. Paragraph (2) of section 4611(f) is hereby repealed.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1998.

SEC. 1045. EXTENSION OF FEDERAL UNEMPLOYMENT SURTAX.

(a) IN GENERAL.—Section 3301 is amended by striking ''equal to—'' and all that follows through ''thereafter;'' and inserting ''6.2 percent in the case of calendar year 1998 and each calendar year thereafter''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to calendar years beginning after December 31, 1997.

Subtitle F—Provisions Relating to Tax-Exempt Entities

SEC. 1051. EXPANSION OF LOOK-THRU RULE FOR INTEREST, ANNUITIES, ROYALTIES, AND RENTS DERIVED BY SUBSIDIARIES OF TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Paragraph (13) of section 512(b) is amended to read as follows:

''(13) SPECIAL RULES FOR CERTAIN AMOUNTS RECEIVED FROM CONTROLLED ENTITIES.—

''(A) IN GENERAL.—If an organization (in this paragraph referred to as the 'controlling organization') receives (directly or indirectly) a specified payment from another entity which it controls (in this paragraph referred to as the 'controlled entity'), notwithstanding paragraphs (1), (2), and (3), the controlling organization shall include such payment as an item of gross income derived from an unrelated trade or business to the extent such payment reduces the net unrelated income of the controlled entity (or increases any net unrelated loss of the controlled entity). There shall be allowed all deductions of the controlling organization directly connected with amounts treated as derived from an unrelated trade or business under the preceding sentence.

''(B) NET UNRELATED INCOME OR LOSS.—For purposes of this paragraph—

''(i) NET UNRELATED INCOME.—The term 'net unrelated income' means—

''(I) in the case of a controlled entity which is not exempt from tax under section 501(a), the portion of such entity's taxable income which would be unrelated business taxable income if such entity were exempt from tax under section 501(a) and had the same exempt purposes (as defined in section 513A(a)(5)(A)) as the controlling organization, or

''(II) in the case of a controlled entity which is exempt from tax under section 501(a), the amount of the unrelated business taxable income of the controlled entity.

''(ii) NET UNRELATED LOSS.—the term 'net unrelated loss' means the net operating loss adjusted under rules similar to the rules of clause (i).

''(C) SPECIFIED PAYMENT.—For purposes of this paragraph, the term 'specified payment' means any interest, annuity, royalty, or rent.

''(D) DEFINITION OF CONTROL.—For purposes of this paragraph—

''(i) CONTROL.—The term 'control' means—

''(I) in the case of a corporation, ownership (by vote or value) of more than 50 percent of the stock in such corporation,

''(II) in the case of a partnership, ownership of more than 50 percent of the profits interests or capital interests in such partnership, or

''(III) in any other case, ownership of more than 50 percent of the beneficial interests in the entity.

''(ii) CONSTRUCTIVE OWNERSHIP.—Section 318 (relating to constructive ownership of stock) shall apply for purposes of determining ownership of stock in a corporation. Similar principles shall apply for purposes of determining ownership of interests in any other entity.

''(E) RELATED PERSONS.—The Secretary shall prescribe such rules as may be necessary or appropriate to prevent avoidance of the purposes of this paragraph through the use of related persons.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) CONTROL TEST.—In the case of taxable years beginning before January 1, 1999, an organization shall be treated as controlling another organization for purposes of section 512(b)(13) of the Internal Revenue Code of 1986 (as amended by this section) only if it controls such organization within the meaning of such section, determined by substituting ''80 percent'' for ''50 percent'' each place it appears in subparagraph (D) thereof.

Subtitle G—Foreign-Related Provisions

SEC. 1061. DEFINITION OF FOREIGN PERSONAL HOLDING COMPANY INCOME.

(a) INCOME FROM NOTIONAL PRINCIPAL CONTRACTS AND PAYMENTS IN LIEU OF DIVIDENDS.—

(1) IN GENERAL.—Paragraph (1) of section 954(c) (defining foreign personal holding company income) is amended by adding at the end the following new subparagraph:

''(F) INCOME FROM NOTIONAL PRINCIPAL CONTRACTS.—Net income from notional principal contracts. Any item of income, gain, deduction, or loss from a notional principal contract entered into for purposes of hedging any item described in any preceding subparagraph shall not be taken into account for purposes of this subparagraph but shall be taken into account under such other subparagraph.

''(G) PAYMENTS IN LIEU OF DIVIDENDS.—Payments in lieu of dividends which are made pursuant to an agreement to which section 1058 applies.''

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 954(c)(1) is amended—

(A) by striking the second sentence, and

(B) by striking ''also'' in the last sentence.

(b) EXCEPTION FOR DEALERS.—Paragraph (2) of section 954(c) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FOR DEALERS.—Except as provided in subparagraph (A), (E), or (G) of paragraph (1) or by regulations, in the case of a regular dealer in property (within the meaning of paragraph (1)(B)), forward contracts, option contracts, or similar financial instruments (including notional principal contracts and all instruments referenced to commodities), there shall not be taken into account in computing foreign personal holding income any item of income, gain, deduction, or loss from any transaction (including hedging transactions) entered into in the ordinary course of such dealer's trade or business as such a dealer.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1062. PERSONAL PROPERTY USED PREDOMINANTLY IN THE UNITED STATES TREATED AS NOT PROPERTY OF A LIKE KIND WITH RESPECT TO PROPERTY USED PREDOMINANTLY OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—Subsection (h) of section 1031 (relating to exchange of property held for productive use or investment) is amended to read as follows:

''(h) SPECIAL RULES FOR FOREIGN REAL AND PERSONAL PROPERTY.—For purposes of this section—

''(1) REAL PROPERTY.—Real property located in the United States and real property located outside the United States are not property of a like kind.

''(2) PERSONAL PROPERTY.—

''(A) IN GENERAL.—Personal property used predominantly within the United States and personal property used predominantly outside the United States are not property of a like kind.

''(B) PREDOMINANT USE.—Except as provided in subparagraph (C) and (D), the predominant use of any property shall be determined based on—

''(i) in the case of the property relinquished in the exchange, the 2-year period ending on the date of such relinquishment, and

''(ii) in the case of the property acquired in the exchange, the 2-year period beginning on the date of such acquisition.

''(C) PROPERTY HELD FOR LESS THAN 2 YEARS.—Except in the case of an exchange which is part of a transaction (or series of transactions) structured to avoid the purposes of this subsection—

''(i) only the periods the property was held by the person relinquishing the property (or any related person) shall be taken into account under subparagraph (B)(i), and

''(ii) only the periods the property was held by the person acquiring the property (or any related person) shall be taken into account under subparagraph (B)(ii).

''(D) SPECIAL RULE FOR CERTAIN PROPERTY.—Property described in any subparagraph of section 168(g)(4) shall be treated as used predominantly in the United States.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to transfers after June 8, 1997, in taxable years ending after such date.

(2) BINDING CONTRACTS.—The amendment made by this section shall not apply to any transfer pursuant to a written binding contract in effect on June 8, 1997, and at all times thereafter before the disposition of property. A contract shall not fail to meet the requirements of the preceding sentence solely because—

(A) it provides for a sale in lieu of an exchange, or

(B) the property to be acquired as replacement property was not identified under such contract before June 9, 1997.

SEC. 1063. HOLDING PERIOD REQUIREMENT FOR CERTAIN FOREIGN TAXES.

(a) IN GENERAL.—Section 901 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) MINIMUM HOLDING PERIOD FOR CERTAIN TAXES.—

''(1) IN GENERAL.—No credit shall be allowed to the taxpayer under subsection (a) for any income, war profits, or excess profits tax by reason of a dividend or other inclusion with respect to stock in a foreign corporation or a regulated investment company if—

''(A) such stock is held by the taxpayer for 15 days or less during the 30-day period beginning on the date which is 15 days before the date on which such share becomes ex-dividend with respect to such dividend, or

''(B) to the extent that the taxpayer is under an obligation (whether pursuant to a short sale or otherwise) to make related payments with respect to positions in substantially similar or related property.

''(2) LOWER TIER CORPORATIONS.—To the extent that the credit otherwise allowable under subsection (a) is for taxes deemed paid under section 853, 902, or 960 through a chain of ownership of stock in 1 or more other foreign corporations, no credit shall be allowed under subsection (a) for such taxes to the extent—

''(A) attributable to stock held by any corporation in such chain for less than the period described in paragraph (1)(A), or

''(B) that such corporation is under an obligation referred to in paragraph (1)(B).

''(3) 45-DAY RULE IN THE CASE OF CERTAIN PREFERENCE DIVIDENDS.—In the case of stock having preference in dividends, if the taxpayer receives dividends with respect to such stock which are attributable to a period or periods aggregating in excess of 366 days, paragraph (1)(A) shall be applied—

''(A) by substituting '45 days' for '15 days' each place it appears, and

''(B) by substituting '90-day period' for '30-day period'.

''(4) EXCEPTION FOR CERTAIN TAXES PAID BY SECURITIES DEALERS.—

''(A) IN GENERAL.—Paragraphs (1) and (2) shall not apply to any qualified tax with respect to any security held in the active conduct in a foreign country of a securities business of any person—

''(i) who is registered as a securities broker or dealer under section 15(a) of the Securities Exchange Act of 1934,

''(ii) who is registered as a Government securities broker or dealer under section 15C(a) of such Act, or

''(iii) who is licensed or authorized in such foreign country to conduct securities activities in such country and is subject to bona fide regulation by a securities regulating authority of such country.

''(B) QUALIFIED TAX.—For purposes of subparagraph (A), the term 'qualified tax' means a tax paid to a foreign country (other than the foreign country referred to in subparagraph (A)) if—

''(i) the dividend to which such tax is attributable is subject to taxation on a net basis by the country referred to in subparagraph (A), and

''(ii) such country allows a credit against its net basis tax for the full amount of the tax paid to such other foreign country.

''(C) REGULATIONS.—The Secretary may prescribe such regulations as may be appropriate to prevent the abuse of the exception provided by this paragraph.

''(5) CERTAIN RULES TO APPLY.—For purposes of this subsection, the rules of paragraphs (3) and (4) of section 246(c) shall apply.

''(6) TAXES ALLOWED AS DEDUCTION, ETC.—Sections 275 and 78 shall not apply to any tax which is not allowable as a credit under subsection (a) by reason of this subsection.''

(b) NOTICE OF WITHHOLDING TAXES PAID BY REGULATED INVESTMENT COMPANY.—Subsection (c) of section 853 (relating to foreign tax credit allowed to shareholders) is amended by adding at the end the following new sentence: ''Such notice shall also include the amount of such taxes which (without regard to the election under this section) would not be allowable as a credit under section 901(a) to the regulated investment company by reason of section 901(k).''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dividends paid or accrued more than 30 days after the date of the enactment of this Act.

SEC. 1064. PENALTIES FOR FAILURE TO DISCLOSE POSITION THAT CERTAIN INTERNATIONAL TRANSPORTATION INCOME IS NOT INCLUDIBLE IN GROSS INCOME.

(a) IN GENERAL.—Section 883 is amended by adding at the end the following new subsection:

''(d) PENALTIES FOR FAILURE TO DISCLOSE POSITION THAT CERTAIN INTERNATIONAL TRANSPORTATION INCOME IS NOT INCLUDIBLE IN GROSS INCOME.—

''(1) IN GENERAL.—A taxpayer who, with respect to any tax imposed by this title, takes the position that any of its gross income derived from the international operation of 1 or more ships or aircraft is not includible in gross income by reason of paragraph (1) or (2) of subsection (a) or paragraph (1) or (2) of section 872(b) (or by reason of any applicable treaty) shall be entitled to such treatment only if such position is disclosed (in such manner as the Secretary may prescribe) on the return of tax for such tax (or any statement attached to such return).

''(2) ADDITIONAL PENALTIES FOR FAILING TO DISCLOSE POSITION.—If a taxpayer fails to meet the requirement of paragraph (1) for any taxable year with respect to the international operation of 1 or more ships or one or more aircraft—

''(A) the amount of the income from the international operation to which such failure relates—

''(i) which is from sources without the United States, and

''(ii) which is attributable to a fixed place of business in the United States,

shall be treated for purposes of this title as effectively connected with the conduct of a trade or business within the United States, and

''(B) no deductions or credits shall be allowed which are attributable to income from the international operation to which the failure relates.

''(3) REASONABLE CAUSE EXCEPTION.—This subsection shall not apply to a failure to disclose a position if it is shown that such failure is due to reasonable cause and not due to willful neglect.''

(b) CONFORMING AMENDMENTS.—Paragraphs (1) and (2) of section 872(b), and paragraph (1) and (2) of 883(a), are each amended by striking ''Gross income'' each place it appears and inserting ''Except as provided in section 883(d), gross income''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

(2) COORDINATION WITH TREATIES.—The amendments made by this section shall not apply in any case where their application would be contrary to any treaty obligation of the United States.

(d) INFORMATION TO BE PROVIDED BY CUSTOMS SERVICE.—The United States Custom Service shall provide the Secretary of the Treasury or his delegate with such information as may be specified by such Secretary in order to enable such Secretary to determine whether ships which are not registered in the United States are engaged in transportation to or from the United States.

SEC. 1065. INTEREST ON UNDERPAYMENTS NOT REDUCED BY FOREIGN TAX CREDIT CARRYBACKS.

(a) IN GENERAL.—Subsection (d) of section 6601 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) FOREIGN TAX CREDIT CARRYBACKS.—If any credit allowed for any taxable year is increased by reason of a carryback of tax paid or accrued to foreign countries or possessions of the United States, such increase shall not affect the computation of interest under this section for the period ending with the filing date for the taxable year in which such taxes were in fact paid or accrued, or, with respect to any portion of such credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such increase shall not affect the computation of interest under this section for the period ending with the filing date for such subsequent taxable year.''

(b) CONFORMING AMENDMENT TO REFUNDS ATTRIBUTABLE TO FOREIGN TAX CREDIT CARRYBACKS.—

(1) IN GENERAL.—Subsection (f) of section 6611 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) FOREIGN TAX CREDIT CARRYBACKS.—For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from a carryback of tax paid or accrued to foreign countries or possessions of the United States, such overpayment shall be deemed not to have been made before the filing date for the taxable year in which such taxes were in fact paid or accrued, or, with respect to any portion of such credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made before the filing date for such subsequent taxable year.''

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (4) of section 6611(f) (as so redesignated) is amended—

(i) by striking ''PARAGRAPHS (1) AND (2)'' and inserting ''PARAGRAPHS (1), (2), AND (3)'', and

(ii) by striking ''paragraph (1) or (2)'' each place it appears and inserting ''paragraph (1), (2), or (3)''.

(B) Clause (ii) of section 6611(f)(4)(B) (as so redesignated) is amended by striking ''and'' at the end of subclause (I), by redesignating subclause (II) as subclause (III), and by inserting after subclause (I) the following new subclause:

''(II) in the case of a carryback of taxes paid or accrued to foreign countries or possessions of the United States, the taxable year in which such taxes were in fact paid or accrued (or, with respect to any portion of such carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such subsequent taxable year), and''.

(C) Subclause (III) of section 6611(f)(4)(B)(ii) (as so redesignated) is amended by inserting ''(as defined in paragraph (3)(B))'' after ''credit carryback'' the first place it appears.

(D) Section 6611 is amended by striking subsection (g) and by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to carrybacks arising in taxable years beginning after the date of the enactment of this Act.

Subtitle H—Other Revenue Provisions

SEC. 1071. TERMINATION OF SUSPENSE ACCOUNTS FOR FAMILY CORPORATIONS REQUIRED TO USE ACCRUAL METHOD OF ACCOUNTING.

(a) IN GENERAL.—Subsection (i) of section 447 (relating to method of accounting for corporations engaged in farming) is amended by adding at the end the following new paragraph:

''(7) TERMINATION.—

''(A) IN GENERAL.—No suspense account may be established under this subsection by any corporation required by this section to change its method of accounting for any taxable year ending after June 8, 1997.

''(B) PHASEOUT OF EXISTING SUSPENSE ACCOUNTS.—

''(i) IN GENERAL.—Each suspense account under this subsection shall be reduced (but not below zero) for each taxable year beginning after June 8, 1997, by an amount equal to the lesser of—

''(I) the applicable portion of such account, or

''(II) 50 percent of the taxable income of the corporation for the taxable year, or, if the corporation has no taxable income for such year, the amount of any net operating loss (as defined in section 172(c)) for such taxable year.

For purposes of the preceding sentence, the amount of taxable income and net operating loss shall be determined without regard to this paragraph.

''(ii) COORDINATION WITH OTHER REDUCTIONS.—The amount of the applicable portion for any taxable year shall be reduced (but not below zero) by the amount of any reduction required for such taxable year under any other provision of this subsection.

''(iv) INCLUSION IN INCOME.—Any reduction in a suspense account under this paragraph shall be included in gross income for the taxable year of the reduction.

''(C) APPLICABLE PORTION.—For purposes of subparagraph (B), the term 'applicable portion' means, for any taxable year, the amount which would ratably reduce the amount in the account (after taking into account prior reductions) to zero over the period consisting of such taxable year and the remaining taxable years in such first 20 taxable years.

''(D) AMOUNTS AFTER 20TH YEAR.—Any amount in the account as of the close of the 20th year referred to in subparagraph (C) shall be treated as the applicable portion for each succeeding year thereafter to the extent not reduced under this paragraph for any prior taxable year after such 20th year.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 8, 1997.

SEC. 1072. ALLOCATION OF BASIS AMONG PROPERTIES DISTRIBUTED BY PARTNERSHIP.

(a) IN GENERAL.—Subsection (c) of section 732 is amended to read as follows:

''(c) ALLOCATION OF BASIS.—

''(1) IN GENERAL.—The basis of distributed properties to which subsection (a)(2) or (b) is applicable shall be allocated—

''(A) first to any unrealized receivables (as defined in section 751(c)) and inventory items (as defined in section 751(d)(2)) in an amount equal to the adjusted basis of each such property to the partnership (or if the basis to be allocated is less than the sum of the adjusted bases of such properties to the partnership, in the manner provided in paragraph (3)), and

''(B) to the extent of any remaining basis, to other distributed properties—

''(i) first to the extent of each such property's adjusted basis to the partnership, and

''(ii) then, to the extent any increase or decrease in basis is required in order to have the adjusted bases of such other distributed properties equal such remaining basis, in the manner provided in paragraph (2) or (3), whichever is appropriate.

''(2) METHOD OF ALLOCATING INCREASE.—Any increase required under paragraph (1)(B) shall be allocated among the properties—

''(A) first to properties with unrealized appreciation in proportion to their respective amounts of unrealized appreciation before such increase (but only to the extent of each property's unrealized appreciation), and

''(B) then, to the extent such increase is not allocated under subparagraph (A), in proportion to their respective fair market values.

''(3) METHOD OF ALLOCATING DECREASE.—Any decrease required under paragraph (1)(A) or (1)(B) shall be allocated—

''(A) first to properties with unrealized depreciation in proportion to their respective amounts of unrealized depreciation before such decrease (but only to the extent of each property's unrealized depreciation), and

''(B) then, to the extent such decrease is not allocated under subparagraph (A), in proportion to their respective adjusted bases (as adjusted under subparagraph (A)).''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

SEC. 1073. REPEAL OF REQUIREMENT THAT INVENTORY BE SUBSTANTIALLY APPRECIATED.

(a) IN GENERAL.—Paragraph (2) of section 751(a) is amended to read as follows:

''(2) inventory items of the partnership,''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 751 is amended to read as follows:

''(d) INVENTORY ITEMS.—For purposes of this subchapter, the term 'inventory items' means—

''(1) property of the partnership of the kind described in section 1221(1),

''(2) any other property of the partnership which, on sale or exchange by the partnership, would be considered property other than a capital asset and other than property described in section 1231,

''(3) any other property of the partnership which, if sold or exchanged by the partnership, would result in a gain taxable under subsection (a) of section 1246 (relating to gain on foreign investment company stock), and

''(4) any other property held by the partnership which, if held by the selling or distributee partner, would be considered property of the type described in paragraph (1), (2), or (3).''

(2) Sections 724(d)(2), 731(a)(2)(B), 731(c)(6), 732(c)(1)(A) (as amended by the preceding section), 735(a)(2), and 735(c)(1) are each amended by striking ''section 751(d)(2)'' and inserting ''section 751(d)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales, exchanges, and distributions after the date of the enactment of this Act.

SEC. 1074. EXTENSION OF TIME FOR TAXING PRECONTRIBUTION GAIN.

(a) IN GENERAL.—Sections 704(c)(1)(B) and 737(b)(1) are each amended by striking ''5 years'' and inserting ''10 years''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property contributed to a partnership after June 8, 1997.

SEC. 1075. LIMITATION ON PROPERTY FOR WHICH INCOME FORECAST METHOD MAY BE USED.

(a) LIMITATION.—Subsection (g) of section 167 is amended by adding at the end the following new paragraph:

''(6) LIMITATION ON PROPERTY FOR WHICH INCOME FORECAST METHOD MAY BE USED.—The depreciation deduction allowable under this section may be determined under the income forecast method or any similar method only with respect to—

''(A) property described in paragraph (3) or (4) of section 168(f),

''(B) copyrights,

''(C) books,

''(D) patents, and

''(E) other property specified in regulations.

Such methods may not be used with respect to any amortizable section 197 intangible (as defined in section 197(c)).''

(b) DEPRECIATION PERIOD FOR RENT-TO-OWN PROPERTY.—

(1) IN GENERAL.—Subparagraph (A) of section 168(e)(3) (relating to 3-year property) is amended by striking ''and'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting '', and'', and by adding at the end the following new clause:

''(iii) any qualified rent-to-own property.''

(2) 4-YEAR CLASS LIFE.—The table contained in section 168(g)(3)(B) is amended by inserting before the first item the following new item:

''(A)(iii) ..... 4 ''

(3) DEFINITION OF QUALIFIED RENT-TO-OWN PROPERTY.—Subsection (i) of section 168 is amended by adding at the end the following new paragraph:

''(14) QUALIFIED RENT-TO-OWN PROPERTY.—

''(A) IN GENERAL.—The term 'qualified rent-to-own property' means property held by a rent-to-own dealer for purposes of being subject to a rent-to-own contract.

''(B) RENT-TO-OWN DEALER.—The term 'rent-to-own dealer' means a person that, in the ordinary course of business, regularly enters into rent-to-own contracts with customers for the use of consumer property, if a substantial portion of those contracts terminate and the property is returned to such person before the receipt of all payments required to transfer ownership of the property from such person to the customer.

''(C) CONSUMER PROPERTY.—The term 'consumer property' means tangible personal property of a type generally used within the home. Such term shall not include cellular telephones and any computer or peripheral equipment (as defined in section 168(i)).

''(D) RENT-TO-OWN CONTRACT.—The term 'rent-to-own contract' means any lease for the use of consumer property between a rent-to-own dealer and a customer who is an individual which—

''(i) is titled 'Rent-to-Own Agreement' or 'Lease Agreement with Ownership Option,' or uses other similar language,

''(ii) provides for level, regular periodic payments (for a payment period which is a week or month),

''(iii) provides that legal title to such property remains with the rent-to-own dealer until the customer makes all the payments described in clause (ii) or early purchase payments required under the contract to acquire legal title to the item of property,

''(iv) provides a beginning date and a maximum period of time for which the contract may be in effect that does not exceed 156 weeks or 36 months from such beginning date (including renewals or options to extend),

''(v) provides for level payments within the 156-week or 36-month period that, in the aggregate, generally exceed the normal retail price of the consumer property plus interest,

''(vi) provides for payments under the contract that, in the aggregate, do not exceed $10,000 per item of consumer property,

''(vii) provides that the customer does not have any legal obligation to make all the payments referred to in clause (ii) set forth under the contract, and that at the end of each payment period the customer may either continue to use the consumer property by making the payment for the next payment period or return such property to the rent-to-own dealer in good working order, in which case the customer does not incur any further obligations under the contract and is not entitled to a return of any payments previously made under the contract, and

''(viii) provides that the customer has no right to sell, sublease, mortgage, pawn, pledge, encumber, or otherwise dispose of the consumer property until all the payments stated in the contract have been made.''

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 1076. REPEAL OF SPECIAL RULE FOR RENTAL USE OF VACATION HOMES, ETC., FOR LESS THAN 15 DAYS.

(a) IN GENERAL.—Section 280A (relating to disallowance of certain expenses in connection with business use of home, rental of vacation homes, etc.) is amended by striking subsection (g).

(b) NO BASIS REDUCTION UNLESS DEPRECIATION CLAIMED.—Section 1016 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) SPECIAL RULE WHERE RENTAL USE OF VACATION HOME, ETC., FOR LESS THAN 15 DAYS.—If a dwelling unit is used during the taxable year by the taxpayer as a residence and such dwelling unit is actually rented for less than 15 days during the taxable year, the reduction under subsection (a)(2) by reason of such rental use in any taxable year beginning after December 31, 1997, shall not exceed the depreciation deduction allowed for such rental use.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1077. EXPANSION OF REQUIREMENT THAT INVOLUNTARILY CONVERTED PROPERTY BE REPLACED WITH PROPERTY ACQUIRED FROM AN UNRELATED PERSON.

(a) IN GENERAL.—Subsection (i) of section 1033 is amended to read as follows:

''(i) REPLACEMENT PROPERTY MUST BE ACQUIRED FROM UNRELATED PERSON IN CERTAIN CASES.—

''(1) IN GENERAL.—If the property which is involuntarily converted is held by a taxpayer to which this subsection applies, subsection (a) shall not apply if the replacement property or stock is acquired from a related person. The preceding sentence shall not apply to the extent that the related person acquired the replacement property or stock from an unrelated person during the period applicable under subsection (a)(2)(B).

''(2) TAXPAYERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to—

''(A) a C corporation,

''(B) a partnership in which 1 or more C corporations own, directly or indirectly (determined in accordance with section 707(b)(3)), more than 50 percent of the capital

interest, or profits interest, in such partnership at the time of the involuntary conversion, and

''(C) any other taxpayer if, with respect to property which is involuntarily converted during the taxable year, the aggregate of the amount of realized gain on such property on which there is realized gain exceeds $100,000. In the case of a partnership, subparagraph (C) shall apply with respect to the partnership and with respect to each partner. A similar rule shall apply in the case of an S corporation and its shareholders.

''(3) RELATED PERSON.—For purposes of this subsection, a person is related to another person if the person bears a relationship to the other person described in section 267(b) or 707(b)(1).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to involuntary conversions occurring after June 8, 1997.

SEC. 1078. TREATMENT OF EXCEPTION FROM INSTALLMENT SALES RULES FOR SALES OF PROPERTY BY A MANUFACTURER TO A DEALER.

(a) IN GENERAL.—Paragraph (2) of section 811(c) of the Tax Reform Act of 1986 is hereby repealed.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) COORDINATION WITH SECTION 481.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such changes shall be treated as initiated by the taxpayer,

(B) such changes shall be treated as made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account under section 481(a) of the Internal Revenue Code of 1986 shall be taken into account ratably over the 4 taxable year period beginning with the first taxable year beginning after the date of the enactment of this Act.

The CHAIRMAN pro tempore. Pursuant to House Resolution 174, the gentleman from New York [Mr. RANGEL] and a Member opposed each will control 30 minutes.

Does the gentleman from Texas [Mr. ARCHER] wish to control the time in opposition?

Mr. ARCHER. Yes, Mr. Chairman, I do.

The CHAIRMAN pro tempore. The gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes in opposition.

The Chair recognizes the gentleman from New York [Mr. RANGEL].

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

Mr. Chairman, the President of the United States, as I pointed out, made an effort to get a bipartisan bill. It is still referred to by the chairman of the Committee on Ways and Means as a bipartisan bill. The President has reviewed that bill, the President has, the Secretary of the Treasury has. They think that it is very difficult for them to see the goals and objectives that they wanted to have.

One of the classic examples would be in the area of education. The President sees the dream of an America, that our economic growth would be based on productivity, and he knows so well that in this area of education is where we are lacking. We have one of the biggest imports into China, American education. Those people are going there, picking up our technology, and through 1½ billion people, they are able to be more productive.

Which area are we going in America? We have the prison population growing, not our education population. We have 1.5 million people in jail, not only not productive, but hundreds of billions of dollars is being paid just to keep them incarcerated.

In the Democratic alternative that we are talking about, we take it even further than the President's plan, and say, start in our public school systems, but do not try to do it alone. Bring in our private sector. What will be the jobs demanded in 10 years, in 20 years, in 30 years? Formulate that in a partnership with the schools so that the employees will be able to come from the communities in which they live, and when they graduate from high school, when they graduate from college, they not only would have the pomp, the circumstance, and the diploma, but they would have a job, so they will not be dependent on society.

Clearly we have seen a division in our way of thinking. We have an opportunity now to have a bill that is fair for Americans. The President is not going to tolerate that the other party dictate who are working Americans. You can use your formulas, make up your charts, but if you are working, the President of the United States insists that you get the child credit to assist you with some of the problems that you face.

The President is not going to accept the capital gains tax indexing. We went out of our way to make certain that we can make it freer for the small business person, the farmer, those people that have special needs. But we cannot afford to have, in the next 5, 10, 15, 20 years, revenue losses that our budget cannot carry.

So since we know that the President says that the Republican bill is not bipartisan, it is born politically dead on arrival, it is going to be defeated, let us pick up what we can to make certain that we have an alternative that can go into conference, and invite our Republican friends to learn what bipartisanship is about.

We have swallowed a lot on our side. We ask you to really work with us so we can take to the American people not a battle based on class but a bipartisan effort to show that we can work together, liberals and conservatives, Democrats and Republicans, with the President of the United States for a better America.

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 welcome the remarks of the gentleman from New York [Mr. RANGEL]. I certainly work to achieve bipartisanship. I would say to the gentleman, since we have worked so hard in plowing this ground for tax relief for middle-income Americans, beginning with the Contract With America in 1994, that I would welcome his joining us in a bipartisan effort to pass this bill.

While my proposal offers tax relief for life, the Democrat substitute provides tax relief for a portion of life. It is helpful to parents with children but it does not help the children once they grow up to become taxpayers. The Democrat substitute contains provisions that actually hurt the taxpayer. The manner in which they stack the child credit and the EITC represents a back-door increase in welfare spending. The substitute has a $300-per-child tax credit through the year 2001, not $500, which hard-hit families need; takes money away from middle-income parents who pay income taxes and gives it to people who do not pay income taxes or who already receive a large check from the Government.

Republicans think income tax relief should be reserved for people who pay income taxes. They have waited 16 years for this relief. And it should be devoted to them. And, yes, we do not give the tax credit, which is an income tax credit, to those who pay no income tax.

The substitute actually raises taxes because it cancels the scheduled drop in the FUTA tax, the Federal unemployment tax, which is a tax on payroll, a tax on work and is a discouragement for job creation.

Their education provisions, just like the President's, risk driving up college costs for all Americans, thanks to their inflationary nature.

Finally, the capital gains provision is way too limited to protect domestic savings and to increase risk-taking in the development of more business opportunities and greater job creation.

Mr. Chairman, I believe clearly that although the Democrats are trying and trying very hard, and I applaud them for that, that they should rather join us in a program that really gives relief, which has been too long in coming, creates the opportunity for job expansion, economic growth, and greater jobs for Americans who are now finally trying to get off welfare and to break the cycle of dependency. I urge a vote against the substitute.

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

Mr. RANGEL. Mr. Chairman, I yield 1 minute and 30 seconds to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Chairman, one of the many good reasons to oppose this Republican tax bill is the fact that it actually increases taxes on some Americans, a tax on educational opportunity.

There are universities all across this country who assist their graduate students who work as teaching assistants, as research assistants, by reducing their tuition and lowering their cost of education. Under the current law, when graduate students get that help, their

tuition assistance is not taxable. But under this bill, as proposed by the Republicans, those students who represent our future will face a significant tax increase while at the same time the Republican bill will give many tax breaks to the rich and famous of America.

These teaching and research assistants are providing assistance with over 40 percent of the courses at many of our largest universities. They get by on $12,000 to $15,000 a year at the same time they are trying to get an education and help others get an education.

At the University of Texas in Austin, we have more of these graduate students than any other college in the country. To Joe and Sheryl Schaefer, this is not just some arcane print in the Tax Code. Rather, these two neuroscientists who represent our future and who also happen to be the parents of a young baby while they maintain a near perfect 4-point average at the University of Texas, they will not get a dime from the child tax credit under this Republican bill.

But they will face such a substantial increase in their taxes under this bill that they have told me that one or both of them will have to drop out of graduate school.

I have heard the same thing from other graduate students across this country. Hiking taxes on young Americans like this, which the Democratic substitute does not do but the Republican tax bill does do, is a tax on education. It is in the wrong direction. Let us live up to our commitment on education and reject the tax increase.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. THOMAS], respected member of the Committee on Ways and Means, chairman of the Subcommittee on Health.

(Mr. THOMAS asked and was given permission to revise and extend his remarks.)

Mr. THOMAS. Mr. Chairman, I thank my chairman for yielding me the time.

I talked earlier about the fact that the Democrats are just loath to have the myth of Republicans only cutting taxes for the rich and so they have had to create a ridiculous explanation of how much someone has to argue that this is for the wealthy. But I now realize that they have another problem; that is, they have tax package envy.

It is amazing to listen to the Democrats put together a tax package. Is it not interesting in their tax package they have a child credit? We have a child credit; they have a child credit. But it is a whole lot like Hollywood, when you walk down the movie sets, they are a facade. It looks like a house but it is really just a fake front. They do not give $500 to families until 2001.

We have capital gains. They have capital gains. There is that front, looks like capital gains. Walk through the door. It is not available to people who trade in public securities. There is a lifetime cap of $600,000, but they need that section for their tax bill.

Education, there is no incentive here to save and to grow and to teach people that education is valuable, and we have a structure that will allow you to nurture growth for education. It is a 100 percent pass-through.

Let me tell my colleagues, as soon as those institutions out there, in my background as a teacher, once you have a $10,000 checkoff spot on your income tax, do you know how much tuition is going to go up? Do you know what the argument is going to be? Just pass it through. Where is quality? Where is growth? Where is incentive?

But they have got that facade. Estate tax, have to have the estate tax facade. It is there not for individuals, just small businesses. Expiring provision, got to have a section on expiring provisions. Read the fine print. It is only for 1 year. Why bother? Because they have tax package envy. We have expiring provisions. They have to have expiring provisions.

And then to really show you the game, all day the gentleman from New York has been talking about giving hardworking people relief, not just those who pay income taxes, but those people who pay other taxes as well. Well, one of the biggest taxes that are paid are payroll taxes. If an employer pays a payroll tax, that is money not available to go to the worker.

Guess what, in the fine print of their tax package is the perpetuation of a payroll tax, $6.3 billion over 5 years. While they are saying we ought to give some relief to those who pay payroll taxes, they are perpetuating a tax which guarantees workers will get less.

Tax package envy, I am really surprised. It looks pretty good. It looks a lot like ours, but beware, it is a Hollywood set.

Mr. RANGEL. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, the issue is not whether there is going to be a tax cut. It is who going to get most of it. Under the Republican tax bill, you have the biggest transfer of wealth out of the pockets of low- and middle-income families to the most well-off families in this country that we have had since 1981. The Republican package does not contribute to long-term deficit reduction. It threatens it.

The Democratic bill, by contrast, provides far more help to families who make less than $75,000 a year. It does not penalize working mothers who need child care because they are concerned about their children. It helps Main Street rather than Wall Street.

I am not envious at all of the Republican package. I am appalled by the fact that it once again, as they have done continuously in this Congress, tried to use virtually every other piece of the tax package as a Trojan horse to drive through this place a giant bonanza for the wealthiest 100,000 or 200,000 tax-paying families in this country. That is wrong and the Democratic package tries to correct it.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to a respected member of the Committee on Ways and Means, the gentleman from Arizona [Mr. HAYWORTH].

Mr. HAYWORTH. Mr. Chairman, I listened with great interest to the ranking member of the Committee on Appropriations. I have a great deal of respect for the gentleman from Wisconsin. But I think this points out the fundamental difference between our two major parties. Indeed, to echo the comments of my colleague from California, sadly, sadly so many of our friends on the other side are unalterably opposed to the American people hanging onto more of their own money and sending less of it here to Washington that they would try to nitpick an agreement broadly arrived at with the President of the United States.

Mr. Chairman, all we need do is listen to the hardworking American people. One of my constituents, via telefax, a small business owner, Jon Cramer, points out the wisdom of those who live far beyond the Beltway in the great State of Arizona, when he says, ''JD, you cannot give an income tax break to those who do not pay income taxes.''

It is a very simple thought. Not fraught with cruelty, as some would suggest, but a commonsense compassion. And again it is important to note the reality of the evaluation by the nonpartisan Joint Tax Commission that tells us that fully, fully 76 percent of the tax relief in the Republican plan goes to families earning between $20 and $75,000 a year.

Indeed, for those who lament and would claim the greatest tax breaks go to the wealthy, well, it is interesting to evaluate who they believe is wealthy. Mr. Chairman, I do not believe anyone here who is a homeowner pays rent to himself, and yet that is the twisted evaluation that comes from the highly partisan report from the Treasury Department.

No, I believe that the majority tax plan is the best and I believe that, sadly, though our friends on the other side rhetorically come here to the well and say that, yes, they have now embraced tax cuts, history is an incredible teacher. It shows us, Mr. Chairman, that for the first time in 16 years, the first time in over a decade and a half, a new majority is finally about the business of giving Americans, working Americans, much-needed tax relief.

My colleague from California said it well, and I do not impugn the motives of those on the other side who are trying to catch up and proffer some sort of tax relief. Indeed, in a sense, Mr. Chairman, it is a measure of how far we have come, but sadly the minority substitute has miles and miles and dollars and dollars to go before it is credible.

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

say that I am a member of this bipartisan Joint Committee on Taxation. I have not hired any staff. I have not seen any reports. I know it is bipartisan because the chairman said it was. But if we would be kind enough to release this bipartisan statement so we would know what is in it, I think the American people will have a better idea about our differences.

Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BENTSEN].

(Mr. BENTSEN asked and was given permission to revise and extend his remarks.)

Mr. BENTSEN. Mr. Chairman, I rise in opposition to H.R. 2014 and in support of the substitute of gentleman from New York.

Mr. Chairman, I support the bipartisan balanced budget agreement and I support responsible tax relief, but I cannot support the legislation before us today because it is unfair and fiscally irresponsible. This legislation does not do enough to help middle-income families. What it does is set off a tax time bomb that will drain revenue from the Treasury and cause budget deficits to explode again and completely undermine our efforts to balance the budget for the first time since 1969.

Mr. Chairman, I support responsible tax relief. I have introduced legislation to reduce the capital gains tax on a sliding scale based on how long an asset is held, which I believe would be both economically productive and fiscally responsible. But this legislation makes no distinction between productive and unproductive investments and will do little to spur economic growth. Even worse, it includes inflation indexing that would cause revenue losses to explode after it fully takes effect.

This bill is also unfair in many ways. It gives more than half its benefits to the wealthiest 5 percent of Americans, people making an average of $250,000 a year. It denies the full $500 per child tax credit to 15 million working, taxpaying, wage-earning parents because it doesn't let them count the credit against their payroll taxes. It limits tax breaks on college for those most in need of this assistance by providing only half of the $1,500 tuition tax credit originally proposed by the President. And it penalizes working families by cutting back on their child tax credit if they have child care expenses.

Even worse, Mr. Chairman, middle-income families will be penalized again in the future when the costs of this tax legislation explode and cause massive budget deficits to build up again. Then we would face the choice of either increasing taxes or cutting vital programs such as Medicare, Medicaid, and education to pay for these exploding tax cuts.

And explode they will. This tax bill is full of gimmicks to limit the costs of the tax cuts in the first 5 years and to hide their true long-term costs. The size of the net tax cuts grows rapidly after the first 5 years. In the second 5 years, net tax cuts grow at 15 percent per year, much faster than inflation or growth in the size of the economy. The explosion will be even worse outside the 10-year horizon.

We need responsible tax relief that helps our families and keeps the Federal budget in balance. That is what the Democratic substitute will provide. The majority of the tax cuts in the substitute benefit middle-income Americans. It provides a full $1,500 tuition tax credit for each of the first 2 years of college and a credit of 20 percent of tuition costs after the first 2 years. This is a vital investment because, in today's global, high technology economy, higher levels of education are required than ever before. While the capital gains tax reduction in the substitute does not conform with that which I believe is most productive, it is more responsible than that contained in H.R. 2014. This substitute also provides tax relief to families who are selling their home, the biggest investment for most middle-income families; it helps families struggling to keep the family business and the family farm in the family; and it does not contain back loaded provisions that explode the deficit.

The Democratic substitute is more fair and more responsible. I urge a ''no'' vote on the bill and a ''yes'' vote on the Democratic substitute.

Mr. RANGEL. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. Mr. Chairman, what we have here is a continuation of the argument that began in 1993. Late in the evening hour, without one Republican vote, the Democratic Members of this House voted for a deficit reduction plan that worked. That is what has brought us here today to the position of where we can discuss tax cuts for the American people.

I recall that evening because of the hand wringing that we heard from the other side. I remember the doomsday prophets who took on the well on the other side and predicted that the modern American economy would be wrecked because of what the President and the Democratic majority at that time were doing here in the House. What has been the result? Four years of unparalleled economic prosperity and economic growth where each quarter seems almost to get better than the previous quarter. It has almost defied modern imagination because the Democrats had the courage to take on the issue of deficit reduction in a real way. So today this is a continuation of that argument. This is not an argument about tax cuts.

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We all agree that this is the time for tax cuts. What we honestly bicker about today in this institution is simply this: Who is to get these tax cuts?

Now, we can believe the people that gave us our Social Security and Medicare and the 8-hour workday and the notion that everybody in America ought to be able to try their hand at college, people like me, who went to college because of Social Security, or we can accept the arguments of those on the other side that now they are the champions of middle-class Americans because they favor tax cuts for the people who reside on Wall Street.

The simple truth is that the Democratic substitute that we have today is not tax cut envy; it speaks to middle America. It assists 12 million Americans who are struggling with the costs of tuition. It does address the issue of estate tax relief. It speaks to capital gains.

And we forced the issue of capital gains in this simple sense: We believe that for middle-income Americans the most capital asset they are ever going to have is their home. We argue on their behalf today that they need relief.

We address the issue of middle-income tax relief in our Democratic alternative. Offer an affirmative vote. Vote for the Democratic alternative.

Mr. ARCHER. Mr. Chairman, I yield 1½ minutes to the gentleman from Ohio [Mr. CHABOT].

Mr. CHABOT. Mr. Chairman, I think we all know when a big government liberal gets his hands on your money, he is going to be very reluctant to give it back. Today we are hearing from a lot of our liberal friends on the other side of the aisle who are facing that very dilemma.

In 1993 this Congress, then under control of the liberal Democrats and joined by President Clinton, engineered the largest single peacetime tax increase in American history. Shortly thereafter, the taxpayers decided to elect a Republican Congress; and today that Republican Congress is attempting to cut taxes.

Mr. Chairman, the howling has started. Our liberal friends have come to the well, one after another, waging what amounts to class warfare, trying to convince us that tax cuts for working families are somehow unfair.

Like it or not, Mr. Chairman, we are going to pass a bill today that cuts taxes for American families, that cuts taxes for those who sell their homes, that cuts the death tax. Hopefully the President will not stand in our way.

We keep hearing ''tax cuts for the rich, tax cuts for the rich.'' Seventy-five percent of the tax cuts that we are talking about go to people who make less than $75,000. Let me repeat that. Seventy-five percent of the tax cuts that we are talking about go to people who make less than $75,000.

So what is the liberal Democrats' definition of the rich? I guess it is anybody who has got a job. So let us pass the tax cuts. Let us get away from all this ''tax cuts for the rich.'' Let us do something for the American people.

Mr. RANGEL. Mr. Chairman, I yield 2½ minutes to the gentleman from Maryland [Mr. HOYER].

(Mr. HOYER asked and was given permission to revise and extend his remarks.)

Mr. HOYER. Mr. Chairman, working Americans are in need of tax relief. They are also in need of their country balancing its budget. The Republican bill fails average, hard-working Americans on both counts.

Al Hunt of the Wall Street Journal says of the Gingrich-Archer plan that it is, and I quote, ''a bonanza for the affluent, crumbs for the working class, and eventually costly.'' In fact, it will likely cost over $600 billion in the second 10-year period from 2008 through

2017. The capital gains, IRA, and estate tax provisions alone are more expensive in the year 2007 than they are in the entire first 5 years.

Look at this chart. On the far right here is the first 5 years of their tax cut where, lo and behold, the capital gains brings us money. That is the bait. The switch, in 2007 alone the capital gains explode into the loss of revenue. Who is going to pay for that?

Last weekend's NBC-Wall Street Journal poll said that two-thirds of Americans reject the Republicans' bonanza for the affluent and support the Democratic tax cut for mainstream working Americans who need relief from the burden they bear from income taxes but also, as the chairman surely knows, those half of Americans who pay more in FICA than they do in income taxes.

Hunt's characterization of the Republicans' failure to give relief to most working Americans who need it is an effort which, and I quote, ''shamefully shortchanges the working poor,'' that is what the other bill does, and I am not envious at all of that bill, I say to the gentleman from Arizona [Mr. HAYWORTH].

In 1993 Republicans led the Nation into deep debt, a course not reversed until President Clinton's budget was adopted in 1993, as has been pointed out, without one Republican vote. That resulted in five straight years of deficit reduction, the first time that has happened in this century.

We Democrats are for giving tax cuts to working Americans, small businessmen and family farmers, and our alternative does just that. We should reject the Republican's repeat of the 1981 disaster. We should give real cuts to those most pressed in our society Americans who are going to work daily, staying off welfare and raising their children, making America stronger for their efforts.

Mr. ARCHER. Mr. Chairman. I yield 3 minutes to the gentleman from Louisiana [Mr. MCCRERY], another well-respected member of the Committee on Ways and Means.

Mr. MCCRERY. Mr. Chairman, I thank the gentleman from Texas [Mr. ARCHER] for yielding. I just want to talk for a couple minutes about their question of children in working families that will not receive the tax credit.

I think what everybody should know is that those children or at least the families of those children already receive a tax credit, the earned income tax credit. Even though those families do not have any income tax liability, in other words, even though those families pay zero in income taxes, we provide them with a tax credit. We send money back to them from Washington, even though they do not send any income taxes to Washington, so we already give those families a tax credit.

Our bill provides some income tax relief through an income tax credit to families with children who pay income taxes. Now, having talked to a lot of folks down in my district on the street about this, that kind of makes sense to them. If you pay income taxes, you need a tax break, you need the child tax credit. If you do not pay income taxes, you should not get an income tax credit. I think that probably makes sense to most Americans, and that is what we are trying to do in our bill. If we want to talk about increasing welfare benefits, which is what the earned income tax credit is, then we can do that.

I happen to like the earned income tax credit. I think it is sound policy. It does encourage people to get off welfare and into work. But that is a different subject from giving hard-working, tax-paying Americans a tax break. So I hope that the public will not be confused by the continual harangue from the other side that we are not giving the families of certain numbers of children this tax break. We already give them a tax break. We already give them money back when they pay no taxes.

So the bill that the Democrats have proposed is, in effect, an increase on welfare benefits, not a true income tax credit for folks who pay income tax.

Mr. RANGEL. Mr. Chairman, I yield myself such time as I may consume, and I would just like to say to the gentleman that it is a hurting thing when you are talking about working Americans with children asking for welfare, whether they all are asking for the dignity to continue to work, and sever the benefits that other working families would get.

Mr. RANGEL. Mr. Chairman, I yield 1½ minutes to the gentleman from Maine [Mr. ALLEN].

Mr. ALLEN. Mr. Chairman, I thank the gentleman from New York [Mr. RANGEL] for yielding.

In the course of this debate there has been a lot of reference by the other side to the fact that 76 percent of the benefits of this tax cut will go to families earning $75,000 a year or less. We have heard that number over and over again, 75 percent, 76 percent.

It is a bogus number because it does not include, when they measure family income they do not include interest, they do not include dividends, they do not include investment income in municipal bonds, they do not include money from other investments. If you have someone earning $200,000 in dividends and interest, they are listed on the records of the Joint Committee on Taxation here as earning nothing unless they have income of $30,000 or so. The 76 percent is a bogus number.

If we look at the Treasury figures, those numbers measure dividends, they measure all sorts of investment income. When we look at those numbers, only 22 percent of the benefits of this tax cut go to families earning $75,000 or less. Twenty-two percent is the real number, not 76 percent.

Now, by contrast, the Democratic substitute provides 58 percent of its benefits to families earning less than $75,000. That is the truth. There is a huge difference between 22 percent and 58 percent. The Democratic substitute provides tax relief for working families because, let us face it, those families who get $200,000 in dividend income are earning more than $75,000.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. DELAY], the majority whip of the House of Representatives.

Mr. DELAY. Mr. Chairman, I appreciate the chairman yielding me this time. I rise in opposition to this substitute and in support of the Taxpayers Relief Act of 1997.

It has been 16 years since the taxpayers of America have had tax relief from the Federal Government, and today's bill is long overdue. But instead of embracing tax relief, the Democrat minority embraces class warfare.

America's working families are forced to pay over 50 percent of their salaries to the government because of high taxes and costly regulations. No wonder it takes one parent to work for the Government while the other parent works for the family. Instead of working with us to ease that tax burden, the minority leadership offers in their substitute more welfare.

It should come as no surprise that the members of the minority oppose this bill. Asking liberals to go support tax relief is like asking aliens to come back to Roswell. If it has not happened in the last 50 years, it probably will not happen in the next 50 years.

The liberals oppose tax cuts but they choose to cloak their opposition in the rhetoric of class warfare. Frankly, this rhetoric is giving me a headache. It is like listening to my daughter Mandy's favorite music. The beat is simple, the volume is loud, but the ultimate contribution to society is meaningless.

Mr. Chairman, we need less rhetoric for the Democrats regarding taxes and more illumination. Our tax cuts help working families in all stages of life, from those who have children to those who are grandparents, from those who want to save for a retirement to those who want to invest in the future of America. Working families are not necessarily rich in wealth, but they are rich in spirit.

The liberals believe that these people do not deserve tax relief, and I think that is pretty sad. So I just urge my colleagues to reject this weak substitute and vote for America's first tax cut in 17 years.

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Mr. RANGEL. Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana [Mr. JEFFERSON].

(Mr. JEFFERSON asked and was given permission to revise and extend his remarks.)

Mr. JEFFERSON. Mr. Chairman, I rise in opposition to the Republican's so-called Taxpayer Relief Act and in support of the Democratic substitute. We are all for tax cuts, Democrats and Republicans. But, the question

is, will middle-income families, the working families of our country, get any relief from the Republican's capital gains tax cut? The answer is very, very little, if at all. This is necessarily true because middle-class working families own very little of the capital assets that are taxed at capital gains rates today. If your family made between zero and $25,000 last year, you were in an income group that paid 2.2 percent of the capital gains taxes. Those who made between $25,000 and $50,000 paid another 8 percent of the capital gains taxes. And, if you made between $100,000 and $200,000, you paid 16 percent of the capital gains taxes.

The fact is that 60 percent of all capital gains taxes paid in 1996 were paid by taxpayers who made more than $200,000. These super rich taxpayers, make up only 1 percent of all the taxpayers in America; only 110,000 tax filers out of more than 110 million taxpayers, and they get a tax break of roughly $7 billion a year. So how do we make capital gains tax breaks fair to working families?

The Democratic substitute does it by targeting the capital gains tax relief to small businesses, family farms, and homeowners. It leaves out most families that make more than $100,000 a year, and gives 76 percent of its tax relief to families that make less than $100,000 a year.

The Democratic substitute targets family farm owners and small business owners for its estate tax relief, assets that keep families together and that usually represents a lifetime of work and investment.

The Republican's bill gets worse still on capital gains. Not only do more than half of the capital gains tax breaks in this bill go to the top 1 percent, it is going to open the door to an old stripe of shenanigan that only the super rich taxpayer can play. It will reintroduce the opportunity for clever new tax shelters. This is because there will now be under the Republican bill a 20 percent differential between the top marginal rate of 39 percent that high-income earners will have to pay on salaries and the 20 percent capital gains rate that Republicans are pushing on the floor.

If you were a high-income taxpayer making more than $100,000 a year, wouldn't you rather pay a 20 percent rate on your earnings that a 39 percent rate? Of course you would. So what you would do, with your lawyer or your tax accountant, is devise ways to re-characterize your income from income from a salary to income from a capital asset. Thus, by changing the name of your income, or as a tax lawyer would say, by recharacterizing your income, you could save 20 percent of the taxes that you otherwise would have to pay. It's a great deal if you can get. But you can only get it if you are one of the super rich in our country. This is a back to the future tax bill. It's the same old story all over again—if you are a working stiff, you work and pay your taxes; and if you are a high-income taxpayer, you find a loophole to get out of paying. This Republican bill provides loopholes big enough to drive a Brink's truck through, and that's exactly what the high-income taxpayers of this country are going to do. the Republican bill is an unfair, unprogressive, inefficient, complex tax proposal. The Democratic substitute solves these problems.

Like we used to say in the Louisiana legislature, the Republican tax bill is a snake and we ought to kill it. Then pass the Democratic substitute.

Mr. RANGEL. Mr. Chairman, I yield 8 minutes to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Chairman, I thank the gentleman from New York for yielding the time, and if I could, just in taking in all this debate, and we are now discussing the Democratic alternative, it strikes me that there are two provisions that really make it clear why the Democratic alternative is so much better than the bill we have before us from the Republican majority.

First, when my colleagues talk about the child tax credit, when any working American comes home with that pay stub and that American looks down the list of taxes paid, I do not think the American says, well, that was excise tax, that was payroll tax, that was income tax. She knows she paid taxes. And for those here in this Chamber to say that those taxes paid by that individual making $20,000, $23,000, $28,000 do not count verges on being un-American to me because that is a tax paid to provide for the operation of this government and the programs that we all use.

Second, the average cost of a community college education, a public community college education, is about $1,200. Under the Republican tax bill, they will get a credit, but only half of that, $600.

In our bill we try to reflect what the President agreed or thought he agreed to do with the Republicans when he negotiated a budget deal, and that was to give them a $1,200 tax credit for education.

Two ways that the deal was broken. There are other ways the deal was broken. The gentleman from Texas [Mr. DOGGETT] mentioned one, that we are going to be taxing graduate students. That seems to me to be so unfair, and I see the gentlewoman from Michigan [Ms. STABENOW] here.

Ms. STABENOW. Mr. Chairman, will the gentleman yield?

Mr. BECERRA. I yield to the gentlewoman from Michigan to make some remarks.

Ms. STABENOW. Mr. Chairman, I appreciate my friend from California yielding to me regarding the issue of graduate students because there is an important difference between the Democratic and Republican plan. As we know, in the Republican plan they take away what is now tuition tax relief. If someone is a graduate student, and I received a number of letters from Michigan State University graduate students in my district indicating that they are receiving right now about $15,000 in salary for teaching graduate courses, and that is in addition to some relief that they get by being given tuition, free tuition, in order to be able to go to school, the Republican plan would now tax that tuition that they are given as part of their salaries. And so my $15,000 graduate student that is working their way through school will add $1,000 to their tax bill. That is a huge tax cut, $1,000 on a $15,000 salary. The other piece that is so important about the Democratic plan——

Mr. BECERRA. Reclaiming my time, they are taxing graduate students and they are collecting $430 million in taxes as a result of doing that, and at the same time they are giving corporations a tax windfall and not asking them to pay any taxes. Does that seem fair?

Ms. STABENOW. It is not fair, and one of the reasons I am proud to support the Democrat plan is that we fulfill the commitment of giving over $35 billion; I believe it is over $40 billion, to education-related tax relief so anyone going to school can further their education to get a good job, and that graduate student will not actually see a tax increase.

It is amazing to me that as we are talking about tax cuts today that for too many of my constituents they are going to see an actual tax increase, and I am not going to support a tax increase on those folks.

Mr. BECERRA. Mr. Chairman, I yield to the gentleman from Louisiana [Mr. JEFFERSON].

Mr. JEFFERSON. Mr. Chairman, I think what is really important is that the Republicans are using gimmicks in this whole operation. Just as they are in the education tax credit area, so they are doing it in the capital gains area. When they tell us that 75 percent of the capital gains taxes go to ordinary folks who are middle-income taxpayers, what they are saying in the first 5 years when they use this idea of induced sales, this gimmick of induced sales, but when we look past the first 5 years there is a huge windfall for those high-income taxpayers, and this is, after all, a 10-year window we are dealing with here, not the first 5 years.

So we need to tell the whole story that this Democratic substitute does it quite differently. We come up front with what we are talking about here, we give the capital gains tax to people who need it, the small business owners, those people who are small farmers and folks who are homeowners. These are the folks who make up the heart of America, and these are the people who are hard-working folks who need the help, and we concentrate our capital gains relief to them, and this is no gimmick, this is real relief for those people.

Ms. STABENOW. Mr. Chairman, will the gentleman yield?

Mr. BECERRA. I yield to the gentlewoman from Michigan.

Ms. STABENOW. Mr. Chairman, I came to Congress in January representing middle-Michigan, middle-class working men and women in Michigan who want to receive tax relief directly in their pockets. What I see is a basic philosophical difference about how to create jobs and grow the economy in this country. Republicans say give it to those at the top, it trickles down. We say put it directly in the pockets, money directly in the pockets of middle-income working people,

whether it is their house, sending their children to college, their children, their small business, their farm, put it in their pocket; they will turn around, buy cars, buy houses, take care of their children. That is how we create jobs and that is why I support this proposal.

Mr. BECERRA. Mr. Chairman, I see one of the gentlewoman's colleagues is also interested and I will recognize the gentlewoman from Michigan [Ms. KILPATRICK] in a second. If I can just mention this child tax credit we have been talking about all day, 73 million children in this country under the age of 18. Under the Democratic alternative, 60 million children will be provided with a tax credit. Under the Republican plan, 39 million children; 21 million children will not.

Ms. STABENOW. Would the gentleman from California say that again, please, for us?

Mr. BECERRA. Sixty million children under the Democratic alternative will qualify for the child tax credit. Under the Republican plan, 39 million. Twenty-one million children in America will not qualify under the Republican plan that will under the Democratic plan.

Ms. KILPATRICK. Mr. Chairman, will the gentleman yield?

Mr. BECERRA. I yield to the gentlewoman from Michigan.

Ms. KILPATRICK. Mr. Chairman, for those reasons we need to support this tax plan. The Democratic plan takes care of more American families, it offers more opportunities for America's children, and it offers the tax cuts to those families who need the tax cuts, hardworking families who pay taxes.

So I thank the gentleman from California for yielding, and I hope and encourage my colleagues to vote for the Democratic plan, the tax plan that does offer tax cuts to America's working families.

The Republican tax bill would deny tax credits for another 4 million lower middle income children. Forty percent—2 out of every 5 children—would be ineligible for the credit because their family's incomes are not high enough. The total number of children denied this credit because their families do not make enough money would be 28 million. The Republican's highly touted $500 tax credit that is nonrefundable allegedly gives tax relief to families. While corporations will reap a $22 billion windfall in this bill, 28 million children would get nothing.

The Republican tax bill denies tax credits to working families. For example, a family of four with two children with no child care expenses would not receive any credit unless its income exceeded $24,385. Moreover, if the family had child care expenses, it could earn as much as $27,180 and fail to qualify for the credit. Also, families that have more than two children, or have high mortgage or health care costs and itemize their deductions, could make close to $30,000 and still not qualify for the credit.

The Democratic tax bill has real child credit tax credits. The Democratic bill does not compute a family's child care tax credit after the earned income tax credit [EITC] is figured. This is a significant difference—millions of lower- to middle-income families owe income tax before EITC is calculated, but have little or no income tax obligation remaining after EITC is calculated. Under the Democratic bill, these families would be covered.

The Republican tax bill's largest tax cuts—capital gains, Individual Retirement Accounts, estate, and corporate taxes—provide most of their benefits to the rich. The richest 1 percent get more of the overall tax break than the bottom 60 percent combined. According to the Center on Budget and Policy Priorities, the Joint Tax Committee's distribution tables do not reflect any of the benefits that taxpayers would receive from these four provisions.

The Democratic tax bill makes the benefits in these four areas, especially for working people, fair. It provides 71 percent of the tax breaks to families earning $100,000 or less. It provides a capital gains tax cut, an estate tax cut, and tax cuts for small businesses, family farms, and homeowners. The only way that you are eligible for these tax breaks is if you work and pay taxes.

Mr. BECERRA. Reclaiming my time, Mr. Chairman, just in closing because I know we are going to run out of time, is just mention the reason there is a difference of 21 million children is because we do what we can to provide a tax break for those families that are earning $30,000 and under. The Republicans unfortunately say it is not worth it because they do not believe that that tax that we are imposing on those families is worth counting.

So it is a difference of opinion. There is a difference in values here.

Ms. STABENOW. Mr. Chairman, will the gentleman yield?

Mr. BECERRA. I yield to the gentlewoman from Michigan.

Ms. STABENOW. Mr. Chairman, we have talked a lot today about a police officer in Georgia. I would like to just like to share with my colleague my police officers' starting salary in Lansing, MI, as well as my firefighters.' They start at $26,800, working hard. These are folks with families, protecting my community whether it is for fires or from crime. Under the proposal the Republicans have, they will not receive the full $500 child tax credit because they get another tax credit. Under the Democratic plan my firefighters and police officers will receive the total amount of tax credits and deductions that they ought to receive to be able to help take care of their families. Folks with higher incomes get lots of different tax credits. I want my firefighters and my police officers to be able to get what they have now in tax credits and be able to get the full value of the $500-per-child tax credit.

Mr. BECERRA. I do not know what the gentlewoman from Michigan did but she is bringing out all her colleagues from Michigan.

Mr. LEVIN. Mr. Chairman, will the gentleman yield?

Mr. BECERRA. I yield to the gentleman from Michigan.

Mr. LEVIN. Mr. Chairman, just quickly I want to say again about this 76 percent figure that the Republicans have used. It is at best a 5-year figure. One of the benefits of going to conference would be that the Republicans here will have to face up to the consequences of their bill over 10 years. What it means in terms of exploding the deficit and what it means in terms of fairness, the Democratic alternative is fiscally responsible and fair. The Republican proposal is irresponsible fiscally and unfair both in education and the child credit among others.

I urge that we support the Democratic alternative.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. BLUNT].

(MR. BLUNT asked and was given permission to revise and extend his remarks.)

Mr. BLUNT. Mr. Chairman, I have some concerns about this bill that I think could be handled in conference. I will be supporting the Republican bill that gives relief to American families today.

Mr. Chairman, while I intend to support this tax relief bill today, I want the record to reflect my concern about two provisions of the bill that I strongly oppose. One is the limited renewal of employer provided continuing undergraduate education reimbursement. While the Senate tax bill extends the current law section 127 exemption permanently, the House bill extends sec. 127 until December 31, 1997.

Nearly two-thirds of major employers in southwest Missouri offer this benefit, affecting over 60,000 workers in Springfield and Joplin alone. These employers include a chicken processor, a fan belt manufacturer, a paper goods processor, and a ball bearings producer. Without a long-term extension of section 127, many of these companies will discontinue this benefit, denying their employees the help they need to improve their skills.

The second provision I oppose is the elimination of tax exempt treatment of tuition reduction provided to employees of educational institutions. Again, the Senate bill maintains the current law. The majority of people who take this benefit are staff members, not faculty.

The person who cleans toilets for $7 an hour so that both of her children can attend college at the same time would have to pay taxes on a tuition benefit that far exceeds her income. Graduate teaching assistants at an institution like Tulane would pay taxes on a tuition benefit of $20,930 per year with an income stipend that is far lower than the tuition benefit.

Let me be clear that I am not concerned about the president of Harvard or the person who heads up the medical program at Johns Hopkins. What I object to is raising taxes on people who clean chickens for a living or work as security guards at colleges. It is simply unthinkable that we would make it harder for people who make fan belts or work at a college to go to school, get a graduate degree, or work at a job that makes higher education affordable for their kids.

While I do intend to vote for the bill today, I do so only because I have been assured by the Republican leadership that they will work to address my concerns before the final version of this legislation comes back before the House next month. The American people have long deserved the tax relief we are considering today, and I look forward to working with

Chairman ARCHER and our leadership as the bill goes to conference.

Mr. ARCHER. Mr. Chairman, I yield 30 seconds to the gentleman from Louisiana [Mr. MCCRERY].

Mr. MCCRERY. Mr. Chairman, I just wanted 30 seconds to respond to my good friend from California. Nobody on this side of the aisle said that payroll taxes were not taxes. Certainly they are taxes. We recognize that and we created the earned income tax credit specifically for that purpose, to give those families some tax relief against the burden of those payroll taxes. But they do not pay any income taxes so we are not going to give them income tax relief.

So I just wanted to make that point crystal clear. They are taxes, we believe they are taxes, we already give them a credit against those taxes.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. RAMSTAD], a respected member of the Committee on Ways and Means.

(Mr. RAMSTAD asked and was given permission to revise and extend his remarks.)

Mr. RAMSTAD. Mr. Chairman, I thank my distinguished chairman for yielding this time to me and for his strong leadership in bringing this Taxpayers Relief Act to the floor to provide hardworking Americans with the most substantial tax relief since 1981, Mr. Chairman. This tax relief bill here today truly does cover people at all stages of life, from the childhood years through the education years to the savings years and into the retirement years.

But in addition to the five major provisions in this tax bill which have been debated most extensively here today, the child tax credit, the education tax incentives, the capital gains tax relief, the extension of IRAs and reduction in death taxes, I would like to focus on three provisions which have not gotten much attention today but are very, very important to help victims of the recent flooding in the Red River Valley, and I would like to thank the chairman and the other members of the Committee on Ways and Means who worked together in a bipartisan way, who listened to those flood victims when we were there in the Red River Valley at those town meetings, particularly the gentleman from North Dakota [Mr. POMEROY] and the gentleman from Minnesota [Mr. PETERSON] on the other side of the aisle who worked to help craft these provisions.

This bill today, this tax relief bill, includes special mortgage revenue bond rules for those people to rebuild their homes, their apartment buildings and houses in the flood areas. It includes extensions of IRS deadlines for flood area taxpayers. And it also includes special IRS rules for sales of livestock caused by the horrible historic flooding in the Red River Valley.

Mr. Chairman, this bill will help real people right away. This bill will not only help all taxpayers at all stages of their life, but particularly right now those people in the Red River Valley who have been devastated, devastated by the horrible flooding. This Congress has listened to those people at those town meetings elsewhere, when the mayors came out here. The Committee on Ways and Means has responded. I strongly urge my colleagues to pass this important bill.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. SHIMKUS].

(Mr. SHIMKUS asked and was given permission to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Chairman, this debate speaks highly in support of tax reform, a fairer, flatter, simpler Tax Code, but as a new Member this debate has also been very disheartening.

As a West Point cadet I lived by a motto: I will not lie, cheat or steal nor tolerate those who do. As an Army officer we said an officer's word is his bond. I am here to tell my colleagues 75 percent of these tax cuts go to those who make $75,000 or less.

Let us reject the Democratic proposal and continue the work that the American people sent us here to do.

□ 1630

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Chairman, I thank the gentleman for his leadership on this bill.

The majority bill, Mr. Chairman, will give the hard-working Americans their first tax cut in 16 years. It will allow millions of hard-working American families the opportunity to keep more of their own money and make their own decisions about what they do with it.

I am especially pleased with provisions that deal with assistance in education. The House tax relief plan provides millions of college-age students and their parents with a $1,500 tax credit that provides 15 percent of expenses for the first 2 years of college, vocational training, or other postsecondary education program.

Moreover, parents and students are also provided with a $10,000 deduction per student per year for expenses with State prepaid tuition plans for education investment accounts and families making penalty-free withdrawals from any IRA to help further cover the cost of college, vocational training, or other postsecondary education program.

This House Republican plan will also allow families to make contributions to non-State-operated education investment accounts to encourage savings for college, and I would ask support for the majority proposal from the Committee on Ways and Means.

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

Mr. RANGEL. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. SANCHEZ].

Ms. SANCHEZ. Mr. Chairman, tonight I wanted to be in my hometown with my constituents, the people who worked hard to get me here. But they recognize the historic importance of the vote we are about to take on this bill. As we are casting our votes, I urge my colleagues to carefully consider every American who will be affected by our actions today.

This is a monumental day. Before us we have the opportunity to vote on a bill which will affect the life of every single American. But before we take that vote, we must really think about whether or not every hard-working American is being treated equally. Will all Americans, including single parents, workers who are struggling to get by on the minimum wage, and families with schoolchildren receive the benefits promised from this tax bill?

I am a fiscal conservative. I agree with my colleagues on both sides of the aisle that we must balance the budget, that we should cut taxes, and that we must cut spending. Today's proposed tax bill has big problems. However, the Democratic substitute addresses the capital gains tax, the child tax credit, and the education tax credit in a more equitable fashion than the proposed Republican tax bill.

Working-class Americans should not be excluded from the majority of the tax cuts. Working-class Americans should not continue to carry the burden of taxes without sufficient relief, and working-class Americans deserve fair tax relief from this Congress.

If this bill does pass and go to conference, I hope the conferees will remember the pledge that we made for equality of tax relief. Fairness in taxation is what we pledged to the American people. Fairness is what we must deliver in our actions here today.

Yesterday, it was with much hesitation that I voted in favor of the spending bill. Although this bill may not follow through on all of the promises of the balanced budget agreement, it is an important first step as the budget moves to conference.

Mr. ARCHER. Mr. Chairman, I have no further requests for time, and I will close, so I would encourage the gentleman from New York [Mr. RANGEL] to use the balance of his time.

Mr. RANGEL. Mr. Chairman, I yield 30 seconds to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman for yielding to me.

Let me briefly say that I rise in strong support of the Democratic alternative on two counts. One, just take as an example the chairman of Microsoft who would get capital gains and estate tax reductions and even a new IRA provision under the Republican plan that would also let him take a $4,000 tax break for educational expenses, while at the same time a working police officer in my district in Houston and a working police officer in the Speaker's district would not be allowed to get a tax credit for their children, or to benefit from this particular Republican

bill. The bill on the Democratic side allows for working Americans to receive tax cuts.

Mr. Chairman, I rise today in support of the Democratic alternative to H.R. 2014. The Democratic plan authored by the distinguished ranking member of the Ways and Means Committee, Representative CHARLES RANGEL, is the fairer tax plan. It is the plan that gives tax relief to those who need it—to hard-working tax-paying families. The Democratic substitute provides 71 percent of tax cuts to families earning less than $100,000.

The Republican plan, in striking contrast, overwhelmingly benefits the wealthiest at the expense of working families. A recent analysis by the Center for Budget and Policy Priorities highlighted this disparity and revealed that between the Republican tax bill and spending bill voted on yesterday, the very wealthiest 1 percent of families will have their incomes boosted by an average of $27,000 a year, while struggling families in the bottom 20 percent of the economic ladder actually end up losing $63 a year. According to an analysis of the Republican bill by the Treasury Department, the richest 1 percent get more of the overall tax breaks than the bottom 60 percent combined.

The disparities between the Democratic and Republican plans are most obvious in the areas of education and child care tax credits. The differences illustrate clearly the lack of concern in the Republican plan for our Nation's working families.

The Democratic alternative would make the $500 child credit available to families who work and pay taxes—and who earn less than $75,000. This ensures that millions more children would qualify for the tax credit than do under the Republican bill. The Republican bill denies adequate tax relief to 15 million working, tax-paying families by refusing to give them the full $500 child tax credit for the earned income tax credit. This would mean that a working family with two children earning $25,000 would not receive the $500 child credit.

Democrats understand that college affordability is a priority for American families and so the Democratic substitute provides the full $1,500 HOPE scholarship tuition tax credit for the first 2 years of postsecondary education including vocational and 2-year educational programs, as well as a credit of 20 percent of tuition costs after the first 2 years. The Republican bill, however, skimps on tax breaks for college by providing only half of the $1,500 HOPE tuition tax credit and only for the first 2 years of college illustrating that the Democratic plan is the one that protects and provides for the concerns of working families.

Additionally, the Democratic alternative provides immediate and targeted tax relief to small businesses and family farms. It does not give capital gains tax breaks to wealthy people whose principal assets are stocks, bonds, and collectibles as the Republican plan does.

Finally, the Republican bill gives large corporations a $22 billion windfall by scaling back the corporate minimum tax. The Democratic alternative contains no such provision.

Mr. Chairman, it is abundantly clear that H.R. 2014, the Republican tax plan, is one that is designed to benefit the wealthy in our Nation. It is for this reason that I stand resolutely behind the Democratic alternative—a balanced tax package that is good for working families and good for America.

Mr. RANGEL. Mr. Chairman, I yield 30 seconds to the gentlewoman from California [Ms. WOOLSEY].

(Ms. WOOLSEY asked and was given permission to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Chairman, it is absolutely certain that we knew when we passed the balanced budget that the devil would be in the details. Well, this bill is full of devils. I would urge everyone who really wants to help working families and to support educational opportunities to vote it down.

Mr. RANGEL. Mr. Chairman, I yield the remainder of the time for closing purposes to the gentleman from Missouri [Mr. GEPHARDT], the Democratic minority leader.

(Mr. GEPHARDT asked and was given permission to revise and extend his remarks.)

Mr. GEPHARDT. Mr. Chairman, I rise tonight in favor of the Rangel Democratic bill and to speak in favor of it over the Republican bill.

I rise to raise a simple question, which is who should be getting the lion's share of the benefit from this tax cut bill. Everybody is for tax cuts. I am, the Republicans are, I think every Member of the House is happy tonight that we are here on the floor talking about tax cuts. The reason we are here, in my view, is that the Democratic Party in 1993 produced this deficit dividend as a result of courageous votes cast by Democrats, all Democrats in 1993. Now we are very near to balancing the budget. Some say we might even balance the budget next year as a result of that action.

So the question is, who gets the tax cut? I believe, and I think Democrats believe, that this tax cut should go to hard-working, middle-income families and families struggling to get into the middle class.

I refer the Members to these charts. The Republican bill gives 19 million families the lion's share of their tax cut, about 70 percent, to families earning over $100,000 a year. They only give about 30 percent of their tax cut to families earning less than $100,000, whereas with the Democratic tax bill we give the lion's share of our tax cut to families earning below $100,000 a year, 91 million families. We give a tax cut to families earning over $100,000 a year, but it is less of a tax cut. We want everybody to have a tax cut, we just want the lion's share of it to go to hard-working middle income families and families trying to get into the middle class.

My colleagues may say why? Why do we insist that the tax cut go to people in the middle and trying to get into the middle? There is a simple reason. The people at the top, the 19 million families that are the top earners in the country have seen their income over the last 20 years go up by about 50 percent. We are thrilled that their income has gone up. God bless them. I wish everybody in this country would have their income go up by 50 percent. But the truth is, the people below $100,000 a year in income over the last 20 years has seen their income stay in place, or they have even fallen behind. It is that central fact that leads us to the conclusion that the people under $100,000 a year are the people that ought to claim the lion's share of this tax cut.

Now, our tax cut is a families first tax cut. Let us talk about the child credit for a minute. A lot has been made of the fact that in the Republican bill families earning $20,000 and $25,000 a year do not get the full child credit because we, together, Republicans and Democrats, decided to cut these families' taxes by the earned income credit on a couple of occasions over the last 10 years, trying to help those hard-working families do well. Now we are being told that we cannot give them the child credit because they are on welfare.

How dare anyone say that someone is on welfare who goes to work every day earning $17,000 and $20,000 and $25,000 a year. They are paying taxes. They are paying the Social Security tax. They are paying Federal excise taxes, they are paying State taxes, they are paying local taxes, they are paying lots of taxes, and they need help. And they above everyone need the child credit.

Now, let us talk about education. What is more important in today's world than getting an education? We are in a global economy. We have to have highly productive workers. We all know that mental capability is the most important thing, the currency of the world economy. And we are saying, let us make sure every young person in this country, no matter what their income, gets a chance to go to college. The President has talked about it now for 5 years.

Ben Naes lives in my district in Barnhart, MO. He is 21 years old. He just came through community college. He is trying now to go to State university. If our tax bill had been in place last year, he would have gotten an $1,100 tax credit or his family would have so he could go to college. Under the Republican bill, he would have gotten about a $700 credit. More importantly, next year when these bills might be in place, he is going on to State university. He could get $600 out of our bill to go to State university; under the Republican bill, not a red cent of help for Ben Naes. Ben Naes got a 3.9 in community college. He wants to be a biochemist. He could be a biochemist and would not come out with a mountain of debt if the Democratic bill were in place.

Mr. Chairman, I remember when I wanted to go to college. My dad was a milk truck driver and we did not have a lot of money. And my mother took me down to the church that we went to, Third Baptist Church in St. Louis and we sat down across from the pastor and we asked if we could have a loan from the church. I am old enough, we did not have Pell grants, we did not have loans, we did not have tax bills

that gave credits, and the minister of our church had a little scholarship fund and he gave us $500, which helped toward the $1,500 tuition at my college. Ben Naes maybe can go to the church and get that kind of a loan, but he needs more than that to get to the State university today. He needs the Democratic tax bill to help him go to college.

Now, let me end by saying this: As my colleagues go to vote on these two bills, put out of your mind everything you have heard from every lobbyist, put out of your mind everything that you have seen in ads put in by special interest groups in the newspapers, put out of your mind everything that you have been told by the people who have had the ability to approach you in the halls or call you up; put out of your mind what people at fundraising events have told you about what should happen in this tax bill, and put in your mind the people that you represent in your district and remember that the median household income in this country is $35,000 a year. Put them in your mind. Put Ben Naes in your mind and vote for a tax bill that in good conscience helps the hard-working middle-income families of this country. Let us pass the Democratic tax bill, the Rangel bill, which is the best bill.

Mr. ARCHER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, as I have listened to this debate, I have been struck by the philosophical difference that still exists between some in the Democrat Party and the rest of us who are trying to change the way Washington works.

As Republicans and some Democrats move forward to balance the budget and reduce the tax burden on the American people, we have made our governing philosophy clear. We believe that the strength of this great Nation lies not with the Government, but with its people. Left to their own, without Government interference, red tape or excessive taxation, there is no problem that the people cannot solve. We have proved that over and over again in our history. We also believe that the great social experiment of the last 30 years has led to an unparalleled expansion of the Federal Government. It is clear, it is in the books. But sadly, it has failed to solve our Nation's most difficult problems, whether they be education or drugs, or family breakdown. They have gotten worse, not better.

The Government we inherited along with the bankruptcy on whose brink we have been left has overextended its reach and has made promises that no government can actually fill. This is, after all, only a government. It cannot take the tax dollars that are earned by one citizen, hand them to another citizen, and then believe that it has improved the lot of either. For 30 years we tried that. It is called tax and spend.

Mr. Chairman, the time has come to admit that tax and spend has failed. It is time to reduce the size of Government to stop wasteful Washington spending and give the tax dollars back to the people who earn them. It is time we stopped punishing the successful. Instead, we must help more Americans so that everyone can become successful, so that that ladder of upward mobility is available to all of us. We do not stay in one income category in the United States; we take advantage of our opportunities.

My father was broke in 1932. He lost his job. He was in default on his home mortgage. He started from scratch on borrowed money. He took the risk. He spent the work hours. Yes, he earned, but he came back, and ultimately he achieved the American dream of a small businessman, yes, a small businessman who was successful.

When we listen to the economic class warfare in this country, we would think everyone stays in the same income category throughout their entire life. We would think that people who save for a lifetime for an asset and sell it one time in their life, perhaps for $150,000, or $200,000 is rich. But they did not have that income in every year. But those are the kinds of statistics that distort the rhetoric on these tax bills.

□ 1645

It is time to bring the American people together. It is time to put economic class warfare aside. We all share in this opportunity in this great country.

I would like to have heard the debate rhetoric in 1961, when President John F. Kennedy proposed the first major reduction in capital gains taxes, the first major across-the-board tax relief. How would that have disturbed you, I say to my colleagues over here on the Democrat side? What would your rhetoric have been to the John F. Kennedy tax relief bill that spurred economic growth in this country?

And he spoke to that to the American people. He did not indulge in economic class warfare. He spoke about what is right for the country to generate jobs, to generate growth, to generate more opportunity for all Americans. It is clear from this debate that the Democrat caucus remains a liberal caucus. The overwhelming majority of the Democrat party, the party I once belonged to, insists that the Government in Washington remains the only solution and represents the best hope of how to solve our problems.

Yes, if we could only spend more money, my friends on the other side of the aisle argue, we could make our Nation's problems go away. While the world has changed, the Democrat leadership has not. They still cling to the notion that an ever-expanding Federal Government, one that requires more taxes from its citizens, is the best hope we have to solve our problems.

While the heart of the Democrats may sound as if they are in the right place, their fingers surely are in the wrong place, because their fingers remain stuck deep in the wallets of middle-income working income tax-paying Americans, trying to take from one citizen in order to give to another.

Yet, it is true that this bill is limited to tax relief for middle-income families who pay income taxes. We will not take away from those families and their children to give to families who pay no income tax. That is not what this particular bill is all about. Other bills in the past have done that. There is time to address those problems. This, as President Clinton said when he campaigned in 1992, should be a tax relief bill for middle-income Americans who pay income taxes.

To my friends across the aisle I have a simple message: Let it go, let it go, let it go. We have tried your way. For 30 years we raised taxes and we increased spending. It is now our turn. It is the turn of silent, hard-working Americans who have paid and paid and paid to see their earnings redistributed to others.

And to my friends across the aisle, hear my plea: vote for your constituents, not your leadership. Exercise your judgment. Show your independence. Do what you know is right. Vote for the taxpayer, and vote for the majority Taxpayer Relief Act.

Mr. CLAY. Mr. Chairman, few issues that we will debate this Congress better illustrate the gulf that exists between Democratic and Republican priorities for working families. The measure before us launches an unprecedented transfer of wealth from the poor and middle class to the wealthy. According to the Citizens for Tax Justice, 41 percent of the tax cuts in this plan go to the top 1 percent of taxpayers.

By contrast, taxpayers with incomes in the lower 40 percent would see no benefits, and some would get a tax hike.

The education related tax credits shortchange lower-income families as well. It provides a nonrefundable tax credit equal to half the college expenses up to $3,000 a year. The credit will be unavailable to most low-income families because it is not refundable. It significantly disadvantages students who attend lower tuition institutions such as community colleges, because the credit only includes tuition, not living expenses.

The proposal also discriminates against low-income families by reducing the amount of tax credit by the amount of any Pell grant award.

By contrast the Democratic alternative tax proposal provides a $1,500 tax credit that will be accessible to middle income and poor families. The credit will be refundable, thus benefiting low- and middle-income students, and does not have a Pell grant offset.

The Democratic alternative allows the credit to be used for all college expenses and includes a 20-percent tax credit for the remaining years of college.

The Republican plan has been totally repudiated by the Clinton administration. In a letter to Chairman ARCHER this week, Secretary Rubin concluded that education package falls nearly $13 billion short of the agreed goal of $35 billion in tax cuts for education directs more benefits toward upper-income families while reducing the benefits to lower-income families.

I urge my colleagues to reject this flawed, unjust tax scheme and adopt the Democratic alternative plan.

Mr. DOYLE. Mr. Chairman, I am in strong support of the Democratic substitute. My constituents in western Pennsylvania and I believe that the budget deficit is one of the most important issues facing our country. Consequently, it is absolutely crucial that this reconciliation legislation provides for a budget which is brought into balance and then stays in balance. Unfortunately, this Republican revenue bill, which has been crafted by Chairman ARCHER, is riddled with gimmicks, back loaded tax expenditures, and false assumptions which will explode the deficit after 2002. The Democratic alternative, on the other hand, will provide tax relief for middle-class families that can really use it and is still compatible with real, long-term deficit reduction.

The Republican estate tax provisions are a prime example of the short-sighted nature of their plan. Like the Democratic alternative, the archer bill doubles the estate tax exemption from $600,000 to $1 million. However, the chairman's plan implements this change over the course of an entire decade. In doing so, Chairman ARCHER is able to mask the real costs of his proposal, which will not be felt until well after 2002.

Because the Democratic estate tax provisions are more clearly focused, the costs are manageable and affordable, even when fully implemented. As a result, the Democratic alternative provides for nearly immediate reform of estate taxes. Rather than waiting until 2007, the small business people and farmers, who desperately need estate tax relief, would be able to utilize the $1 million exemption next year. This nearly immediate phase-in could help thousands more family owned businesses than the Archer plan.

In addition, I believe that we can spur economic growth and empower millions of middle-class investors by reducing the capital gains tax rates in an economically conservative manner. However, the Archer capital gains plan is not only socially inequitable, it is fiscally irresponsible. In fact, it is timed to provide a fleeting increase in revenues, which helps bring the budget into balance in 2002. But then, in the following years, the costs of this program sky rocket.

This gimmick is part of the chairman's proposal to index capital gains for inflation after 2002. In order to qualify for the indexing on assets held before 2001 investors will have to pay between $10 and $12 billion in taxes, as part of a one time mark-to-market levy. With the help of this one time infusion, the Archer capital gains plan will actually result in an overall revenue increase of $2.7 billion from 1997 to 2002. However, in the 5 years following the 2002 target date, the capital gains provisions will cost $37.5 billion, and they will continue to increase steadily for years to come.

I am troubled by these tax cuts which will explode in the out years because, for some time, I have subscribed to the view that we should balance the budget first, and then consider tax cuts. However, this bipartisan budget agreement demands that tax cuts be enacted this year. I recognize this compromise is perhaps our best chance to balance the budget, and I do not wish to risk scuttling the process by fighting such a substantial component. I believe it is crucial that we all work within the defined parameters, so I will support prudent, responsible tax relief for middle-class families which adheres to the budget agreement.

The Democratic substitute provides such relief. Because it abides by the budget accord, it advances capital gains tax cuts, estate tax relief, and a per-child tax credit. But, it is a stronger measure than the Archer plan in that it goes further in helping middle-class families cope with the costs of owning a home and paying for their kids' college education. Similarly, it contains initiatives not included in the Republican plan which I strongly support, such as incentives for environmental cleanups, economic development, and local school construction.

However, the biggest difference is the fact that the alternative is more economically responsible and fair. It does not lay the groundwork for decades more of mounting debt, and it gives relief to the working, middle-class families who have been struggling to get by. While over 71 percent of the benefits in the alternative go to families earning under $100,000 a year, these same families receive only around one-third of the benefits under the Republican plan, when fully phased-in. In light of this, I think it is safe to say that this Democratic substitute is the real middle-class tax cut.

The Archer tax proposal would cause the deficit to behave like a rubber ball that is dropped from high in the air. Rather than hitting the ground with a dull thud, the Archer cuts will cause the deficit to bounce right back, out of control once again. It seems to me that if the leadership were serious about holding the deficit down, they would include strict deficit enforcement provisions that go beyond an exentison of the pay-as-you-go requirements. As a cosponsor of the Budget Enforcement Act, a bill that would lock in deficit reduction, I have been working with Members from both sides of the aisle to have this measure attached to this reconciliation legislation. The Republican leadership has said that the Budget Enforcement Act will be brought to the floor next month. While I am disappointed they would not allow us to offer it as an amendment to there conciliation legislation, I am pleased it will be considered. However, the Rules Committee chairman has indicated that the bill may be altered before coming to the floor. I believe it would be a grave mistake for the leadership to weaken the Budget Enforcement Act in any way.

Given the structure of the Archer plan a return to deficit spending appears nearly inevitable, and if we allow the deficit to bounce up again after 2002, we will have accomplished nothing. Actually, we will have done something worse than nothing. We will have cynically brought the budget into check for one passing moment just to reap political rewards.

Mr. Chairman, this would be unconscionable. We must balance the budget and keep it balanced. If we are going to have tax relief, we must be fiscally responsible and we must target those truly in need of relief. The Democratic alternative meets these criteria. The Archer plan does not. I urge my colleagues make a vote for the long-term economic health of this country and support the Democratic substitute.

Mr. POSHARD. Mr. Chairman, I rise today in opposition to this bill and in support of the substitute offered by my Democratic colleagues. I have worked hard for many years toward the goal of a balanced Federal budget, because I felt I owed that to my constituents, and to all hard working American taxpayers and their children. And while I am proud of this Congress and the administration for beginning the balancing process by working together and making some of the tough choices we are all going to be required to make, I will not blindly support whatever reconciliation bill comes to the floor, simply because it carries the label of a balanced budget agreement.

As I have said, I believe that balancing the budget is our obligation to working families and the children who eventually must bear the financial burdens of the choices we make today. But a balanced budget is not worth supporting if, in the final analysis, it actually hurts the people we claim to have been working for all along. The tax package before us today ignores those to whom I feel we owe a duty, and it rewards those who are least in need of relief. Why work so hard to balance our budget, to finally arrive at a place where we can afford to offer tax cuts, only to have the vast majority of cuts go to the wealthiest 20 percent of Americans? This not why I have toiled for so many years, promoting fiscal responsibility, supporting a balanced budget amendment, opposing wasteful spending. No, Mr. Speaker, I have worked in pursuit of a different goal: to provide security, stability, and relief to the most vulnerable among us.

The balanced budget plan crafted by President Clinton and congressional leaders called for a fair distribution of tax cuts, and I voted in support of that agreement. If I thought that mandate was carried out in the bill before us, I would vote for it as well. Unfortunately, somewhere along the way, fairness and equity have fallen by the wayside, and we are left with a dramatically uneven plan which not only prematurely provides our wealthiest citizens, with the benefits of a balanced budget, it also deprives low-income and middle-class citizens—the same people who will be forced to bear much of the burden associated with new spending cuts—of similar benefits. This plan is unjust and unjustifiable, and I urge my colleagues to oppose the Republican bill and vote instead for the Democratic substitute. No plan is perfect, and we all recognize how much work remains to be done in conference and beyond. But that should not be an excuse for complacency today. We have an opportunity to send a better bill to the conferees, and that is what I plan to do by supporting the substitute.

Only half of America's children would be covered under the highly touted child tax credits in the Republican tax bill. A shocking 49.9 percent of children nationwide would be completely ineligible for the $500 child credit under the House plan because the credit would not be available to many moderate- and low-income families. In contrast, the child credit in the Democratic substitute would cover 71 percent of American children, including 91 percent of those children whose families' incomes are in the lowest 20 percent. Likewise, the education credits, the capital gains cuts and the alternative minimum tax provisions in the Democratic substitute are the ones that truly live up to the promises of the budget agreement.

We must also think about the years beyond 2002 and take care to ensure that what we do now in the name of short-term gain does not cause new hardships in the decades to follow. Too many of the Republican tax cuts are poised to explode in the 5 years after balance is reached, erasing whatever benefits we may

have realized and creating the likelihood of additional cuts in the very programs upon which our neediest citizens depend. My conscience will not allow me to force such burdens on our children and grandchildren, and I have not waited patiently and worked diligently for so long to achieve balance, only to see it disappear in a cloud of smoke in just a few short years.

Mr. Chairman, the process of balancing the budget requires us all to make difficult choices, and I have made yet another today. I will support the Democratic substitute tax bill because I believe it is the right thing to do for my constituents, for our children, and for all hard-working Americans who have already been asked to sacrifice so much. The substitute provides a fair alternative, it lives up to the promises made in the budget agreement, it does not sacrifice long-term stability for short-term gain, and it is a plan that we can be proud to present to the American people.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, the tax plan presented by my Republican colleagues ventures far from the best interest of the average American citizen. However, the Democratic alternative runs parallel to the needs of middle income families.

Mr. Chairman, the Republican tax plan is designed to benefit those who are in the least need of a break. Analysis shows that 50 percent of the benefits from the bill will benefit the wealthiest 5 percent of American citizens. The Democrats propose an alternative plan that citizens for tax justice estimates will deliver three-fourths of tax benefits to middle- and lower-income Americans. The bill will give a tax break to those individuals who own and sell stock bonds, leaving the average middle- to low-income American without tax relief.

The Democratic alternative will give the tax break to homeowners, small business owners, and farmers, those who need it most. In addition, the alternative will give some form of tax break to every middle- to low-income working family. The Republican tax bill, however, denies a $500 tax break to 15 million families by not extending breaks to those who qualify under the earned income tax credit [EITC].

The future of America rests on the education of our children. I am sure both Republicans and Democrats alike will agree to this statement. The Republicans respond by giving a narrow $1,500 hope scholarship to the few attending certain colleges. Of course this will only apply to those attending private expensive colleges. Colleges that low-income Americans cannot afford. In contrast, the Democratic alternative will give scholarships to students of working families attending community colleges.

The Republican tax plan does not answer the Nation's plea for higher educational opportunity for all its children when their plan gives the wealthiest individuals $16,000 within a 4-year span. This is more than the amount given to lower-income families through a Pell grant. The message from such actions is that the education of the few is more important than the education of lower income children. We do not agree. The education of all children is vital to the growth and development of our country. Therefore the Democratic alternative plan will concentrate most of its resources toward the education of children from families with limited incomes that are struggling to pay for college.

The conclusion is clear. Reject the Republican tax plan just for the wealthy and support the Democratic alternative plan that includes hard-working average Americans. Are we a government just for the rich or a government for all of its people?

Mr. POMEROY. Mr. Chairman, Republicans and Democrats have agreed on a bipartisan budget plan that includes $85 billion in net tax relief over the next 5 years and $250 billion over the next 10 years. There is no disagreement between the parties over the amount of tax cuts to be provided. However, there is a sharp difference of opinion over how those resources should be allocated.

I believe there are two important principles that Congress should follow in delivering tax relief for American families: First tax cuts should not explode the deficit in future years which would increase the debt and tax burden on our children, and second, the majority of the tax cut benefits should flow to those who need it most, working and middle-income families. In my view, the Democratic alternative to the Ways and Means tax bill far better upholds these principles.

Mr. Chairman, the Ways and Means bill loses sight of the most important objective of the bipartisan budget agreement—a sustainable balanced budget. Although the revenue loss in this bill is nearly within the 10-year limits established by the budget agreement, it contains several provisions that will trigger exploding revenue loss in future years and throw the budget out of balance. For instance, the revenue loss from the back-loaded IRA provision that allows wealthy individuals to shelter their income from taxation grows at 73 percent per year. The revenue loss from the repeal of the alternative minimum tax [AMT] that ensures that America's large corporations pay their fair share of taxes grows at 49 percent per year. As a result of these provisions and others, the cost of this bill over the second 10 years skyrockets to $650–$750 billion and endangers the future fiscal health of our Nation.

Second, given the limited resources that are available to cut taxes while still balancing the budget, I believe it is critical that those resources be targeted to those who need it most—working and middle-income families. The Democratic alternative is far superior to the Ways and Means bill in this regard. The committee bill provides two-thirds of the tax benefits to the top 20 percent of income earners whereas the alternative give two-thirds of the tax benefit to families on the bottom 80 percent of the income scale.

Mr. Chairman, the alternative tax bill is also superior to the committee bill in delivering estate and capital gains tax relief to family farmers and small business. The committee bill slowly increases the estate tax exemption from the current $600,000 to $1 million over the next 10 years. The alternative, on the other hand, raises the exemption to $1 million on January 1 next year for family-owned farms and businesses. The committee bill would reduce the capital gains tax from 28 to 20 percent whereas the alternative reduces the tax rate to 18 percent without exploding the deficit by limiting the rate reduction to farm, business, and real estate assets.

In summary, Mr. Chairman, the Democratic tax alternative delivers tax relief to those who need it while better protecting the prospects for a sustainable balanced budget over the long-term. I sincerely hope the tax bill that emerges from the House-Senate conference committee will fulfill these objective so that it can be enacted with strong bipartisan support.

Ms. WATERS. Mr. Chairman, I rise today in support of the Democratic alternative tax bill. The Democratic Caucus finally came to the realization that Republican style tax-relief for the rich is not the kind of tax relief that should be adopted by this Congress.

Not all tax relief is bad. But, Republican style tax relief is immoral. The Republican tax plan benefits the rich plain and simple. The Democratic Caucus has finally defined, shaped and organized sensible tax relief for the people who need it and deserve it—the low-wage and middle-income workers of America.

The Republicans denied tax cuts to the poorest, hardest working Americans. Waitresses, drug store clerks, janitors, maids, busboys, hospital attendants, garment workers, receptionists, aides, elevator operators, farm workers, dishwashers, department store clerks, and bank tellers—these hardest-working, poorest-paid Americans are the ones who really deserve a tax break. What is in the Republican tax plan for them? Nothing, nothing, and nothing.

In the Democratic alternative, nearly three-quarters of the tax benefits go to middle- and lower-income families making less than $58,000 a year. The Republicans give the majority of their tax breaks to the wealthiest 5 percent of Americans—those making an average of $250,000 a year.

The Democratic family tax credit covers 20 million more low-income children than the Republican plan. The Republicans want to deny the family credit to 28 million children from families making less than $20,000 per year.

The Democratic alternative would also stimulate economic investment in economically distressed urban communities across the country—including my own district—by honoring the commitment made as part of the budget agreement to authorize a second round of the Empowerment Zone and Enterprise Community Program.

The Democratic alternative values working families over increasing corporate profits and tax breaks for the wealthy. I urge my colleagues to help working America. Support the Democratic plan.

The CHAIRMAN pro tempore (Mr. LATOURETTE). All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from New York [Mr. RANGEL].

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

RECORDed vote

Mr. RANGEL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 197, noes 235, not voting 3, as follows:

[Roll No. 243]

AYES—197

Abercrombie	Berry	Brown (OH)
Ackerman	Bishop	Capps
Allen	Blagojevich	Cardin
Andrews	Blumenauer	Carson
Baesler	Bonior	Clay
Baldacci	Borski	Clayton
Barcia	Boswell	Clement
Barrett (WI)	Boucher	Clyburn
Becerra	Boyd	Condit
Bentsen	Brown (CA)	Conyers
Berman	Brown (FL)	Costello

Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velazquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

NOES—235

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeFazio
DeLay
Deutsch
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—3

Meehan
Schiff
Yates

□ 1710

Messrs. PEASE, YOUNG of Alaska, SHADEGG, and Mrs. SMITH of Washington changed their vote from ''aye'' to ''no.''

Mr. DELAHUNT and Mr. DOGGETT changed their vote from ''no'' to ''aye.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. LATOURETTE). Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. LATOURETTE, Chairman pro tempore 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. 2014) to provide for reconciliation pursuant to subsections (b)(2) and (d) of section 105 of the concurrent resolution on the budget for fiscal year 1998, pursuant to House Resolution 174, he reported the bill, as amended pursuant to that rule, back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered and the amendment is agreed to.

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.

MOTION TO RECOMMIT OFFERED BY MR. PETERSON OF MINNESOTA

Mr. PETERSON of Minnesota. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. PETERSON of Minnesota. I am opposed to the bill in its current form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. PETERSON of Minnesota moves to recommit the bill H.R. 2014 to the Committee on the Budget with instructions to report the same back to the House forthwith with the following amendments:

Strike subsection (c) of section 1 and titles I, II, III, IV, V, VI, VII, VIII, IX, XI, XII, XIII, XIV, and XV.

Redesignate title X (relating to revenues), and each of the sections contained therein, as title I, and sections of title I, as appropriate.

Add at the end of the bill the following new title:

TITLE II—ADDITIONAL PROVISIONS

SEC. 201. ADDITIONAL PROVISIONS.

It is the sense of the House of Representatives that additional provisions should be added to the Internal Revenue Code of 1986 so that:

(1) CAPITAL GAINS REDUCTIONS.—

(A) REDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS.—Effective as of May 7, 1997, there is excluded from gross income of noncorporate taxpayers the following percentages of capital gains from the sale or exchange of assets:

(i) 10 percent for assets held at least 1 year.

(ii) 20 percent for assets held at least 2 years.

(iii) 30 percent for assets held at least 3 years.

(iv) 40 percent for assets held at least 4 years.

(v) 50 percent for assets held five or more years.

(B) GAINS ON SALE OF PRINCIPAL RESIDENCE.—Up to $250,000 in gain realized on the sale or exchange of a principal residence is excluded from taxation.

(2) ESTATE AND GIFT TAXES.—

(A) AMOUNTS EXCLUDED BY UNIFIED CREDIT.—The unified credit allowed to the estate of every decedent is increased, resulting in the following amounts being excluded from the estate tax:

(i) $700,000 in the case of decedents dying in 1998.

(ii) $800,000 in the case of decedents dying in 1999.

(iii) $850,000 in the case of decedents dying in 2000.

(iv) $900,000 in the case of decedents dying in 2001.

(v) $1,000,000 in the case of decedents dying in 2002.

(vi) $1,100,000 in the case of decedents dying in 2003.

(vii) $1,200,000 in the case of decedents dying in 2004 and thereafter.

(B) FAMILY FARMS AND BUSINESSES.—In addition to subparagraph (A), family farms and businesses are allowed to exclude from the gross estate up to $1,000,000, beginning in calendar year 1998.

(3) CHILD TAX CREDIT.—There is allowed against the income tax of an individual a nonrefundable credit for dependents under age 17 in the following amounts:

(A) $300 in taxable years beginning in 1997, 1998, and 1999, and

(B) $500 thereafter.

The credit is phased out for taxpayers whose adjusted gross income is between $60,000 and $75,000.

(4) TAX REDUCTIONS RELATED TO EDUCATIONAL EXPENSES.—There is allowed against the income tax of an individual—

(A) a credit of $1,500 per year for up to two years for higher education expenses, which credit—

(i) beginning with adjusted gross income of $50,000 ($80,000 in the case of a joint return),

is phased out ratably over a range of $20,000; and

(ii) is phased in by substituting—

(I) '$1,100' for '$1,500' in taxable years beginning in 1997, 1998, and 1999, and

(II) '$1,200' for '$1,500' in the taxable year beginning in 2000; and

(B) a deduction of $10,000 ($5,000 in 1997 and 1998) for higher education fees and tuition, which amount is phased out ratably over a range of $20,000, beginning with adjusted gross income of $50,000 ($80,000 in the case of a joint return).

Mr. PETERSON of Minnesota (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

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

There was no objection.

□ 1715

Mr. PETERSON of Minnesota. Mr. Speaker, I offer a motion to recommit, on behalf of my colleagues in the Blue Dog Coalition, that provides tax relief to mainstream America, small businesses, farmers, and working families, and does all of that in a fiscally responsible way.

First of all, I want to thank our leadership for allowing us to offer this. I also want to thank my Blue Dog colleagues for their hard work and determination in developing this alternative tax bill. And finally, I want to thank the gentleman from New York [Mr. RANGEL] and his staff for all of their assistance.

First of all, Mr. Speaker, we are going to hear about a chart that I just received when I walked in from Joint Tax that says we are $4.7 billion over in the first 5 years. This is the first I have seen of this. We do not agree with this, and we cannot really respond because we do not know the basis for these numbers. Clearly, this can fit within the $85 billion. It also says we are at $230 billion over the 10 years. So I just want to make that clear, and this will fit within the terms of the budget agreement.

A lot of Democrats in this body, Mr. Speaker, support tax cuts, and we always have, just as President Clinton has supported tax relief for American families. But if we are going to provide tax relief and balance the budget at the same time, tax relief must be well-constructed and targeted to working families and it must not bust the budget.

Mr. Speaker, the tax bill before us today is deficient in many respects and should be defeated. It is overly complicated. It is not targeted. It may send the budget deficit up once again outside the 10-year budget window.

The capital gains provisions in this bill are overly complicated. It will be difficult to use in the real world, and the indexation of capital gains will require so much record keeping that it is going to cause taxpayers out there a real problem to use. And this is probably going to cause us more fiscal problems in the future because of indexation.

The children's tax credit is more costly than we need to do because it includes families going up to $110,000 income. The estate tax relief income in this bill is phased in over too long a period and is less than many of us on both sides of the aisle want to do. And the backloaded IRAs in the committee bill are a bad idea that cost over $13 billion in 10 years and explode the deficit out into the future.

The alternative minimum tax provisions in the committee bill that will cost $40 billion over 10 years are also troublesome to many of us and, like other provisions in this bill, are likely to send the deficit up in the future.

What we did in this motion is really very simple. We are recommending that the Committee on Ways and Means develop a better, fairer tax bill that rewards the people who make our country work. Small businesses create 85 percent of the new jobs in this country, farmers and the working people that work on those farms and small businesses.

This bill contains a capital gains tax provision that is simple, that provides for capital gains relief like the old way we did it, that rewards long-term investment, economic growth, and job development. Our capital gains provision is simple. It provides for an exclusion from income of 10 percent per year, up to 50 percent at 5 years. So you get 10 percent; at 5 years you get a 50-percent exclusion from income.

The motion also contains immediate estate tax relief for small businesses and farmers. An exemption for closely held businesses and ranches and family farms is immediately increased to $1 million next year. It also increases the unified credit to $1 million in 2002 and $1.2 million in 2004, the first increase in this unified credit since 1976.

My motion to recommit also includes a family tax credit that provides a $500 credit for children under 17 because we believe that this will strengthen families, and this is phased out between $60,000 and $75,000 of income, not $110,000 like the committee bill.

The motion also includes the President's $1,500 HOPE scholarship, $10,000 tuition tax deductions, tax breaks that the President proposed.

It is that simple: Real capital gains relief that rewards long-term investment, immediate estate tax relief, a family tax credit, and education tax breaks for American families, real sustained immediate tax relief for American families, farms, and businesses.

Mr. Speaker, we provide these tax breaks without breaking the bank because we do not backload our provisions. This motion will not explode the deficit. This motion is responsible tax policy. And what is more, this motion provides more capital gains relief, more estate tax relief, a better, more family-friendly children's tax cut, and the important education tax breaks that most of us support.

Mr. Speaker, if this motion passes the Committee on Ways and Means, then the Committee on the Budget, can quickly return to the floor with a better tax bill, a tax bill that reflects our values, that is fair, that is good for families, good for farms, good for small businesses.

Mr. Speaker, I urge my colleagues to support this motion to recommit.

Mr. GINGRICH. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Georgia [Mr. GINGRICH], the Speaker, is recognized for 5 minutes.

Mr. GINGRICH. Mr. Speaker, let me begin, if I might, with the comment by my friend over there who referred to the recent Presidential message, asking ''Is that a veto?'' Because I think one of the things that makes today so exciting is that in fact this is a bill that the President is going to sign; that in fact yesterday the President sent up a letter supporting the bill that came up yesterday.

I am not sure whether our friend who had that comment voted with the President yesterday or voted against him. But the fact is, there is a bipartisan effort to balance the budget, to save Medicare, and to cut taxes.

This is a hard, difficult thing. It has involved much rhetoric, much negotiating, and it does not come easily, and yet it is very, very important for the American people on three levels. It is very important for rebuilding their trust in the institutions of government. It is very important for the future of their country's economy. And it is very important, at a personal level, for individuals to have a chance to have a little more take-home pay, a little more money for their children, a little more money to go to college or vocational-technical school, a little better chance to keep their family farm or family business, a little better chance to invest and create jobs and save.

These are not small things. And the fact is, we have worked with the President. It is our full expectation, as the White House said again, I think as recently as this morning, that when the negotiations are done both of these bills will be signed. That is very good for the American people.

Now my friend, the gentleman from Minnesota [Mr. PETERSON] offered a motion to recommit, and that certainly is a process that is legitimate. We frankly cannot comment on the detail because the version we had earlier has been changed so much, so I do not want to spend a lot of time. I understand that we go through these exercises.

I would point out that that motion, if we understand it based on the material we got 4 minutes ago, does increase the deficit in 1998 by $7 billion, does increase the deficit in 1999 by $11 billion. Over 5 years, it is our best estimate, having only looked at it for 4 minutes, that it is a $50 billion tax cut, not an $85 billion tax cut. But the truth is, we do not fully know because this was a

political gesture offered for political reasons so that my friend could vote for something a little different.

What I can report is that the Farm Bureau, having looked at all of our efforts, is endorsing the Archer bill. I can report that the National Federation of Independent Business, the leading small business group in America, having looked at the opportunities, is endorsing the Taxpayer Relief Act that the gentleman from Texas [Mr. ARCHER] has offered.

I can report that again and again groups that care about children, groups that care about families, groups that care about personal take-home pay, groups that care about small business, groups that care about family farms, groups that care about saving and investment and job creation have endorsed the Archer bill.

Why have they done that? Because it is a bill that was designed seriously with serious study, that evolved over a period of time, that was accurately scored, that was out in the open, that everybody had a chance to see, that did not change in the last 5 minutes before a vote.

So I would say to all of my colleagues, the only legitimate serious vote on the motion to recommit is ''no'' because the fact is, no one knows what is in the motion to recommit. No one knows how it would score. No one knows the implications. It is a nice, brief political publicity gesture. And then we should all vote ''yes''.

I would say even to my friends on the left who find it hard, if they voted for the 1993 tax increase, this is their chance to do a little bit to return some of it back to the American people.

Let me just say that for too many years this city raised taxes, increased spending, created a big deficit, and did not care about the future. It took care of this year's political needs at the expense of our children's future. The leadership from the gentleman from Ohio [Mr. KASICH] and the gentleman from Texas [Mr. ARCHER] and from so many people working with President Clinton, we have pulled together a real effort to balance the budget, to save Medicare, to cut taxes, and to give our children and our country a better future. That is why we should all vote ''yes'' on final passage.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

RECORDED VOTE

Ms. PETERSON of Minnesota. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 164, noes 268, not voting 3, as follows:

[Roll No. 244]

AYES—164

Abercrombie	Gejdenson	Mollohan
Ackerman	Gonzalez	Nadler
Allen	Goode	Neal
Andrews	Green	Oberstar
Baesler	Hall (OH)	Obey
Baldacci	Hall (TX)	Olver
Barcia	Hamilton	Ortiz
Bentsen	Harman	Owens
Berman	Hastings (FL)	Pallone
Berry	Hefner	Pascrell
Bishop	Hilliard	Pastor
Blagojevich	Hinchey	Peterson (MN)
Blumenauer	Hinojosa	Pickett
Boswell	Holden	Pomeroy
Boucher	Hooley	Poshard
Boyd	Hoyer	Price (NC)
Brown (CA)	Jackson-Lee (TX)	Rahall
Brown (OH)	Jefferson	Rangel
Capps	John	Reyes
Cardin	Johnson (WI)	Rodriguez
Carson	Johnson, E. B.	Roemer
Clay	Kaptur	Rothman
Clayton	Kennedy (MA)	Rush
Clement	Kennelly	Sabo
Clyburn	Kildee	Sanchez
Condit	Kind (WI)	Sandlin
Conyers	Kleczka	Sawyer
Costello	Klink	Schumer
Coyne	LaFalce	Serrano
Cramer	Lampson	Sisisky
Cummings	Lantos	Skaggs
Danner	Levin	Skelton
Davis (FL)	Lofgren	Slaughter
Davis (IL)	Lowey	Smith, Adam
DeGette	Luther	Snyder
Delahunt	Maloney (CT)	Spratt
Deutsch	Maloney (NY)	Stabenow
Dicks	Manton	Stenholm
Dingell	Markey	Stokes
Dixon	Martinez	Stupak
Doggett	Mascara	Tanner
Dooley	Matsui	Tauscher
Doyle	McCarthy (MO)	Taylor (MS)
Edwards	McCarthy (NY)	Thompson
Engel	McDermott	Thurman
Eshoo	McHale	Towns
Etheridge	McIntyre	Turner
Evans	McKinney	Vento
Farr	McNulty	Watt (NC)
Fattah	Menendez	Wexler
Fazio	Millender-McDonald	Weygand
Filner	Minge	Wise
Flake	Mink	Woolsey
Ford	Moakley	Wynn
Frost		
Furse		

NOES—268

Aderholt	Castle	Forbes
Archer	Chabot	Fowler
Armey	Chambliss	Fox
Bachus	Chenoweth	Frank (MA)
Baker	Christensen	Franks (NJ)
Ballenger	Coble	Frelinghuysen
Barr	Coburn	Gallegly
Barrett (NE)	Collins	Ganske
Barrett (WI)	Combest	Gekas
Bartlett	Cook	Gephardt
Barton	Cooksey	Gibbons
Bass	Cox	Gilchrest
Bateman	Crane	Gillmor
Becerra	Crapo	Gilman
Bereuter	Cubin	Gingrich
Bilbray	Cunningham	Goodlatte
Bilirakis	Davis (VA)	Goodling
Bliley	Deal	Gordon
Blunt	DeFazio	Goss
Boehlert	DeLauro	Graham
Boehner	DeLay	Granger
Bonilla	Dellums	Greenwood
Bonior	Diaz-Balart	Gutierrez
Bono	Dickey	Gutknecht
Borski	Doolittle	Hansen
Brady	Dreier	Hastert
Brown (FL)	Duncan	Hastings (WA)
Bryant	Dunn	Hayworth
Bunning	Ehlers	Hefley
Burr	Ehrlich	Herger
Burton	Emerson	Hill
Buyer	English	Hilleary
Callahan	Ensign	Hobson
Calvert	Everett	Hoekstra
Camp	Ewing	Horn
Campbell	Fawell	Hostettler
Canady	Foglietta	Houghton
Cannon	Foley	Hulshof
Hunter	Moran (VA)	Sessions
Hutchinson	Morella	Shadegg
Hyde	Murtha	Shaw
Inglis	Myrick	Shays
Istook	Nethercutt	Sherman
Jackson (IL)	Neumann	Shimkus
Jenkins	Ney	Shuster
Johnson (CT)	Northup	Skeen
Johnson, Sam	Norwood	Smith (MI)
Jones	Nussle	Smith (NJ)
Kanjorski	Oxley	Smith (OR)
Kasich	Packard	Smith (TX)
Kelly	Pappas	Smith, Linda
Kennedy (RI)	Parker	Snowbarger
Kilpatrick	Paul	Solomon
Kim	Paxon	Souder
King (NY)	Payne	Spence
Kingston	Pease	Stark
Klug	Pelosi	Stearns
Knollenberg	Peterson (PA)	Strickland
Kolbe	Petri	Stump
Kucinich	Pickering	Sununu
LaHood	Pitts	Talent
Largent	Pombo	Tauzin
Latham	Porter	Taylor (NC)
LaTourette	Portman	Thomas
Lazio	Pryce (OH)	Thornberry
Leach	Quinn	Thune
Lewis (CA)	Radanovich	Tiahrt
Lewis (GA)	Ramstad	Tierney
Lewis (KY)	Redmond	Torres
Linder	Regula	Traficant
Lipinski	Riggs	Upton
Livingston	Riley	Velazquez
LoBiondo	Rivers	Visclosky
Lucas	Rogan	Walsh
Manzullo	Rogers	Wamp
McCollum	Rohrabacher	Waters
McCrery	Ros-Lehtinen	Watkins
McDade	Roukema	Watts (OK)
McGovern	Roybal-Allard	Waxman
McHugh	Royce	Weldon (FL)
McInnis	Ryun	Weldon (PA)
McIntosh	Salmon	Weller
McKeon	Sanders	White
Meek	Sanford	Whitfield
Metcalf	Saxton	Wicker
Mica	Scarborough	Wolf
Miller (CA)	Schaefer, Dan	Young (AK)
Miller (FL)	Schaffer, Bob	Young (FL)
Molinari	Scott	
Moran (KS)	Sensenbrenner	

NOT VOTING—3

Meehan	Schiff	Yates

☐ 1742

Mr. DELLUMS and Mr. KENNEDY of Rhode Island changed their vote from ''aye'' to ''no.''

Mr. NADLER and Mr. MOLLOHAN changed their vote from ''no'' to ''aye.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the final passage of the bill.

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 253, noes 179, not voting 3, as follows:

[Roll No. 245]

AYES—253

Aderholt	Barton	Bonilla
Archer	Bass	Bono
Armey	Bateman	Boswell
Bachus	Bereuter	Brady
Baesler	Bilbray	Bryant
Baker	Bilirakis	Bunning
Ballenger	Bliley	Burr
Barr	Blunt	Burton
Barrett (NE)	Boehlert	Buyer
Bartlett	Boehner	Callahan

Calvert
Camp
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
McCarthy (NY)
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanchez
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—179

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dingell
Dixon
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E.B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McDermott
McGovern
McHale
McKinney
McNulty
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schumer
Scott
Serrano
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

NOT VOTING—3

Meehan
Schiff
Yates

☐ 1800

The Clerk announced the following pair:

On this vote:

Mr. Schiff for, with Mr. Yates against.

Mr. SHERMAN changed his vote from ''no'' to ''aye.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2016, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1998

Mrs. MYRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 105–156) on the resolution (H. Res. 178) providing for consideration of the bill (H.R. 2016) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1998, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT TUESDAY, JULY 1, 1997, TO FILE REPORT ON BILL MAKING APPROPRIATIONS FOR DEPARTMENT OF INTERIOR AND RELATED AGENCIES, FISCAL YEAR 1998

Mr. REGULA. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight Tuesday, July 1, 1997, to file a privileged report on a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

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

There was no objection.

The SPEAKER pro tempore. All points of order are reserved on the bill.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Sherman Williams, one of his secretaries.

EXPRESSING THE SENSE OF CONGRESS RELATING TO ELECTIONS IN ALBANIA SCHEDULED FOR JUNE 29, 1997

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that the Committee on International Relations be discharged from further consideration of the concurrent resolution (H. Con. Res. 105) expressing the sense of the Congress relating to the elections in Albania scheduled for June 29, 1997, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

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

Mr. TRAFICANT. Reserving the right to object, Mr. Speaker, I do not plan to object, but I would like to yield now to the distinguished chairman for an explanation.

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

Mr. TRAFICANT. I yield to the gentleman from New York.

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

At this time, Mr. Speaker, as Albanian democracy is at a crossroads, our thoughts and prayers are with the people of Albania struggling to safeguard the progress they have made toward democracy and a market-based economy.

The Albanian people have suffered enormous hardships throughout this century. We have always been hopeful that, having expelled their former Communist overlords, the way would be open for Albania's citizens to enjoy the true benefits of economic and political progress.

The events that unfolded late last year with the insolvency and the collapse of several major investment houses came as a deep disappointment. The violence that erupted earlier this year was a true shock to most Members of the Congress, including myself. Those forces or individuals who seek to reap profit or political gain from the unrest are to be condemned, and they should have no place in Albania's future.

Mr. Speaker, it is now time for us to support Albania and to make certain that the Albanians can resurrect their civil society under legitimate governmental authority. A decisive event will be taking place in the national parliamentary elections that were scheduled for this Sunday, June 29.

Those elections must be held under strict conditions that ensure the results are perceived as a legitimate expression of the political voices of the Albanian people. The process must be open, must be free and fair, so all political viewpoints have the opportunity to be heard, and the Albanian people can exercise their own judgment as to which political choices they need to make.

Whatever the outcome, as long as the election meets these standards, the parties in Albania must respect the results. A large number of international election monitors will be present, and I trust that they will be able to report favorably on the elections.

Mr. Speaker, we have a duty to continue to give all practical support to the Albanian people, who have demonstrated their good will toward our people and toward our own Government.

Accordingly, I urge our Members to unanimously support this important resolution. Our Committee on International Relations considered it just yesterday, and adopted a resolution asking that it be considered on suspension, but the leadership, realizing the time-sensitive nature of this issue, has been good enough to schedule it under unanimous-consent procedures.

Finally, I would like to thank the gentleman from Indiana [Mr. HAMILTON] for his cooperation in moving this resolution to the floor in time to have this statement recorded prior to the elections. I also want to thank the gentleman from Ohio [Mr. TRAFICANT], the sponsor of this resolution, for his efforts on this behalf, and more broadly, for his efforts on behalf of the Albanian democracy and the Albanian people.

Mr. TRAFICANT. Mr. Speaker, I want to thank the chairman. I thank all for giving this opportunity.

In March 1991, Albania held free elections for the first time in 45 years. Now that fragile democracy has been threatened. The Communists have threatened not to honor the outcome of this election unless they themselves are successful. This resolution states the United States of America and our Congress support free and open elections in Albania, and urges all the parties to respect the decision of the will of the people in that collective vote.

This would not be possible without the help of the gentleman from New York [Mr. GILMAN], and he has certainly helped the cause of freedom around the world.

There is one last thing before I close. Albania could possibly become another Bosnia. This is an important issue that we undertake. I urge the Members to support it.

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

Mr. TRAFICANT. I yield to the gentlewoman from New York.

Mrs. KELLY. Mr. Speaker, I rise this evening simply to concur with the distinguished chairman of the Committee on International Relations. We have in Albania a situation where there is a nation emerging from a long darkness into the full-fledged sunshine of democracy. I feel that we in Congress need to do all that we can to support and encourage this nation.

I strongly stand behind the distinguished gentleman from Ohio [Mr. TRAFICANT] and the distinguished chairman of the Committee on International Relations, the gentleman from New York [Mr. GILMAN].

I thank the gentleman very much for yielding.

Mr. GILMAN. Mr. Speaker, I thank the gentlewoman from New York for her comments.

Mr. TRAFICANT. Mr. Speaker, it is an honor to stand here on behalf of the movement of freedom and democracy in Albania. Speaker Pjeter Arbnori has fought hard and struggled for that opportunity. The people of Albania will have that opportunity.

Mr. Speaker, I support the resolution and I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 105

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the elections in Albania scheduled for June 29, 1997, should be free and open; and

(2) all political parties of Albania should honor the results of such elections.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Concurrent Resolution 105, the matter just considered.

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

There was no objection.

PERMISSION FOR COMMITTEE ON BANKING AND FINANCIAL SERVICES TO HAVE UNTIL MIDNIGHT THURSDAY, JULY 3, 1997, TO FILE REPORT ON H.R. 10, FINANCIAL SERVICES COMPETITION ACT OF 1997

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that the Committee on Banking and Financial Services have until midnight on Thursday, July 3, 1997, to file its report on H.R. 10, the Financial Services Competition Act of 1997.

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

There was no objection.

LEGISLATIVE PROGRAM

(Mr. FAZIO of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO of California. Mr. Speaker, I rise in order to yield to the majority to learn about next week's schedule, or I should say the week after next's legislative program.

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

Mr. FAZIO of California. I yield to the gentleman from Illinois.

Mr. HASTERT. Mr. Speaker, I am pleased to announce that we have completed our legislative business for the week. With the passage of the Balanced Budget Act and the Taxpayer Relief Act this week we have made an important first step in our fight against welfare spending and for lower taxes. This bill just passed brings American families the first tax cut in 16 years.

With that today, we begin the Fourth of July district work period; and although the majority whip will distribute an official schedule next week, I would now like to outline some of the major legislation the House will be considering upon our return.

The House will reconvene on Tuesday, July 8, at 12:30 p.m. for morning hour and 2 p.m. for legislative business. We will postpone any recorded votes until 5 p.m. on Tuesday so our colleagues from the west coast can have time to get back to Washington.

On Tuesday the House will take up H.R. 849, a corrections day bill to prohibit illegal aliens from receiving relocation assistance; a number of suspensions, a list of which will be distributed next week; and the Military Construction Appropriations Act, which will be subject to a rule.

On Wednesday, July 9, and Thursday, July 10, the House will meet at 10 a.m., and on Friday, July 11, the House will meet at 9 a.m. to take up the Intelligence Authorization Act and the Interior appropriations bill. We will finish legislative business by 2 p.m. on Friday, July 11.

I wish everyone a wonderful Independence Day, and I thank the gentleman for yielding time to me.

Mr. FAZIO of California. Reclaiming my time, Mr. Speaker, I simply have two questions. That would go to the Friday, July 11, schedule.

Is the gentleman really seriously expecting votes that day, or is that a possibility for eventual termination that might somehow go away during the week?

Mr. HASTERT. We have planned a full schedule with appropriations bills

being heard. It is our intent that we will be in session that Friday until, I think, 2 p.m.

Mr. FAZIO of California. During the week does the gentleman expect us to have any evenings beyond 6 or 7?

Mr. HASTERT. I think most of the evenings we will be done by 7 p.m.

Mr. FAZIO of California. Mr. Speaker, I thank the gentleman, and I wish all my colleagues a happy Fourth of July, as well.

GENERAL LEAVE

Mr. HASTERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2014, the bill just passed.

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

There was no objection.

GRANTING MEMBERS OF THE HOUSE PRIVILEGE TO EXTEND REMARKS AND INCLUDE EXTRANEOUS MATERIAL IN CONGRESSIONAL RECORD FOR TODAY

Mr. HASTERT. Mr. Speaker, I ask unanimous consent that for today all Members be permitted to extend their remarks and to include extraneous material in that section of the RECORD entitled ''Extension of Remarks.''

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, JULY 9, 1997

Mr. HASTERT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, July 9, 1997.

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

There was no objection.

AUTHORIZING SPEAKER AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS NOTWITHSTANDING ADJOURNMENT

Mr. HASTERT. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Tuesday, July 8, 1997, the Speaker, the majority leader, and minority leader will be authorized to accept resignations and to make appointments authorized by law or by the House.

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

There was no objection.

DESIGNATION OF THE HONORABLE CONSTANCE A. MORELLA TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH TUESDAY, JULY 8, 1997

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 26, 1997.

I hereby designate the Honorable CONSTANCE A. MORELLA or, if not available to perform this duty, the Honorable THOMAS M. DAVIS to act as Speaker pro tempore to sign enrolled bills and joint resolutions through Tuesday, July 8, 1997.

NEWT GINGRICH,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the designation is agreed to.

There was no objection.

□ 1815

REPORT ON NATIONAL EMERGENCY WITH RESPECT TO LIBYA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–101)

The SPEAKER pro tempore (Mr. LAHOOD) laid before the House the following message from the President of the United States; which was read and without objection, referred to the Committee on International Relations and ordered printed.

To the Congress of the United States:

I hereby report to the Congress on the developments since my last report of January 10, 1997, concerning the national emergency with respect to Libya that was declared in Executive Order 12543 of January 7, 1986. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c); section 204(c) of the International Emergency Economic Power Act (''IEEPA'') 50 U.S.C. 1703(c); and section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa–9(c).

1. As previously reported, on January 2, 1997, I renewed for another year the national emergency with respect to Libya pursuant to the IEEPA. This renewal extended the current comprehensive financial and trade embargo against Libya in effect since 1986. Under these sanctions, virtually all trade with Libya is prohibited, and all assets owned or controlled by the Libyan government in the United States or in the possession or control of U.S. persons are blocked.

2. There have been no amendments to the Libyan Sanctions Regulations, 31 C.F.R. Part 550 (the ''Regulations''), administered by the Office of Foreign Assets Control (OFAC) of the Department of the Treasury, since my last report on January 10, 1997.

3. During the last 6-month period, OFAC reviewed numerous applications for licenses to authorize transactions under the Regulations. Consistent with OFAC's ongoing scrutiny of banking transactions, the largest category of license approvals (68) concerned requests by non-Libyan persons or entities to unblock transfers interdicted because of what appeared to be Government of Libya interests. Two licenses authorized the provision of legal services to the Government of Libya in connection with actions in U.S. courts in which the Government of Libya was named as defendant. Licenses were also issued authorizing diplomatic and U.S. government transactions and to permit U.S. companies to engage in transactions with respect to intellectual property protection in Libya. A total of 75 licenses were issued during the reporting period.

4. During the current 6-month period, OFAC continued to emphasize to the international banking community in the United States the importance of identifying and blocking payments made by or on behalf of Libya. The office worked closely with the banks to assure the effectiveness in interdiction software systems used to identify such payments. During the reporting period, more than 100 transactions potentially involving Libya were interdicted.

5. Since my last report, OFAC collected 13 civil monetary penalties totaling nearly $90,000 for violations of the U.S. sanctions against Libya. Ten of the violations involved the failure of banks to block funds transferred to Libyan-controlled financial institutions or commercial entities in Libya. Three U.S. corporations paid the OFAC penalties for export violations as part of the global plea agreements with the Department of Justice. Sixty-seven other cases are in active penalty processing.

6. Various enforcement actions carried over from previous reporting periods have continued to be aggressively pursued. Numerous investigations are ongoing and new reports of violations are being scrutinized.

7. The expenses incurred by the Federal Government in the 6-month period from January 7 through July 6, 1997, that are directly attributable to the exercise of the powers and authorities conferred by the declaration of the Libyan national emergency are estimated at approximately $660,000.00. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the Office of the General Counsel, and the U.S. Customs Service), the Department of State, and the Department of Commerce.

8. The policies and the actions of the Government of Libya continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. In adopting United Nations Security Council Resolution 883 in November 1993, the Security Council determined that the continued failure of the Government of Libya to demonstrate by concrete actions its renunciation of terrorism, and in particular its continued failure to respond fully and effectively to the requests and decisions of the Security

Council in Resolutions 731 and 748, concerning the bombing of the Pan Am 103 and UTA 772 flights, constituted a threat to international peace and security. The United States will continue to coordinate its comprehensive sanctions enforcement efforts with those of other U.N. member states. We remain determined to ensure that the perpetrators of the terrorist acts against Pan Am 103 and UTA 772 are brought to justice. The families of the victims in the murderous Lockerbie bombing and other acts of Libyan terrorism deserve nothing less. I shall continue to exercise the powers at my disposal to apply economic sanctions against Libya fully and effectively, so long as those measures are appropriate, and will continue to report periodically to the Congress on significant developments as required by law.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 26, 1997.*

ANNUAL REPORT OF CORPORATION FOR PUBLIC BROADCASTING, 1996—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with accompanying papers, without objection, referred to the Committee on Commerce.

To the Congress of the United States:

In accordance with the Communications Act of 1934, as amended (47 U.S.C. 396(i)), I transmit herewith the Annual Report of the Corporation for Public Broadcasting for Fiscal Year 1996 and the Inventory of the Federal Funds Distributed to Public Telecommunications Entities by Federal Departments and Agencies: Fiscal Year 1996.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 26, 1997.*

H.R. 1494, THE APPREHENSION OF TAINTED MONEY ACT

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, I wish the gentleman from New Jersey had remained so that he would be able to assert that the provision that he was talking about in the inheritance tax portion of the tax bill was recommended for the package by the Democrats, the Clinton administration Secretary of the Treasury. And we are wondering whether or not Senator KENNEDY or Senator ROCKEFELLER or which Member of the Senate has approved of that provision. So we welcome debate with the gentleman from New Jersey about the source of that provision.

In the meantime, we remember, do we not, when the Democratic National Committee declared that some moneys that they had received, thousands of dollars from a convicted drug dealer, were illegal contributions to the Democratic National Committee. We were all shocked, not just by that but by the assertion that the Democratic National Committee was going to return this money to the convicted drug dealer. That is more shocking than anything.

We have introduced legislation to cause those kinds of declarations to result in illegal moneys being put in escrow to see if the taxpayers can recover some of this money for good purposes, not for drug purposes.

Mr. Speaker, once again, I would like to draw the attention of this body and the Nation to an absurdity in Federal election law—an absurdity that is causing criminals and alleged wrongdoers to be rewarded with thousands of dollars in tainted money.

Federal election law requires political committees that have received illegal campaign funds to return that money to the illegal donors who gave it. This means that the very people who inject tainted money into our campaign finance system get that money back—if their wrongdoing is discovered.

I have introduced legislation to correct this absurdity.

The Apprehension of Tainted Money Act (H.R. 1494) would tie up illegal campaign contributions that a political committee would otherwise return to donors and give Federal officials a chance to investigate. Specifically, if a political committee were returning illegal, or certain other campaign contributions, it would have to transfer this tainted money to an escrow account at the Federal Election Commission. Funds in the escrow account could be used by the FEC or the Justice Department to pay appropriate fines and penalties under our election or criminal laws.

There is a special urgency and importance behind my message today because of two events happening next week.

First, June 30 marks the date on which the Democrat National Committee long ago promised to return the tainted money it received during the 1996 election cycle. This money was used by the DNC in the election, so justice is not done by returning the tainted money at this late date. But to add injury to injury—a mere insult would be a blessing here—this tainted money is going back to the illegal contributors who gave it! Having influenced a Federal election and perpetrated a fraud on the American people, these criminals are getting back the tools of their trade!

Second, July 4 is the date next week which President Clinton made a target in his State of the Union Address for Congress to get campaign finance reform legislation to him for signature. As everyone knows, the ambitious reforms have hit many stumbling blocks, and they are not likely to pass. Therefore, modest, incremental reforms like this one—which only tries to assure that campaign finance laws are enforced—must move forward.

I introduced my tainted money bill on April 30. The House Judiciary Subcommittee on Commercial and Administrative Law held a hearing on this bill on May 14. We took testimony from the Federal Election Commission, the Department of Justice, election law practitioners, and an ethics and campaign finance watchdog organization. In light of their very instructive testimony, we have revised the bill, improving it in a variety of ways.

At the appropriate time, I will offer my revision as a substitute for the original language of the bill because of the many improvements the revision makes. Among them, the revised bill extends its coverage to illegal soft money contributions. The revised version also gives the Federal Election Commission disgorgement authority so that the FEC can prevent unjust enrichment of campigan contributors who would receive a return of tainted money.

The revised bill ensures that 'innocent' contributors—those who have not violated election law or who have mistakenly violated the law in a trivial way—are not subjected to public embarrassment or stigma.

The revised version also improves the ''escrow trigger'' so that more illegal contributions go into escrow, while only a small number of innocent contributions would be delayed by return through the escrow process. The ''automatic return trigger,'' which assures that agencies cannot keep money in escrow forever, is changed so that the Federal Election Commission and Department of Justice can keep investigations confidential if prudence requires it.

There are several other changes that improve the legislation further. I will happily make available to any member a copy of the revision and documentation of the changes.

As I have said before, there should be no delay in moving this legislation forward. Tainted money is out there right now awaiting return to the people who violated our laws in giving it. The Apprehension of Tainted Money Act (H.R. 1494) would simply stop this practice and advance the uncontroversial goal of enforcing current campaign finance law.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundegan, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 108. Concurrent resolution providing for an adjournment or recess of the two Houses.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. BONIOR] is recognized for 5 minutes.

[Mr. BONIOR addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. EHLERS] is recognized for 5 minutes.

[Mr. EHLERS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. FRANK] is recognized for 5 minutes.

[Mr. FRANK of Massachusetts addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 5 minutes.

[Mr. DREIER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized for 5 minutes.

[Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. JONES] is recognized for 5 minutes.

[Mr. JONES addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

NEW TAX PLAN DOES NOT FULFILL BARGAIN WITH AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, the reason why it is difficult to be at this podium is because I thought it was extremely important to take a moment to explain to the American people just what occurred here today.

Mr. Speaker, first of all, it is interesting that this debate began more than 2 years ago with a claim to the American people that the real focus would be on changing radically the tax system. Whether it was on a consumption tax or a flat tax, the key was simplification and equality. At least that is what we thought the debate was all about.

But, Mr. Speaker, in the course of dealing with the political winds, today we voted on a tax bill that is unequal and does not hold its bargain and its partnership with the American people. First of all, let me share that included in these documents will be the so-called changes that were made in the tax bill. It is recognized that, yes, there were some tax cuts made by the Republicans, but it also is accurate that that tax cut does not impact the bulk of working Americans.

Mr. Speaker, there was some representation about the Joint Committee on Taxation, holding that body, bipartisan that it is supposed to be, as the standard bearer to suggest that the Republican tax bill does meet the requirements of working Americans.

They do seem to suggest that those making between $20,000 and $75,000 would get 71 percent of the tax cuts under the Republican bills, and those making $75,000 to $100,000, 16 percent. But yet the Treasury Department calculations of that same bill indicate the real facts.

Under that bill, those making 30,000 to 75,000, the bill that was just passed, get a mere 19 percent. Nineteen percent of those who make that amount of money would be able to get tax cuts under the Republican bill. Mr. Speaker, $75,000 to 100,000, if that is a taxpayer's earnings, only 13 percent would be able to come under the Republican bill. But if they made over 100,000 up to 200,000, 32 percent would benefit. And if they made over 200,000-plus, 31 percent would benefit.

Mr. Speaker, let me simply say that it is not only those of us who voted against the Republican bill that acknowledge that it is skewed to the high-income individuals in this country who have not asked for a tax cut. The Wall Street Journal on Thursday, June 26 said, ''According to more reliable Treasury estimates, when the bill is fully effective, the top 1 percent of taxpayers would get 19 percent of the benefits under the House bill. Conversely, the bottom three-fifths of families get only 12 percent.''

This same article notes that the Republican-run Congressional Tax Committee, the very tax committee that says those who make 20,000 to 75,000 will get 71 percent, in this article, the Wall Street Journal says, not necessarily a captive of the so-called Democratic liberals, says, ''The Republican-run congressional tax committee has put out phony estimates of both the distribution effects and costs only calculating the first 5 years. The bills are back-loaded so that the tax cuts for capital gains, estate taxes, and new retirement accounts explode in 5 to 10 years.''

Mr. Speaker, we went to the floor today and we called on God. Some of us, those in the Republican side, wanted to claim John F. Kennedy. Well, let me cite the last time we made major tax cuts: Under the Reagan administration in 1981. That skewing of tax cuts resulted in the trillion dollar deficit that we face in this country. Many would argue that it was tax and spend.

We all understand that there is a connection between taxation and spending. But, yet, my colleagues on the other side of the aisle want to argue against the budget plan of 1993. Mr. Speaker, I was not here; that offered to the American people today the lowest deficit in our history, some $50 billion and going down.

So now we have heard the American people. But we responded to the trillion dollar debt created by the Reagan tax plan giving all of it to the rich by creating a difficult vote in 1993 that, yes, raised some of the taxes. But, Mr. Speaker, it brought the deficit down. And then the American people spoke again and said they wanted a balanced budget. I have voted for a balanced budget. But in saying that, they said something else.

Mr. Speaker, if I can add these in the record, let me say as I close, they said something else. They said they believe in the Democratic tax plan because it stood for working Americans, those making under $75,000. This is what my colleagues voted for: confusion and one-sidedness. I hope we will get this straightened out.

Mr. Speaker, I include the following for the RECORD:

Forty-five percent of the children in Texas do not get the child credit under the Republican bill. That's more than 3.3 million children.

[From the Wall Street Journal, June 26, 1997]

THIS REPUBLICAN TAX-CUT DOG WON'T HUNT

(By Albert R. Hunt)

''Taxes are the killing fields for Democrats,'' Grover Norquist, the irrepressible conservative activist, predicted to Time magazine this week.

After the government shutdown and minimum wage defeats of the last Congress and the disaster relief debacle of last month, the GOP hopes that finally the political game is being played on their turf. They're living in yesteryear.

The case for any tax cut in this booming economy is dubious. If President Clinton gets his way, precious few additional kids are going to get college education because of this tax bill. If the Republicans get their way, the tax bill is going to add precious few jobs.

Moreover, voters should feel duped by this debate. Last year, the Republicans stressed a simpler and flatter tax code; their proposals create more special preferences and a more complicated code. In 1996, the Democrats emphasized equity; whatever emerges, however, will be skewed heavily to upper-income individuals and exacerbate the income gap between rich and poor.

Thus the battle over the size and shape of tax cuts over the next month is about politics. The heart of the GOP tax cut effort—capital gains and estate tax relief—resonates with campaign contributors, not with voters. When it comes to the specific proposals before Congress today, according to this past weekend's Wall Street Journal/NBC News poll, Americans side with the Democrats by a lopsided 2-to-1 margin.

The House and Senate both likely will pass separate Republican-crafted bills this week. Both bills, however, are so bad—a bonanza for the affluent, crumbs for the working class and eventually costly—that President Clinton will enjoy enormous leverage in the negotiations over distribution and costs. The Republican-run congressional tax committee has put out phony estimates of both the distribution effects and the costs, only calculating the first five years; the bills are back-loaded so that tax cuts for capital gains, estate taxes and new retirement accounts explode in five to 10 years.

According to more reliable Treasury estimates, when the bill is fully effective, the top 1% of taxpayers would get 19.3% of the benefits under the House bill and 13.3% under the Senate version. Conversely, the bottom three-fifths of families get only about 12% in both measures. The liberal Center on Budget and Policy Priorities argues that the Treasury underestimates the case; it calculates that under the House Republican tax and spending measures, the poorest 20% of the

population would actually lose income while the wealthiest 1% ultimately would get an annual average tax cut of $27,155.

Under this so-called balanced-budget agreement, the net tax cuts can't exceed $250 billion over the next 10 years. But with the back-loading in the following 10 years, the House bill would cost between $650 billion and $700 billion, while the Senate version would cost around $600 billion.

Even worse, in order to shoehorn in tax breaks for their wealthier constituents, the Republican bills shamefully shortchange the working poor. Conservatives have long argued that the tax code shouldn't be used to redistribute income. Yet that's exactly what these Republican bill do.

A critical issue is whether the politically popular, if economically questionable, $500 child credit goes to the working poor. Last week House Speaker Newt Gingrich charged that the Democrats' efforts to give more to the working poor amounted to a ''welfare'' sop.

Republicans would deny the child credit to workers who already are receiving the earned income tax credit. They argue that since the EITC wipes out income tax liabilities for these people, they don't deserve the credit.

The real reason they want to deny these taxpayers the credit is that they want to use the money for tax breaks on capital gains, estates and retirement accounts. Both the GOP's Contract With America in 1994 and the tax bill that Senate Republican leader Trent Lott introduced earlier this year proposed to give the child care credit to EITC beneficiaries. The House bill would deny this to six million kids and the Senate bill would deny it to four million in this category. Moreover, ever since the EITC was enacted in 1975, its purpose was to offset not only income taxes but the regressive payroll taxes that all of these recipients pay; until it became a budgetary inconvenience, most Republicans supported that notion.

This is best illustrated by a real situation. A starting police officer in Gwinnett County, GA.—coincidentally part of Speaker Gingrich's district—is paid $23,078 a year. If his family has two kids, it gets a $1,668 earned income tax credit, which offsets its $675 in federal taxes and yields a check for $993. But that family pays $1,760 in payroll taxes (most economists would also add the employer's share of payroll taxes too) and another $354 in federal excise taxes. Thus, even after the EITC, this police officer's family's out-of-pocket federal taxes would be at least $1,121 and in reality more like $2,881.

Mr. Gingrich and company apparently believe giving that young police officer and his family the child credit is welfare. In truth, these are working people who most need help. The bottom line in the House GOP tax measure: Bill Gates would get capital gains and estate tax reductions and even a new IRA provision that would let him take a $4,000 tax break for educational expenses for his kids, but a $23,000-a-year rookie cop would be denied a tax credit for his kids.

The Clinton administration is calculating how to reshape the tax legislation in the next month and may set some benchmarks for what's unacceptable. One possibility under consideration is that the cost of the tax cuts in the second 10 years couldn't exceed $500 billion, about halfway between the House Democratic and Republican measures. And top administration officials say that at least 40% of the tax-cut benefits should go to the bottom 60% of taxpayers. That would still be regressive but much less onerous.

Republicans hope—and more than a few Democrats fear—that if the president gets his college tuition tax breaks, he'll cave on the other issues. Some also note that many of those Lincoln bedroom guests and campaign contributors of 1996 would do very well by these tax bills.

But congressional Republicans are notorious in misjudging Bill Clinton if the politics are on his side. In this fight, that's where they are.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. CHABOT] is recognized for 5 minutes.

[Mr. CHABOT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

WEI JINGSHENG SUFFERS BEATING IN CHINESE PRISON

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. PELOSI] is recognized for 5 minutes.

Ms. PELOSI. Mr. Speaker, I rise in great sadness this evening to report to our colleagues in the House of Representatives that, since the activity on this floor earlier this week regarding sending a signal to China about our seriousness about human rights, there are reports out of Beijing, both Reuters and AP, that veteran dissident Wei Jingsheng has been severely beaten by other prison inmates who were told they could get reduced prison sentences if they attacked him.

Mr. Speaker, Wei Jingsheng is known as the Sakharov of China. He is the leading pro-democracy dissident there and has been in prison for 14 years. He has been in prison since the Democracy Wall demonstrations in 1979. He was released for a couple of months when China wanted to get the Olympics, and then rearrested after a meeting with Assistant Secretary of State John Shattuck, Secretary for Human Rights and Democracy.

Mr. Speaker, Wei has been there and he will not be contrite. He will not apologize for his pro-democratic statements and he is sentenced to another 14-year sentence for speaking out peacefully for pro-democratic change. He is being beaten by the other inmates, as I said, and they are getting reduced sentences if they strike him. His health is not good, it has not been good, and he is not receiving appropriate medical attention.

Mr. Speaker, I am very pleased that our Democratic leader in the House, the gentleman from Missouri [Mr. GEPHARDT] has written to Secretary Albright regarding the news about Wei Jingsheng. He expressed his concern about the reports and mentioned that Wei has been a symbol of hope for those who wish to confront Chinese tyranny. The gentleman mentioned that he as well as many of us are great admirers of Wei's commitment to the struggle for freedom. The gentleman from Missouri urges Secretary Albright to raise the issue at the highest levels during her upcoming trip to Hong Kong and use all diplomatic and other available sources to fight for Wei's safety and release.

Mr. Speaker, Wei Jingsheng has received the European Parliament's Sakharov Prize. He has been nominated for the Nobel Peace Prize, and he is being kicked in the neck in the Chinese prisons and his tormenters are given time off for that so-called good behavior.

I bring this up at this time because there is a delegation leaving for Hong Kong for the changeover that will take place on June 30. Secretary Albright has stated that she will not attend the event which is the swearing in of the puppet legislature.

Mr. Speaker, just as a matter of background, briefly, there is a democratically elected legislature called Legco in Hong Kong. In preparation for the takeover, the Chinese regime has appointed a puppet legislature which will take over July 1 as they throw out the democratically elected legislature. So much for Democratic freedoms in Hong Kong.

It is a travesty that this Government of the United States, especially under the circumstances of Wei Jingsheng's torment, will be sending our consul general to legitimize this illegal legislature that is going to be sworn in on Tuesday.

Mr. Speaker, I call upon the Secretary of State, who never intended to attend the legislative swearing in in the first place because the administration knew that it was not appropriate, to withdraw the possibility that the consul general to Hong Kong, the representative of the United States, and other representatives of the State Department not attend. Not attend.

And, Mr. Speaker, I would certainly hope that no Member of the Congress of the United States would legitimize the illegal legislature that has been handpicked by Beijing to replace the democratically elected legislature. Its term has at least one more year to run.

It is interesting to me, though, to see the contradiction from the administration. On the one hand, they used on this floor and in their correspondence, and they used in a letter from the President of the United States, the name of Martin Lee as the leading democrat in Hong Kong, as the leading person to say support MFN for China; it is good for Hong Kong. And they used his credentials as the top democratically elected legislator in Hong Kong. Martin Lee, Martin Lee. He is a champion of democracy and his name was used earlier on the floor this week. And now Martin Lee will be ousted, replaced by a puppet legislature, and we in the United States, the greatest democracy in the world, will have our representatives there to legitimize that effort.

Mr. Speaker, I urge Members of Congress not to attend. I urge the administration not to send representatives to that swearing in.

SUPPORT FOR WEI JINGSHENG

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

Mr. GINGRICH. Mr. Speaker, I simply want to associate myself with all of those who are concerned about the news reports begun by Reuters, quote ''China imposes new punishments on dissident Wei.''

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As somebody who has supported opening a dialog with the Chinese Government, I simply want to say that I hope that the Secretary of State is going to make the strongest possible representation on behalf of Mr. Wei, that the United States Government is going to insist on an accounting for what is happening to him and that we are going to make clear to the Chinese Government that our commitment to human rights, our concern for political prisoners and our insistence on some standard of decency are real, run across all of American society, and that they should not assume that one vote one way or the other on a particular item indicates that they have a blank check to oppress human beings.

I appreciate the gentlewoman from California for bringing this to the House's attention. I hope that Secretary Albright will make the strongest possible representation on this issue.

The SPEAKER pro tempore (Mr. LAHOOD). Under a previous order of the House, the gentleman from Florida (Mr. SCARBOROUGH) is recognized for 5 minutes.

[Mr. SCARBOROUGH addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

CLINTON'S ENDORSEMENT OF THE NEW EPA AIR REGULATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. KNOLLENBERG] is recognized for 5 minutes.

Mr. KNOLLENBERG. Mr. Speaker, I rise today to express my absolute disappointment, frankly disgust with the President's decision endorsing the EPA's stricter regulations on air pollution. The President says that the reason for imposing these new rigorous regulations was because he, and I, quote, thinks kids ought to be healthy. I agree with him. But I also think it is in the best interest of America's kids if their parents are able to remain employed.

And frankly, the new proposals may in fact hurt our kids. The current clean air standards already require cities to have emission-control plans to ensure the air is cleaner each year. As stated in the June 24 Wall Street Journal, current emission control plans will be thrown out while the new ones are being written. This will actually slow, slow the clean air progress perhaps for years. And in the process our workers will be placed at risk. The unions know these standards will cost workers their jobs. That is why many are opposing the EPA's stricter standards.

I think we need to ask ourselves, when is enough enough? How many jobs must we lose to clean up the air more than it is? There is a point of diminishing returns where the cost far outweighs any benefits. Mr. Speaker, the Browner-Gore-Clinton EPA standards reaches that point.

We have made great progress in the last 20 years. Today the air is cleaner than it has ever been. When our current standards were put in place, the majority of our States and communities could not comply. Today over 96 percent, over 96 percent of our communities in nearly every State is able to comply with the current standards. Compliance has carried an expensive price tag but improving our environment and our air was necessary to protect the future of our country.

I believe we have succeeded. Now is not the time to turn the tables on these successes and apply more regulations and tougher standards on our communities, our workers and our families.

Right now, Mr. Speaker, the President is about to make perfect the enemy of good. Pushed by the most radical, including the Vice President and EPA Administrator Carol Browner, he is about to sacrifice our workers, our jobs and our economy at the altar of perfect air.

I and many others are not ready to blindly follow. I think we know the facts. We studied the circumstances and we have seen the data. For example, a New England Journal of Medicine study has said our children are harmed more by cockroaches, dust mites and mold than by our current air. Only 4 of the EPA's 21 scientists who serve on the Clean Air Scientific Advisory Committee actually supported the tougher standards that the President has endorsed. Even Newsweek provided a feature issue on how to protect your children from asthma. And almost nothing in that article, nothing focused on our current air standards as the problem.

The PR game has begun and the President is beginning to play his part on the bully pulpit. But I would suggest we not buy the snake oil that is being sold. His evidence is razor-thin and the costs are steep for our communities, our businesses, our workers, and our families.

Today we have a strong coalition, Republicans included, Democrats, business leaders, workers, who oppose these new regulations. I believe we need to stop the new EPA regulations before they do damage to America.

We need to commend our communities for the great progress that they have made on clean air and progress they have made. Instead, it seems President Clinton wants to reward them by punishing them with these impossible standards which they may never ever be able to meet.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON THE BUDGET REGARDING CURRENT LEVELS OF SPENDING AND REVENUES REFLECTING ACTION COMPLETED AS OF JUNE 12, 1997 FOR FISCAL YEARS 1997–2001

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. KASICH] is recognized for 5 minutes.

Mr. KASICH. Mr. Speaker, on behalf of the Committee on the Budget and pursuant to sections 302 and 311 of the Congressional Budget Act, I am submitting for printing in the CONGRESSIONAL RECORD an updated report on the current levels of on-budget spending and revenues for fiscal year 1997 and for the 5-year period, fiscal year 1997 through fiscal year 2001.

This report is to be used in applying the fiscal year 1997 budget resolution (H. Con. Res. 178), for legislation having spending or revenue effects in fiscal years 1997 through 2001.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, June 19, 1997.

Hon. NEWT GINGRICH,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: To facilitate application of sections 302 and 311 of the Congressional Budget Act, I am transmitting a status report on the current levels of on-budget spending and revenues for fiscal year 1997 and for the 5-year period fiscal year 1997 through fiscal year 2001.

The term ''current level'' refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted or awaiting the President's signature as of June 12, 1997.

The first table in the report compares the current level of total budget authority, outlays, and revenues with the aggregate levels set by H. Con. Res. 178, the concurrent resolution on the budget for fiscal year 1997 as adjusted pursuant to 606(e) of the Budget Act for continuing disability reviews. This comparison is needed to implement section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution's aggregate levels. The table does not show budget authority and outlays for years after fiscal year 1997 because appropriations for those years have not yet been considered.

The second table compares the current levels of budget authority, outlays, and new entitlement authority of each direct spending committee with the ''section 602(a)'' allocations for discretionary action made under H. Con. Res. 178 for fiscal year 1997 and for fiscal years 1997 through 2001. ''Discretionary action'' refers to legislation enacted after adoption of the budget resolution. This comparison is needed to implement section 302(f) of the Budget Act, which creates a point of order against measures that would breach the section 602(a) discretionary action allocation of new budget authority or entitlement authority for the committee that reported the measure. It is also needed to implement section 311(b), which exempts committees that comply with their allocations from the point of order under section 311(a).

The third table compares the current levels of discretionary appropriations for fiscal year 1997 with the revised ''section 602(b)''

sub-allocations of discretionary budget authority and outlays among Appropriations subcommittees. This comparison is also needed to implement section 302(f) of the Budget Act, because the point of order under that section also applies to measures that would breach the applicable section 602(b) sub-allocation. The revised section 602(b) sub-allocations were filed by the Appropriations Committee on September 27, 1996.

Sincerely,

JOHN R. KASICH,
Chairman.

Enclosures.

REPORT TO THE SPEAKER FROM THE COMMITTEE ON THE BUDGET—STATUS OF THE FISCAL YEAR 1997 CONGRESSIONAL BUDGET ADOPTED IN HOUSE CONCURRENT RESOLUTION 178

[Reflecting action completed as of June 12, 1997—On-budget amounts, in millions of dollars]

	Fiscal years—	
	1997	1997–2001
Appropriate Level (as amended by P.L. 104–93):		
Budget authority	1,314,935	6,956,507
Outlays	1,311,321	6,898,627
Revenues	1,083,728	5,913,303
Current Level:		
Budget authority	1,324,402	(1)
Outlays	1,324,181	(1)
Revenues	1,104,262	5,975,917
Current Level over(+)/under(−) Appropriate Level:		
Budget authority	9,467	(1)
Outlays	12,860	(1)
Revenues	20,534	62,614

[1] Not applicable because annual appropriations Acts for Fiscal Years 1997 through 2001 will not be considered until future sessions of Congress.

BUDGET AUTHORITY

FY 1997 budget authority exceeds the appropriate level set by H. Con. Res. 178 as amended by P.L. 104–93. Enactment of measures providing any new budget authority for FY 1997 would be subject to point of order under section 311(a) of the Congressional Budget Act of 1974.

OUTLAYS

FY 1997 outlays exceed the appropriate level set by H. Con. Res. 178 as amended by P.L. 104–93. Enactment of measures providing any new outlays for FY 1997 would be subject to point of order under section 311(a) of the Congressional Budget Act of 1974.

REVENUES

Enactment of any measure that would result in any revenue loss in excess of $20,534,000,000 for FY 1997 (if not already included in the current level estimate) or in excess of $62,614,000,000 for FY 1997 through 2001 (if not already included in the current level) would cause revenues to be less than the recommended levels of revenue set by H. Con. Res. 178.

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH COMMITTEE ALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(a), REFLECTING ACTION COMPLETED AS OF JUNE 12, 1997

[Fiscal years, in millions of dollars]

	1997			1997–2001		
	BA	Outlays	NEA	BA	Outlays	NEA
House Committee:						
Agriculture:						
Allocation	0	0	0	0	0	4,996
Current level	5	5	5	55	55	55
Difference	5	5	5	55	55	−4,941
National Security:						
Allocation	−1,579	−1,579	0	−664	−664	0
Current level	−102	−102	−21	−289	−289	−34
Difference	1,477	1,477	−21	375	375	−34
Banking, Finance and Urban Affairs:						
Allocation	−128	−3,700	0	−711	−4,004	0
Current level	0	−6	0	0	0	0
Difference	128	3,694	0	711	4,004	0
Economic and Educational Opportunities:						
Allocation	−912	−800	−152	−3,465	−3,153	7,669
Current level	1,967	1,635	1,816	11,135	10,296	8,852
Difference	2,879	2,435	1,968	14,600	13,449	1,183
Commerce:						
Allocation	0	0	370	−14,540	−14,540	−41,710
Current level	3	3	492	242	195	1,430
Difference	3	3	122	14,782	14,735	43,140
International Relations:						
Allocation	0	0	0	0	0	0
Current level	−1	−1	0	−1	−1	0
Difference	−1	−1	0	−1	−1	0
Government Reform & Oversight:						
Allocation	−1,078	−1,078	−289	−4,605	−4,605	1,668
Current level	0	0	0	0	0	0
Difference	1,078	1,078	289	4,605	4,605	1,668
House Oversight:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Resources:						
Allocation	−91	−90	−12	−1,401	−1,460	−59
Current level	−19	−20	0	−144	−167	0
Difference	72	70	12	1,257	1,293	59
Judiciary:						
Allocation	0	0	0	−357	−357	0
Current level	3	3	0	45	45	0
Difference	3	3	0	402	402	0
Transportation & Infrastructure:						
Allocation	2,280	0	0	125,989	521	2
Current level	2,345	65	12	4,748	121	56
Difference	65	65	12	−121,241	−400	54
Science:						
Allocation	0	0	0	−13	−13	0
Current level	0	0	0	0	0	0
Difference	0	0	0	13	13	0
Small Business:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Veterans' Affairs:						
Allocation	−90	−90	224	−919	−919	3,475
Current level	0	0	3	0	0	−52
Difference	90	90	−221	919	919	−3,527
Ways and Means:						
Allocation	−8,973	−9,132	−2,057	−134,211	−134,618	−10,743
Current level	8,338	8,302	−2,840	73,457	73,476	−38,717
Difference	17,311	17,434	−783	207,668	208,094	−27,974
Select Committee on Intelligence:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Total Authorized:						
Allocation	−10,571	−16,469	−1,916	−34,897	−163,812	−38,038
Current level	12,539	9,884	−533	89,248	83,731	−28,410
Difference	23,110	26,353	1,383	124,145	247,543	9,628

DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 1997—COMPARISON OF CURRENT LEVEL WITH SUBALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(b)

[In millions of dollars]

	Revised 602(b) suballocations (Sept. 27, 1996)				Current level reflecting action completed as of June 12, 1997				Difference			
	General purpose		Violent crime		General purpose		Violent crime		General purpose		Violent crime	
	BA	O	BA	O	BA	O	BA	O	BA	O	BA	O
Agriculture, Rural Development	12,960	13,380	0	0	13,051	13,427	0	0	91	47	0	0
Commerce, Justice, State	24,493	24,939	4,525	2,951	24,812	25,059	4,526	2,954	319	120	1	3
Defense	245,065	243,372	0	0	242,193	242,737	0	0	−2,872	−635	0	0
District of Columbia	719	719	0	0	719	719	0	0	0	0	0	0
Energy & Water Development	19,421	19,652	0	0	19,951	19,922	0	0	530	270	0	0
Foreign Operations	11,950	13,311	0	0	12,267	13,310	0	0	317	−1	0	0
Interior	12,118	12,920	0	0	12,492	13,184	0	0	374	264	0	0
Labor, HHS & Education	65,625	69,602	61	38	70,684	71,780	61	39	5,059	2,178	0	1
Legislative Branch	2,180	2,148	0	0	2,204	2,132	0	0	24	−16	0	0
Military Construction	9,983	10,360	0	0	9,793	10,334	0	0	−190	−26	0	0
Transportation	12,190	35,453	0	0	10,463	35,638	0	0	−1,727	185	0	0
Treasury-Postal Service	11,016	10,971	97	84	11,621	11,299	97	83	605	328	0	−1
VA–HUD–Independent Agencies	64,354	78,803	0	0	60,876	79,195	0	0	−3,478	392	0	0
Reserve/Offsets	768	219	0	0	−2,750	−5,850	0	0	−3,518	−6,069	0	0
Grand total	492,842	535,849	4,683	3,073	488,376	532,886	4,684	3,076	−4,466	−2,963	1	3

Note.—Amounts in Current Level column for Reserve/Offsets are for Spectrum sales and BIF/SAIF. Those items are credited to the Appropriations Committee for FY 1997 only.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 19, 1997.

Hon. JOHN KASICH,
Chairman, Committee on the Budget,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the on-budget current levels of new budget authority, estimated outlays, and estimated revenues for fiscal year 1997. These estimates are compared to the appropriate levels for those items contained in the 1997 Concurrent Resolution on the Budget (H. Con. Res. 178) and are current through June 12, 1997. A summary of this tabulation follows:

[In millions of dollars]

	House current level	Budget resolution (H. Con. Res. 178)	Current level +/− resolution
Budget Authority	1,324,402	1,314,935	+9,467
Outlays	1,324,181	1,311,321	+12,860
Revenues:			
1997	1,104,262	1,083,728	+20,534
1997–2001	5,975,917	5,913,303	+62,614

Since my last report, dated April 10, 1997, Congress has cleared and the President has signed the 1997 Emergency Supplemental Appropriations Act (P.L. 105–18). These actions have changed the current level of budget authority and outlays.

Sincerely,

JUNE E. O'NEILL,
Director.

PARLIAMENTARIAN STATUS REPORT—105TH CONGRESS, 1ST SESSION, HOUSE ON-BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1997, AS OF CLOSE OF BUSINESS JUNE 12, 1997

[In millions of dollars]

	Budget authority	Outlays	Revenues
PREVIOUSLY ENACTED			
Revenues			1,101,533
Permanents and other spending legislation	855,751	814,110	
Appropriation legislation	753,927	788,263	
Offsetting receipts	−271,843	−271,843	
Total previously enacted	1,337,835	1,330,530	1,101,533
ENACTED THIS SESSION			
Airport and Airway Trust Fund Tax Reinstatement Act, 1997 (P.L. 105–2).			2,730
1997 Emergency Supplemental Appropriations Act (P.L. 105–18)	−6,497	281	

PARLIAMENTARIAN STATUS REPORT—105TH CONGRESS, 1ST SESSION, HOUSE ON-BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1997, AS OF CLOSE OF BUSINESS JUNE 12, 1997—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
APPROPRIATED ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	−6,936	−6,630	
TOTALS			
Total Current Level	1,324,402	1,324,181	1,104,262
Total Budget Resolution	1,314,935	1,311,321	1,083,728
Amount remaining:			
Under Budget Resolution			
Over Budget Resolution	9,467	12,860	20,534
ADDENDUM			
Emergencies:			
Funding that has been designated as an emergency requirement by the President and the Congress	9,198	1,913	
Funding that has been designated as an emergency requirement only by the Congress and is not available for obligation until requested by the President	345	304	
Total emergencies:	9,543	2,217	
Total current level including emergencies	1,333,945	1,326,398	1,104,262

RELIGIOUS FREEDOM AMENDMENT—SYMPTOM OR CAUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. PAUL] is recognized for 5 minutes.

Mr. PAUL. Mr. Speaker, yesterday's Supreme Court decision in City of Boerne versus Flores is being touted as a blow to religious liberty and the Religious Freedom Restoration Act of 1993. It is, however, a blow to neither. The case of City of Boerne versus Flores came to the Supreme Court as a result of the zoning laws in Boerne, Texas which restricted the uses to which Reverend Cummings could put the property belonging to the Roman Catholic Church for which he worked. These particular zoning restrictions were not directed at Reverend Cummings or the Roman Catholic Church. The zoning laws were not even directed at religious organizations or churches generally. Rather, these zoning restrictions were directed at property owners in general in the name of historic preservation. These facts, however, beg the question as to why this case was argued instead as a violation of religious liberties protected by the first amendment.

What made this an issue of religious freedom in the court and ''court of public opinion'' is perhaps a symptom of the U.S. Supreme Court's holding in Village of Euclid, Ohio versus Ambler Realty Co. (1926) in which the Court sanctioned the abandonment of individual rights to property in the name of zoning for the ''collective good.'' For those whose property rights are regulated away, devalued, or ''taken'' regulatorily, it is a natural symptom to expect these aggrieved parties to cling to whatever Constitutional liberties might still gain them a sympathetic ear in the courts. Those destroying flag-like property scramble for protection under the banner of free expression and Reverend Cummins sought property rights protection elsewhere within the first amendment, namely, religious freedom. Absent local, state, or federal governments' realization that such dilemmas are hopelessly irreconcilable outside a framework of individual property rights, similar cases will continue to find their way to various levels of the judicial system as those suffering infringements upon their rights in property, grope for justice against the collective expropriation which has become not only the rule, but the rule of law, in this country.

It is no accident that a case such as this did not originate in Houston, Pasadena, or Alvin, Texas. Each of these cities have allowed the marketplace, through a series of voluntary contractual exchanges, (rather than a central-planning-style zoning board), to determine how private property is most effectively developed.

The first amendment is meaningless absent a respect for property rights. Freedom of the press is a mere sham without the right to own paper and ink. Freedom of religion is vacuous absent the right to own a pulpit from which to preach or at least a place in which to practice or worship. Until this country's lawmakers and courts restore a system of Constitutional jurisprudence respective of the inextricable nature of so-called economic and fundamental liberties, all liberties will be subject to eradication at the whim of the legislatures, the courts, or both.

HONORING GENERAL THOMAS S. MOORMAN, Jr.

The SPEAKER pro tempore (Mr. PEASE). Under a previous order of the

House, the gentleman from Maryland [Mr. HOYER] is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, I rise today to acknowledge and applaud the life and labors of my friend, Gen. Thomas S. Moorman, Jr., the Vice Chief of Staff of the U.S. Air Force.

The gentleman from Tennessee [Mr. WAMP], in his suggestion to yield to me, mentioned that I wanted to speak about an American patriot. He was absolutely correct.

Mr. Speaker, it is a very special honor for me to congratulate General Moorman on his retirement. Forty years ago, General Moorman and I attended Suitland High School together. I graduated in 1957 and General Moorman graduated in 1958. I knew then that Tom Moorman was going to achieve great heights.

I had the distinct pleasure of serving as Tom's campaign chair when he ran and won his bid for president of the student council at Suitland High School in 1957. I say to my colleagues, Suitland High School is about 15 minutes from this Capitol building. Even at the age of 17, General Moorman displayed outstanding leadership skills. That foreshadowed his future success.

After graduating from high school, he attended Dartmouth College, and was a distinguished military graduate of the Air Force Reserve Officer Training Corps program in 1962. For the past three and a half decades General Moorman has served this great Nation in a number of different and important ways.

General Moorman comes from a rich heritage of service to our military and our Nation. His father was a brigadier general at Andrews Air Force Base, located in Prince Georges County and was then commanding the weather service for the U.S. Air Force. His father retired after completing a tour as superintendent of the U.S. Air Force Academy in Colorado Springs.

His father's example of excellence and service to country propelled Tom to the pinnacle of his profession as a four-star general. En route to his position, General Moorman served in a variety of intelligence and reconnaissance related positions around the world. Our country is particularly indebted to him for his contributions to the growth and exploitation of space as a key element of our national security strategy.

His legacy of involvement in space activities began with the planning and organization for the establishment of the Air Force Space Command which he would later head. His program provided management mobility for the conception and maturation of Air Force surveillance, communication, navigation and weather satellites, space launch vehicles, and ground-based and strategic radars.

Mr. Speaker, his numerous military awards and decorations include, among others, the Distinguished Service Medal, the Defense Superior Service Medal, the Legion of Merit with oak leaf cluster, the Meritorious Service Medal with oak leaf cluster, the Air Force Commendation Medal with oak leaf cluster, and the National Intelligence Distinguished Service Medal.

In addition, he has received other prestigious awards from the aerospace community, including the National Geographic Society's Thomas D. White U.S. Air Force Space Trophy, the Dr. Robert H. Goddard Memorial Trophy, the Ira C. Eaker Fellowship Award, and the Eugene M. Zukert Management Award.

Among many accomplishments, General Moorman's greatest contribution has been his leadership related to the space programs. As I have said, he has played a pivotal role in establishing national and Defense Department space policy and developing improved space capabilities.

Mr. Speaker, the scriptures remind us ''that he that is faithful with little shall be faithful with much.'' This reference epitomizes the energy and work ethic of General Moorman. His early days at Suitland High to his climb as Vice Chief of Staff have included multiple tasks, always pursued with the very same tenacity. He has been faithful to his principles, to his beloved Air Force, and to his country.

The United States, Mr. Speaker, is indebted to Gen. Thomas S. Moorman, Jr., for selfless service. His careful and ceaseless efforts have laid a foundation for the space and Air Force capabilities which will be a vital part of a strong national security in the 21st century.

I am pleased today, Mr. Speaker, to celebrate before this Congress the accomplishments and retirement of my close and good friend, Thomas Moorman. However, I count him as a friend not for the stars on his uniform but for his integrity and his service to his country.

On behalf of my colleagues in the Congress and as a proud friend, I wish General Moorman sincere thanks for a his commitment and his success. Tom, may your retirement be filled with new opportunities and God's richest effort blessings.

Mr. Speaker, a good nation expresses its profound appreciation for a job well done. Our Nation is more secure and stronger for your having served and led the world's finest Air Force.

THE ECONOMY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Minnesota [Mr. GUTKNECHT] is recognized for 60 minutes as the designee of the majority leader.

Mr. GUTKNECHT. Mr. Speaker, I am joined tonight by my colleague, the gentleman from Tennessee [Mr. WAMP] who came here with me in 1994, in the class of the 104th Congress. We are going to talk tonight a little bit about where we were, where we are, and where we are going.

We want to talk about what has happened here in this last week because this is a very happy day. It is a happy day, I think, for this Congress. I think it is a very happy day for this country, and most importantly, I think it is a wonderful day for our children, because through this week we have passed for the first time in a generation a balanced budget plan that will in fact balance the people's books.

We have also passed the first tax relief in 16 years that is targeted for middle-class American families. This has been a very, very good week for America's children and for America's families.

I think to really understand how much has happened in the last 3 years here in Washington, I think we have to go back and look at what was happening for the last 40 years. I believe that for the last 40 years Washington had it wrong. For 40 years Washington thought that Washington knew best that bigger bureaucracies could solve social problems. So for 40 years, spending here at the Federal level increased at nearly double the inflation rate, taxes went up faster than family incomes, the debt ballooned and social problems got worse.

Washington had it wrong.

Washington waged a war on poverty. Washington spent over $5 trillion in that war, and if you take a walk through any burned-out inner city, you will see the victims that that war has brought us.

Ask yourself, who won the war on poverty? I believe that Washington had it wrong.

Washington overtaxed those who worked hard and played by the rules, and they squandered much of it on top-heavy programs that did little but breed more dependency.

When I was growing up, I think when the gentleman from Tennessee [Mr. WAMP] was growing up, we are both baby boomers. I was born in 1951. Most people do not remember who spoke at their college commencement, but I do. When I graduated from college, the speaker was the director of the United States Census. And he told us that there were more kids born in 1951 than any other single year. We are the peak of the baby boomers.

So when I came to Washington, it was with a special responsibility because my parents are still living. They are on Social Security. They are on Medicare. I obviously feel that I have a very strong responsibility to them.

But I also have three children. One of them is already in college and, hopefully, the other two will go on to some form of postsecondary education. So I also understand we have a moral responsibility to our children as well.

Things have changed a lot though since I was growing up. When I was a kid growing up, and I would assume this is true for the gentleman from Tennessee [Mr. WAMP] as well, the largest single payment that my parents made, and my folks were able to raise

me and two brothers on one paycheck. That was really the norm back in the 1950s.

Part of the reason they could do that was that the largest single payment that they made every month was the house payment. Now the largest payment that most families, the average family makes is to the government.

As a matter of fact, the Taxpayers Union says that the typical American family with a median income in the United States today spends more for taxes, when you factor in the sales tax, the income taxes at both the State and Federal level, property taxes and all the other hidden taxes that people pay, the average American family pays more for taxes than they do for food, clothing and shelter combined.

So for 40 years Washington had it wrong. I want to yield to my colleague from Tennessee [Mr. WAMP] and perhaps talk a little bit about what things were like and part of the reason that he decided to ''wamp'' Congress.

Mr. WAMP. Mr. Speaker, I appreciate the gentleman yielding to me.

I hope that after I speak for a moment about taxes and I yield back the time, that you might recognize the gentleman from Maryland [Mr. HOYER] who has to recognize a patriot. He was not here earlier and, rather than his waiting for an entire hour, if there is any way that we could allow some time to be yielded to him, I would appreciate that.

But while we are on this track about taxes, I was also born in the 1950s. I think today is a day that we should stop, the gentleman from Minnesota discussed what life was like in the 1950s, and just reflect a little bit about the growth of the Federal Government and what has happened. Because I think it is worthwhile to look back.

In 1957, when I was born, my parents paid less than 10 percent of every dollar they made in combined taxes, local, State and Federal put together. The Federal tax rate was only a third of that, but they only paid a dime out of every dollar.

We now know that in today's world, that figure is approximately half. As a matter of fact, Tax Freedom Day is going to take place next week, on Thursday, July 3. That is incredible because July 4, the following day, is Independence Day. And this year independence from the government is actually the day before we celebrate as a Nation that great day each year, Independence Day, because it is going to be July 3 this year before the average American has actually worked long enough to pay all of the taxes that they owe plus the cost of regulation. It is now more than half of every dollar they make.

Let me say this, because I have got a son Westin and a daughter Coty, and I do not want them to work until October to pay the government and then keep what is left.

We know the stress that this problem has placed on American families because let me tell you, the level of taxation is directly tied to how much quality time you have in your family. You talked about the stress that has caused most families to have two wage earners. Mom and dad are both working.

My mother did not work. Thankfully, she did not have to. She spent more time with us. Now moms and dads are both having to work. We also know the family is splitting up and actually single moms I think have it worst of all. And do you know, we need to focus on this issue.

While we are talking about taxes, and we have been debating the level of tax relief, but the fact is there are very few people left now in Washington that will actually argue on behalf of not giving some of the American people their money back, because we had the large tax increase in 1993.

I think we ought to reflect not on just what has happened in the last 2½ years but what has happened in the last 4½ years.

The President of the United States, in his first 2 years, went out of bounds. He went too far to the left. Largest tax increase in history, turning health care over to the Federal Government. The country said, whoa, we did not elect you President to do that.

This President is a savvy politician so he moved back to the middle, moved back towards the middle, was reelected, moving rapidly back towards the middle. Now he is in agreement that we need to balance the budget within 5 years, reform Medicare, regardless of what was said during the last year's campaign. Now there is bipartisan agreement that we have to do what is right for Medicare to keep it solvent for our senior citizens who so much rely on it and give some tax relief back to the American people, to stimulate the economy and to give that working mother who right now is about hopeless, if she has two children, she is going to get $1,000 back.

How important is that for the lady who busts her tail to try to keep her head above water? It is very difficult for a working single mother to take care of her family, go to work, maybe work two jobs, some people working three jobs, just to get by, very little hope. Hope is where it is at. That is what is wrong with so many of our children. They do not have hope. And they are growing cynical.

We cannot let our country cross the bridge from skepticism, which they are supposed to be somewhat skeptical of the government. Our Fathers thought that was healthy. But cynicism is disconnecting. No hope. What will I do? Why should I try?

We want to give them some hope and reverse the tide, go back the other way, give them a third of that tax increase of 1993, which caused a political change in Washington, give them a third of that tax increase back. And that is what the Congress did today.

It is not completely through, but today was a step in the right direction. I want to yield back to the gentleman, but I want to continue this dialogue about where we are on the size of government, the accountability of the government, and why this is real progress.

☐ 1845

Albeit, not perfect, but it is real progress.

Mr. GUTKNECHT. We will get back to that.

Mr. Speaker, we were just beginning to speak about how the winds of change have begun to sweep through Washington. I have got a chart up here I am going to talk about in a minute, about how really graphically I think it shows how things are changing here in Washington.

But I think the first indication that things were changing in Washington was the debate we had when we first came here about welfare. For 40 years the answer to poverty and welfare in this country was to build bigger bureaucracies, to take more money away from working families and redistribute it through a complicated welfare system that was created and run here in Washington. The bureaucracy got bigger, and we actually saw an increase in poverty. The real tragedy of the welfare system was not that it cost too much money. The tragedy is that it created too much dependency.

Once again we could see the examples, we could see the victims all around us. I think the American people, as is so often the case, were way out in front of us and they said:

> You have got to change this system. It is just wrong. What we are doing is creating dependency. We are creating more illegitimacy. We are creating less hope.

And as you said earlier, when you reach that point where you have no hope, I think that is saddest indictment of all. So some of us said we have got to reform this welfare system, and that Washington does not necessarily know best. There were States like Wisconsin and Michigan and other great States led by great governors that said:

> Let us run welfare, send more of the resources and decision-making back to our States, let us supply some of our thinking and creative tough love, and we can go a long ways towards reforming this system and reducing the amount of dependency and perhaps encourage more personal responsibility.

That is exactly what we did, and the results are overwhelming. I do not know if my colleague even knows this, but since we were elected to Congress, there are over one million families that are no longer dependent on the welfare system. As I say, that is terrific news, not just because it saves money but, more importantly, because it is going to save people and it is going to save families and it is saving children from one more generation of dependency.

At first, when we first started talking about welfare reform, it was called radical and it would not work and it would hurt people. But ultimately, I

think as John Adams used to say, ''facts are stubborn things.'' We ultimately prevailed in that debate. We got the President to sign that welfare reform.

I was very heartened to learn that even the New Republic, which is by its own admission a liberal magazine, now acknowledges that they were wrong and that the welfare reform that we passed really is working. With a little nudge, as many as 60 percent of the people who were on welfare before can be nudged onto payrolls and off the welfare rolls.

I would like to yield to the gentleman from Tennessee [Mr. WAMP] to talk a little bit about what is happening in his State and around the country, and some of his observations on welfare and poverty and dependency and personal responsibility.

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

Mr. Speaker, if we analyze what is happening out here in our country today, in 1997, and we really yearn, as I do, for a renewed sense of ownership from the people of our government and our country, I actually attempt, which may be thinking out of the box, to represent people who are so alienated or so hopeless they may not even be registered to vote. They may have just completely given up on the government, thinking that Washington is just out of control, it is going in the wrong directions, politicians are all the same.

My colleagues know what I am talking about, because we have all met those people. Many of them just kind of brush you off. They do not want to have anything to do with you. But if we can repair that bridge, to use the President's term, with those folks, and through real change and persistence convince those people that, yes, this country is worth fighting for and, yes, we can fix any problem that we have and for a sustained period of time, I would not expect them to automatically buy into the notion that Washington is finally changing. Because for so long they saw reform come, and then it really was not reform, and they thought that maybe some progress was being made or they wanted to think that, and it did not happen.

So I am really encouraged that we might be able to re-energize these people with a sense of hope that will cause this next generation to vote again, to be active citizens, to take ownership in this great Nation because it is worth fighting for and we cannot afford not to.

I do not want to oversimplify it, but there is a lot of talk now of what caused these million families to go back to work and there is a lot of credit taken. The President wants to take credit and the Congress wants to take credit. We all should remember, as Americans, that great things can happen when it does not matter who gets the credit.

Some of my folks back home, they do not have much confidence in the President, so they basically say, ''Well, y'all can do what you want to up there, but you cannot work with him.'' Listen, the American people elected him, and our President is there for three and a half years. If he is willing to come over towards the middle and meet us on a balanced budget plan to try to leave his place in history, we should meet him there, we should shake his hand and say, ''We are going to try to work with you.''

The only people fighting that I can see really are the people on the far left. They had their day. They had their day. In the 1960s they promoted the Great Society, the concept that the Federal Government could solve the woes of America, and that was an experiment that failed. We now, being the beautiful country that we are, get up off the ground and dust ourselves off. The people sent some of us here to try to fix this, and it is not easy.

The Founding Fathers never wanted it to be easy. They created such a complex system of government, with separation of powers between the executive and legislative branch, they even cut the legislative branch in half so we have got another body over here to deal with, and it is very complicated to change. But I can assure people that the process has begun.

This big ship of state that was going so much in the wrong direction slowly over time has begun to turn. If we move that big ship of state one degree back in the right direction, over time you totally alter the destination. That is what is happening in this budget agreement.

I was cautiously optimistic all along, wondering if we could make it real, if it would survive, if either side would diminish or bail out of the agreement. I did not want to get too excited about it until I knew more of the details.

This week I worked with the leadership on an issue called enforcement provisions. The gentleman from Texas [Mr. BARTON] and the gentleman from Delaware [Mr. CASTLE] and I have been in and out the leadership rooms.

This week with all of the leaders of the majority side and the leadership of the blue dog Democrats on the minority side to try to bring a freestanding bill, which they have agreed to do in the month of July, to this floor and, if it passes, to roll it into the reconciliation bill and make it a part of this agreement to make sure that, if the projections in this agreement do not go as well as we hope they will, the assumptions do not live up to their expectation, that there are some floats built in so that we stay on track, so that we actually follow through on this agreement, unlike Gramm–Rudman and previous budget agreements that the Congress did not stick with or stick to, that we will actually do that.

Why? Because we, as a country, are on that bridge between skepticism and cynicism, and we cannot lose that next generation. We cannot lose them. We have got to have them. We have challenges. We need them engaged. We need them to be hopeful and optimistic.

The whole idea is that through this process we can abandon some of the notions of the past that Federal Government is a cure-all for America and move more in the direction of responsibility, individual responsibility, corporate responsibility. We are first responsible for ourselves, then our immediate family, then our community, our citizens at large.

The Federal Government should be one of the last places that we go. But for years and even decades in a row, the Federal Government was the first place people wanted to go, and the Founding Fathers never intended that. Actually, the $5.3 trillion debt is evidence of that tendency for years to go to the Federal Government first to try to solve the problems of America.

I want to commend our class's colleague, the gentleman from Wisconsin [Mr. NEUMANN], who has come up with a very responsible plan to not just balance the budget and to potentially balance the budget ahead of our schedule, 2002, even earlier, right at the turn of the century, but also to pay off the debt.

☐ 1900

Because balancing the budget is one thing, and we should all support a reasonable plan to balance the budget while protecting legitimate priorities, and we have come together on that in an unprecedented and, I think, a historic way.

But then what about the debt? What about that? Let us go ahead and address that while we are getting the American people fired up about their country again and with a renewed optimism, and then say what do we do to get out of debt. We have a plan. I am sure the gentleman is a cosponsor, I am a cosponsor of the Neumann plan to pay this debt off by the year 2026. I believe we can do it. It is a patriotic challenge of our generation. The economy is good; basically, the world is at peace. We have a few conflicts. America has survived.

Let me tell my colleague, this is where we, our generation, should accept this as our challenge, because thank God we are not at war and we do not have the challenges that our parents and our grandparents had to go through so that we could be here today, and we should be grateful for that, but we should not coast. We should not rest. We should not take it easy, and we should not be hopeless.

We should stand up to the challenge and face this as a national imperative to get our country back out of debt and be on solid ground. Why? Because the debt is as much as our defense budget. The interest on the debt every year is as much as we pay for national defense, or as much as we pay for Medicare. Those dollars do not feed children, they do not house the homeless, they do not do one bit of good for anyone. They are wasted dollars. If we could reverse that tendency, every dollar we save could go

for a productive cause. We have to invest the scarce dollars that the Federal Government collects from its people, and they are too high. The amount of money we are spending on the Federal level is too high. We have to restore more accountability.

Steps are being made; more progress can be made.

Mr. GUTKNECHT. Mr. Speaker, I think the gentleman has raised a number of good points. There is some tremendously good news. I, frankly, am not surprised at skepticism, because we have had Gramm–Rudman, we have had lots of budget deals, and lots of times what Congress would do is they would say, well, if you would just let us raise taxes a little bit more, then we would balance the budget. Well, what happened? They raised the taxes, they never cut the spending, and the budget deficit continued to grow.

So there is a good deal of skepticism. Sometimes we need a report card. If we think we are going to get to Chicago, once in a while we have to say, are we headed in the right direction?

Let me just share with the gentleman, and I think the gentleman probably knows this, but some of our Members do not. In our 1995 budget resolution we said that we would spend $1,624 billion in fiscal year 1997, that is the fiscal year we are in right now. We said we would spend $1,624 billion. The good news is that we are only going to spend $1,622 billion. So we are actually going to spend less in that fiscal year than we said we would spend 2 years ago. That is good news.

But I think the news gets even better. Because the economy has been a lot stronger than you or I or any of the economists, the President, the GAO, the CBO, and all the other people who keep score, the economy has been a lot stronger. More people have confidence now in America, they have confidence in the economy, they are out buying homes and cars and investing in new production, and so forth. So we have actually taken in about $100 billion more in revenue than we expected to take in. At the same time, we have actually spent less than we said we were going to spend. So I think that is great news.

I want to show this chart for the benefit of the gentleman and others who may be watching in their offices. But this is another example how the winds of change are really beginning to blow through Washington. The wind is actually changing, the direction is changing, that battleship is turning, because since 1975 to 1995, for 20 years, every year, if we take an average, these red lines is how much more the Congress spent than it took in.

If we average it all out, and it varied from $1.09 to $1.35, but for every dollar the Congress took in, it spent an average of $1.21. I am happy to report that since we came here, that we have a new Committee on Appropriations, a new Committee on the Budget, and a new Committee on Ways and Means chair, that since we came to Congress, I would say to the gentleman, that that average has dropped to $1.08. With this budget agreement it ultimately will reach 99 cents. If we can get to that 99 cent level, and this is where the plan of the gentleman from Wisconsin [Mr. NEUMANN] comes in, that is when we not only balance the budget on a year-to-year basis, but we begin to pay down some of that debt.

I think we ought to set, in terms of a goal of generational fairness, that our generation, the baby boomers, while we are protecting Social Security, while we are protecting Medicare we are going to pay off that debt so that we can leave our kids a debt-free future. I think that is a future that is worth fighting for. That is the way we can guarantee that the next generation and the generation after that will have their shot at the American dream.

Mr. Speaker, as I said earlier, for 40 years I think Washington had it wrong. They thought that they could spend their way to prosperity, and that is the reason that we are spending as much for interest on the national debt as we do for national security and some of the other things that the gentleman talked about. So we have to change that.

But it is changing. The good news is that we are spending less than we expected to spend, we are taking in more revenue than we expected to take in. Frankly, I have some of the number crunchers for the Committee on the Budget and I serve on the Committee on the Budget with the gentleman from Wisconsin [Mr. NEUMANN] and the gentleman from Ohio [Mr. KASICH] and a lot of other good folks.

I had them run the numbers and I said, what if the economy slows down a little bit. One of the myths is that this budget agreement is based on rosy economic scenarios. Right now the economy is growing at about 3.8 percent per year. Our budget agreement assumes that that growth rate is going to drop to 2.1 percent. Frankly, I think it is going to keep going on a much faster rate. So I asked the Committee on the Budget if they would just run some numbers and tell me what would happen if yes, the economic growth rate slowed, but it slowed to more of the average where it has been for the last 15 to 20 years, which is about a 3.2 percent growth rate.

If we do that, the interesting thing is that: First, the budget balances in the year 2000, and by the year 2002 we will have a surplus of over $200 billion in the Treasury. No one knows what is going to happen next year or 5 years from now. I think the gentleman's recommendations for some kind of enforcement provisions is a very good one and we ought to give it very careful consideration.

Mr. Speaker, I think the good news is we are keeping our promise, we are ahead of schedule, we are under budget, we are doing what we said we are going to do, and I think the American people understand that.

I would like to yield back to the gentleman and maybe we can talk a little more about making government more accountable and encouraging more personal responsibility and what else is happening with the budget.

Mr. WAMP. Well, we also talked about the economy. I think it is important to look at what the economy may do in the short run. I am convinced that it will be a real shot in the arm to an economy that is already performing well if we follow through on tax relief. I believe when people look back and say well, how did this economic trend continue for this long, frankly, I think one of the reasons is because the American people sent this new Congress here and they actually saw us reducing spending.

Now, as the gentleman knows, I serve on the Committee on Appropriations, and just this week we marked up, we wrote the legislation, for the legislative appropriations bill. Now, there are 13 appropriations bills that have to be passed out to fund the discretionary portion of the Federal Government. It is an interesting trend what has happened since 1965, but in 1965, the Congress actually appropriated about two-thirds of the money, and a third of the money was entitlements, automatic spending.

Well, that has just about reversed from 1965 to 1996, last year, where it is just the opposite. Entitlements and interest have two-thirds, and we only appropriate about one-third. Of that one-third that we appropriate, as you well know, about half of it is defense, and the other half is all the other non-defense discretionary bills put together.

So here we are making these reductions in this small portion of the Federal budget, but we have shown Wall Street, we have shown the American people, that we are willing to reduce spending for the first time in 26 years. The legislative branch, which we voted on this week, actually is experiencing a freeze after in the last 2 years a slight reduction actually, in actual dollars, not indexed for inflation, but in actual dollars, and previously we had reduced that legislative budget so much, first saying let us clean up our own House, let us start here in the Congress itself, reduce the staff, reduce the committees, reduce the legislative budget. We did that.

As a matter of fact, if all of the other appropriations bills were treated the same as the legislative appropriations bill, I was told this week the budget would be balanced in 2 years.

Mr. GUTKNECHT. Mr. Speaker, it would be balanced today if we had started in 1995.

Mr. WAMP. That is right. If we started prospectively, I am told the budget would be balanced in 2 years.

So things are going in the right direction. I believe that the markets are a reflection today of the renewed confidence that things are changing in Washington.

Mr. GUTKNECHT. Mr. Speaker, it is not just the markets, it is consumer confidence. I think there was a report out yesterday that consumer confidence is about at a record all-time high.

The American people in Washington for the first time say what they mean, mean what they say and do everything within their power to actually get it done.

I want to talk a little bit about this chart, because I mentioned it earlier. If the gentleman can see the red bars, going back to our 7-year balanced budget plan, which unfortunately the President vetoed and only parts of it actually became law, but thanks to the hard work of the folks on the Committee on Appropriations where they cut about $50 billion in wasteful spending and we also began the process of reforming and controlling the growth of entitlements, but this was our plan over 7 years.

Those are the red bars of what the deficits would be. The blue bars are where we actually are. And again, it points out, we said we would have a budget deficit in fiscal year 1997 of $174 billion. It is really going to be something more like $70 billion. Because of slower economic growth projected for next year, it does take a slight move up, but frankly, I think if we are anywhere close, and this goes back to another point that we both made, that if we talk to economists, if we talk to regular folks and we asked them what do they think will happen to the economy if everybody believes that Congress is going to balance the books, No.1; and No.2, if we allow them to keep and spend and save more of their money, do they think the economy will slow down, or do they think it will remain strong?

Virtually everyone that I have talked to from some of the top economists to some of the top business people to just regular folks at the barber shop, they believe that if we allow people to keep more of their own money and if we are serious about balancing the budget, real interest rates are going to come down and real economic growth is going to remain strong.

So that is why I believe, and I am not an incurable optimist, but I think I can back this up and time will prove me right, that if we actually can get this budget plan signed into law and begin the process of allowing families to keep and spend and invest more of their own money, I think we are going to have a strong economy, not just for the next year, but probably well into the next century.

Mr. WAMP. Mr. Speaker, I would like to say this again. Sometimes back home I get in trouble for being too honest, brutally honest at times about what really the situation is here in Washington as I explain it to people and do radio talk shows or town meetings or whatever. If we are talking about the deficit for this coming fiscal year, which is fiscal year 1998, and as the gentleman has pointed out, it is $49 billion less than our plan when the Congress came in and passed the 7-year balanced budget plan, the deficit for fiscal year 1998, according to our glidepath that we originally passed, was going to be $139 billion, and now this new plan, as agreed upon by the President, has a $90 billion budget deficit and we discussed the fact that it is up from last year, part of that, though, and in all fairness and in brutal candor to the American people, which I believe that they now expect and deserve, is that the President in this agreement wanted to increase some discretionary spending in the short run over what he calls his priorities.

Again, this is a system that has worked very well for over 200 years in this country. It includes an executive branch with veto power. We have to have a supermajority, a two-thirds vote of both bodies to override his veto.

□ 1915

This Congress does not have that. If we want to see progress made at the end of the day, there has to be some compromise on both sides. I want the folks back home, some of my wonderful, hardcore conservative friends who say we should not have been increasing domestic spending in the short run in order to get this agreement, in an ideal world I agree, but for 3½ years politically we do not have an ideal world. We have a split government with an executive branch from one party and a legislative branch solidly from the other party. Where we can, we are going to need to work together.

I think the American people last year said, you all let the temperature down just a bit. The 104th Congress was a little too partisan. Try to work together. Do not engage in shallow, divisive rhetoric, because at the end of the day, in my opinion, there are only two kinds of politicians, only two kinds of leaders, those that unite and those that divide.

The politics of division is not good for America. It has been very popular in recent years. They even have phrases called wedge issues. By definition that is an issue that will split people into two parts, and then you can pander to one part because the wedge issue divided that group of people.

The politics of division has now risen to prominence in America. I think that is part of the cynicism, is they do not like attack politics. They do not like the politics of division. There are leaders who have succeeded by bringing people together. The politics of unity. Alex Haley, a wonderful Tennesseean, used to say, find the good and praise it.

We need to find what it is we can agree on and come together on that, and set aside for the purpose of that discussion and for the moment our differences, and certainly not allow the politics of division to win the day.

That is not an exclusive propensity for either side of the aisle. I believe neither party has an exclusive on integrity and ideas, and frankly, I believe there are Members of both parties in Washington and across the country that engage too much in the politics of division and not near enough in the politics of unity. We need more leaders in this country that will say, OK, what can we agree on? Where can we meet in the middle?

Instead of saying, well, you just cannot trust the President, I think we should say, if the President is willing to meet us close to the middle, what can we agree with?

So the deficit does right there tick up in the short run, but we get real entitlement reform to save Medicare, keep it solvent, because it is hemorrhaging.

Mr. GUTKNECHT. Absolutely.

Mr. WAMP. Medicare, even though it was demagogued, they called it medagoguery in the last election cycle; it is hemorrhaging, losing millions of dollars every day until we fix it. In order to fix it, we have to rein it in. In order to get that accomplished, we have to say, Mr. President, what does it take to get your agreement? We would not have had the agreement.

Frankly, it is not an ideal situation. The ideology cannot win the day. There is a pragmatism that has to set in. In this country today we have this mixed government. We are not going to have another election to change that, so what can we do in the meantime to try to reach some common ground? Move the country forward, engage in the politics of unification again, because our country has so many problems, I am afraid if we do not work together in this city and across this land.

Mr. GUTKNECHT. Mr. Speaker, I would say to the gentleman I generally agree with what he has said, although I would phrase it somewhat differently. I think in the book of Ecclesiastes it talks about there is a time for everything, a time for war and a time for peace. In politics there is a time for confrontation. There are clearly some times when you have to draw a line in the sand and say, beyond this point there is simply is no retreat.

Perhaps we engaged in too much confrontation during the last Congress. But on the other hand, there is also a time for cooperation. I know some of my supporters, as the gentleman has back in Tennessee, really, they kind of like the politics of confrontation. Clearly they see it sometimes as a spectator sport. But in the end we have to do what is best for America. We have to do what is best for American kids and what is best for American seniors.

So in some respects, if the gentleman and I were to sit down and write a budget agreement, probably it would not look exactly like the one we voted on this week. The same is true with the tax bill. If I could have written the tax bill, it probably would have been significantly different than the one I was proud to vote for today.

In the end, this is about getting 218 votes here in the House, 51 votes in the

Senate, and getting the President to sign it. I think the great news is that after going through some of the politics of confrontation, which in my opinion were important because they began to lay the foundations for where we are today, I honestly do not believe that we would have a budget agreement as good as the one we have, had we not been willing to demonstrate in the last Congress that we were willing to stand and fight. I think we would not have had as good a Medicare reform plan as we have today if we had not been willing to demonstrate that we were willing to fight for the principles we believed in.

On the other hand, we had to make some compromises. We could not completely ignore some of the President's priorities. There will be more money in education which I think generally, though, when people begin to analyze it, I think they are going to like some of the stuff that is going to be done for education. I know education, whether we are in Tennessee or Minnesota or wherever, is a very high priority with the American people.

So yes, it is a compromise. It is cooperation. We are trying to work together, because we understand that the greater good is what is really good for the American people.

Mr. WAMP. Mr. Speaker, I appreciate the gentleman yielding to me, and I have enjoyed this discussion immensely. I think it is a worthy effort that we have engaged here in Washington.

Mr. GUTKNECHT. Reclaiming my time, Mr. Speaker, I did want to talk just briefly, and we ought to spend a couple of minutes talking about the tax bill we passed today. I think there has been, just as we had a little bit of disinformation about Medicare, we have heard a little bit of disinformation about the tax plan.

I just want to say, and these are from the Committee on the Budget, the Committee on Ways and Means, I am sorry, but they have all been confirmed by the Joint Committee on Taxation. I would hope that whether people live in Minnesota or in Tennessee, wherever they are, that they would get the facts.

I think the facts speak for themselves. The bulk of the tax relief that is in this package, in fact, I think it is very accurate to say that 75 percent of the tax relief that we passed today is targeted at families that earn less than $75,000. Despite all the disinformation that has been spread, I think families can figure that out for themselves.

I would like to tell the story, I was going home last week. I was driving into our neighborhood and there was a garage sale. There was a family getting out of a rather beat-up car. They were going up to this garage sale. They had three kids that were able to walk and then there was one chubber that was about maybe 8 or 9 months old that was permanently attached to mom's hip, you know that type.

I thought about our tax relief package in this budget. I really thought, you know, this is what this is all about, because by balancing the budget we are preserving the American dream for those kids, and by passing this tax relief package we are going to provide real tax relief to families like that, millions of families like that.

This tax relief package will benefit 41 million children in this country, and $500 times those four kids is $2,000. That may not seem like a lot of money to some of the folks in Washington, some of the well-paid lobbyists who hang around these halls, but $2,000 to the typical family with four kids, that is a lot of money.

Take that family at $40,000 with three kids, and that is $1,500 plus the educational benefits, so this is a great package for American families. I am proud of it. It is not exactly the plan I would have written, maybe not the plan the gentleman would have written, but it is a great plan for America's families.

Mr. WAMP. If the gentleman will continue to yield, Mr. Speaker, under this agreement, which I now believe at some point will be signed into law and enacted and the people will actually receive this tax relief, 767,000 children in the State of Tennessee alone will qualify so that their parents receive a $500 tax credit in the coming year. That is incredible, just to think about 767,000 just in the State of Tennessee.

There was a lot of debate on the floor today about who is wealthy and who is not wealthy. Working families in this country, just because you have a job and own a home, a lot of the definition we heard today, if you own your own home you were classified by their definition today as wealthy. I hope you do own your own home, regardless of what it is worth. Home ownership is a great thing in this country, something that should be held up for hope and for opportunity as a goal that people should have.

I do not care if that single mom I was talking about earlier is making $18,000 a year or $30,000 a year, but if she has children 16 years old or under she needs that relief right now. That is going to help her, and I think it is going to stimulate our economy.

Then the other two areas of tax relief that I really believe in that are part of this agreement is increasing the level of death tax on families for assets. In my part of the world in Tennessee, many parts of my district are rural, where families own a farm. That farm has risen in value. It is called inflation that brought it up. They did not pay that much for it, but they have had it for a long time. They did not pay that much for it. They did not have that much to pay, but maybe they got it from their parents, and now the farm is worth more than $600,000, so if their parents die they would have to sell the farm, many of them, in order to pay the taxes, sell the family farm. That is unfair. This is an unfair tax. We should continue to lift that exemption as high as we can take it.

Then the capital gains tax is being reduced, the rate, and it is an unfair tax, too, because it is another tax on inflation. Other industrialized countries that we compete with in a global economy do not even have a capital gains tax rate, like Japan and Germany. We need to not tax inflation. We need to have incentives for people to save and invest that stimulates the economy.

We have an argument in this country over supply-side economics or not, but the fact is tax relief in the right way stimulates the economy and generates more revenue than it ever costs on the budget side. I really believe this is a step in the right direction.

I appreciate the gentleman's time tonight. I have enjoyed our colloquy. I hope the American people maybe better understand what we are trying to accomplish in good faith in this city at this critical moment in our great country's history. I hope the gentleman has a grand Fourth of July back in Minnesota.

Mr. GUTKNECHT. Mr. Speaker, I thank the gentleman from Tennessee. It has been a great a hour. It has gone very fast.

I would just like to close by saying this, this is an important first step. This was a very important week for American families, because we are beginning to restore accountability to government. We are starting to encourage more personal responsibility. We are sending more of the authority, the responsibility, and the resources back to neighborhoods and communities, and most importantly, to families.

As I said earlier, for 40 years Washington had it wrong. Washington thought that Washington knew best. For 40 years both the bureaucracy and the debt ballooned, and what happened? Our social problems got worse. The real answers to most of our social problems cannot be found here in Washington. They are with our families. That is what this week was about. That is what our budget is about. That is what our tax plan is about. Our families in America are winning now, and with their help, we are going to keep them winning.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATES (at the request of Mr. GEPHARDT) after 12 noon today, on account of personal reasons.

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 Mr. SERRANO) to revise and extend their remarks and include extraneous material:)

Mr. BONIOR, for 5 minutes, today.

Mr. FRANK of Massachusetts, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Ms. PELOSI, for 5 minutes, today.

(The following Members (at the request of Mr. KNOLLENBERG) to revise and extend their remarks and include extraneous material:)

Mr. CHABOT, for 5 minutes, today.

Mr. SCARBOROUGH, for 5 minutes, today.

Mr. KNOLLENBERG, for 5 minutes, today.

Mr. KASICH, for 5 minutes, today.

Mr. PAUL, for 5 minutes, today.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1553. An act to amend the President John F. Kennedy Assassination Records Collection Act of 1992 to extend the authorization of the Assassination Records Review Board until September 30, 1998.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 1306. An act to amend Federal law to clarify the applicability of host State laws to any branch in such State of an out-of-State bank, and for other purposes; and

H.R. 1902. An act to immunize donations made in the form of charitable gift annuities and charitable remainder trusts from the antitrust laws and State laws similar to the antitrust laws.

ADJOURNMENT

Mr. GUTKNECHT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore (Mr. PEASE). Pursuant to the provisions of House Concurrent Resolution 108 of the 105th Congress, the House stands adjourned until 12:30 p.m. on Tuesday, July 8, 1997, for morning hour debates.

Thereupon (at 7 o'clock and 27 minutes p.m.), pursuant to House Concurrent Resolution 108, the House adjourned until Tuesday, July 8, 1997, at 12:30 p.m. for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3958. A letter from the Acting Administrator, Farm Service Agency, transmitting the Agency's final rule—Livestock Indemnity Program (Commodity Credit Corporation) (RIN: 0560–AF15) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3959. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Reserve Requirements of Depository Institutions and Issue and Cancellation of Capital Stock of Federal Reserve Banks [Regulations D and I; Docket No. R–0963] received June 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

3960. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of discretionary new budget authority and outlays for the current year (if any) and the budget year provided by H.R. 1871, pursuant to Public Law 101—508, section 13101(a) (104 Stat. 1388—578); to the Committee on the Budget.

3961. A letter from the Assistant Secretary for Special Education and Rehabilitative Services, Department of Education, transmitting Final Priorities——Research in Education of Individuals with Disabilities Program, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

3962. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's report on the Notice of Final Funding Priorities for programs administered by the Office of Special Education and Rehabilitative Services, pursuant to 5 U.S.C. 801(a)(1)(B); to the Committee on Education and the Workforce.

3963. A letter from the Secretary of Health and Human Services, transmitting the Annual Report for Fiscal Year 1996 of the Administration on Aging, pursuant to 42 U.S.C. 3018; to the Committee on Education and the Workforce.

3964. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; New Jersey 15 Percent Rate of Progress Plan and Phase I and II Ozone Implementation Plans [Region II Docket No. NJ28–2–170, FRL–5850–2] received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3965. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval of Revisions to the Tennessee State Implementation Plan Regarding Visibility [TN 104–1–9706(b); TN 148–1–9705(b); FRL–5849–1] received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3966. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Acid Rain Program: Phase II Early Reduction Credits [FRL–5845–3] received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3967. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Technical Amendments to Test Rules and Enforceable Testing Consent Agreements/Testing Consent Orders [OPPTS–40030; FRL–5728–5] received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3968. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Medical Devices; Reclassification of the Infant Radiant Warmer [Docket No. 85N–0285] received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3969. A letter from the Deputy Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adhesives and Components of Coatings; and Adjuvants, Production Aids, and Sanitizers [Docket No. 96F–0292] received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

3970. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Japan (Transmittal No. DTC–57–97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3971. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to the United Kingdom (Transmittal No. DTC–81–97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3972. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with Saudi Arabia (Transmittal No. DTC–1–97), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

3973. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the semi-annual report for the period April 1, 1996 to September 30, 1996 listing Voluntary Contributions made by the United States Government to International Organizations, pursuant to 22 U.S.C. 2226(b)(1); to the Committee on International Relations.

3974. A communication from the President of the United States, transmitting the bimonthly report on progress toward a negotiated settlement of the Cyprus question, including any relevant reports from the Secretary General of the United Nations, pursuant to 22 U.S.C. 2373(c); to the Committee on International Relations.

3975. A letter from the Acting Assistant Secretary, Bureau of Export Administration, transmitting the Bureau's final rule—Revisions to the Export Administration Regulations: Additions to the Entity List [Docket No. 970428099–7150–02] (RIN: 0694–AB60) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

3976. A letter from the Acting Assistant Secretary, Bureau of Export Administration, transmitting the Bureau's final rule—Revisions to the Export Administration Regulations: Additions to Entity List: National Development Centre, Pakistan; and Indian Rare Earths, Ltd., India [Docket No. 970428099–7151–03] (RIN: 0694–AB60) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

3977. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates, Diversity LOTTery Fee (Bureau of Consular Affairs) [Public Notice 2555] received June 11, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

3978. A letter from the Acting Chairman of the Council, Council of the District of Columbia, transmitting a copy of D.C. Act 12–84, ''BNA Washington, Inc., Real Property Tax Deferral Temporary Amendment Act of 1997'' received June 25, 1997, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

3979. A letter from the Acting Chairman of the Council, Council of the District of Columbia, transmitting a copy of D.C. Act 12–

83, ''Procurement Reform Temporary Amendment Act of 1997'' received June 25, 1997, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

3980. A letter from the Executive Director, District of Columbia Retirement Board, transmitting the personal financial disclosure statements of Board members, pursuant to D.C. Code section 1—732 and 1—734(a)(1)(A); to the Committee on Government Reform and Oversight.

3981. A letter from the Comptroller General, General Accounting Office, transmitting a list of all reports issued or released in May 1997, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform and Oversight.

3982. A letter from the Director, Office of the Secretary, Department of Defense, transmitting the Department's final rule—DoD Freedom of Information Act Program Regulation [DoD 5400.7–R] (RIN: 0790–AG48) received June 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

3983. A letter from the Assistant Secretary for Human Resources and Administration, Department of Energy, transmitting a report of proposed revision to a system of records subject to the Privacy Act; to the Committee on Government Reform and Oversight.

3984. A letter from the Inspector General, General Services Administration, transmitting the Office's Audit Report Register, including all financial recommendations, for the period ending March 31, 1997, pursuant to Public Law 100—504, section 104(a) (102 Stat. 2525); to the Committee on Government Reform and Oversight.

3985. A letter from the Regulatory Policy Official, National Archives and RECORDS Administration, transmitting the Administration's final rule—NARA Reproduction Fee Schedule (RIN: 3095–AA71) received June 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

3986. A letter from the Director, Office of Personnel Management, transmitting the Office's report on the Federal Employees Family Friendly Leave Act; to the Committee on Government Reform and Oversight.

3987. A letter from the Secretary of Defense, transmitting the semiannual report of the Inspector General and classified annex for the period October 1, 1996, through March 31, 1997, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

3988. A letter from the Senior Deputy Assistant Administrator, Bureau for Legislative and Public Affairs, U.S. Agency for International Development, transmitting a report of activities under the Freedom of Information Act for the calendar year 1996, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

3989. A letter from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Magnuson-STEVENS Act Provisions; Foreign Fishing Vessels in Internal Waters; Reporting Requirements [Docket No. 970304043–7145–03; I.D. 061397A] (RIN: 0648–AJ59) received June 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3990. A letter from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Scallop Fisheries Off Alaska; 1997–98 Harvest Specifications [Docket No. 970613138–7138–01; I.D. 060397E] (RIN: 0648–AF81) received June 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3991. A letter from the Executive Director, Congressional Medal of Honor Society of the United States of America, transmitting the annual financial report of the Society for calendar year 1996, pursuant to 36 U.S.C. 1101(19) and 1103; to the Committee on the Judiciary.

3992. A letter from the Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation to grant the consent of Congress to the Apalachicola-Chattahoochee-Flint River Basin Compact and the Alabama-Coosa-Tallapoosa River Basin Compact; to the Committee on the Judiciary.

3993. A letter from the Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation entitled the ''Victims' Rights Act of 1997''; to the Committee on the Judiciary.

3994. A letter from the Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation entitled the ''Child Support Recovery Amendments Act of 1997''; to the Committee on the Judiciary.

3995. A letter from the Attorney, National Council on Radiation Protection and Measurements, transmitting the 1996 annual report of independent auditors who have audited the records of the National Council on Radiation Protection and Measurements, pursuant to Public Law 88—376, section 14(b) (78 Stat. 323); to the Committee on the Judiciary.

3996. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; City of Astoria Fourth of July Fireworks, Columbia River, Astoria OR (Coast Guard) [CGD13–97–007] (RIN: 2115–AA97) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3997. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; Oregon Food Bank Blues Festival Fireworks Display, Willamette River, Portland OR (Coast Guard) [CGD13–97–009] (RIN: 2115–AA97) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3998. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; Pensacola, Pensacola Bay, Gulf of Mexico, FL (Coast Guard) (RIN: 2115–AA97) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3999. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; Oak Park 4th of July Fireworks Display, Willamette River, Portland OR (Coast Guard) [CGD13–97–010] (RIN: 2115–AA97) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4000. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; Kennewick Old Fashioned Fourth of July Fireworks Display, Columbia River, Kennewick WA (Coast Guard) [CGD13–97–008] (RIN: 2115–AA97) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4001. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; St. Helens 4th of July Fireworks Display, Columbia River, St. Helens OR [CGD13–97–011] (RIN: 2115–AA97) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4002. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; Macy's 1997 Fourth of July Fireworks, East River, New York (Coast Guard) [CGD01–97–041] (RIN: 2115–AA97) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4003. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; Saint Peter's Fiesta Fireworks, Gloucester, MA (Coast Guard) [CGD1–97–040] (RIN: 2115–AA97) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4004. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; Destin Pass, Destin, FL (Coast Guard) [Regulation 97–04] (RIN: 2115–AA97) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4005. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; BT Global Challenge Race, Boston Harbor, MA (Coast Guard) [CGD01–97–042] (RIN: 2115–AA97) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4006. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; St. Andrew Bay, Panama City Marina, Panama City FL (Coast Guard) [Regulation 97–14] (RIN: 2115–AA97) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4007. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Use of MIL-C–915 cable on Merchant Vessels (Coast Guard) [CGD 97–030] (RIN: 2115–ZZ00) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4008. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Programs for Chemical Drug and Alcohol Testing of Commercial Vessel Personnel; Implementation of Drug Testing in Foreign Waters (Coast Guard) [CGD 95–011] (RIN: 2115–AF02) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4009. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Inflatable Liferafts; Correction (Coast Guard) [CGD 85–205] (RIN: 2115–AC51) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4010. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulation: The ''Great Connecticut River Raft Race,'' Middletown, CT (Coast Guard) [CGD01–95–178] (RIN: 2115–AE46) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4011. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations for Marine Events; Virginia is for Lovers Cup Unlimited Hydroplane Races, Willoughby Bay, Norfolk, Virginia (Coast Guard) [CGD 05–97–043] (RIN: 2115–AE46) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4012. A letter from the General Counsel, Department of Transportation, transmitting

the Department's final rule—Antarctic Treaty Environmental Protection Protocol (Coast Guard) [CGD 97–015] (RIN: 2115–AF43) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4013. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Puget Sound and adjacent waters, WA-regulated navigation (Coast Guard) [CGD13–97–003] (RIN: 2115–AE84) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4014. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Equivalency of Caribbean Cargo Ship Safety Code (Coast Guard) [CGD 97–026] (RIN: 2115–ZZ01) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4015. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Technical Amendments; Organizational Changes; Miscellaneous Editorial Changes and Conforming Amendments (Coast Guard) [CGD 97–023] (RIN: 2115–ZZ02) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4016. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Hazardous Materials: Shipping Description and Packaging of Oxygen Generators; Extension of Effective Date and Corrections (Research and Special Programs Administration) [Docket No. HM–224A] (RIN: 2137–AD02) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4017. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Availability of Interpretations of Hazardous Materials and Pipeline Safety Regulations; Correction (Research and Special Programs Administration) [Docket No. RSPA–97–2522 (RSP–3)] (RIN: 2137–AD00) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4018. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Kodiak, AK (Federal Aviation Administration) [Airspace Docket No. 97–AAL–4] (RIN: 2120–AA66) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4019. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Driggs, Idaho (Federal Aviation Administration) [Airspace Docket No. 97–ANM–6] received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4020. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; University of Maryland, Baltimore, MD (Federal Aviation Administration) [Airspace Docket No. 97–AEA–023] (RIN: 2120–AA66) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4021. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Fort McHenry, MD (Federal Aviation Adminstration) [Airspace Docket No. 97–AEA–022] (RIN: 2120–AA66) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4022. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Centerville, MD (Federal Aviation Administration) [Airspace Docket No. 97–AEA–021] (RIN: 2120–AA66) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4023. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Sayre, PA (Federal Aviation Administration) [Airspace Docket No. 97–AEA–020] (RIN: 2120–AA66) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4024. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28943; Amdt. No. 1804] (RIN: 2120–AA65) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4025. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28944; Amdt. No. 1805] (RIN: 2120–AA65) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4026. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28942; Amdt. No. 1803] (RIN: 2120–AA65) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4027. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Class D Airspace; Idaho Falls, Idaho (Federal Aviation Administration) [Airspace Docket No. 97–ANM–5] received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4028. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; de Havilland Model DHC–8–100 and -300 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–73–AD; Amdt. 39–10055; AD 97–13–08] (RIN: 2120–AA64) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4029. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Helicopter Systems Model MD–900 Helicopters (Federal Aviation Administration) [Docket No. 96–SW–35–AD; Amdt. 39–10056; AD 97–13–09] (RIN: 2120–AA64) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4030. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A300–B2 and -B4 Series Airplanes, Excluding Model A300–600 Series Airplanes, Equipped with General Electric CF6–50 Series Engines or Pratt & Whitney JT9D–59A Engines (Federal Aviation Administration) [Docket No. 96–NM–165–AD; Amdt 39–10050; AD 97–13–04] (RIN: 2120–AA64) received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4031. A letter from the Secretary of Transportation, transmitting a report on the Evaluation of the U.S. Department of Transportation State Infrastructure Bank Pilot Program: Status as of February 28, 1997; to the Committee on Transportation and Infrastructure.

4032. A letter from the Secretary of Transportation, transmitting a report on Highway Signs for the National Highway System; to the Committee on Transportation and Infrastructure.

4033. A letter from the Secretary of Commerce, transmitting the ''National Implementation Plan For Modernization Of The National Weather Service For Fiscal Year 1998,'' pursuant to Public Law 102—567, section 703(a) (106 Stat. 4304); to the Committee on Science.

4034. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend sections 2306 and 2403 of title 38, United States Code, to authorize memorialization of deceased spouses and surviving spouses of veterans and deceased members of the Armed Forces whose remains are not available for interment; to the Committee on Veterans' Affairs.

4035. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Last-In, First-Out Inventories [Rev. Rul. 97–28] received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4036. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Treatment of Hong Kong and China [Notice 97–40] received June 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4037. A letter from the Assistant Secretary of Defense, transmitting a letter notifying Congress that the report concerning the tax deductibility of nonreimburseable expenses incurred by members of Reserve components in connection with military service required by the National Defense Authorization Act for Fiscal Year 1997 will be submitted no later than July 31, 1997; jointly to the Committees on National Security and Ways and Means.

4038. A letter from the Administrator, Agency for International Development, transmitting a quarterly update report on development assistance program allocations for FY 1997, pursuant to 22 U.S.C. 2413(a); jointly to the Committees on International Relations and Appropriations.

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. BLILEY: Committee on Commerce. H.R. 1276. A bill to authorize appropriations for fiscal years 1998 and 1999 for the research, development, and demonstration activities of the Environmental Protection Agency, and for other purposes; with an amendment (Rept. 105–99 Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOODLING: Committee on Education and the Workforce. H.R. 1818. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to authorize appropriations for fiscal years 1998, 1999, 2000, and 2001, and for other purposes; with an amendment (Rept. 105–155). Referred to the Committee of the Whole House on the State of the Union.

Mrs. MYRICK: Committee on rules. House Resolution 178. Resolution providing for consideration of the bill (H.R. 2016) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1998, and for

other purposes (Rept. 105–156). Referred to the House Calendar.

Mr. MCCOLLUM: Committee on the Judiciary. House Concurrent Resolution 75. Resolution expressing the sense of the Congress that States should work more aggressively to attack the problem of violent crimes committed by repeat offenders and criminals serving abbreviated sentences (Rept. 105–157). Referred to the House Calendar.

Mr. MCCOLLUM; Committee on the Judiciary. H.R. 1847. A bill to improve the criminal law relating to fraud against consumers; with an amendment (Rep. 105–158). Referred to the Committee of the Whole House on the State of the Union.

Mr. MCCOLLUM: Committee on the Judiciary. H.R. 1898. A bill to amend title 18 of the United States Code to penalize the rape of minors in Federal prisons. (Rept. 105–159). Referred to the Committee of the Whole House on the State of the Union.

Mr. MCCOLLUM: Committee on the Judiciary. House Resolution 154. Resolution expressing the sense of the House that the Nation's children are its most valuable assets and that their protection should be the Nation's highest priority (Rept. 105–160). Referred to the House Calendar.

Mr. MCCOLLUM: Committee on the Judiciary. H.R. 103. A bill to expedite State reviews of criminal records of applicants for private security officer employment, and for other purposes (Rept. 105–161 Pt. 1). Ordered to be printed.

Mr. MCCOLLUM: Committee on the Judiciary. H.R. 1840. A bill to provide a law enforcement exception to the prohibition on the advertising of certain electronic devices (Rept. 105–162). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X, the following action was taken by the Speaker:

H.R. 695. A bill to amend title 18, United States Code, to affirm the rights of U.S. persons to use and sell encryption and to relax export controls on encryption; with an amendment; referred to the Committees on Commerce, National Security, and the Permanent Select Committee on intelligence for a period ending not later than September 5, 1997, for consideration of such provisions of the bill and amendment reported by the Committee on the Judiciary as fall within the jurisdiction of those committees pursuant to clause 1(e) and (k), rule X and rule XLVIII, respectively.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 695. Referral to the Committee on International Relations extended for a period ending not later than July 25, 1997.

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. THORNBERRY:

H.R. 2072. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income gain from oil and gas produced from certain recovered inactive wells; to the Committee on Ways and Means.

By Mr. GOODLATTE:

H.R. 2073. A bill to prohibit fundraising at the White House and elsewhere; to the Committee on the Judiciary.

H.R. 2074. A bill to amend the Federal Election Campaign Act of 1971 to expedite the availability of reports submitted to the Federal Election Commission, and for other purposes; to the Committee on House Oversight.

H.R. 2075. A bill to amend the Federal Election Campaign Act of 1971 to require the disclosure of certain information by persons conducting polls by telephone during campaigns for election for Federal office; to the Committee on House Oversight.

H.R. 2076. A bill to amend the National Voter Registration Act of 1993 to repeal the requirement that States provide for voter registration by mail and to require applicants for voter registration to provide a Social Security number and actual proof of U.S. citizenship, and for other purposes; to the Committee on House Oversight.

By Mr. BROWN of California (for himself, Mr. GUTIERREZ, Mrs. MALONEY of New York, Mr. FILNER, Ms. CHRISTIAN-GREEN, Mr. CLAY, Mr. DELLUMS, Mr. OLVER, Mrs. TAUSCHER, and Mr. ACKERMAN):

H.R. 2077. A bill to establish a National Forest Preserve consisting of certain Federal lands in the Sequoia National Forest in the State of California to protect and preserve remaining Giant Sequoia ecosystems and to provide increased recreational opportunities in connection with such ecosystems; to the Committee on Resources.

By Mr. CAMPBELL (for himself, Mr. CANADY of Florida, and Mr. BOUCHER):

H.R. 2078. A bill to amend title VII of the Civil Rights Act of 1964 to clarify the intent of Congress to hold individuals responsible for discriminatory acts committed by them in employment; to the Committee on Education and the Workforce.

By Mr. CAMPBELL (for himself and Mr. EHLERS):

H.R. 2079. A bill to require implementation of an alternative program for providing a benefit or employment preference under Federal law; to the Committee on the Judiciary.

By Mr. CAMPBELL (for himself and Mr. CANADY of Florida):

H.R. 2080. A bill to amend title VII of the Civil Rights Act of 1964 to establish criminal liability for unlawful discrimination based on disparate treatment; to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CANADY of Florida (for himself, Mrs. MORELLA, Mr. SMITH of New Jersey, Mr. OLVER, Ms. STABENOW, Mr. EVANS, Mr. NORWOOD, Mr. TRAFICANT, Mrs. KELLY, Mr. MORAN of Virginia, Mr. FOLEY, Mrs. LOWEY, and Mr. FARR of California):

H.R. 2081. A bill to provide for an enumeration of family caregivers as part of the 2000 decennial census of population; to the Committee on Government Reform and Oversight.

By Mr. CLEMENT:

H.R. 2082. A bill to establish a Commission to conduct a comprehensive legal and factual study of the navigational, flood control, economic development, recreational, and economic impacts of the future structure, competitiveness, and financial viability of TVA, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COOK:

H.R. 2083. A bill to prohibit the shipment of spent nuclear fuel to the Goshute Indian reservation in Utah; to the Committee on Transportation and Infrastructure.

By Mr. DAVIS of Illinois:

H.R. 2084. A bill to amend the Internal Revenue Code of 1986 to provide for maximum capital gains tax rate of 15, 22, and 30 percent for individuals; to the Committee on Ways and Means.

By Mr. EVANS (for himself, Ms. PELOSI, Mr. FRANK of Massachusetts, Mr. STARK, Mr. SANDERS, Ms. KAPTUR, and Mr. BONIOR):

H.R. 2085. A bill to amend the Export-Import Bank Act of 1945 to ensure that the provision of assistance for exports to China is conditioned upon adherence to responsible conduct; to the Committee on Banking and Financial Services.

By Mr. GILLMOR (for himself, Mr. LARGENT, Mr. DEAL of Georgia, Mr. BILBRAY, Mr. DOYLE, Mr. WHITFIELD, Mr. BONILLA, Mr. GRAHAM, Mr. STENHOLM, Mr. SHIMKUS, Mr. OXLEY, Mr. FRELINGHUYSEN, and Mr. LEWIS of California):

H.R. 2086. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to limit the portion of the Superfund expended for administration, oversight, support, studies, design, investigations, monitoring, assessment, and evaluation, and enforcement activities; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GILLMOR:

H.R. 2087. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to require that polluters are responsible for the cleanup of hazardous substances, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. KELLY:

H.R. 2088. A bill to provide for the surviving spouse and dependent children of public safety officers who are killed in performance of their official duties, and for other purposes; to the Committee on Education and the Workforce.

By Mr. KILDEE (for himself and Mr. BONO):

H.R. 2089. A bill to authorize leases on the Cabazon Indian Reservation for terms not to exceed 99 years; to the Committee on Resources.

By Mr. LAZIO of New York (for himself, Mr. ENGEL, Mrs. MORELLA, Mr. PASCRELL, Mr. KING of New York, Mr. MILLER of California, Ms. DELAURO, Mr. PALLONE, Mrs. KELLY, Mr. MASCARA, Ms. KAPTUR, Mr. ACKERMAN, Mr. KENNEDY of Rhode Island, Mr. MANTON, Mrs. MCCARTHY of New York, and Mr. MCGOVERN):

H.R. 2090. A bill ordering the preparation of a Government report detailing injustices suffered by Italian-Americans during World War II, and a formal acknowledgment of such injustices by the President; to the Committee on the Judiciary.

By Mr. LINDER (for himself and Mr. NORWOOD):

H.R. 2091. A bill to amend the Appalachian Regional Development Act of 1965 to add Elbert County and Hart County, GA, to the Appalachian region; to the Committee on Transportation and Infrastructure.

By Mr. MENENDEZ (for himself, Mr. DIAZ-BALART, Mr. GILMAN, Ms. ROS-LEHTINEN, and Mr. DEUTSCH):

H.R. 2092. A bill to withhold United States assistance for programs or projects of the International Atomic Energy Agency in Cuba, and for other purposes; to the Committee on International Relations.

By Ms. NORTON:

H.R. 2093. A bill to temporarily waive the Medicaid enrollment composition rule for D.C. Health Cooperative; to the Committee on Commerce.

By Mr. PALLONE (for himself and Mr. BILBRAY):

H.R. 2094. A bill to amend the Federal Water Pollution Control Act to improve the quality of coastal recreation waters, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. PORTER (for himself, Mr. DREIER, Mr. KOLBE, Mr. SALMON, Mr. MATSUI, Ms. DUNN of Washington, Mr. GILMAN, Mr. LAZIO of New York, Mrs. MORELLA, Mr. LEVIN, Mr. DICKEY, Mr. SPENCE, Mr. HOBSON, Mr. HORN, Mr. PALLONE, Ms. JACKSON-LEE, Mr. SCARBOROUGH, Mr. WICKER, Mr. GILCHREST, Mrs. LOWEY, Mr. FOX of Pennsylvania, Mr. BACHUS, Mr. RADANOVICH, Mr. DOOLEY of California, Ms. PRYCE of Ohio, Mr. MCHALE, Mr. REGULA, Ms. DEGETTE, Mr. ENGLISH of Pennsylvania, Mr. ROEMER, Mr. ROHRABACHER, Mr. NETHERCUTT, Mr. PETERSON of Pennsylvania, Mr. HALL of Texas, Mr. MANZULLO, and Mr. POSHARD):

H.R. 2095. A bill to provide for certain activities regarding the promotion of respect for human rights, the development of democratic government and the development of the rule of law within the People's Republic of China, and for other purposes; to the Committee on International Relations, and in addition to the Committees on Intelligence (Permanent Select), and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RANGEL (by request):

H.R. 2096. A bill to promote the growth of free enterprise and economic opportunity in the Caribbean Basin region, increase trade and investment between the Caribbean Basin region and the United States, and encourage the adoption by Caribbean Basin countries of policies necessary for participation in the free trade area of the Americas; to the Committee on Ways and Means.

By Mr. SANFORD:

H.R. 2097. A bill to amend the Internal Revenue Code of 1986 to correct the treatment of tax exempt financing of professional sports facilities; to the Committee on Ways and Means.

By Mr. SKEEN (for himself, Mr. SCHIFF, and Mr. REDMOND):

H.R. 2098. A bill to establish the National Cave and Karst Research Institute in the State of New Mexico, and for other purposes; to the Committee on Resources.

By Mr. SMITH of Michigan:

H.R. 2099. A bill to provide that cost-of-living adjustments to payments made under Federal law and to Federal tax benefits shall be determined using a new price index; to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, National Security, Government Reform and Oversight, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STEARNS:

H.R. 2100. A bill to establish a demonstration project to authorize certain covered beneficiaries under the military health care system, including the dependents of active duty military personnel and retired members and their dependents, to enroll in the Federal Employees Health Benefits program and to ensure their future health security through the use of medical savings accounts; to the Committee on Government Reform and Oversight, and in addition to the Committees on National Security, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SUNUNU:

H.R. 2101. A bill to amend the Internal Revenue Code of 1986 to exclude qualified conservation easements from a decedent's gross estate, exempt from tax the gain on the sale of qualified forest land to government entities or conservation groups, and for other purposes; to the Committee on Ways and Means.

By Mr. TALENT:

H.R. 2102. A bill to amend the Hazardous and Solid Waste Amendments of 1984 to repeal the sunset of the Environmental Protection Agency Office of Ombudsman, and for other purposes; to the Committee on Commerce.

By Mr. THORNBERRY (for himself, Mr. STENHOLM, Mr. THUNE, Mr. COMBEST, Mr. LIVINGSTON, and Mr. SESSIONS):

H.R. 2103. A bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to provide for the eventual removal of intrastate distribution restrictions on State inspected meat and poultry; to the Committee on Agriculture.

By Mrs. THURMAN:

H.R. 2104. A bill to ensure that persons who enroll in the managed health care program of the Department of Defense known as TRICARE Prime retain coverage under the program in any TRICARE region; to the Committee on National Security.

By Mr. TOWNS

H.R. 2105. A bill to amend section 552a of title 5, United States Code, to provide for the maintenance of certain health information in cases where a health care facility has closed or a health benefit plan sponsor has ceased to do business; to the Committee on Government Reform and Oversight.

By Mr. SOLOMON:

H. Con. Res. 108. Concurrent resolution providing for an adjournment of the two Houses; considered and agreed to.

By Mr. GOODLATE:

H. Res. 177. Resolution prohibiting any personal staff employee of a Member of the House of Representatives from holding a paid position in the campaign of the employing Member; to the Committee on House Oversight.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

141. The SPEAKER presented a memorial of the Legislature of the State of New Hampshire, relative to House Joint Resolution 4 urging the United States Congress, FERC, and other federal agencies to continue to cooperate with and support state eforts to restructure the electric utility industry and promote retail competition; to the Committee on Commerce.

142. Also, a memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 38 urging the President of the United States and Congress make the $1 billion of Federal moneys already earmarked for abandoned mine land reclamation available to states to clean up and make safe our abandoned mine lands; to the Committee on Resources.

143. Also, a memorial of the General Assembly of the State of Nevada, relative to Senate Joint Resolution No. 6 expressing the support of the Nevada Legislature for the Southern Nevada Public Land Management Act of 1997 and for the sale or other transfer of public land managed by the Federal Government in the Las Vegas Valley if the transfer does not adversely affect sparsely populated and rural counties in Nevada; to the Committee on Resources.

144. Also, a memorial of the Senate of the State of Illinois, relative to Senate Resolution No. 73 urging the United States Congress to enact legislation exempting Mother Teresa and the Missionaries of Charity from work permit fees while caring for the sick and the dying in our country, enabling them to use their funds for charitable works; to the Committee on the Judiciary.

145. Also, a memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 28 urging the Congress of the United States to immediately review the Federal Unified Gift and Estate Tax and to act either to repeal the law, or to give special exemptions to family owned farms and businesses, or to raise the unified credit against the Gift and Estate Taxes, or to defer estate tax payments over a period of time; to the Committee on Ways and Means.

146. Also, a memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 48 memorializing Congress to select VISN 4 to participate in the demonstration project provided for in House Resolution 1362 and to participate in all demonstration programs for Medicare-eligible veterans; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. MCINTYRE introduced a bill (H.R. 2106) for the relief of the estate of William R. Holden and the estate of John Davis; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 12: Mrs. MALONEY of New York, Ms. PELOSI, and Ms. WOOLSEY.

H.R. 18: Mr. EHRLICH, Mr. SNYDER, and Mr. JEFFERSON.

H.R. 23: Ms. VELÁZQUEZ, Mr. MCGOVERN, Mr. ANDREWS, Mr. PASCRELL, Mr. PAYNE, Mr. OWENS, Mr. MORAN of Virginia, Mr. MARTINEZ, Mr. HINCHEY, Mr. ABERCROMBIE, Mr. BROWN of California, Mr. THOMPSON, Mr. OLVER, Mr. KILDEE, Ms. WOOLSEY, Mr. WISE, Mr. YATES, Mr. DELLUMS, Mr. FATTAH, Mr. MASCARA, Mr. GONZALEZ, Mrs. CLAYTON, Mr. BROWN of Ohio, Mr. DAVIS of Illinois, Ms. LOFGREN, Mr. TIERNEY, Mr. LANTOS, Mr. EVANS, Mr. NADLER, Ms. NORTON, Mr. UNDERWOOD, Mr. TORRES, Mr. STARK, Mr. RAHALL, Mr. FRANK of Massachusetts, Ms. KAPTUR, Mr. MILLER of California, Mr. KIND of

Wisconsin, Mr. SANDERS, Ms. WATERS, Mr. FILNER, Ms. MCKINNEY, Mr. RANGEL, Mr. OBERSTAR, Mr. KUCINICH, Mr. HILLIARD, Ms. CHRISTIAN-GREEN, Mr. MCHALE, Mr. LEWIS of Georgia, Mr. HOLDEN, Mr. LUTHER, Mr. BONIOR, Mr. ALLEN, Mr. BECERRA, Mr. ROTHMAN, Mr. BLAGOJEVICH, Ms. ESHOO, and Mr. NEY.

H.R. 38: Mr. MORAN of Virginia and Mr. PETERSON of Minnesota.

H.R. 44: Mr. MORAN of Virginia.

H.R. 51: Mr. EMERSON.

H.R. 58: Mr. JEFFERSON.

H.R. 65: Mr. ETHERIDGE.

H.R. 76: Mr. DELAHUNT.

H.R. 96: Mr. MURTHA.

H.R. 109: Mr. LEWIS of Georgia, Mr. BORSKI, and Mr. BONIOR..

H.R. 127: Mr. DAN SCHAEFER of Colorado.

H.R. 145: Ms. VELÁZQUEZ and Ms. MCKINNEY.

H.R. 165: Mr. WELDON of Florida and Mr. MATSUI.

H.R. 195: Mr. GREENWOOD.

H.R. 213: Mr. JEFFERSON.

H.R. 218: Mr. SESSIONS, Mr. HERGER, and Mr. SCARBOROUGH.

H.R. 230: Mr. MCCRERY and Mr. CALLAHAN.

H.R. 241: Mr. JEFFERSON.

H.R. 303: Mr. TAYLOR of North Carolina and Mr. ETHERIDGE..

H.R. 306: Mr. ENGEL, Mr. JEFFERSON, and Ms. MILLENDER-MCDONALD.

H.R. 312: Mr. HAYWORTH.

H.R. 339: Mr. SCARBOROUGH.

H.R. 347: Mr. GIBBONS.

H.R. 388: Mr. BILIRAKIS.

H.R. 466: Ms. STABENOW.

H.R. 471: Mr. SHERMAN.

H.R. 521: Mr. GILCHREST and Mr. CRAMER.

H.R. 536: Mr. ADAM SMITH of Washington.

H.R. 574: Mr. LANTOS.

H.R. 586: Mr. MASCARA.

H.R. 604: Mr. MANZULLO.

H.R. 616: Mrs. JOHNSON of Connecticut.

H.R. 630: Mr. CAMPBELL.

H.R. 631: Mr. GIBBONS.

H.R. 695: Mr. BONILLA and Ms. ROS-LEHTINEN.

H.R. 699: Mr. JEFFERSON.

H.R. 715: Mrs. ROUKEMA.

H.R. 716: Mr. SCHIFF.

H.R. 746: Mr. COSTELLO, Mr. PAUL, Mr. GILCHREST, Mr. TIAHRT, and Mr. GOODLING.

H.R. 755: Mr. SISISKY and Mr. GOODLATTE.

H.R. 758: Mr. TIAHRT, Mr. GIBBONS, Mr. COOKSEY, Mr. DAVIS of Virginia, Ms. GRANGER, Mr. PORTER, Mr. GREENWOOD, and Mr. WHITE.

H.R. 807: Mr. HANSEN.

H.R. 815: Mr. DICKS, Mr. SPENCE, Mr. WATKINS, Mr. CANADY of Florida, Mr. BAKER, Mr. FOLEY, and Mrs. CUBIN.

H.R. 816: Mr. GIBBONS.

H.R. 836: Ms. ESHOO, Mr. RUSH, Mr. DAVIS of Illinois, Mr. SAWYER, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. JACKSON-LEE, Mr. ORTIZ, Mr. HINOJOSA, Mrs. LOWEY, Ms. DEGETTE, Mr. NADLER, Mr. HOYER, Mr. LAFALCE, Ms. CARSON, Mr. SHERMAN, Ms. KILPATRICK, Mr. OLVER, Mr. HALL of Ohio, Mr. GEPHARDT, and Mr. MCGOVERN.

H.R. 871: Mr. ANDREWS.

H.R. 875: Mr. SPENCE, Mr. GEKAS, Mrs. MCCARTHY of New York, and Mr. ABERCROMBIE.

H.R. 893: Mr. MCGOVERN, Mr. ABERCROMBIE, and Mr. ALLEN.

H.R. 901: Mr. ENSIGN, Mr. ADERHOLT, Mr. THOMAS, Mr. OXLEY, Mr. SNOWBARGER, and Mr. CHRISTENSEN.

H.R. 922: Mr. GOODLATTE.

H.R. 923: Mr. GOODLATTE.

H.R. 925: Mr. VENTO.

H.R. 931: Mr. STARK, Mr. TAYLOR of North Carolina, Ms. SLAUGHTER, and Ms. PELOSI.

H.R. 953: Ms. FURSE, Ms. JACKSON-LEE, Ms. MILLENDER-MCDONALD, Ms. WATERS, and Ms. ROYBAL-ALLARD.

H.R. 955: Mr. PASCRELL.

H.R. 969: Mr. DELLUMS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. FROST, Mr. HORN, and Mr. PASTOR.

H.R. 981: Mrs. CLAYTON and Mr. JEFFERSON.

H.R. 982: Ms. DELAURO and Ms. JACKSON-LEE.

H.R. 991: Mr. LUTHER.

H.R. 1010: Mr. CHRISTENSEN, Mrs. KELLY, Mr. COLLINS, and Mr. PETERSON of Minnesota.

H.R. 1018: Mr. WATT of North Carolina.

H.R. 1031: Mr. GRAHAM.

H.R. 1036: Mr. ADERHOLT, Mr. CHAMBLISS, Mrs. CHENOWETH, Mr. COLLINS, Mr. DICKEY, and Mr. POMBO.

H.R. 1059: Mr. HEFLEY, Mr. TALENT, and Mr. BARCIA of Michigan.

H.R. 1060: Mr. LARGENT, Mr. NEY, Mr. WATKINS, Mrs. MYRICK, Mr. HAYWORTH, Mr. HEFNER, Mr. JONES, Mr. DAVIS of Virginia, Mr. GILCHREST, Mr. JEFFERSON, Mr. BISHOP, and Mr. MALONEY of Connecticut.

H.R. 1111: Mr. SKELTON, Mr. WEXLER, Mr. RUSH, Mr. FRANK of Massachusetts, Mr. ACKERMAN, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. MILLENDER-MCDONALD, Mr. DAVIS of Illinois, Mr. SCHUMER, Ms. ROS-LEHTINEN, Mr. JACKSON, Mr. DELLUMS, Mr. EVANS, Ms. PELOSI, and Mr. REYES.

H.R. 1114: Mr. EHLERS.

H.R. 1129: Ms. STABENOW and Mr. BENTSEN.

H.R. 1147: Mr. THORNBERRY.

H.R. 1153: Mr. KENNEDY of Rhode Island.

H.R. 1169: Mr. ENGEL.

H.R. 1173: Mrs. THURMAN, Mr. ENGLISH of Pennsylvania, Mr. FATTAH, Mr. OLVER, and Mr. THOMPSON.

H.R. 1176: Mr. STARK and Mr. WELDON of Pennsylvania.

H.R. 1264: Mr. BLAGOJEVICH.

H.R. 1270: Mr. RILEY, Mr. GEKAS, and Mr. GOODLATTE.

H.R. 1285: Mr. CAMP.

H.R. 1296: Mrs. EMERSON.

H.R. 1298: Mrs. MCCARTHY of New York.

H.R. 1322: Mrs. MYRICK and Mr. CHABOT.

H.R. 1353: Mr. THOMPSON.

H.R. 1361: Mr. BILIRAKIS and Mr. PALLONE.

H.R. 1371: Mr. MCHUGH, Mr. EVANS, Mr. POSHARD, and Mr. REGULA.

H.R. 1375: Mr. FOLEY, Mrs. LOWEY, and Mr.GRAHAM.

H.R. 1378: Ms. GRANGER, Mr. BARR of Georgia, Mr. RAMSTAD, Mr. BRADY, and Mr. NEY.

H.R. 1398: Mr. KLECZKA.

H.R. 1404: Ms. DELAURO, Mr. FAZIO of California, Ms. SLAUGHTER, Mr. STARK, Ms. ESHOO, Mr. BROWN of Ohio, Mr. FATTAH, Mr. ANDREWS, Mr. VENTO, Mr. BECERRA, Mr. STOKES, Mr. SAWYER, Mr. CUMMINGS, Mr. FALEOMAVAEGA, Mr. LANTOS, Mr. GONZALEZ, Ms. SANCHEZ, Mr. MARTINEZ, Ms. LOFGREN, Mr. MORAN of Virginia, Mr. DAVIS of Illinois, Mr. TOWNS, Ms. NORTON, Mr. CONYERS, Mr. ACKERMAN, Mr. YATES, Ms. BROWN of Florida, Mr. MANTON, and Mr. RANGEL.

H.R. 1426: Mr. HAYWORTH, Mr. SANDERS, and Ms. WOOLSEY.

H.R. 1437: Mr. ENGEL and Mr. KANJORSKI.

H.R. 1450: Mrs. MALONEY of New York.

H.R. 1492: Mr. SHERMAN and Mr. NETHERCUTT.

H.R. 1493: Mr. HUTCHINSON, Mr. GOODLATTE, and Mr. MCCOLLUM.

H.R. 1521: Mr. ENGLISH of Pennsylvania and Mr. NETHERCUTT.

H.R. 1534: Mr. WELLER, Mr. MCINTOSH, Mr. ENGLISH of Pennsylvania, Mr. BARCIA of Michigan, Mr. HERGER, Mr. CUNNINGHAM, Mr. MCINNIS, Mr. TURNER, Mr. CANADY of Florida, and Mr. THORNBERRY.

H.R. 1539: Mr. CUNNINGHAM.

H.R. 1560: Mr. TIAHRT and Mr. MCDADE.

H.R. 1592: Mr. MCKEON.

H.R. 1595: Mr. GOODLING, Mr. DICKEY, Mr. TALENT, and Mr. NORWOOD.

H.R. 1596: Mr. CALVERT.

H.R. 1601: Mr. ADAM SMITH of Washington.

H.R. 1625: Mr. GREENWOOD, Ms. PRYCE of Ohio, Mr. SAM JOHNSON, Mr. MILLER of Florida, Mr. KOLBE, Mr. DELAY, Mr. GIBBONS, Mr. NETHERCUTT, Mr. COOK, Mrs. NORTHUP, Mr. BURR of North Carolina, Mr. SESSIONS, and Mr. BACHUS.

H.R. 1689: Mr. DAN SCHAEFER of Colorado.

H.R. 1710: Mr. STUMP, Mr. TAYLOR of North Carolina, Mr. HORN, Mr. BOEHNER, Mr. FRANKS of New Jersey, Mr. HOSTETTLER, Mr. WATTS of Oklahoma, Mr. LUCAS of Oklahoma, Mr. DOOLITTLE, Mr. THORNBERRY, Mr. ROYCE, Mr. BURTON of Indiana, Mr. SAXTON, Mr. DELAY, Mr. BRADY, Mr. MOAKLEY, Mr. MEEHAN, Mr. BAESLER, Mr. BALLENGER, Mr. SESSIONS, Mr. BONILLA, Mr. HUTCHINSON, and Ms. GRANGER.

H.R. 1716: Mr. QUINN.

H.R. 1719: Mr. GIBBONS, Mr. NORWOOD, and Mr. SESSIONS.

H.R. 1748: Ms. SLAUGHTER and Mrs. MALONEY of New York.

H.R. 1754: Mr. SANDERS, Mr. BLAGOJEVICH, Mr. HUTCHINSON, Mr. BARCIA of Michigan, Mrs. KELLEY, and Mr. PASTOR.

H.R. 1766: Mr. CLEMENT, Mr. SOLOMON, Mr. DAVIS of Virginia, Mr. NORWOOD, Mrs. THURMAN, Mr. HAYWORTH, Mr. WHITFIELD, Mr. WOLF, Mr. ANDREWS, and Mr. ADAM SMITH of Washington.

H.R. 1788: Mr. BROWN of California.

H.R. 1810: Mr. CANADY of Florida, Mr. EHLERS, and Mr. NORWOOD.

H.R. 1815: Mr. FRANK of Massachusetts, Ms. SLAUGHTER, Mr. ACKERMAN, and Mr. PAYNE.

H.R. 1818: Mr. DAVIS of Florida, Mr. ABERCROMBIE, Mr. SOUDER, and Mr. KUCINICH.

H.R. 1824: Ms. MILLENDER-MCDONALD, Ms. CARSON, and Mr. THOMPSON.

H.R. 1839: Mr. WYNN, Mr. LARGENT, and Mr. GORDON.

H.R. 1870: Mr. HASTINGS of Florida, Mr. LAFALCE, Mr. FILNER, and Mrs. MALONEY of New York.

H.R. 1873: Mr. FATTAH.

H.R. 1874: Mr. FILNER and Mr. MARTINEZ.

H.R. 1876: Mr. GORDON, Ms. LOFGREN, and Mr. CALVERT.

H.R. 1955: Mr. CUNNINGHAM, Mr. TALENT, and Mr. BARRETT of Wisconsin.

H.R. 1972: Mr. GILCHREST and Mr. GILLMOR.

H.R. 1984: Mr. MURTHA, Mr. TANNER, Mr. STRICKLAND, Mr. KANJORSKI, Mr. SKELTON, Mr. CRAMER, Mr. HEFNER, Mr. PICKERING, Mr. BURR of North Carolina, Mrs. NORTHUP, Mr. KNOLLENBERG, Mr. SNOWBARGER, Mrs. EMERSON, Mr. HALL of Texas, and Mr. TRAFICANT.

H.R. 2003: Mr. PETERSON of Minnesota, Mr. HOLDEN, Ms. HARMAN, Mr. TURNER, Mr. BAESLER, Mr. JOHN, and Mr. UPTON.

H.R. 2006: Mr. SANDERS, Mr. GUTIERREZ, and Mr. ENGEL.

H.R. 2009: Mr. OLVER, Mr. UNDERWOOD, Mr. ACKERMAN, and Mr. BONIOR.

H.R. 2011: Mr. SNOWBARGER.

H.R. 2023: Mr. STRICKLAND, Ms. FURSE, Mr. JOHNSON of Wisconsin, and Mr. OBEY.

H.R. 2029: Mr. NETHERCUTT.

H.R. 2038: Mr. SMITH of Oregon, Mr. STENHOLM, and Mr. HUTCHINSON.

H.J. Res. 71: Mrs. MYRICK and Mr. CHABOT.

H. Con. Res. 6: Mr. HORN.

H. Con. Res. 10: Mr. DAVIS of Illinois.

H. Con. Res. 19: Mr. ENGEL and Mr. SHERMAN.

H. Con. Res. 55: Mr. BROWN of California.

H. Con. Res. 65: Mr. TAYLOR of North Carolina, Mr. ENSIGN, Mr. SAWYER, and Mr. GEPHARDT.

H. Con. Res. 80: Mr. MASCARA and Mr. DIAZ-BALART.

H. Con. Res. 81: Mr. BLUMENAUER, Mr. FILNER, Mr. SUNUNU, Mr. CUMMINGS, Mr. HORN, Mr. BOEHLERT, Mr. NEY, Mr. GEJDENSON, Mr. ROHRABACHER, Mr. LIPINSKI, Mr. HOLDEN, and Mr. BROWN of California.

H. Con. Res. 96: Mrs. MCCARTHY of New York.

H. Con. Res. 103: Mr. ROEMER, Mr. OWENS, Mr. ANDREWS, Mr. KUCINICH, Mr. CLAY, Mr. HINOJOSA, Mr. STARK, Mr. BECERRA, Mr. FATTAH, and Mr. BARCIA of Michigan.

H. Res. 144: Mr. TIAHRT, Mr. SNOWBARGER, and Mr. MCDADE.

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PROCEEDINGS AND DEBATES OF THE *105th* CONGRESS, FIRST SESSION

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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by a guest Chaplain, the Reverend Dr. Charles E. Poole, First Baptist Church, in the city of Washington, DC.

We are pleased to have the reverend with us.

PRAYER

The guest Chaplain, Dr. Charles E. Poole, pastor of First Baptist Church, Washington, DC, offered the following prayer:

Eternal and Almighty God, we give thanks for these, Your children, who gather in this place, day after day, to invest their best energies in shaping the life of the Nation.

We pray, O God, that You will bless the men and women who serve in this Senate. Give them wisdom and insight from beyond themselves. Give them the abiding patience that lasts longer than mere tolerance, the embracing perspective that sees larger than simple partisanship, and the enduring peace that goes deeper than outward circumstance. Hold each of them, and their families, in Your strong hands. Bless them, O God, with quiet spaces and restful moments in the midst of their very public lives in this very noisy world.

We pray in the quiet assurance that You are with us, and in the abiding hope that we will be with You. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator COCHRAN from Mississippi, is recognized.

WELCOME, DR. CHARLES E. POOLE

Mr. COCHRAN. Mr. President, it gives me a special pleasure this morning to welcome our guest Chaplain who has delivered the opening prayer, Dr. Charles E. Poole.

He is currently serving as pastor of the First Baptist Church of the city of Washington, DC, but he and his family will be moving soon to Mississippi where he has accepted the call to serve as pastor of my church, Northminster Baptist Church in Jackson, MS. We are delighted to have this very special person come to our State and serve in this way. We appreciate very much his being our guest Chaplain this morning and delivering such a fine prayer.

Dr. Poole earned his undergraduate degree from Mercer University in Macon, GA, and graduate degrees in divinity from the Southeastern Baptist Theological Seminary in Wake Forest, NC.

Before he became pastor of the First Baptist Church in Washington, he served for several years as the pastor of the First Baptist Church of Macon, GA. He was also on the board of trustees of Mercer University in Macon for 5 years. He is an outstanding clergyman who is well respected here in the Washington area. His sermons and other writings have been published and very favorably received.

He and his wife Marcia have two children, Joshua and Maria. We are looking forward to getting to know all of them better.

We thank him, on behalf of all Senators, for his contribution to today's session.

SCHEDULE

Mr. COCHRAN. Mr. President, at the request of the majority leader, I am pleased to make the following announcement relating to the schedule of the Senate. For the information of all Senators, this morning the Senate will resume consideration of S. 949, the Taxpayer Relief Act of 1997. By previous consent, there will be 20 minutes for debate equally divided between Senator MURKOWSKI and Senator BUMPERS, with a vote occurring in relation to the Bumpers amendment at approximately 9:50 a.m. Following the vote on the Bumpers amendment, there will be 20 minutes of debate equally divided in the usual form with a vote on or in relation to the Dorgan amendment No. 517 regarding capital gains. Following that vote, there will be 10 minutes of debate equally divided in the usual form on the Dorgan motion to refer. The Senate then will proceed to a vote in relation to the DORGAN motion.

All other amendments offered last night and amendments offered during today's session will be subject to rollcall votes throughout the day as we make progress on the Taxpayer Relief Act. Therefore, Senators can anticipate numerous rollcall votes on this bill during today's session of the Senate.

REVENUE RECONCILIATION ACT OF 1997

The PRESIDING OFFICER (Mr. COATS). Under the previous order, the clerk will report S. 949.

The assistant legislative clerk read as follows:

A bill (S. 949) to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998.

The Senate resumed consideration of the bill.

Pending:

A motion to waive the Congressional Budget Act with respect to consideration of Section 602 of the bill.

Dorgan motion to refer the bill to the Committee on the Budget, with instructions.

Dorgan Amendment No. 515, to authorize the Secretary of the Treasury to abate the accrual of interest on income tax underpayments by taxpayers located in Presidentially declared disaster areas if the Secretary extends the time for filing returns and payment of tax (and waives any penalties relating to the failure to so file or so pay) for such taxpayers.

Dorgan Amendment No. 516, to provide tax relief for taxpayers located in Presidentially declared disaster areas.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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Dorgan Amendment No. 517, to impose a lifetime cap of $1,000,000 on capital gains reduction.

Bumpers Amendment No. 518, to repeal the depletion allowance available to certain hardrock mining companies.

Durbin Amendment No. 519, to increase the deduction for health insurance costs of self-employed individuals, and to increase the excise tax on tobacco products.

Roth Amendment No. 520, to provide for children's health insurance initiatives.

Jeffords Amendment No. 522, to provide for a trust fund for District of Columbia school renovations.

The PRESIDING OFFICER. Who yields time?

AMENDMENT NO. 518

Mr. BUMPERS. I yield 5 minutes to my coauthor of this amendment, Senator GREGG.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized to speak for up to 5 minutes.

Mr. GREGG. Mr. President, just to recap where we are, basically, the Senator from Arkansas has authored an amendment to end the ability to take the depletion allowance for mining companies for that part of their mining activity which occurs on public land.

Now, let's understand the facts here. A mining company comes along and it buys the right to mine on public land for the value of, I think, $2.50 an acre. For example, in 1995, ASARCO bought 349 acres for $1,745, which had 3 billion dollars' worth of assets on it. Public land, public land. And then a Danish company came along, and for $275 bought 110 acres, which had 1 billion dollars' worth of assets on it. Then a Canadian company came along and spent $9,000 for 1,800 acres which had 11 billion dollars' worth of assets on it.

That, in and of itself, is a bit of an affront to the American taxpayer. That is not what we are debating here. We are debating an even greater affront—an even greater affront—because after they bought this land for $2.50 an acre, they then go out and take a depletion allowance against that land. Now, it is not against the equipment they are using to mine the land. They can deduct that. They have a right to do that. No, it is a depletion allowance against land which is publicly owned, taxpayers' land. It is not their land. It is taxpayers' land which they bought for $2.50 an acre, and now they get to take a depletion allowance which costs $400 million over the next 5 years.

Excuse me, what dinner party am I at? Is the Mad Hatter here? Is the Queen of Hearts here? What is this? We have the taxpayers first subsidizing an $11 billion, a $1 billion, and a $3 billion asset purchase which flows to these companies, and then we have the taxpayers subsidizing a depletion allowance which flows to these mining companies. And what does the taxpayer get back for all of this? $2.50 an acre. It is corporate welfare, corporate pork. The term can be applied at a variety of different levels.

What it is, is wrong. It is wrong that the depletion allowance should be available for land which is public land that is purchased at these outrageously low prices. It doubles up the insult. It doubles up the insult to the American taxpayer.

I strongly support the initiative of the Senator from Arkansas. I cannot understand how anyone who would believe that the American taxpayer deserves some modicum of respect would not also support this proposal. It simply is an attempt to try to correct just a small sliver of what is a very significant and inappropriate affront to the American taxpayer. It is costing us a lot of money, money that we should not have to pay.

I heard somebody say, well, this is a tax increase. My goodness, how could you argue that? A tax increase? What we are doing is hammering the taxpayers, expecting the American taxpayer to pick up a depletion allowance on top of having already picked up a loss for having sold this property at a ridiculously low price in light of what the value of the asset being conveyed is. It is not a tax increase. What it is is an attack on the taxpayer. It should not occur any longer.

The Senator from Arkansas is right in his amendment. I am happy to join him.

I yield back the remainder of my time.

Mr. REID. Does the Senator from Alaska yield?

Mr. MURKOWSKI. I am happy to yield to my friend from Nevada 3 minutes.

Mr. REID. Mr. President, last evening we talked about the price of gold based upon a Wall Street Journal article earlier this year. Let me advise all my friends here in the U.S. Senate that last Friday gold hit a 4-year low, $336 an ounce, which basically means companies are laying people off and some companies are going out of business. That is a fact.

Mr. President, as I stated last night, this amendment is an ill-conceived and ill-advised attempt to circumvent congressional efforts to reform the current mining law.

The U.S. mining industry is in agreement that the mining law is due for some changes. Serious efforts to accomplish such a result have taken place over the last several years.

In 1990 and 1991, efforts were made here to have a patent moratorium. That failed. Following that, though, Senators DOMENICI and REID offered an alternative to a patent moratorium. We required payment of fair market value for the surface of the land. We said any land that was patented that was not used for mining purposes would revert to the Federal Government. We also required compliance with state reclamation laws. This was in an amendment offered here that passed this body by a vote of 52 to 44.

It went to the House, and they knew their argument that they use here every day, about the patents being offered for nothing, would be taken away. They rejected this good-faith effort of the U.S. Senate to reform the mining law. It was rejected in conference. We tried.

We came back later on, Mr. President, in 1993, and imposed a maintenance fee on unpatented claims of $100 per claim. The Government collected over $50 million in 1 year for that. It is not as if we have not sought change.

In the Senate and the House, in 1993, bills passed. They were killed in conference because it was not perfect. There is now in effect and has been since 1995 a moratorium on the issuance of further patents. The only ones that patents could be issued upon were those that were in the pipeline. That has been in effect since 1995. There has been reform of the mining law.

In 1995 and 1996, there was legislation offered to reform the law. We have run into roadblocks from people who want to kill the good because they want the perfect.

I suggest this amendment unfairly targets the Western mining industry. We have sought reform. There has been reform that has taken place. This amendment is an attempt to do mining law reform, and this is not the place or time for such an effort. It should go through the committee process that is led by the able chairman of the committee, the Senator from Alaska.

If this Congress wants to change the current mining law, then it should begin its efforts in the Energy and Natural Resources Committee and not in the reconciliation bill.

Mr. MURKOWSKI. I yield 1 minute to the Senator from Utah.

Mr. HATCH. Mr. President, I rise today to oppose the amendment by my colleagues, Senator BUMPERS and Senator GREGG. This amendment would repeal the percentage depletion allowance for mineral extraction. It would, however, only repeal this allowance for minerals extracted from any land obtained pursuant to the provisions of the mining law of 1872. This amendment is discriminatory and bad policy.

Minerals are not free for the taking or inexpensive to mine just because they are on land obtained from the 1872 mining law. In truth, significant capital is invested during the development of a mine. Capital costs often reach close to $400 million to develop a major mine.

In addition, there is a lot of time invested in the development of any mine, and it has increased even more in recent years. Just getting a permit for a new mine on Federal lands has increased from a 1-year time frame to 3 or 5 years over the last 4 years.

The rationale for the depletion allowance provisions in the Tax Code are not just targeted to mineral extraction. They are the same for oil and natural gas, coal, and metals extraction as well. This allowance recognizes the unique nature of resource extraction. It is designed to provide a practical method of measuring the decreasing value of a deposit as the materials are

extracted. It recognizes that the replacement cost of new mines are always higher in real terms. This allowance helps the mining industry to generate the capital needed to bring new mines into production.

Mr. President, mines mean jobs. They are not just vacuums sucking our minerals out of the land at a low cost. They are economic entities that extract valuable resources for circulation in the economy and provide millions of jobs for American citizens. These are direct jobs. But, mining produces essential raw materials for manufacturing in other industies. Think about the untold number of jobs that are indirectly linked to mining.

Moreover, jobs in the mining industry are not just minimum wage jobs, either, Mr. President. The Bureau of Labor Statistics tells us that the average mining wage is $45,270 per year. This is significantly higher than the average national wage of $27,845.

This amendment would have a severe effect on the mining industry. It means thousands of lost jobs. These jobs are high-paying jobs that raise the standard of living of millions of workers.

This amendment means a significant reduction in mining activities all over the Nation. This will have a corresponding effect on the tax base and economies of the areas dependent on a sound and viable mining industry.

The effects of this amendment will not only be felt in Western States, where mining is abundant, but will be felt across the Nation.

This amendment destroys more than just the economics of mining communities. It also harms the stewardship of our national mineral wealth. Companies will be encouraged to spend their scarce exploration and development funds in an atmosphere more favorable to them. The political and regulatory climates overseas already beckon to our mining companies. By making our tax climate so unfavorable for these mining companies, we are practically giving them the push they need to move overseas.

Make no mistake about it, this amendment will have an effect on our national production. Imports will replace the loss of domestic production, moving high-paying jobs and economic activity to other countries. This is not the way to ensure a stable economy in the United States.

Mr. President, let's put aside the fact that this is such bad tax policy. This amendment is an administrative nightmare. Most mining projects consist of land and rights obtained from a variety of sources. For example, a large open pit mining operation may include private property acquired through homestead laws, patented mining claims, unpatented claims, State lands, and 1872 mining law land. How is a company supposed to figure out where a mineral comes from?

This amendment would require mining companies to find some way of tracing the ore extracted just from the mining rights obtained from the 1872 mining law. This would often mean that the depletion allowance would apply to a shovel of ore from one location, but not to a shovel of identical ore from 10 feet away. This is ridiculous.

This amendment does not appear to be an attack on the percentage depletion allowance for mineral extraction. It is only targeted at a specific segment of this industry relating the 1872 mining law.

I do not disagree that this mining law should be debated and reformed. I do not agree that it should be reformed using a piecemeal approach through the Tax Code. If we are going to reform the 1872 mining law, let us do it in a thoughtful, comprehensive manner.

I urge my colleagues to join me in opposing this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. MURKOWSKI. I yield 1 minute to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 1 minute.

Mr. CRAIG. Mr. President, several assertions have been made on the floor this morning that this is not a tax increase if we repeal this depletion allowance. It was also suggested that mining companies don't pay taxes. Wrong, wrong, and wrong again.

The average mining company pays 32 percent tax with minimum alternative. This would increase it to over 42 percent. I would like to inform the Senator from New Hampshire that mining companies invest about $400 million in each mining operation. He is raising taxes on mining companies that employ thousands of people, in one of the highest paid wage industries in the Nation. He is also attacking the very industrial base of our country. When you come from a State where you have to pledge not to raise taxes, I guess you can raise them if there is some political advantage to do so. That appears to be the case here this morning.

It is all politics, with no sensitivity toward the strength of the industrial base of this country and the opportunity to continue to provide strong high-paying jobs in the public land States of our Nation.

Mr. MURKOWSKI. Mr. President, I yield 2 minutes to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 2 minutes.

Mr. BRYAN. I thank the Chair. Mr. President, this is the wrong place and the wrong time to be considering an amendment of this nature. This would make a fundamental change in the tax law with respect to the percentage depletion for the recovery of mineral deposits, a provision that has been in the Tax Code for more than six decades. It would discriminate against only one type of mining activity—that which occurs on the public lands.

The proponents of this amendment really are debating today changes they want to seek in the mining law of 1872. I do not disagree that changes need to be made. We are prepared, in representing a State in which this is such an important industry, to provide for royalty provisions, fair market value of the surface, as well as reclamation efforts. The ore body itself is a wasting asset. So a depletion allowance for mineral recovery is analogous to depreciation permitted on the improvements on real property. So this is not some exotic provision in the Tax Code. It recognizes that the ore body itself will be exhausted in a finite period of time, and it seeks to provide that kind of tax coverage.

Finally, I want to point out, as my colleague from Utah pointed out, that this would be an administrative nightmare. At least one particular mining activity in my own State is derived at the source of title or possession of the land from six different sources. So you would have to identify where the minerals recovered are from six different sources in order to apply the provisions of the law.

I urge its rejection.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, I yield myself such time as I may use.

The PRESIDING OFFICER. The Senator from Arkansas has 5 minutes 45 seconds remaining.

Mr. BUMPERS. Mr. President, I have never heard so many stale arguments in my life. This is like saying we will give General Motors the steel to build cars if they will hire some people to do it. This is a simple question of giving the biggest mining companies in the world the taxpayer's resources. That is who we are talking about. This doesn't belong to the 10 Senators from the Western States. This gold and silver belongs to the taxpayers—the people I have heard talk about so many times on this tax bill, that ''we are going to give a tax cut to the long-suffering taxpayers'' and, at the same time, give away billions of dollars worth of gold, silver, platinum, and palladium that belongs to the taxpayers.

This amendment has nothing to do with the gold companies' depletion, even on private lands. It has nothing to do with depletion on State lands. It has to do with the lands they got from the U.S. Government for nothing. And we are paying them to take it. We are giving them a depletion allowance to mine gold that we gave them.

There is a lot more mining that goes on on private and State lands than goes on on Federal lands. They are not going offshore. They are not going broke. Here is the big ad by Barrick Mining Co. in the Mining World News: ''Developing Your Gold Property to its Full Potential.''

> Work with a new partner, Barrick Gold. You may not have dealt with us before, but you should know we are the world's most profitable gold producer.

And well they should be; they don't pay anything for it. This means $400

million to the taxpayers of this country over the next 5 years. They are perfectly willing to pay an 18 percent royalty on private lands. They are perfectly willing to pay 5 to 18 percent on State lands. They pay severance taxes, reclamation fees, and royalties to everybody under the shining Sun—except the taxpayers of the United States, who own it.

Let me say to my colleagues. Each one of you who are defending this proposition, let me ask you this: You go home and tell your friends, your supporters—I am not talking about the mining companies, I am talking about the taxpayers—I want you to tell the people back home that if you had 500 acres of land and had $18 billion or $11 billion worth of gold under it—or in the case of Stillwater Mining Co. in Montana, $38 billion worth of palladium and platinum on 2,000 acres—if you owned it, and I came to you and I said that I am going to relieve you of all these billions of dollars worth of gold, I will get rid of it for you, what would you pay me? We can't pay you for it. We are just going to get rid of the gold for you. You would say, get thee hence to the nearest psychiatrist for a saliva test. I cannot believe that, year after year, we listen to these stale arguments about how people are going offshore, and they create jobs. So does some small struggling businessman that hires 10 people in your State, but you don't give him all of his resources to produce something with.

Mr. President, it is time that this body stood up to its duty. This is not about the mining law. This is simply saying, in those narrow cases, where we gave them the land, and they are mining it and not paying a dime to the taxpayers of this country in any kind of a fee, we are saying, for God's sake, let's not pay them to take it. At least take the depletion allowance from them.

I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MURKOWSKI. I yield myself the balance of the time on our side.

Mr. President, is there any question about whether this is a tax increase or not? Let's recognize what the Joint Tax Committee has said. They said it is a tax increase. It raises $686 million. If that isn't a tax increase, I don't know what is. What we have here, Mr. President, is not a new proposal, but a punitive proposal that was offered earlier this year and rejected by the Finance Committee, rejected by the House Ways and Means Committee, and it should be rejected by the full Senate.

When you strip away all the rhetoric, this issue boils down to whether or not we are going to place a $700 million tax increase on the domestic mining industry. This proposal, as it stands, will speed up the departure of the mining industry from our shores.

Let's look at this chart briefly. It shows what is happening with employment in the mining industry for metal, iron ore and copper. Let's look a little more closely at metal mining, which includes gold, silver, lead, and zinc from 1980 to 1995. In 1980 there were 98,000 jobs; by 1995 that had dropped to 51,000 jobs. In copper, it went from 30,000 jobs in 1980 to 15,000 in 1995. These numbers show what is happening to the mining industry in this country. What will happen if we place an additional $700 million in tax burden on them? They have to sell their gold, silver, copper, lead, and zinc at the world prevailing price, not the price in the United States. So where are the good-paying jobs going to go? They are going to go to Canada, Latin America, and Indonesia.

We pride ourselves on cutting taxes and yet this amendment would throw a $700 million tax increase at the American mining industry. That is what the Bumpers amendment would do. It adds $700 million to the cost of producing minerals in the United States. Every Member of this body can figure out for themselves what effect this would have on the American mining industry. If you can't produce your product for a profit, for the price that is offered, you are out of business, that is what happens.

Finally, Mr. President, let's make no mistake about it, this amendment is not about depletion on lands obtained under the Mining Act of 1872. The amendment is about the law itself. This is just an overt attempt to gain negotiating leverage on the industry. The U.S. mining industry agrees with Senator BUMPERS, as do I, that this law is long overdue for overhaul. Let's sit down with the administration and reform the 1872 mining law, but let's not impose a punitive $700 million tax on the industry merely to gain negotiating leverage at the bargaining table. As a consequence, I urge my colleagues to oppose this punitive tax and vote against waiving the Budget Act.

Mr. President, at the conclusion, I am going to raise a point of order that the amendment is not germane under section 305 (b)(2) of the Budget Act.

The PRESIDING OFFICER. The Senator from Alaska has 6 seconds. The Senator from Arkansas has 40 seconds.

Mr. MURKOWSKI. I yield back our time.

The PRESIDING OFFICER. The Senator from Alaska yields back his time.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Senator AKAKA and Senator FEINGOLD be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, this is the ninth year I have stood on this floor and tried to prick the conscience of the Members of this body about this last remaining egregious scam on the American people. Next year, when some of you are up for reelection, I expect you are going to see some 30-second spots on this. What is it your opponent will say? What is it that makes you want to give away billions and billions of dollars of the taxpayers' money and us get nothing in return? Why do you tell your Chamber of Commerce you will handle their money like it was your own? Anybody in this body would be disqualified from being a Senator if he answered the question I posed a moment ago, ''Yes, I will let them come and take gold off my property for nothing.'' Why, of course, you would not.

This is a very narrowly drafted amendment. It is crafted not to discriminate. It simply says that if you mine gold on private lands, fine, get a depletion. Oil companies, coal companies, and gas companies are entitled to a depletion. But when you give resources of the U.S. taxpayers away for nothing, and then allow them to take a 15 percent depletion, which is worth $400 million of the taxpayers' money, and you turn around here in this tax bill and say we are going to give it back to you, don't give it away in the first place. For God's sake, colleagues, do your duty.

I yield the floor.

The PRESIDING OFFICER. All time has expired.

Mr. MURKOWSKI. Mr. President, I raise a point of order that the amendment is not germane under section 305(b)(2) of the Budget Act.

Mr. GREGG. Mr. President, I move to waive the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Kansas [Mr. ROBERTS] is necessarily absent.

The yeas and nays resulted—yeas 36, nays 63, as follows:

[Rollcall Vote No. 131 Leg.]

YEAS—36

Akaka	Graham	Mikulski
Biden	Gregg	Moseley-Braun
Boxer	Harkin	Murray
Bumpers	Jeffords	Reed
Chafee	Kennedy	Robb
Coats	Kerrey	Rockefeller
Collins	Kerry	Sarbanes
Dodd	Kohl	Smith (NH)
Durbin	Lautenberg	Snowe
Feingold	Leahy	Torricelli
Feinstein	Levin	Wellstone
Glenn	Lieberman	Wyden

NAYS—63

Abraham	Coverdell	Hatch
Allard	Craig	Helms
Ashcroft	D'Amato	Hollings
Baucus	Daschle	Hutchinson
Bennett	DeWine	Hutchison
Bingaman	Domenici	Inhofe
Bond	Dorgan	Inouye
Breaux	Enzi	Johnson
Brownback	Faircloth	Kempthorne
Bryan	Ford	Kyl
Burns	Frist	Landrieu
Byrd	Gorton	Lott
Campbell	Gramm	Lugar
Cleland	Grams	Mack
Cochran	Grassley	McCain
Conrad	Hagel	McConnell

Moynihan	Santorum	Stevens
Murkowski	Sessions	Thomas
Nickles	Shelby	Thompson
Reid	Smith (OR)	Thurmond
Roth	Specter	Warner

NOT VOTING—1

Roberts

The PRESIDING OFFICER. The Senate will be in order.

On this vote, the yeas are 36, the nays are 63. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is sustained. The amendment falls.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 517

The PRESIDING OFFICER. The pending issue, under the previous order, is amendment No. 517.

Mr. MOYNIHAN. Mr. President, may we have order.

The PRESIDING OFFICER. The Senate will be in order.

Under the previous order on amendment No. 517, time is 20 minutes under the control of the Senator—time is equally divided on the amendment of the Senator from North Dakota. No. 517 is the pending business. Who yields time?

Who yields time?

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. MOYNIHAN. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Is it the case that we have agreed to 20 minutes equally divided so that the time is automatically provided Senator DORGAN?

The PRESIDING OFFICER. The Senator is correct.

Mr. MOYNIHAN. I thank the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I have offered an amendment that is relatively simple and it deals with the issue of capital gains. Capital gains, as most of us know, has long been a controversial issue here in the Congress.

Some will remember, if they relate back to the good old days of the Tax Code—I call the good old days those old days in which there were people in this country who would do things not because the market system suggested they should do them, but because the Tax Code provided incentives to do them. I do not think they were good old days, but there was created in this country an army of people whose lives were devoted to figuring out how you can convert ordinary income to capital gains and make money off the Tax Code, and how you can decide to build what the market system says you should not build but still make money because the Tax Code provides the incentives to build it.

Well, we got rid of that army of accountants and lawyers and others in the tax shelter industry with the 1986 Tax Reform Act.

The proposal for a capital gains tax preference in the bill that comes to the floor of the Senate has no limitation. I did not take Latin so I don't know if ''totus porcus'' means whole hog, but I certainly think the term applies to this capital gains tax proposal. You can convert unlimited amounts of ordinary income to capital gains and have the tax break that is imbedded in this bill forever.

I propose the following. If a capital gains tax break truly is proposed in order to help those families who save for their kids' college education, to help a small business, to help a family farm that might sell the business or the farm, then let us have at least some reasonable limitation on the capital gains tax benefit.

It is interesting; in this country we have two different philosophies of taxation. One says let us tax work. If you are on a payroll someplace and working, let us tax work. And nobody worries much about the consequence of that. Nobody worries about the impact of inflation on the wage and says let us index work salaries for inflation. Nobody says that.

If you work and you take a shower at the end of the day after you work because you worked hard and you sweat, you earned an honest wage, you pay a tax up here and nobody is running around this Chamber saying, gee, let's index that for inflation. Let's talk about a work gains index. Nobody talks about that.

But then others say let us tax work, but let us exempt investment. Somebody else is an investor, takes a shower in the morning, does not get dirty during the day, does not sweat, sits in a chair someplace and invests, we have all kinds of folks running around the Capitol saying, oh, we have to do something to provide incentives for people who get their income that way.

Let us tax the income from work and let us exempt the income from investments, that is what is at the root of this debate. Now, the question is, who gets what and who has what?

Here is a chart that describes very well why I have offered this amendment. The bulk of the capital gains go to those in the very upper income bracket. One-half of 1 percent of the taxpayers of this country have gains of $200,000 or more, and they get fully half of the capital gains that people get in this country. So when you say let us give a tax benefit through capital gains and have no limit on it, what you are saying is let us provide an enormous benefit to the upper income folks. Eighty-nine percent of the taxpayers that have capital gains have very small capital gains, under $10,000. And all of that in aggregate, 90 percent of the taxpayers have 15 percent of the dollar amount of the capital gains in this country.

So, to repeat, one-half of 1 percent of taxpayers get half of the Nation's capital gains, the bulk of the capital gains. And nine-tenths of the taxpayers get about one-sixth of the capital gains. It is clear that any attempt to give a tax break to capital gains income will disproportionately benefit folks in the very upper income bracket.

My proposal is very simple. It says let us limit the capital gains tax preference in this bill to $1 million in a taxpayer's lifetime, $1 million. We will give you a tax preference on capital gains for a million dollars. Isn't $1 million enough? Should there not be some limitation? Is there no end? Is there no bottom to this pot? Or do we just insist that somehow investment has greater merit than work and we will continue to fight and struggle to reward investment and penalize work by saying let us tax work and exempt investment.

This is a painfully simple amendment. I have offered it previously here in the Congress. I hope that as we now begin this effort to restore a capital gains preference, we at least will have the good sense to limit it.

So that is the amendment I have offered. I reserve the remainder of my time. I would like to respond to some of the comments that are made, but, Mr. President, this amendment will have a significant impact on the construction of a capital gains tax preference. I do not propose we abolish it. I propose instead we limit it to $1 million per taxpayer in the taxpayer's lifetime.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 3 minutes.

(Mr. GREGG assumed the chair.)

Mr. ROTH. Mr. President, I rise in strong opposition to the amendment that is offered by my good friend and colleague from North Dakota, but I do first want to commend him for his perseverance on this issue. I know it is a matter of great interest to him, a matter that he feels very strongly about. As he said in yesterday's statement, he has been sponsoring this type of legislation for many years.

Mr. President, I must oppose this amendment for several reasons. First of all, let me point out that the principle purpose for reducing the capital gains tax is to encourage more investment. In this competitive world of today and in this global economy, it is critically important that we make the best utilization of the capital we have so that we are in a strong competitive position. A lower capital gains tax will encourage greater investment. It will encourage better utilization of our assets.

Why would we want to impose some kind of arbitrary limit that will have the effect of limiting investments? We

are trying to free up hundreds of millions, if not billions, of dollars to the best investment available to help ensure that we are creating in this country an environment of growth, jobs, and opportunity.

Let me just look at this matter from another point of view; from the standpoint of small business. I know my distinguished friend from North Dakota is, indeed, a friend of small business. The tax laws currently provide a 50 percent capital gains exclusion from investments in qualifying small business stock. Currently, the tax laws provide that an investor who has gained from qualifying small business stock can exclude up to $10 million of capital gains from a single investment—10 times more than the $1 million cap. I understand that in the Democratic substitute amendment that is ultimately going to be offered, it is provided that we should double this limit; this $10 million limit should become $20 million from a single investment. So the question I must ask my friends on the other side of the aisle who argue a $20 million capital gains exclusion is appropriate from a single small business investment yet, at the same time, argue to limit capital gains from all other investments to only $1 million over a taxpayer's lifetime—the two provisions are totally inconsistent, in my judgment they make no sense, and I hope the Senate will agree with my concern.

Let me make one further observation. This amendment also raises some very significant administrative problems. Under the amendment, individuals will have to keep track of all their investment gains, not for 1 year, not for 5 years or 10 years, but for decades—a tremendously burdensome matter. Think of how this amendment would affect the Internal Revenue Service. I doubt the IRS has adequate resources to administer the voluminous information that would have to be maintained if this amendment becomes law. It would be an administrative nightmare for the IRS to have to try to enforce this provision.

But let me go back to the first point which I think is most important, that the reason we are reducing the capital gains tax is to encourage more investment. To try to limit it to $1 million makes no sense and is in conflict with the basic purpose of the agreement that was reached by the Senate Finance Committee. It makes no sense. It is inconsistent with the provisions now contained in the law for small business stock, which can be excluded for up to $10 million of capital gains; and, as I already pointed out, it is proposed in the so-called Democratic substitute that this limit be doubled to $20 million.

So I oppose this legislation and hope the Senate agrees with this opposition.

Mr. President, at this time I am happy to yield 7 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Chair will advise the Senator from Delaware that he only has 2½ minutes remaining on the amendment, and the Senator from North Dakota has 4 minutes 42 seconds.

Mr. BENNETT. In that case, Mr. President, I ask I be recognized for 2½ minutes.

Mr. ROTH. Mr. President, I yielded myself, I think it was 3 minutes. Is it not normally the practice to advise the speaker when he has come to that?

The PRESIDING OFFICER. Regrettably, the Chair did not hear the reference to 3 minutes. We will restore the time if the Senator so desires.

Mr. DORGAN. Mr. President, the Senator did ask to be notified after 3 minutes. I have no objection to that.

Mr. ROTH. I thank the distinguished Senator from North Dakota for his courtesy. I yield such time as is remaining to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized for 7 minutes.

Mr. BENNETT. Mr. President, I have addressed this issue before and do not want to spend a great deal of time in repetition. But I think we should focus on what we are really talking about when we talk about capital gains tax. There are many who say, ''Well, the people who have a capital gain are wealthy and we are letting them off the hook if we do not tax that wealth.'' What we are really talking about, in accumulated capital, is where will that capital be deployed?

Recently there have been studies as to the number of millionaires in the United States and how they got their money. Overwhelmingly, the money comes from one of two sources: They inherit it or they start businesses. You do not become a millionaire by saving your wages. You become a millionaire by creating something in the form of a company and then seeing it grow. When you die your children inherit it, and then they fall into the first category. That has to do with death taxes.

But millionaires come from risk-taking, millionaires come from entrepreneurial activity. Where do jobs come from? They come from risk-taking, they come from entrepreneurial activity. As I have said here on the floor, in the real world as opposed to the classroom, millionaires who are the result of entrepreneurial activity have an itch to stay entrepreneurial. Once they have seen their investment become what they call on the market a mature investment, many, many times they want to move on. They want to take their money out of a mature investment and put it into another entrepreneurial activity. But the present level of capital gains taxation prevents them from doing that, at least psychologically.

Again, on the floor I have given examples of people who have seen their investment grow tremendously in a high-risk circumstance. They got the rewards that came from taking that risk and now they want to move on and take another risk, create more jobs and accumulate capital and wealth in this country. When they calculate what happens to them under the capital gains tax they say, ''I am not going to do it. I can't afford it.'' And they leave their money tied up in a mature investment, whereas the opportunity in an entrepreneurial investment is denied them by the capital gains tax.

There is one thing that they do, and I have seen this—indeed, if I may, Mr. President, I have done this myself, to my sorrow. With the entrepreneurial itch saying let's put some money in a new startup circumstance, but feeling that your own money is locked up because of the capital gains tax, the itch becomes so strong that you put money into the entrepreneurial activity anyway, only you borrow it. And now the entrepreneurial activity has to carry not only the responsibility of a fair return, but enough money to pay the interest.

I will not belabor it because I have given major speeches on this issue before. But I think the cap proposed by my friend from North Dakota, while well-intentioned, would in fact impede the flow of capital, it would move us in a direction that would ultimately redound to the disadvantage of the economy. I remind you once again, the Chairman of the Federal Reserve Board, who is concerned with watching money move around the economy and would like to see as much money as possible into entrepreneurial activity, has recommended to us that the ideal capital gains rate for this country should be zero. I am not bold enough to propose that on the floor because I know it would not pass. But I always remind people of that because that is the direction in which I think we ought to go.

For that reason I oppose this amendment.

The PRESIDING OFFICER. Who yields time? The Senator from North Dakota.

Mr. DORGAN. Mr. President, I was staying right with the Senator from Utah until he mentioned the Chairman of the Federal Reserve Board. In ancient Rome they used to have augurs, and the practice of augury was to read the flight of birds and the entrails of dead cattle in order to predict the future.

I have said perhaps the Fed could use some augurs, given their recent performance. They indicated that if unemployment ever fell below 6 percent we would have a brand new wave of inflation. Unemployment has been under 6 percent for 38 months and of course inflation is down, way down. But that is another subject for another day.

The folks at the top of the income structure in this country already have a 30-percent tax differential on capital gains. They pay 30 percent less on capital gains than ordinary income tax rates. My proposal to limit to $1 million for a lifetime the capital gains tax benefits in this bill will effectively relate to about 1 percent of the taxpayers.

I do not disagree with the comments by the Senator from Utah about the germ of an idea and the spark of interest to own a business and that is where success is developed and that is where millionaires come from. I do not disagree with that at all.

I would make this point, however. There are people out here working today who have that same instinct inside of wanting to own their own business and wanting to build a business. Their only stream of income is a wage, and they pay a higher tax on that wage than is being proposed for capital gains. Because of that higher tax they may not be able to accumulate the capital to invest in the business and become the entrepreneur and become successful and make a lot of money.

So my suggestion is this. We have other streams of income in this country which we measure for tax purposes. We have rents, we have salaries, we have capital gains, we have a range of interests, we have a range of incomes. And there are those who take out one stream of income, one kind of income called capital gains and say let's give a tax break to capital gains.

I am not opposed under any circumstance to a tax break for capital gains. We now have one, the 30 percent tax preference. What I oppose is a circumstance where the bulk of the tax preference goes to such a few in the population. I am saying we ought to do this differently, and I have felt that way for 10, 15 years. I think it would be good for the country to do it differently.

I say this finally. If we go back to the ''totus porcus'' approach for capital gains—buy a share of stock, hold it 6 months and 1 day and get a tax preference—go back to the broad approach, much of which is proposed here, we will resurrect the tax shelter industry, resurrect an army of people in the tax shelter industry, and we will rue the day we do it.

The tax shelter industry is to productive enterprise like professional wrestling is to the performing arts. I defy anyone to tell me one good thing that comes from the tax shelter industry in this country. We largely got rid of it in 1986 with the 1986 bill, and I am worried very much we create now a new set of circumstances to allow taxpayers of this country to hire the best minds in America, not for productive enterprise but to tell them how can they create, from their stream of income, capital gains by which they can make money off the Tax Code. That is my great concern. So I propose we limit the capital gains treatment for a taxpayer to $1 million during the taxpayer's lifetime.

Mr. BENNETT. Mr. President, will the Senator yield for a question? Does the time permit that?

Mr. DORGAN. How much time do I have?

The PRESIDING OFFICER. The Senator from North Dakota has 1 minute.

Mr. BENNETT. I shan't intrude further. I thank the Senator.

Mr. DORGAN. We will have an opportunity to discuss this further. I respect the views of the two Senators who spoke in opposition to this amendment. I would say we are talking in the outyears about $4 billion to $5 billion a year without my limitation. That $4 billion to $5 billion I would like to use to reduce taxes on wages to the extent we can.

The tax increases in this country have come from payroll taxes now. Two-thirds of the American workers pay more in payroll taxes than they do in income taxes, and I would have structured the tax bill completely differently than it is now structured. I would have addressed the issue of burgeoning payroll taxes which tries to be a clothes hanger on all of the acts of creating a job to say, ''By the way, we are going to hang all of these social obligations on the act of creating a job.''

I am very concerned about that in terms of the disincentive it gives to someone in business to create new jobs. I don't want to go far afield, but there is no social program we discuss in Congress that is as important or effective as a good job to cure what ails this country.

So this $1 million limitation makes good sense. I hope Members of the Senate will consider it and hope that we will have a chance to vote on it.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Delaware has 2 minutes and 55 seconds.

Mr. ROTH. Mr. President, I yield back the remainder of the time and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 517. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Kansas [Mr. ROBERTS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 24, nays 75, as follows:

[Rollcall Vote No. 132 Leg.]

YEAS—24

Akaka	Ford	Levin
Boxer	Harkin	Mikulski
Byrd	Hollings	Murray
Conrad	Inouye	Reed
Daschle	Johnson	Robb
Dorgan	Kennedy	Rockefeller
Durbin	Lautenberg	Sarbanes
Feingold	Leahy	Wellstone

NAYS—75

Abraham	Bryan	Craig
Allard	Bumpers	D'Amato
Ashcroft	Burns	DeWine
Baucus	Campbell	Dodd
Bennett	Chafee	Domenici
Biden	Cleland	Enzi
Bingaman	Coats	Faircloth
Bond	Cochran	Feinstein
Breaux	Collins	Frist
Brownback	Coverdell	Glenn
Gorton	Kerry	Roth
Graham	Kohl	Santorum
Gramm	Kyl	Sessions
Grams	Landrieu	Shelby
Grassley	Lieberman	Smith (NH)
Gregg	Lott	Smith (OR)
Hagel	Lugar	Snowe
Hatch	Mack	Specter
Helms	McCain	Stevens
Hutchinson	McConnell	Thomas
Hutchison	Moseley-Braun	Thompson
Inhofe	Moynihan	Thurmond
Jeffords	Murkowski	Torricelli
Kempthorne	Nickles	Warner
Kerrey	Reid	Wyden

NOT VOTING—1

Roberts

The amendment (No. 517) was rejected.

Mr. ROTH. I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

VISIT TO THE SENATE BY THE PRIME MINISTER OF AUSTRALIA

Mr. MOYNIHAN. On behalf of the distinguished chairman of the Committee on Foreign Relations, Mr. HELMS, I ask unanimous consent that the Senate stand in recess for 3 minutes that we might greet our distinguished visitor, the Honorable John Howard, the Prime Minister of Australia.

[Applause.]

RECESS

There being no objection, the Senate, at 11:10 a.m., recessed until 11:14 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. BURNS].

REVENUE RECONCILIATION ACT OF 1997

The Senate continued with the consideration of the bill.

MOTION TO REFER

The PRESIDING OFFICER. The order of business is the motion made by the Senator from North Dakota, a motion to refer to the Budget Committee with instructions.

I believe 10 minutes of debate, equally divided, are in order, am I not correct?

Mr. MOYNIHAN. The Chair is always correct.

I yield 5 minutes to the Senator from North Dakota.

Mr. DORGAN. Mr. President, I will be brief. This motion is relatively simple.

My concern about where we are heading is this. I am concerned that we will decide to have balanced the budget and provided substantial tax cuts. And then, because the tax cuts are so backloaded, in the second 5 years our country will find itself back in a deficit.

I propose that we remedy that by having a trigger mechanism that would sunset the provisions of capital gains

and the IRA's in the following circumstances: First, if the estimated loss as a result of the tax cuts exceeds our current expectations; and second, if the Treasury Department says we are running a deficit in the previous fiscal year.

My point is very simple. If we begin to run a deficit, and if running a deficit is because the cost of these tax cuts exceeds what we now think it will be, I would like us to trigger them off so we can get the budget back in balance. I just do not want to get into a circumstance that we have found ourselves in previously. We do not want to think we will turn out all right, and find 7 years down the road a huge Federal deficit.

I point out that the tax cuts in this bill are fairly well backloaded, and the upper-income tax cuts, just as an example, $17.8 billion in 2002, the same tax cuts will cost nearly $100 billion in the year 2007. My fear is because the tax cuts are backloaded we could find ourselves in a circumstance where we are right back into a deficit.

Again, the two points are this: If the cost of the tax cuts significantly exceeds what we estimated them to be, and if we have had a deficit in the previous fiscal year, then my motion would trigger a repeal, temporary repeal, of four provisions of the tax cut dealing with capital gains and IRA's.

I reserve the balance of my time.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. At the appropriate time I will make a point of order against the motion to refer on two grounds.

Let me point out in the beginning that this is a matter that was not included in the budget agreement. It introduces a new aspect to the agreement that is not consistent with what we have discussed before.

I yield 2 minutes to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, first of all, we discussed all of these issues in the very lengthy negotiation with the White House. Their packages in the past have been gifted by having the tax cuts be temporary. That is the way the President's budgets have been in the past. He finally came to the realization that that was not fair to the American taxpayers. So that concept was eliminated from the budget agreement. We are going to give taxpayers a tax cut, period.

But also the argument that is being made that this may somehow explode in the outyears, we have an agreement that for the first 10 years it will not exceed $250 billion. I understand the valuation of this package is that we have done that in this finance bill. It is only $247 billion over 10 years. That is the best we can do. We are right on the money.

I believe we ought to leave the agreement alone and leave this very good tax bill alone.

Mr. ROTH. I yield the remaining time to the Senator from Oklahoma.

The PRESIDING OFFICER. There are 3 minutes and 17 seconds remaining.

Mr. NICKLES. I urge my colleagues to vote no on this motion. This motion basically says if we do not meet the targets we will have automatic tax increases. You did not hear it the other way around—you did not hear if we do meet the targets, we will have automatic decreases.

The question is, are we spending too much, or are we taxing too little? The Senator from North Dakota obviously thinks if there is a deficit we need more taxes. We need to reach in and take more away from taxpayers. I disagree with that. That is the President's position.

As the Senator from New Mexico said, he had automatic tax increases in the outyears. We did not agree with that in the leadership package with the President. We said no, the tax cuts will be permanent. They will be real, and they are not stacked toward higher income. Despite what some of my colleagues said, 82 percent of tax cuts are directed towards families with children and for education. That is family friendly.

So I will just urge my colleagues, if we are going to have an automatic deficit reduction, make sure we meet the targets. Let's work on the spending side. Let's have something automatically that will reduce Government spending. I really do believe the problem is not that we are undertaxed. I really believe that the problem is we are overspent.

I urge my colleagues to vote no on this motion.

Mr. ROTH. Has all time been yielded back?

The PRESIDING OFFICER. All time has not been yielded back. The Senator from Delaware has 1 minute and 45 seconds and the Senator from North Dakota has 2 minutes, 54 seconds.

Mr. DORGAN. Mr. President, I say to the Senator from Oklahoma, I am not suggesting that we should increase taxes. I am saying to the extent that we now reduce taxes and reduce revenue, and to the extent that that helps cause another Federal deficit in the second 5 years because the cost of those tax cuts explodes, I say we should put an insurance or safety mechanism in this bill to prevent us from running a deficit again.

Now, I hope that we will have learned from the last decade. There is merit, and I compliment the Members of this Congress who care about the Federal deficit, there is merit in fiscal discipline in dealing with the deficit. I just urge if we have a circumstance where we can provide protection in the outyears against an exploding of the Federal deficit, again we try to do that.

I am somewhat concerned that the chairman will make a point of order against my motion. I understand that there will be a budget enforcement mechanism offered by the Senator from New Mexico. Will a point of order will be made against them? Enforcement mechanisms that provide protection against an explosion of the Federal deficit make great sense to me. That is the proposal that I offer with this trigger.

I reserve the balance of my time.

Mr. NICKLES. Mr. President, again, I just say that there are two sides to the question. We started some new spending programs. We have a program called Kid Care, and the agreement was for it to be $16 billion. It has grown already to $24 billion. Guess what? That additional $8 billion is only for 5 years. We do not even pretend it goes the next 5 years. So what about if that program explodes?

My point being, the motion of the Senator from North Dakota is if we do not meet deficit targets we have automatic tax increases, or we will tell people they can have capital gains for 5 years but not beyond, or tell people they can have an IRA this year, but not in the future?

I think we should restrain spending, not increase taxes. I urge my colleagues to vote no on this motion.

I yield the balance of my time.

Mr. DORGAN. Well, let us suppose that in 7, 8, or 9 years we see the deficit begin to explode on us. Is the Senator suggesting that we cut health care for kids, but that we retain tax cuts that are backloaded, that are six and eight times as large in the year 2007 than in the year 2002, and are for the largest income earners in this country? I would like to see us vote on that in the U.S. Senate.

My point is we are making deliberate decisions about the Tax Code here, some good decisions, some I think are not so good.

We need to think about the consequences of these decisions. This motion would help us do that. If the tax cuts exceed the expected amount and if we are also running a deficit in the outyears, four provisions of this tax cut bill would be temporarily suspended.

That is my motion to refer today. I hope the Senate would consider it favorably.

I yield back the balance of my time.

The PRESIDING OFFICER. All time has expired. The Senator from Delaware.

Mr. ROTH. Mr. President, I make a point of order against the motion to refer on two grounds. First, that it is not germane to the bill under section 305 of the budget, and second that the motion includes budget process matters not reported from the Budget Committee, in violation of section 306.

Mr. DORGAN. Mr. President, pursuant to Section 904(c) of the Congressional Budget Act, I move to waive Section 305(b) to Section 306 of that act with respect to my motion.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Kansas [Mr. ROBERTS] and the Senator from New York [Mr. D'AMATO] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 34, nays 64, as follows:

[Rollcall Vote No. 133 Leg.]

YEAS—34

Akaka	Feinstein	Levin
Biden	Ford	Moseley-Braun
Bingaman	Glenn	Murray
Boxer	Harkin	Reed
Bumpers	Hollings	Reid
Byrd	Inouye	Robb
Conrad	Johnson	Sarbanes
Daschle	Kennedy	Torricelli
Dodd	Kerry	Wellstone
Dorgan	Kohl	Wyden
Durbin	Lautenberg	
Feingold	Leahy	

NAYS—64

Abraham	Frist	McCain
Allard	Gorton	McConnell
Ashcroft	Graham	Mikulski
Baucus	Gramm	Moynihan
Bennett	Grams	Murkowski
Bond	Grassley	Nickles
Breaux	Gregg	Rockefeller
Brownback	Hagel	Roth
Bryan	Hatch	Santorum
Burns	Helms	Sessions
Campbell	Hutchinson	Shelby
Chafee	Hutchison	Smith (NH)
Cleland	Inhofe	Smith (OR)
Coats	Jeffords	Snowe
Cochran	Kempthorne	Specter
Collins	Kerrey	Stevens
Coverdell	Kyl	Thomas
Craig	Landrieu	Thompson
DeWine	Lieberman	Thurmond
Domenici	Lott	Warner
Enzi	Lugar	
Faircloth	Mack	

NOT VOTING—2

D'Amato Roberts

The PRESIDING OFFICER. On this vote the yeas are 34, the nays are 64. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained on both grounds.

The motion to refer is not in order.

The Senator from New York.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BALANCED BUDGET ACT OF 1997—EXTRANEOUS MATERIAL

Mr. ROTH. Mr. President, pursuant to section 313(b)(1)(c) of the Congressional Budget Act, I submit a list on behalf of the Committee on the Budget of the extraneous material in S. 947 the, Balanced Budget Act of 1997, as reported. I ask unanimous consent that the list be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BALANCED BUDGET RECONCILIATION ACT OF 1997—EXTRANEOUS PROVISIONS

Senate	
Provision	Comments/Violation
AGRICULTURE, NUTRITION, AND FORESTRY	
Sec. 1001	Hardship waiver continues after 2002 which means title has a net cost. Byrd rule (b)(1)(E): Increases outlays or decreases revenues for a year after 2002 and the title results in a net increase in outlays or net decrease in revenues in that year.
BANKING, HOUSING, AND URBAN AFFAIRS	
	There are no extraneous provisions in this title.
COMMERCE, SCIENCE, AND TRANSPORTATION	
Sec. 3002 where it adds "(15)(A)(iii)" p. 110 lines 1–25, p.111 lines 1–4.	Report to Congress on digital TV conversion, Byrd rule (b)(1)(A).
ENERGY AND NATURAL RESOURCES	
Sec. 4001—first proviso	Funds resulting from the leasing or other use of a reserve facility on or after October 1, 2002 shall be available to the Secretary of Energy without further appropriation, for the purchase of petroleum products for the reserve. Byrd rule (b)(1)(A): Produces no change in outlays or revenues during the fiscal years covered by the reconciliation instructions.
FINANCE—DIRECT SPENDING	
Medicare:	
Sec. 5013	Requires Secretary of HHS to study PACE Program. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5015(c)	HHS Study of Social HMO Integration into Medicare Choice. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5021	Authorization of the Nation Bipartisan Commission on the Future of Medicare. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5022	Authorization of the Medicare Payment Advisory Commission to replace the Prospective Payment Assessment Commission and the Physician Payment Review Commission. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5153(a) & (b)	Authorization and study of Rural Hospital Flexibility Program. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5156(c) and (d)	Reports related to telemedicine. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5217	GAO fraud and abuse report date due amendment. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5302	Study on Payments for Long-Term Care Hospitals. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5364	Study on Definition of Homebound. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5366	Inclusion of Costs of Service in Explanation of Benefits. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5521(c)	Study and Report on Clinical Lab Payments. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Medicaid:	
Sec. 5701(b)	Reports on Medicaid Managed Care. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5711(b)	Study and Report on the Boren Amendment. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Welfare:	
Sec. 5821	Evaluations of Welfare to Work program and Report to Congress. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5823	Clarification of states ability to sanction an individual receiving TANF for noncompliance. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5871	Sense of the Senate regarding the correction of Cost Living Adjustment. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
GOVERNMENTAL AFFAIRS	
	There are no extraneous provisions in this title.
LABOR AND HUMAN RESOURCES	
Sec. 7001(a)(4)	Allows guarantee agencies to use earnings from excess guarantee agency reserves placed in restricted accounts for limited purposes. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
VETERANS' AFFAIRS	
	There are extraneous provisions in this title.

REVENUE RECONCILIATION ACT OF 1997

The Senate continued with the consideration of the bill.

Mr. ROTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, prior to the vote, it was my understanding that the Democratic amendment would now be in order. Is that correct?

The PRESIDING OFFICER. The Senator from South Dakota is correct.

AMENDMENT NO. 527

(Purpose: To provide tax relief for working families, to increase the rate and spread the benefits of economic growth, and for other purposes)

Mr. DASCHLE. Mr. President, I have the amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER (Mr. BROWNBACK). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. DASCHLE), for himself, Mr. BINGAMAN, Mr. CONRAD, Ms. MIKULSKI, Mrs. BOXER, Mr. DODD, Mr. KERRY, Ms. LANDRIEU, Mr. CLELAND, Mr. DURBIN, Mr. KENNEDY, Mr. FORD, and Mr. LAUTENBERG, proposes an amendment numbered 527.

Mr. DASCHLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. DASCHLE. Mr. President, this debate today and tomorrow is not about whether to cut taxes but how to cut them. Democrats support a tax cut, but we want them to be the right kind. We want them to be fair, especially to working families.

I congratulate Senator ROTH and Senator MOYNIHAN and the Members on both sides of the aisle for the bipartisan effort to improve the House bill. In many ways it is a substantial improvement of the bill passed by the House Ways and Means Committee. But in the view of many Democrats, problems still remain in the version that is now before us.

Under both the House and the Senate plans, the top 1 percent of taxpayers, people making over $350,000 a year, receive more than the bottom 60 percent put together, people making under $50,000.

This chart depicts very well what the circumstances are. In the Archer bill, 67 percent of all the benefits in the tax bill go to the highest 20 percent. In the Roth bill, 65 percent of all the benefits go to the top 20 percent. In the bill that we are presenting as an alternative today, 20 percent of the benefits go to the top 20 percent, but 75 percent of the benefits go to the middle 60 percent.

So the distribution, the progressivity of the alternative plan that we are presenting today, is a significant improvement for working families across this country.

The people who have yet to share fully in the economic recovery are in the bottom 60 percent, the bottom four quintiles of income distribution, not in the top 1 percent. They ought to be the ones to largely benefit from the plan that this Congress and ultimately that this country enacts into law.

But instead of helping identify middle-class families, the House and Senate bills shortchange them—9.2 percent in the middle 20 percent, 2.4 percent in the next to the bottom quintile, 2.3 percent under Roth, and a very small percentage of the benefits actually go to middle-class working families as the Finance Committee bill is written today.

We can do better than this. We owe the American people better than this, and our bill attempts to do that.

We recognize that we are in the minority, and many Democrats, recognizing that, have worked closely with our Republican colleagues to do the best we can to reflect a better distribution. Many of us will support the final passage if we are not successful in passing this version because we don't want the perfect to be the enemy of the good.

But it is important for the American people to know what we could have done and what we would have done were we to be in the majority.

So we are offering this comprehensive alternative but with an expectation of having a good debate and contrasting the Finance Committee-passed bill, which is dominated by the Republican majority, with our Democratic alternative.

Our Democratic alternative really has four objectives.

First and foremost, what I have just described, we want to ensure that there is fairness for working families.

Second, we want to target the growth incentives to those companies and those activities where we can do the most good.

Third, we want to ensure that we put an emphasis on education.

And, fourth, we don't want a tax time bomb. We don't want to explode the deficit at some point in the future given the terrific effort that has been put forth in recent years to bring the deficit down and ultimately to balance the Federal budget.

So our goal is to do all of those things and stay within the bounds and the confines of the budget agreement that was agreed to by the administration and leadership in both the House and the Senate.

Our plan then delivers on all counts. We provide a fair, targeted approach to middle-class families, and we do that in a number of ways.

Most importantly, we recognize that it is an income tax that working families are most concerned about. They don't pay as much Federal income tax as they pay other forms of taxes that affect them directly.

Middle-class families are faced with a substantial tax liability that falls outside the realm of income tax today. In fact, 99 percent of all working families who earn less than $21,000 pay more in payroll taxes than they do in income taxes; 97 percent of those who make between $21,000 and $41,000 pay more in payroll taxes than they do in income tax; 90 percent of those who make $41,000 to $62,000 actually pay more in payroll tax than they do in income tax. Even in the category that we would call middle-class families, $62,000 to $94,000, 65 percent, well over half, almost two-thirds of them, pay more payroll tax than they do income tax. It is only in the top fifth, those making more than $94,000 that actually pay, the majority of them, more income tax than they do payroll tax.

So one of the key features, one of the centerpieces of our bill, is to ensure that we recognize where the tax liability is for working families.

So we apply the child tax credit against the payroll tax as well as against the income tax because it is the payroll tax where we can do the most good for most working families.

We have a chart that really depicts the circumstances for working families today—families, in this case, making somewhere between $22,000 and $41,000. After they take their deductibles, after they get down to their net income, they pay an average of $252 in income taxes and over $3,828 in payroll taxes. So their liability for payroll tax is substantially higher. Not only do 99 percent of them pay more in payroll tax than income tax, what they pay is so much more—$3,828 versus $252 in income tax.

So our bill provides an opportunity for those who are saddled with a far greater degree of liability for payroll tax to be able to address it in the most effective way. That child tax credit would be made applicable to both the payroll tax and the income tax.

We also do something else. As the current Finance Committee bill is written, the earned-income tax credit is calculated first. And then, if there is anything left, they are eligible for the child tax credit.

Mr. President, we stack them in just the reverse fashion. We provide the child tax credit first so that they have the full use of that credit against either payroll tax or income tax, and then we allow the earned-income tax credit to kick in.

So we provide working families an opportunity first to use the child tax credit against the payroll tax, and second to be sure that they have the full opportunity to use it by stacking it ahead of an EITC, the earned-income tax credit, if they are indeed eligible for it.

So we make the bill fairer, and from those fairness proposals that we provide that distributional analysis that so clearly slows the contrast—I will just put this chart up briefly again to clarify it again. That is how we get this great distributional breakdown—75 percent of the benefits going to the middle 60 percent of all income brackets.

That is why there is such a difference between the 25 percent and 10 percent and 9 percent in this case or 32 percent and 21 and 19 in the case of the fourth 20 percent. So we really provide a far

better distributional opportunity for working class families than anything else.

But that is what our first goal was, to ensure fairness, to ensure that those who need it the most have the most opportunity to benefit from a bill like this.

Our second goal, as we said, was to ensure that we provide the maximum degree of opportunity to businesses that really need the kind of help that these tax tools can provide. In order to do that right, what we want to be able to do is target the capital gains and the other tax features in ways that will ensure that we provide the most bang for the buck. We eliminate the huge capital gains windfall for the top 1 percent. In the currently drafted Senate Finance Committee bill, we change their flat 20 percent capital gains rate, which benefits the top bracket most, to an equal 30-percent capital gains exclusion for all income brackets.

Let me explain what we are attempting to do in this case. Right now, because of the flat cap of 28 percent on capital gains taxes, those in the top income tax bracket actually get a benefit of about 30 percent in capital gains exclusion because of the cap. What we do is apply that capital gains exclusion, that 30 percent, across all income brackets, thereby giving working families, those who are making $60,000 or $80,000 or $100,000, the same opportunity to use the 30 percent exclusion that the upper income bracket currently has available to them.

So we expand that 30 percent across the entire array of income brackets in order to assure that people who want to invest in this country, who want to benefit from the tremendous economic opportunity and the growth that we would like to continue here will benefit—that is, will benefit those who can use it the most. So we provide more opportunities for that to happen.

We also try to do a number of things that will target small businesses and family farms. We cut the capital gains rate nearly twice as deeply for most small businesses. What we provide is a 50-percent exclusion for investment into companies with assets of under $100 million, startup companies—a 50-percent exclusion across all income brackets. Startup companies which need that investment, that cannot compete with General Electric or cannot compete with Westinghouse or IBM, these are companies that really need the additional incentive, and we provide it to them. And then we say if you are really a startup company with assets under $25 million, we are going to allow you to roll over your capital gains taxes entirely if you reinvest within 6 months. So there is no capital gains on an investment in a company with assets under $25 million.

When it comes to targeting the benefits to the businesses where we could do the most good by having the 30-percent exclusion for all working families, by including a 50-percent exclusion for businesses under $100 million and a complete rollover of taxes for those companies with assets under $25 million, in addition to the $500,000 exclusion on all households, on the sale of all houses, we provide, in my view, the best package that has yet been proposed to the Senate with regard to how to use the capital gains tools most effectively.

We also do something that the NFIB, the National Federation of Independent Business÷ and many business organizations that said is their No. 1 priority. We make health insurance fully deductible for the self-employed—fully deductible. That is not in the Finance Committee bill, but it is in the Democratic alternative.

So, Mr. President, when you look at all the different ways in which we try to help small, Main Street businesses, we provide a substantial degree of additional assistance to those families who need it the most. But we do not limit ourselves just to small business. We also address the problem of inheritance tax with farmers today.

Currently, small businesses and farmers who want to keep a business or a family farm in the family are finding it exceedingly difficult to do that. You cannot do that if you have to pay the inheritance taxes, in many cases, on small businesses or family farms that you want to keep in the family. So we increase by $900,000 the exemption for those businesses and family farms which are truly kept in the family. We will provide a $1.5 million inheritance tax exemption for those businesses and family farms that want to be kept in the family as generations move on.

So, Mr. President, I think this is a very significant array of tax tools to help those across this country, whether they are workers, businesses, or farmers, in an effort to do as much as possible to help business succeed in this increasingly competitive and yet optimistic economic outlook that we face in the country today.

That is the second goal—providing the greatest degree of capital growth to those areas where we can do the most good.

The third goal is education. And, again, I will say what I said at the beginning. I think the Finance Committee deserves great credit for a lot of the things they did in that bill to try to advance education through our Tax Code, to do a number of things that will be very helpful and beneficial not only to students but to working families and to schools themselves. We just think you can do a lot better. We think that instead of just 2 years for the HOPE credit, we ought to be providing 4 years of HOPE credit opportunities. Instead of just ensuring that we provide the KIDSAVE option, bonus credit for education IRA savings, we ought to ensure that we provide for a complete Pell grant eligibility. We do not penalize Pell grant recipients. We provide the full KIDSAVE option, but we do not say you can have one or the other. We are not going to penalize those who take out the Pell grant, as well. So we want to do as much as we can to ensure through the HOPE credit, through the KIDSAVE, through Pell grants the full opportunity to use the benefits that the Federal Government provides to ensure that people have a chance to go to school. We do not think that the limited funding for crumbling schools in the bill is going to be adequate enough. We provide additional funding for crumbling schools, as well.

So, Mr. President, when it comes to education, these tools are going to go a lot further in ensuring that every single student has the opportunity to go to school and to take full advantage of the opportunities that we provide in this tax bill to help offset the increasing costs of going to college today.

Finally, Mr. President, we think it is very important that we be fiscally responsible. That was our fourth goal. We are concerned about the tax time bomb. The Senate bill currently is very heavily backloaded. The billions of dollars in additional cost in the year 2017 cause us great concern; $830 billion is what has been estimated by the Joint Tax Committee as the cost in the year 2017 for the Senate bill today. The cumulative cost in the year 2007 is $250 billion; in the year 2002, 5 years from now, $85 billion. So while we live within the confines of the budget agreement in 5 and in 10 years, we are not so sure that we do that in the outyears, in the years beyond 10 years. What happens in the year 2017 when we have to face the prospect of a loss of revenue of some $830 billion?

Mr. President, we can do better than that as well. I think it is very important that we try to maintain the fiscal discipline that we have acquired in recent years, that has brought so many great economic dimensions to our country and to our future as a result of the discipline and the wise decisions that we made as far back as 1993.

So, Mr. President, in summary, our Democratic alternative is truly a families first tax plan, providing the greatest degree of relief to middle-class families across this country regardless of whether they are laborers or business people or farmers. We have shown it is possible to be progrowth, profairness and profiscal responsibility at the same time. Our bill provides help for working class families, provides good help for those businesses and industries that want to continue to grow in this rapidly growing economy in a competitive way. We provide the greatest degree of assistance to education of any tax bill available in the Congress today. And we do it all in the context of fiscal responsibility, our fourth goal.

Mr. President, I HOPE our colleagues will take a good look at this plan. I am excited about it. I believe in it. I think a lot of people would like to see this legislation passed over and above what has been proposed by the Finance Committee in spite of the good work they have done in many areas.

I might add that the Secretary of the Treasury has just sent a letter that is very laudatory of the effort made by our Democratic caucus, and I ask unanimous consent at this time that a letter dated June 26 sent to me by the Secretary of the Treasury, Robert Rubin, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY
Washington, DC, June 26, 1997.

Hon. TOM DASCHLE,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR TOM: I want to commend you and the other Senate Democrats for your tax proposal.

Any tax-cut package must meet four basic tests to reflect sound policy. First of all, the tax cuts must be fiscally responsible by avoiding an explosion in out year costs. Second, the tax cuts must provide a fair balance of benefits for working Americans. Third, the tax cuts must encourage economic growth. Fourth, the tax package must reflect the terms of the bipartisan budget agreement including a significant expansion of educational opportunities for Americans of all ages. We believe that your overall package meets each of these tests.

We are particularly pleased that your proposal gives American families the help they need to make investments in education and life-long learning. The decision to include a HOPE scholarship proposal mirrors our initiative to make education more affordable and to make the 13th and 14th grades universal. You have improved our initial proposal by allowing students who receive Pell Grants and still pay tuition to receive the HOPE scholarship. We fully endorse that change. Although our tuition deduction plans differ in some particulars, we are pleased that your proposal incorporates the full $10,000 tax benefit for tuition paid—regardless of its source. Like our proposal, your tuition plan will help families who are not wealthy enough to pay for the entire amount of tuition out of savings and are therefore forced to borrow. It will also help Americans undertake lifelong learning so that they can take advantage of the opportunities—and meet the challenges—of the new economy.

We are pleased that your proposal includes a child tax credit that can be offset against payroll taxes, thereby helping millions of working families raise their children. In contrast to the Senate Finance Committee bill, this feature will help ensure that many low-income families receive the full benefit of the child credit.

At the same time, your proposal includes several of the President's priorities that were part of the budget agreement—including an expansion of Empowerment Zones and Enterprise Communities, and the Brownfields tax incentives. Your proposal also addresses many of the President's other priorities—including a permanent extension of the exclusion for employer-provided educational assistance.

In sum, your tax-cut plan is a welcome and important proposal. While we continue to analyze specific provisions, we support the overall structure of the plan. We hope that members of both parties will give it careful consideration and will work with us to enact a tax-cut package that meets our four tests.

Sincerely,

ROBERT E. RUBIN.

Mr. DASCHLE. I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I yield myself such time as I may take.

The PRESIDING OFFICER. The Senator is recognized.

Mr. ROTH. Mr. President, I rise in opposition to the substitute amendment proposed by the distinguished minority leader. The proposal that passed the Senate Finance Committee with overwhelming bipartisan support is simply a better package. The Taxpayers Relief Act of 1997 is fair, it is bipartisan, and, most importantly, it provides long overdue tax relief for middle-income families.

It makes clear that the consensus which is, indeed, developing on Capitol Hill is that the days of big, intrusive, overbearing Government are coming to an end. I am, indeed, pleased by the work and cooperation exhibited by the members of our Finance Committee. Our bill contains the best thinking and the most workable policies from both sides of the political aisle.

Mr. President, from the very beginning, I asked for ideas from all members of the Finance Committee, Republican and Democrat alike. We asked that they put their ideas in writing, and these were reviewed carefully and many incorporated into the initial draft. Again and again, we consulted with each other, met informally and discussed, and I can say I think the end product, our bill, was, indeed, the best thinking and most workable policies from both sides of the political aisle, and I might add, as well, from both ends of Pennsylvania Avenue, because we carefully reviewed and considered the proposals of the White House as well as those of the Congress.

It was put together constructively with an eye to providing American families the tax relief they need to encourage education, something that everybody wants for their children, and, most importantly, creating economic conditions that will promote jobs, opportunity, and growth for all the American people. Finally, let me point out the Finance Committee proposal meets the guidelines of the budget agreement.

The substitute amendment introduced by the distinguished minority leader today is not, in my humble opinion, a reflection of the growing consensus and bipartisan spirit that is reflected in the Finance Committee proposal. And it contains several major flaws which I would like to address. It does not—and I emphasize the word ''not''—provide immediate tax relief for middle-class American families. It does not. Again, I emphasize the word ''not,'' it does not effectively address the need to promote and improve educational opportunities for American youths. It does not promote meaningful savings, investment, economic growth.

The Chairman of the Federal Reserve said that the most important need of this country is to encourage savings, savings on the part of the American people. I regret that the substitute amendment was not drafted in such a way that draws the best each party has to offer in the debate over tax relief.

Let me address each of these concerns a little more specifically. A major distinction between the child credit in the proposed Daschle amendment and the Finance Committee bill is the way the credit is phased out. The minority leader's amendment would phase the child credit out over a fixed dollar amount. The way he does this, families earning over $70,000 would actually see an increase in their share of the tax burden. While these families under current law have a marginal tax rate of 28 percent, Senator DASCHLE's amendment would increase their rate up to 41 percent. That is a tax increase, not tax relief.

Beyond this, the Senate Finance Committee child credit gives a larger credit sooner, whereas the minority leader's credit phases in over time. Let's ask the American families, which one do they prefer?

Another major concern that I have with the minority leader's amendment is that it makes the child tax credit refundable. In other words, individuals who pay no income tax will receive a check from the Government. The Senate Finance Committee, in a bipartisan effort, considered and rejected the idea of making the credit refundable. Even the credit included in the administration's budget proposal was nonrefundable. Frankly, there are, indeed, very, very serious compliance problems associated with trying to administer a refundable tax credit. This was shown clearly by the administration in the package of reform proposals they released earlier this year to address fraud and error rates with respect to the Earned Income Tax Credit program. Frankly, it has been estimated that the fraud and error in that program is as high as 20 percent. It is obvious from the performance of IRS in this area that they are not equipped, at least at this stage, to administer a refundable program, at least another one, since they are already having such difficulties with the one already on the books. Our tax system works much more effectively when we reduce the amount of taxes people have to pay, rather than when the Government tries to give money back to Americans.

These are just a few of my concerns with the Daschle amendment regarding the child tax credit. There are other major concerns with this alternative proposal. For example, concerning education, the minority leader's alternative will result in tuition inflation, the last thing parents need. The education tax proposals contained in the Finance Committee tax bill represent the very best ideas from both ends of Pennsylvania Avenue. In studying the administration's HOPE scholarship tax credit, frankly the Finance Committee was very concerned about tuition inflation. In the past 15 years, college tuition has increased 234 percent—234 percent. For this reason, we carefully, and

again in bipartisan cooperation, Republicans and Democrats working together, crafted a proposal that will help keep tuition costs down. The Finance Committee proposal provides a 50-percent tax credit for the first $3,000 of tuition expenses; 75 percent of the first $2,000 of tuition expenses for students attending a community college. This will not encourage tuition inflation.

I cannot emphasize too much the importance of discouraging tuition inflation. In the Finance Committee we had a number of hearings where young people came and testified about the problem they had in paying for college tuition and expenses. One young lady, who was the daughter of a single parent, put herself through dental school with the help of her mother, and ended her college with a debt of something like $90,000. There is something wrong when our hard-working young students have to end their college careers and start their adult careers with that kind of debt overhanging them. So I cannot emphasize too much the importance of discouraging tuition inflation.

In addition to the HOPE scholarship tax credit and the education tax proposals contained in the Finance Committee bill, our design is to help families through all stages of education. These proposals include a permanent extension of employer-provided education assistance for undergraduate and graduate education. This is a proposal that has long been endorsed, sponsored jointly by my distinguished colleague Senator MOYNIHAN and myself. Our proposals include a student loan interest deduction as well as tax-free savings for graduate and undergraduate education. Our proposal also provides penalty-free IRA withdrawals for postsecondary and graduate education, a deduction for teacher training course work, a repeal of the tax exempt bond cap for new construction projects, and it helps in the construction of elementary and secondary school building.

As I have said, the educational proposals in the Finance Committee bill were crafted carefully. They had strong support on both sides of the political aisle as well as throughout the education community. A letter I received from the Association of American Universities and the National Association of Independent Colleges and Universities demonstrates this strong support. In part, that letter reads:

> The higher education related tax provisions being considered by the Senate Finance Committee will make higher education more accessible for undergraduate and graduate students.

Let me repeat that. The Association of American Universities and the National Association of Independent Colleges and Universities wrote the committee that our education-related tax proposals ''will make higher education more accessible for undergraduate and graduate students.'' And it goes on to say it will ''help ensure that the Nation has the highly educated, well trained work force it will need for the 21st century.''

Speaking of the 21st century, an analysis of the alternative plan introduced by my distinguished colleague, Senator DASCHLE, shows it does not contain nearly the kind of policies that are needed to keep America's economy strong. The incentives to save and invest that are contained in the Finance Committee bill are seriously weakened if not abandoned in the Daschle alternative. In the area of capital gains, for example, the Finance Committee tax relief bill was a bipartisan measure that passed by the overwhelming majority of 18 to 2. It received this broad support because of its fairness and the understanding by Members on both sides of the aisle that America needs capital for a bright and prosperous future.

The capital gains proposal in the Finance Committee bill is fair. According to recent IRS statistics, about 13.2 million individual taxpayers reported capital gains in 1994. Over 11 million of these taxpayers had gross incomes of less than $100,000, and over 7 million had incomes of less than $50,000. In other words, 50 percent of individuals with capital gains had incomes of less than 50,000 and reducing the capital gains tax to 20 percent will represent a real and significant tax break for millions of middle-income taxpayers.

It will create capital formation for jobs, opportunity and growth, most important objectives for the future. This, after all, remains our objective. It reflects what the American people have asked us to do. I am proud of the way Members of the Senate have come together from the right and from the left to give their best efforts to the Taxpayer Relief Act of 1997. Let us not undermine such a positive consensus with an amendment that does not reflect the bipartisan spirit we achieved with the Finance Committee legislation.

Mr. President, the bottom line is that the Daschle amendment does not—does not spell relief. The incentives to save and invest that are contained in the Finance Committee bill are seriously weakened, if not abandoned, in the Daschle alternative.

Let me say in conclusion, again, that we urge the Senate to reject the Daschle amendment and support the Senate Finance Committee bill which was endorsed by a vote of 18 to 2.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I ask unanimous consent that I be permitted to yield 2 minutes to the Senator from California without losing my right to the floor, and then I will proceed on our time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. I yield 2 minutes to the Senator from California.

Mrs. BOXER. That was going to be my request. I ask for 3 minutes.

Mr. KERRY. I yield 3 minutes.

Mrs. BOXER. Mr. President, there is something that the chairman said that calls for a response. I am pleased to stand here today endorsing the Democratic leader's proposal. The way we should cut taxes in this country should be a fair way, it should be good for children, it should be good for working families, it should be good for small business, and that is what this proposal offers.

I say to my colleagues on both sides of the aisle, in 1993, we had two ways to approach the issue of economic recovery: the Democratic way, which passed by one vote, I might say, and the Republican way, which failed. Here we stand being able to cut taxes for the American people because we were right, because the kind of economic policy we put into place in 1993 has worked.

We have seen deficit reduction that has surpassed our imagination. We are down to $70 billion from a high of $290 billion when President Clinton took over as President. We have seen 11 million or 12 million new jobs created. We have seen an economic recovery finally hitting my State that is making this day possible.

So I say to the American people, they ought to look at the two plans. Again, we have a Republican plan, and we have a Democratic plan. Many of us may wind up voting in the end for the Republican plan. We will vote for amendments to change it, and if they are not adopted, we may well do that. But I think the Democratic leader's plan is the fair way, and let me say why.

Deloitte & Touche did an analysis of the Republican plan in the Senate, and in terms of hard, cold dollars—and they are a very incredible accounting firm, objective—they go through the taxes that would be owed under the Republican plan by a married couple with two children, one in college and one under the age of 18. What they come up with is that the household with an income of $20,000 will get a $375 break. The very highest break goes to people—listen to this—earning over $1 million a year. They would get $2,400 back. That surpasses the people in the entire middle class. They get more money if they earn $1 million back than any other part of this economic spectrum.

So in fairness, the Democratic plan has got it. It changes that. It doesn't give the most to the most wealthy, to those who earn over $1 million.

Second, children. My colleague talks about how children are going to be helped by the Republican plan, but in the Democratic plan, we help all the children.

Under this particular plan, only 50 percent of the children in California, Mr. President, get help, because this child care credit is not refundable off your payroll taxes. What we have to understand in this Senate is that people pay more in income tax. They pay

payroll taxes. We say you shouldn't be denied a child credit if you fall into that category.

Mr. President, I want to help all the children. I want to help small business by gearing capital gains cuts to them. That is what we do on our side.

Finally, I thank the chairman of the committee for helping me with the Computer Donations Act and the 401(k) protection plan that he has agreed to look at for us. I just want to say, it is a good moment for us because the economic recovery is so strong, we are in a position to give something back to the American people, and I am pleased about that.

I yield to my colleague from Massachusetts and thank him for his generosity.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I yield myself such time as I may use.

Mr. President, as I listened to the distinguished chairman of the committee talk about the virtues of this bill, I kept hearing language trying to describe the bill saying it is bipartisan, it meets the demands of all the people, it has followed the guidelines, somehow suggesting that merely by saying these things, it is true, that these are the things that are in this bill. But when you look behind each of those descriptive adjectives, there is a different reality.

First of all, with respect to the bipartisanship, everybody understands that the Republicans control the committee. The Republicans could have reported out whatever they wanted to do, and that the only way there would be any capacity to improve it somewhat from what people viewed as a very draconian position was to become involved and play along.

Everybody in the Senate and every observer understands that just because people vote for it to come out of the committee and have played a role in helping to bring it back from a precipice doesn't mean it is where it ought to be, or that it represents the best that we could achieve or the fairest that we could achieve.

Indeed, a number of people who voted to send it out of the committee will vote for the Democratic alternative because it really represents much more of what they would have liked to have gotten but couldn't get because of the dynamics of how things work in a committee.

It isn't enough to say that this is good for all the people. The charts, the statistics just contradict it. It is so obvious that it almost defies imagination, and we really have to spend a lot of time on it. The fact is that the bottom 20 percent of Americans under the House plan, the Archer plan, got 0.5 percent of the savings of the tax bill. Under the Roth bill, originally they come up with 0.4 percent, but under the Democratic alternative, they did better than either, with 5.1 percent, not an enormous difference. The reason for the lack of the enormous difference is that you have the earned income tax credit and you don't have earnings sufficient on an income tax form to be able to provide credit savings that go to people at the lowest end because of the way the tax structure works. We understand that.

But when I hear the chairman say that middle Americans do the best, that is where the statistics tell a contrary story. No matter how many times our colleagues on the other side of the aisle try to say this is good for middle America, this is for all Americans. All Americans, just look at the facts.

Under the Archer bill, it was 9.2 percent that went to the next 20 percent of income earners; the second to the lowest 20 percent. Under the Roth bill, 2.3 percent. Under the Democratic alternative, it is 16.3 percent—16.3 percent versus 2.3 percent. You can ask any child in the fifth or sixth grade, or almost any grade, if they know the difference, whether 16.3 percent is more than 2.3 percent. But under the Democratic alternative, the second 20 percent of income earners in America will get 16 percent versus the Roth 2.3 percent. That is a very significant difference.

But then I move up in the income scale to the third 20 percent of income earners. Under the Archer bill, it was 9.2 percent. Under the Roth bill, it is 10 percent. But under the Democratic bill, it is 25 percent—25 percent versus 10 percent. It is very clear on its face that the average American income earner does better under the Democratic alternative than they will under the Republican bill.

In the fourth 20 percent, and we are moving up in income now, we are talking in the $50,000 to $75,000 range, that is a considerable amount above the mean earnings of most Americans. That 20 percent in the Roth bill would get 21 percent; in the Democratic bill they would get 32.3 percent. What you have here, Mr. President, is just a stark difference, but here is the most significant difference, and I ask Americans to focus on this. It is a very significant difference.

Under the Archer bill and under the Roth bill, the highest 20 percent of income earners in America, the people earning more than $100,000, the millionaires, the billionaires, they would get 67 percent—67.9 to be precise—under the Archer bill, 65.5 under the Roth bill—65.5 percent. But under the Democratic bill, they get only 20.8 percent. So there is an enormous difference in the distribution in what people will get.

Mr. President, I know that our colleagues on the other side of the aisle will say, well, that's what happens automatically, that people with the money are going to get the capital gains tax cut, they are going to put their capital into investments, it is automatic that if you have a specific percentage of reduction, those people are going to get the lion's share of the break.

It is automatic if that is the break you write into law, but there is nobody here whose arm is being twisted or who is being forced to write that into law. We have the prerogative of deciding how we are going to divide up the benefits of this tax break.

I listen to my colleagues say that the Democratic alternative is really terrible when it comes to capital investment and savings because it isn't as generous in the capital gains tax cut. Ask most Americans what they think the economy in America is doing today? Why has the stock market doubled in the last few years? Why is the stock market at a record high? Why are so many businesses reporting profits that are at record level? Why are so many chief executive officers now earning 223 times the earnings of the average worker when 20 years ago it was only about 25 times the earnings of the average worker? Corporate America is doing very well today, very well, and I am glad. I voted for a bill in 1993 that helped corporate America to do pretty well today. And it has resulted in 4½ straight years of deficit reduction.

But you have to ask yourself, if capital gains tax difference between 28 and 20 percent is so great, why is America doing so well today? It hasn't stopped some of the greatest mergers and acquisitions in American history from taking place. I don't think any economist in the Nation believes fundamentally—will we release some capital? The answer is yes. I happen to be for a capital gains tax cut, and I think it is beneficial to release some capital. But I think there are ways to do it that spread the fairness and that respect a sort of evenhandedness and a playing field that is more fair than what we are going to witness here.

Mr. President, the Finance Committee has given us a list of tax breaks, the benefits of which flow chiefly to the wealthiest Americans. Nearly 43 percent of all the benefits will go to the wealthiest 10 percent of American income earners. I want to say that again. Forty-three percent of the Republican proposal goes to 10 percent of Americans, and under their proposal, 60 percent of the hard-working middle class of America and the poorest of Americans will share 12.7 percent.

So 60 percent of America is going to be fighting for 12 percent of the tax benefits, while 10 percent of America gets 43 percent of the tax benefits. I can't believe that any American really believes that that is fair distribution of the benefits of this, Mr. President. I think it sets a new standard of unfairness. It is a transfer of wealth, a transfer of wealth from hard-working middle Americans, middle-income earners to the wealthiest and to the people who have done the best over the last few years.

If you do not believe that these are the people who have done the best in

the last few years, just take a look at the charts. Take a look at the statistics which come from every single one of our Government agencies and analysts in the private sector.

The bottom 20 percent of income earners in America in 1975 were earning $18,947, on average. In 1985, they were earning $18,816. They lost income. And in the year 1995, 20 years later, they were earning $19,070, which was an increase of about $110 or so over 20 years.

The next 20 percent of income earners went from a $30,701 average in 1975, to $32,415 in 1985, to $32,895 in 1995. So they had about a $380 gross increase, on average, in 10 years; and they had a $2,000 increase before that. When you factor in inflation, it is a loss. They lost income over those 20 years.

You know who did not lose income over those 20 years? The people who are being rewarded the most in this tax bill. The only people in America who grew in that period of time were the top 20 percent of income earners. And they grew more than 100 percent. Yet people are finding a wonderful rationale to come to the floor and suggest that in 1997 there is a new standard of fairness which is prepared to give to those who got the most even more. It is extraordinary.

Mr. President, we have the ability to write a different distribution. It is up to us. And in the Democratic alternative that Senator DASCHLE has proposed, the poorest 60 percent of Americans receive 46 percent of the tax cuts. Some people could make an argument that the poorest 60 percent ought to earn 100 percent of the tax cut or maybe 75 percent of the tax cut or 60 percent.

We have tried to respect the notion that we do want to spread it out and we do want to respect the notion of savings and growth and encourage a capital gains tax. So we settled on the notion that those 60 percent—rather than scrambling for 12.7 percent of the total tax cut—would get 46 percent of those tax cuts.

In the Finance Committee proposal, people earning between $30,000 and $85,000 get only 30 percent of the tax cut, Mr. President. That is what I call and most people look at as middle class in America—$30,000 to $85,000. And they receive only 30 percent of the tax cut. So when the chairman says, under our bill we are spreading this evenly among everybody, look at what the middle class gets. The very people he said are the best beneficiaries are getting only 30 percent of this, the vast majority going to those who have done the best in recent years.

By any measure, Mr. President, I think the Democratic alternative is sound economically, and I think it is fair because it helps those who actually need a tax break to raise a child or to go to college or to start a business or to generate one of those high-wage 21st century, high-value-added jobs. And this is one of the crucial differences between our parties and, I think, between these two measures.

For us, deficit reduction and the tax cut is a policy. I think for the Republicans it is an end in and of itself. For us, it is a means to an end, not the objective to be achieved, but a means of achieving the larger objective, which is creating more jobs, making sure our human resources are attended to; whereas, for them, I think that just getting that cut somehow has become a goal and a target.

The problem is, that in doing so, our friends on the other side of the aisle are offering America a choice that I am confident most Americans are not aware of. This tax bill is backloaded with a time bomb, because while in the beginning it does not have all of the negative impact of the massive tax cut to the wealthy and shares some at the front end so they can say, look how you are going to do well at the first part of this, at the back end you balloon the amount of lost revenue, which will have a very significant impact under any circumstances, but obviously particularly if there were to be a downturn in the current revenues or in the economy.

So you have a tax cut that for the first 5 years is $85 billion going back to the American people. But the second 5 years, it is going to cost $250 billion. And 10 years after that, when baby boomers are retiring and when Medicare and Social Security are being strained at a much greater degree than they are now, you are going to have a cost in this tax bill of $650 to $700 billion.

Our policy, on the other hand, in my judgment, lays out the right set of priorities, Mr. President. We have cut capital gains in the past at times in America's history where the economy really mandated it. But I find it hard to understand, given how well the stock market is doing and how well investments are doing generically and how extraordinarily competently the corporate sector has moved to deal with some of the competitive issues that we faced during the 1980's and the early part of the 1990's—I think they deserve enormous credit for having done so—but having done so, one has to ask the question, what is there in today's economic indices that suggest sound economic policy in having such a broad loss of revenue for the capital gains tax, which in itself is so broad that you are making a choice not to give more revenue back to the middle class?

I mean, that is the tradeoff here. If you are going to give the full breadth of the capital gains tax cut to the higher end, you have less money available to give to the middle end. I think most Americans would join me in asking a very simple question. Why should somebody be rewarded for the sale of their Persian rugs or their art or their yachts, which do not contribute significantly to the kind of economic activity that we are talking about? Certainly it accrues capital to them, I understand, and they will spend some of that capital and invest some of that capital, but what is the justification for expanding the capital gains reduction from a 28 percent tax only to a 20 percent tax or lower in order to encourage that kind of transaction?

So in the Democrat alternative, what we have done is I think sensible. We want to reward the risk-taker and the entrepreneur who creates new jobs and who put their money on the line in an entrepreneurial effort to try to broaden the tax base of this country. I think that ought to be rewarded.

I think I am the only U.S. Senator who introduced a zero capital gains tax, which I would like to see for new investments in 1 of the 25 or so critical technologies which are the areas where we will fastest create the most high-value-added jobs that will raise the income of our workers and indeed raise the standard of living of our Nation. And just like Japan or other countries that did not have any capital gains tax, I think it would behoove us to take some of this money from the rugs and the collectibles and the other assets people will get a windfall from and provide a zero capital gains tax in the long run on investments up to $100 million in a new issue of stock, help for 5 years in one of those kinds of companies.

In our bill we do not go to zero. But we do have a 50-percent exclusion on the capital gains tax for that kind of qualified investment up to $100 million, the stock held for 5 years. In doing so, Mr. President, I am confident that we will do what is really necessary, which is provide venture capital with the kind of incentive to move to the kinds of ventures that will truly create jobs and kick the economy. And in doing so, it allows us to provide more money to the middle class to help them send a kid to college, help them be able to pay for child care, help them be able to do some of the fundamentals that we think are so important in terms of spending time with family or raising a family, and indeed puts much more money into the pockets of the people we truly consider to be middle America.

Mr. President, the Finance Committee has also tried to suggest that its child care provision is better than the child care provision that is put forward in the Democrat alternative. And I would like to just assert that again the facts do not bear that out.

The Democrat alternative does more for more people than the Finance Committee proposal. It does more for precisely those families who need the help the most, and those are young families with young children where this will provide them the opportunity to do much better for the future of the country.

The reason is, Mr. President, because I heard the chairman talking about how their tax credit, the tax credit in the Finance Committee proposal, goes to families earning up to $150,000 of income, and, therefore, it reaches more people. But the truth is, when you look underneath the figures, it does not reach more people.

The reason it does not reach more people is that most Americans today who are with young families who need help pay most of their income through the payroll tax. Their money is taken out of their paycheck at work. And it goes to the Social Security system and they are, therefore, mostly not able to take advantage of the tax credit because too many families in America do not have enough income that is taxable to wind up getting the credit, and the payroll tax winds up penalizing them even more.

The vast majority of families in America pay most of their tax in the payroll tax. And what the Finance Committee does not do is provide an offset against the payroll tax, the result of which is that very little of the credit is available to a family earning $30,000 or less under their credit.

Whereas, under the Democrat proposal, the credit would be available because of the offset against the payroll tax, it would go right down to families earning $15,000. And that encompasses many more families who are in need of the child tax credit.

So there is a very simple truth here, that they give the credit all the way up to $150,000; our credit fades out between $70,000 and $85,000. The result of that is we are able to give more credit to the people who are most in need.

So, Mr. President, I believe that a dispassionate analysis, a fair analysis of these two proposals is very clear about who benefits and who does not.

I want to emphasize that many of us on the Democrat side support a capital gains tax reduction. I am one of them. Some do not; some do. But I am convinced that you can target that capital gains reduction when you have a limited amount of resources to deal with, as we do, and we are forced to make the hard choices we are making so that you spread out the benefits in a fairer way. And that is precisely—precisely—what the Democrat alternative does.

I wish in many ways we could have gotten to this point in a different way. We might have, had we not been forced into the strictures of this deal where the deal became almost more important than some of the policies that were contained within it. By definition, the deal being a compromise, it is a bit of this and a bit of that. In the end, regrettably, Mr. President, I think it has come out with a disproportionate, imbalanced allocation or shift of resources in America.

Most Americans, when they are given a chance, if they were to be or could really take note of the differences between these proposals, would obviously applaud the education benefits that the chairman talked about—of course they would—but the Democrats would support those benefits, also. That is not at issue here. What is at issue here is the difference between how you get money to the families that really need it versus how much you ought to provide in incentive for increased savings or investment out of the proposals that are in both measures.

I think on balance, the proposal of the Democratic leader, Senator DASCHLE, is both fairer and steeped in greater economic sense, and in the end I believe most Americans will come to that judgment.

Mr. President, how much time remains for the Democrat side?

The PRESIDING OFFICER. Seventy-one minutes.

Mr. KERRY. I reserve the remainder of my time.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I have been delegated to manage our time by the distinguished Senator from Delaware, and as such, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Washington is recognized for up to 10 minutes.

Mr. GORTON. Mr. President, meet Bill and Vivian Loomis from Lind, WA. The Loomises farm, in eastern Washington, wheat and potatoes. The Loomises, under the present tax law, have been dunned by the Bureau of Internal Revenue to pay an alternative minimum tax on income they have not even received. That is to say, they are supposed to pay, this year, taxes that will not accrue until next year because the income will not come in until next year.

Now, they have had to spend $20,000 of their hard-earned money in fighting the Bureau of Internal Revenue, the IRS, on that subject. We have, in a bipartisan manner, gotten the IRS to lay off of many other farmers who are in the same position.

This bill, this Republican bill, this bill reported almost unanimously by the Senate Finance Committee, takes care of that situation. It rights that wrong. It says to Bill and Vivian Loomis, ''You don't have to pay taxes until you've received your income.'' Simple justice, Mr. President.

But what else does the Republican proposal before the Senate do for people like Bill and Vivian Loomis who have worked hard all their lives as farmers in eastern Washington? Mr. President, it says to them, when they pass away, their farm will not be taken away by the Internal Revenue Service with a punitive and overwhelming death tax. It gives them a bit of a break in their ability to pass that on to their children and grandchildren.

Now, Mr. President, Bill and Vivian Loomis have 7 children and 11 grandchildren. Their children are too old to give them the tax credit that is included in the Republican proposal. But their sons and daughters who are raising kids, who are struggling on limited incomes that they are earning and paying taxes on will get a $500 break for each of those 11 grandchildren of the Loomises' who are under the age of 17 years old. Real people, real benefits. And when those grandchildren are ready to go to college or university, there will be tax credits to help pay for that tuition.

Mr. President, we are talking here, today, about real people who work hard, who earn an income, and who pay taxes on that income. Our Taxpayer Relief Act is to provide relief for those taxpayers. It is not designed to add to the welfare system. It is designed to provide relief for real taxpayers. It is designed to say that the Loomises, should they decide to sell their farm, will not pay an overwhelming and punitive capital gains tax; that if they have managed to save and invest in some stocks, they can sell them to go into a better investment without an overwhelming and punitive capital gains tax.

Mr. President, the best single line I can give is, 75–75—75 percent of the benefits of this Taxpayers Relief Act go to families with incomes of $75,000 and less per year, who are actually paying taxes today. That is what this is all about.

We really hear a great deal from the other side, a side that really was not at all happy about reducing taxes on hard-working Americans at all. I am delighted they have an alternative that at least provides some tax relief. But until we came along we heard about nothing other than tax hikes, not tax reductions.

My constituents, Mr. President, in the State of Washington, pay the fifth highest income taxes per person in the United States of America—almost $7,000 a year. They will get almost 2 billion dollars' worth of real tax relief, to real taxpayers, out of this bill. The benefits of our bill as against the other that attempts to target everything, that attempts to adjust society again through the Tax Code, our tax relief will go to real people, real people, like Bill and Vivian Loomis, who have worked hard all their lives, who have put something away, who want to help their children and grandchildren, who want to help build their country and who want to pass something of what they have done on to their children.

It is much the superior proposal. It does not depend on gimmicks, like saying that the rental value of the house they own and live in is part of your income—as if you could live on the street and rent your house out. It is based on providing real tax relief to real working people who are overtaxed in the United States today, who have worked hard and deserve to keep what they have earned, like Bill and Vivian Loomis.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, I yield myself 3 or 4 minutes. I want to make a general statement about the tax bill.

I serve as a member of the Senate Finance Committee and was part of the deliberations. Last night, I commended the chairman of that committee as well as our ranking member for the efforts they made to try to craft a tax bill that addressed the concern that all of us had in achieving fiscal responsibility and in achieving fairness.

In the first instance, the bill as a whole does achieve fiscal responsibility because it is a balanced budget bill. That is a good thing. The deficit under President Carter years ago was $73 billion. Under President Reagan, it ballooned to $221 billion. It reached $290 billion under President Bush. When President Clinton took office, he inherited a $290 billion deficit. Our national debt at the time was $4.4 trillion.

Now, since that time, President Clinton's bill in 1993 to give us a budget agreement that would head us toward budget balance has proved to be successful, and it proved to be the right thing to do. That bill, at the time, was very controversial, but the fact is that it has worked and we are now in our fifth year of deficit reduction. The deficit now is at the lowest level that it has been since President Carter. I think that is something we all can celebrate and applaud. This bill continues in that direction.

The reason why having a balanced budget is important is not just that it is a matter of a sound bite. Quite frankly, some of the economists tell us it is not the most critical thing, that you can function in terms of the budget overall without it being in balance. However, for me, and I am a strong supporter of achieving a balanced budget, to me, the issue is one of fairness, of generational fairness, of making certain that our decisions in our time do not foreclose the decisions that the next generation, these young people sitting here, that they will be able to make for their time, when they move into leadership and have the opportunities to make decisions. So as not to pass on our old bills, so as not to foreclose their opportunities, it is an important thing to achieve a balanced budget. This bill does that.

However, as was pointed out by speaker after speaker, the way the bill is structured, the budget deficit does explode in the outyears, and that means that while it looks on the surface that we will have a balanced budget, at the same time we are setting ourselves up for a huge fall by allowing it to explode beyond the 5- to 7-year window. That is not a good idea. It seems to me if we are going to be really fiscally responsible, we have an obligation to balance the budget and then to keep it balanced.

So this Democratic alternative cures that defect. It cures that defect by achieving fiscal responsibility by seeing to it that we do not balloon the deficit in the outyears.

The other thing about this alternative is it is also fair. There are those of us who believe this is not a time to cut taxes, that we would be better off achieving complete balance before we got into tax cutting. And we could have cut the deficit quicker had we not cut taxes at this time. It is not a matter of being against tax cuts, just a matter of timing, whether or not it makes sense to go and give up your second job, if you will, while you are still trying to pay off your old bills. That is the equivalent, if it were a family making a decision, we are making a decision to give up the second job, although we still have old bills.

There is consensus around the tax cuts that are in this bill. Capital gains—I do not think too many would argue that capital tax cuts are a bad idea. The estate tax cuts—again, my colleague across the aisle a minute ago talked about the importance to family farmers. I come from a State that is largely agricultural, and I know how important having the estate tax reform that is in this bill is to people who own farms. The help for people who have children is another good thing and will help struggling families—and the support for education in this bill.

All of these things are good news, and that is why this alternative, I think, should be supported by both sides of the aisle, because this alternative says we are going to take the principles of fairness and make certain there is balance in terms of the whole American family, in terms of who gets what from the tax cuts. Right now the tax cuts are heavily stacked in favor of the wealthiest Americans. People who need help the most—the working people, the middle class—get less from this tax cut and less from this agreement than do those who are clipping coupons. This is not to set up a class conflict, because, if anything, if you learned anything in these times, it should be that as Americans we are all in this together and it cannot be rich versus poor. If anything, we all have to come together and make certain that we allow our economy to grow and to build and to tap the talents of everybody. But that, I think, begs the question of whether or not we are being fair in giving working families their due with regard to this tax bill. It does not reach that.

Last evening, I spoke about the fact that such a vast majority of the benefits of this tax cut that go to the wealthy as opposed to the middle class or the working poor, that we can change that. Well, the Democrat alternative does change it. The Democrat alternative suggests that we do more for people who are struggling, that we do more for people who spend more of their payroll, more on payroll taxes than on income taxes, that we help those families that are just trying to get by and to make it. We help them a little more. That is what the Democratic tax alternative does.

As a member of the Senate Finance Committee, again, part of the process here is the compromise. We worked together, and I voted along with many of my colleagues for the Senate Finance bill, and I will vote for it on final passage. I urge my colleagues to take a good look on both sides, take a good look at this alternative, and see in your own minds whether or not it does not strike you as being fiscally responsible, which we all want to do, but being more fair. You consider the number of people in this country and the interests and the wide range of income; we do not want to do anything at this time that will exacerbate that income gap that we all know is widening. If anything, what we want to do is try to keep the country on an even keel with regard to policies that we come out with here.

For that reason, again, I support this Democratic alternative. I will support the bill on final passage. I hope this amendment is part of it.

I thank the Chair, and I yield the floor.

Mr. ABRAHAM. Mr. President, on behalf of the majority, I yield myself such time as I may need to speak to the bill and, really, as well, to this amendment. I think the bill that the Finance Committee has brought us today is a very good bill. I look forward to supporting it against some of the amendments that would seek to undercut the basic thrust and to see it to final passage.

Obviously, this bill doesn't reflect what any single Member of the Senate would have drafted had they total control over the legislation and the agenda here. It reflects, as so many speakers have indicated, a strong bipartisan effort—something we have talked a lot about in this Chamber over the years, but do not always deliver—a strong bipartisan effort to find common ground behind a sensible strategy for providing tax relief for the working families of our country who pay taxes, a chance for those families to keep more of what they earn. So, to that end, I am here to speak on behalf of the legislation.

Mr. President, tax cuts are long overdue. In 1992, President Clinton, while running for election, promised a tax cut. Unfortunately, in 1993, that tax cut was replaced by the largest tax hike in American history. Today, we stand 16 years away from the last tax cut for the working families of our country. Four tax increases have transpired since Americans last received tax relief.

Today, Federal taxes are consuming 21 percent of our Nation's gross domestic product, or our country's national income. Mr. President, that is more than at any time in the past 200 years. Let me put that in perspective because I think the argument that we have heard here for so long is that Americans don't need a tax cut. Well, Mr. President, they do. Not during World War II, not during the Vietnam war, not during the Depression or during any time in the last 200 years of our country's history have taxes consumed such a high percentage of the American income. And for that reason, this legislation must pass, must be signed into law, and must provide relief for the American people. Today, in our country, taken together, Federal, State, and local taxes cost the typical American family more—more, Mr. President—than food, clothing, and shelter combined. Food, clothing, and shelter

typically cost approximately 28 percent of a families income; taxes take up to 38 percent. To me, that is simply too much.

After several tries and one veto from President Clinton, Congress is working this week to give hard-working American families fair and overdue tax relief. I would like to speak about some of the provisions in this legislation, Mr. President, that I think are especially noteworthy, which will help taxpayers through all stages of their lives. Children will benefit from a $500-per-child tax credit that will increase their family's ability to care for them and plan for their futures. Teens and young adults will be helped by sensible, targeted education tax breaks that will help finance their schooling. Those who have finished their educations will benefit from progrowth tax cuts, including the capital gains tax cut, that will stimulate economic expansion and provide more good jobs at good wages. Americans working to start small businesses also will benefit from the flood of new venture capital that will result from cutting capital gains taxes. Those looking toward retirement will benefit from expanded individual retirement accounts, IRA coverage, including the new full spousal IRA, and from the capital gains tax cut. More than 40 percent of American families own stocks directly or indirectly, Mr. President. American seniors currently constitute 12 percent of the population and realize 30 percent of America's capital gains.

Americans considering their legacy to their children—especially small family business owners and farmers—will benefit from a substantial cut in the effective death tax. All Americans will benefit from a cleaner environment, thanks to this bill. Urban families, in particular, too often must live near contaminated sites because the owners of those properties have abandoned them and no one else can afford to clean them up.

That is why I worked with a number of other Members of this Chamber to include in this bill a provision allowing those who clean up these environmentally contaminated brownfield sites to expense their cleanup costs on an accelerated basis. This will not only encourage business to clean up and put to productive use areas that now contaminate our cities, but it will also create unlimited numbers of potential job opportunities for people who, today, are searching for a chance to get on the economic ladder.

I want to focus on that for another minute, Mr. President, because I believe this part of the legislation, which hasn't received as much attention as some of the other sections, really is very pivotal to the future of this country. We can address environmental problems and we can address the problems that we see in too many economically distressed areas, in terms of trying to generate opportunities, because of those brownfields provisions that have been included in this legislation.

Mr. President, this tax bill that we offer today, this tax relief plan, is fair. As the Senator from Washington indicated just a few moments ago, 75 percent of the tax relief provided in this plan goes to those families who make $75,000 of income or less. Now, obviously, a lot of people can use statistics to make their argument, and we do on the Senate floor. But one thing that is irrefutable, Mr. President, is that if you are making $75,000 or less, you are going to receive 75 percent of the tax cuts in this legislation. Now, obviously, there are ways people can argue to get around it, and I will comment on some of those, perhaps, in a minute here. But unless people want to now call those in the $75,000 income category the richest Americans and the wealthy Americans, then, Mr. President, this tax bill clearly is one aimed at providing fairness to working middle-class families.

Let me talk about what this means to my State of Michigan for just a moment. Under our tax proposal, the family tax relief provisions will provide over $3 billion of tax relief for working families in my State, thanks to the $500-per-child tax credit. That means that literally hundreds of thousands of Michigan children, over the next 5 years, are going to be receiving a $500 tax credit on an annual basis, Mr. President. That means more dollars available for young families to help feed and clothe and advance their children's learning. In addition, families in my State will be receiving $1.3 billion over the next 5 years from this tax relief plan in order to help finance college education.

Mr. President, the average American family should not have to go bankrupt, nor should a college graduate have to be in debt for decades just to be able to have a degree of higher learning. Yet, that is too often the choice confronting American families these days.

Mr. President, our bill, in my State alone, will provide over a billion dollars of support to those working families. In addition, we have incentives for the creation of new jobs and opportunities—approximately $69 million in capital gains tax relief, approximately $124 million in terms of IRA expansions for the families in my State, a substantial increase in order to stimulate the kinds of job opportunities that we want for our citizens.

Michigan is a State with a lot of small businesses, and a lot of family owned farms, Mr. President. Every time I travel back in the State and talk to those in the small business or the farming community, I am told time after time, ''You have to do something to make it possible for us to keep the family business and the family farm in the family,'' because when the family that is running the business or the farm—when the last member of that family passes away, the death taxes are so much, they have to sell the property, or they have to sell the business in order to pay the taxes, and their children will not be able to inherit their rightful claim. This legislation addresses that very effectively, as well.

So for my State, Mr. President, it means a great deal. There are a variety of additional tax incentives for Michigan. When they are all added up, it results in over $3 billion in tax relief over the next 5 years for the folks that I represent, the folks in my State, who are paying the bills, playing by the rules, and sending their tax dollars to Washington. It is a bipartisan piece of legislation.

I was extraordinarily impressed by the fact that the Finance Committee was able to come together and pass this legislation on an 18-to-2 vote. That indicates the extent to which our tax cut plan makes sense.

So for all of those reasons, Mr. President, I am proud to come here today in support of this legislation. I want to just comment on one or two of the points made in opposition during recent speeches that have taken place here. The first is the argument that, somehow, 70 percent of the benefits go to the upper income groups in this country. Well, as the Senator from Washington already indicated, that only works if you impute income to the families of this country for everything from fringe benefits to unrealized capital gains to even the imputed rent on a home that you own. As the Senator from Washington said, that is fine if you are going to live on the street. Then you can take credit for those imputed rental dollars. If you are staying in the house, you can't. To use that kind of calculation to try to make this tax bill seem less fair, to me, Mr. President, is going way beyond the limit. I mean, the fact is, if we are going to start thinking about these sorts of things as income, it will only be a matter of time before somebody stands up in the Senate and wants to tax that income. Pretty soon, we will be asking people to pay taxes on the imputed rent of the house they own. That is a precedent we don't want to start here. The fact is, if you can't spend it, you can't be treated as having earned it.

Mr. President, the bottom line is that that argument does not hold water; nor does the argument that suggests that we should not pass this tax bill because the median income of working families has not changed during the last 20 years. The facts are, Mr. President, that it has not been stagnant. The average income of families in this country have changed dramatically over the last 20 years. Unfortunately, they have gone down; then they went up, and now they have been coming back down again. The interesting correlation between those changes, Mr. President, is what we have done in Washington. In the late 1970's, the average median income went down, when we had high tax policies coming out of Washington. Following the 1981 tax cuts that gave working American families a chance to keep more of what

they earned, median incomes went up and stayed up, and they kept going up for about 8 years. And then we started the tax policies again, first in 1990, then 1993 and, yes, those incomes have come down. If anything, that argues for cutting taxes, as we are attempting to do today.

For all of these reasons, Mr. President, I think the bill brought by the Senate Finance Committee deserves our support. I look forward to working with members of that committee as we finish our work here today. I compliment them on both sides of the aisle for a job well done. This is not an easy task. I especially thank Chairman ROTH for his leadership. I think it is a great package, and I look forward to supporting it.

I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Who yields time?

Mr. CONRAD. I yield myself such time as I might consume.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise as a member of the Finance Committee who voted to send this bill to the floor, and to speak about its merits and demerits and about the alternative that is being offered by the Democratic leader.

Mr. President, I voted to send this bill to the floor because I thought that we should have a chance to improve it here on the floor of the U.S. Senate. As I indicated in the committee, I don't believe the distribution of the benefits in the bill that was done in the Finance Committee is fair. I find it very difficult to justify the distribution of the benefits in the bill that has come out of the committee. Hopefully, we will improve it here on the floor of the Senate. This is our first chance to improve it, with the comprehensive alternative being offered by the Democratic leader.

I have just heard several on the other side say that, under this bill, 75 percent of the benefits go to those earning under $75,000. That is just not the case. They have entirely left out payroll taxes in the calculation. Seventy-three percent of the American people pay more in payroll taxes than they pay in income taxes. But they only want to construct the distribution table that deals with income taxes. They don't want to talk about payroll taxes, despite the fact that 73 percent of the American people pay more in payroll taxes than they pay in income taxes. What kind of a comparison is that?

Second, they are only dealing with the first 5 years of the major components of this bill that favor the wealthiest among us. This bill is backend loaded with respect to the benefits from those provisions.

So what they are doing is comparing only a part of the package and they are leaving out the part of the package that has the disproportionate share of the benefits going to the wealthiest among us. Mr. President, this is not a package just for the next 5 years. This is a package that creates permanent law.

If we are going to be honest with the American people about the distribution of the benefits, we can't just look at the first 5 years. Mr. President, I think we have to review a bit of history as to why we are here today.

How is it that we can be talking about tax reductions after we have been through a period of deficits that are out of control?

Mr. President, I believe we are here because Democrats made some very tough choices in 1993. As a result, as you can see from this chart, the unified budget deficit has fallen dramatically from $290 billion in 1992 to $67 billion this year.

I might add that this is a projection of the deficit this year. But that is the best evidence that we have of what the deficit will be this year. So let's remind ourselves how we got here. We got here because Democrats passed an economic plan that has led to a dramatic reduction in our deficit.

This, again, is the unified budget deficit. That counts all income and all outgo.

Let me just go to the next chart to show people a little different way of looking at it.

The line I just showed is the same as this blue line on the chart that I titled ''the real budget deficit'' that shows that there is really more deficit reduction that is needed for true balance. The point is when you talk about the unified budget deficit, the blue line—you can see it has come down just dramatically. But you see this red line right above it. That represents the true budget deficit because that counts the Social Security surpluses that are being used to mask the real size of the deficit.

One can see that, although this is called a balanced budget plan—and, in fact, on the unified deficit you get to a balance in 2002—if you look at the Social Security surpluses, what you find is that in the year 2002 you have a $109 billion budget deficit. In fact, all of the documents disclose that there is a $109 billion budget deficit in the year 2002.

I say this to try to be objective about what is happening here. There is no question we have made dramatic progress on reducing the unified budget deficit. It is also, I think, undeniable that more needs to be done. That has to be thought of as we evaluate this entire budget package.

Mr. President, because the Democrats did vote for a dramatic economic plan in 1993, we did get the deficit going down on either measure. Whether we are looking at the so-called unified deficit, or whether we are counting Social Security surpluses, on either count the deficits have gone down dramatically. That has kicked off one of the strongest economic recoveries in our history with 12 million new jobs since 1993—a peacetime record. We have seen the unemployment rate go down to the lowest level since 1973—a dramatic improvement in unemployment. The inflation rate is under 3 percent since 1993. You can see dramatic improvements in the inflation rate of this country as a result of the economic plan that was put in place in 1993.

Not only do we see dramatic improvement on new jobs and dramatic improvement on unemployment, the inflation level at its lowest level in 31 years, but we also see real business fixed investment growing at a 9-percent annual rate for the last 4 years. In fact, it is by far the best rate of real business fixed investment in about 20 years.

Mr. President, the fact is that the economic plan passed in 1993 has worked and has worked extraordinarily well. If we look at the 10-year period from 1992 to 2002, the savings from the 1993 deficit reduction plan will total in that 10-year period $2 trillion.

The budget plan we have before us now in that same time period—because it is only effective the last 5 years and it is a much smaller package—will contribute $200 billion to deficit reduction, about one-tenth as much as was provided by the savings from the 1993 deficit reduction plan.

Mr. President, the fact is this economic plan works and has worked extraordinarily well. It is the reason that today we are able to consider tax reductions.

Mr. President, when we consider tax reductions, it seems to me that we ought to apply four tests:

First of all, does the tax reduction fairly distribute the benefits?

Second, does the plan keep the deficit under control for the long run, or do we blow a hole in the deficit after making all of the progress that we have made since 1993?

Third, it seems to me the test should be, do the tax reductions promote educational opportunities?

Fourth, will the tax cuts benefit the economy and promote higher economic growth?

Again, I go back to the 1993 plan. The fact that deficits were really reduced by either measure has meant lower interest rates, has meant stronger investment, has meant greater economic growth, and has meant an incredible resurgence in the U.S. economy. In fact, today the United States is rated the most competitive economy in the world.

Mr. President, when we look at the plans before us with respect to how to cut taxes, we can start to evaluate how they rate on the four tests that I have applied.

The first test: The fairness of the distribution of the benefit. Mr. President, I direct your attention to this chart, the Democratic alternative versus the plan out of committee. For the top 1 percent, the yellow shows the plan out of the Finance Committee, the red shows the Democratic alternative. Under the plan out of the Finance

Committee, the top 1 percent get 13 percent of the benefits. Interestingly enough, under that plan, the bottom 60 percent get about 13 percent of the benefits. It does not strike me as a fair distribution of the benefits.

The alternative before us, the Democratic plan, shows a much more fair distribution of the benefits. The Democratic plan has the top 1 percent of the income earners in the country getting 1.4 percent of the benefits. The bottom 60 percent get 46 percent of the benefits.

Again, I would say it is a far more fair distribution of the benefits of the tax plan than under the committee alternative.

This is a little different way of looking at it. This looks at the American economy in terms of the top 20 percent of the income earners in our country and the benefits that they get. This is the plan out of committee, the yellow bar. The red bar is the Democratic alternative. You can see under the plan out of committee that the top 20 percent of the income earners in our country get 65 percent of the benefits. Under the Democratic alternative, they get about 21 percent of the benefits.

In the next quintile, the committee alternative gives them 32 percent of the benefits, the Democratic plan gives them 21 percent.

Again, Mr. President, I think it is clear that the Democratic plan provides a more fair distribution of the benefits when we start cutting taxes.

One of the key reasons for the differences between the distribution of the plan is because the Democratic alternative makes the child care credit effective against payroll taxes. The reason for that, as I indicated in my opening, is 73 percent of the American people pay more in payroll taxes than they pay in income taxes. In fact, payroll taxes have been going up dramatically since 1950. This chart shows from 1950 to 1996. Here is what has happened to individual income taxes in terms of a percentage of tax receipts. Here is what has happened to payroll taxes. Individual income taxes have stayed about flat in terms of their percentage of our tax receipts. Payroll taxes have jumped dramatically.

Mr. President, this chart shows who is paying the tax bill and how the distribution has changed over the years. This shows from 1960 to 1996. Individual income taxes, you can see, 44 percent. Now they are at 45 percent. Payroll taxes were providing 16 percent of the revenue base in the country in 1960. Now they have gone up to 35 percent—35 percent of the tax receipts in the country are coming from payroll taxes; regressive payroll taxes.

Corporate income taxes: Their share has changed dramatically as well. In 1960, they provided 23 percent of our receipts. They are now down to 12 percent. And excise taxes have gone from 17 percent in 1960 down to 8 percent.

Mr. President, this I believe is one of the real flaws in the bill before us. Because the child care credit does not credit against payroll taxes, even though 73 percent of the people in this country pay more in payroll taxes, people at the lower end of the income scale don't get the benefit of the so-called child tax credit. In fact, this chart shows in the lowest 20 percent of income earners in this country, 99.5 percent of them are ineligible for the child tax credit under the committee proposal. Nearly 100 percent of the lowest 20 percent of the income earners in our country aren't eligible.

In the next 20 percent, nearly 90 percent of them are ineligible for the credit.

Mr. President, how is that fair? How is it fair that we have a tax credit for children but 40 percent of the people in America don't get the benefit of it because it is not refundable?

I would remind my Republican colleagues that in the Contract With America they made it refundable against the payroll tax and in the initial draft of this bill they made it refundable against the payroll tax. They were right. They have made a change that is a mistake, in my judgment, in terms of fair distribution of the past tax.

That goes to the question of distribution.

The second question is, Does this plan blow a hole in the deficit in the outyears?

This chart shows the outyear costs of what we call backloading. That is, certain tax types with certain tax plans explode in terms of their cost in the second 5 years of this 10-year plan.

Mr. President, this chart shows what happens to the IRAs that are included in this plan, the alternative minimum tax, and the capital gains tax cuts. In the first 5 years they cost $12 billion. But look at what happens in the second 5 years. The cost mushrooms to $84 billion, seven times as much in the second 5 years.

If I had a chart that showed what happens in the next 10 years, you would see these things explode, even further endangering the fiscal responsibility that we have taken on since 1993 in the effort to dramatically reduce the budget deficit.

Mr. President, I think that is a mistake. If we look at some of the elements of the backloading, we look at the alternative minimum tax, and you can see in the first 5 years there is no cost. Then it takes off like a scalded cat. In fact, in the second 5 years that costs $15 billion. No cost the first 5 years, $15 billion the second 5 years. But it is not just the AMT tax that has that characteristic. We see the same thing with capital gains. The capital gains provision goes from $3 billion in the first 5 years to $24 billion in the second 5 years. It explodes. I think we have to ask ourselves, does that make sense? Does that endanger the deficit reduction that we have worked so hard to achieve?

The IRA proposal is even more dramatic. It costs $9 billion in the first 5 years; it costs $45 billion in the second 5 years.

I think all of us would like to do these things. The question is, what do we lose? What happens if, because we have taken this kind of approach, the deficit reduction is in danger? I say to my colleagues the best tax cut is the tax cut we get from the lower interest rates by having deficit reduction. The very best tool for economic growth is getting the deficit down, which lowers interest rates, which helps spark investment, which helps spark the economic growth that has made such a dramatic difference in this country since the 1993 economic plan was approved.

The other test I apply that I think is a commonsense test is, are we promoting educational opportunity? I say the Senate package certainly has very good measures with respect to encouraging education, but I think the Democratic alternative is better. According to Citizens for Tax Justice, the top family income levels receive the largest education credit per family under the committee bill. Over 43 percent of families would be eligible for only a small part of the credit and an estimated 30 percent of American families under the committee bill have insufficient tax liability to receive any benefit from the HOPE credit. The Democratic alternative addresses that shortcoming.

Finally, it seems to me we should look to the economic incentives of the competing proposals. The Democratic alternative targets tax cuts to small businesses, farmers, and those who take risks in investing in small startup companies.

I believe that is where we should target the benefits. A recent Congressional Budget Office study found that 89 percent of tax returns reporting capital gains in 1993 had gains of $10,000 or less with the average gain being $2,000. By contrast, the 3 percent of returns showing gains of $200,000 or more accounted for 62 percent of the total value of capital gains.

It seems to me this is clearly a case where greater targeting to small business, small farmers makes good sense. We can get more bang for the buck by targeting these dollars than by giving them to those who are at the top of the income ladder, the very wealthiest among us, those who need it the least of all. The Democratic alternative provides nearly twice as deep a capital gains tax cut for owners of small and startup businesses. Most small businesses and farms will enjoy a 14-percent rate under the Democratic alternative rather than the 20-percent rate in the committee bill. That is because 75 percent of small businesses and farmers are proprietorships, partnerships or S corporations that will have much better and stronger benefit under the Democratic alternative.

Mr. President, I conclude by saying there is no question that the chairman of the Finance Committee treated us

fairly in the Finance Committee. He was as fair as one could ever ask a chairman to be. I have commended him publicly. I have thanked him privately as well. He conducted himself as a real gentleman. I want to say that again publicly here today.

The question is not whether or not we worked together in the Finance Committee. The question is whether we could do better with an alternative.

I sincerely believe the Democratic alternative offered by Senator DASCHLE earlier today is better. It is more fair in its distribution. It protects the future by making certain we do not blow a hole in the deficit in the out years. It provides more targeted education benefits to all of the American people so that we make certain no one is left behind. And it is better for long-term economic growth because it focuses the dollars on those small businesses and those farms that are really at the heart of the American entrepreneurial revolution.

I end as I began. In 1993, many of us took a stand with respect to a plan to reduce the deficit. Our friends on the other side of the aisle said that the plan would not reduce the deficit, that it would increase unemployment and that it could crater the economy. They were wrong. The facts are clear. That plan dramatically reduced the deficit, reduced unemployment, and we have seen dramatically increased economic growth, dramatically increased business investment. That plan worked.

Now, today, we have another choice to make on an alternative of tax relief. The question is, who will benefit? Are we going to give the lion's share of the benefits to the wealthiest among us, or are we going to seek to spread the benefits more broadly throughout the American society?

I do not think there is any question but that the Democratic alternative is a more fair distribution of the benefits. I hope my colleagues could support it. I thank the Chair and yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico.

Mr. DOMENICI. I understood the distinguished manager of the bill was going to give the Senator from New Mexico 20 minutes, and I note the presence of Senator BENNETT. He asked me if he could have 5 minutes of my time to address the issue just presented, so I would ask that he be given 5 minutes of my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, I thank the Senator from New Mexico for his courtesy, and I thank the Senator from North Dakota for his presentation. I think it is a very thoughtful presentation, and there are many parts of it with which I agree. There are a few, however, with which I disagree, and I appreciate the opportunity to put this disagreement close to it in the RECORD.

The Senator is justified in talking about the difference between things as they are now and things as they were 4 years ago when we were debating the 1993 tax package from the President. I am not sure he is entirely correct in saying that the program voted on this floor in 1993 is responsible for the tremendous growth we have had in the economy. I would remind him and other Senators that during that same 4-year period, we constantly heard how terrible Alan Greenspan and the Federal Reserve were behaving and that if, indeed, Alan Greenspan did not open up and make tremendous changes in monetary policy, the economy could crater, that jobs would be lost, that we would have tremendous deficits, and all of these other things would happen.

At some other time we can debate whether the tremendous growth we have had is the responsibility of the Clinton administration or the Greenspan Fed. The fact is, no one is really quite sure. The fact is, we have a booming, wonderful economy, and we should be grateful for it, however we apply blame or credit, which brings us to the issue that the Senator is addressing.

Will the tax program that we are talking about continue to stimulate that growth and allow it to burgeon, or will it in some way provide brakes on that growth in the name of income redistribution? The Senator says the issue is wealth distribution and how do we distribute the wealth in the fairest possible way. That is the portion with which I would argue.

Wealth distribution is not a static question. You do not have the wealthy at the top and the poor at the bottom. You have constant movement up and down the ladder. I always use the example of Donald Trump, who at one time was in the wealthiest 1 percent, and then he made a few bad mistakes and he was bankrupt. Then he made a few smart moves, and he is back up again.

Read the list of the people who are the richest people in the United States and you find the list is constantly changing. If I may be personal, there was a time not many years ago when I was clearly at the bottom in this country. I had a year not that many years ago where my earnings were zero and my wealth was going down because I was living on savings, and then when they were gone, I was going deeply into debt. Fortunately, one of my business ventures worked out, and now I would be listed up in that rarefied area that the Democrats seem to want to complain about. My point being that you cannot say you have a static group at one area that is going to be benefited and a static group at the other area that is going to be hurt; you have constant movement going back and forth.

The responsibility of the Senate is not to redistribute wealth among these supposed static groups in a way to create fairness. It is to create a program that will stimulate the growth so that there will be more money for everybody. John F. Kennedy said a rising tide lifts all ships. That is not always true in terms of skill problems and educational problems, but I think it is true in terms of economics. We want a tax program that will continue the dramatic growth that we have had in this country, and I respectfully suggest that that which is coming out of the committee is more geared to produce that result.

I thank the Chair.

Mr. DOMENICI. Mr. President, I thank the Senator from Utah for his very pointed remarks.

I think I would just say also that I thought the Senator made a good presentation. Senator CONRAD is always a contributor here. In fact, he voted for this Republican plan that he does not like here today, as I understand it. All Democrats on the committee voted for the bill in committee, I asked Senator GRAMM, and he confirmed that Senator CONRAD voted for the package. So I assume what we have going right now is something like this: A good bill was reported out of the committee. It had bipartisan support. It had Democrat support as well as Republicans. Now the Democrats have decided to bring back onto the American political scene the rich versus the poor issue.

I want to say something about the President because the distinguished Senator attributed the entire growth for the last 4½ years to the deficit package that increased taxes in 1993, and I will not go through what I believe caused it, and I will give the President some credit. I think the two things that economic historians will write are that the Federal Reserve Board for the first time in history has found out how to control interest rates in a very simple way, and they are doing it on a gradual up-and-down basis and they have kept this economy from going into cyclical downturns.

That is No. 1. No. 2, I give the President of the United States credit for one thing. Once his deficit package went in, frankly, the President listened more to probusiness advisers in his Cabinet, probably led by his Secretary of the Treasury Rubin, than all the rest combined. And I think history will reveal that the President did great things by nonaction. In fact, he is not a typical President in that he did not take significant steps to hurt business during a regime of a Democrat President—to put on more regulations, to make it more difficult to beat them up and talk about business. He was the other way. And I think he deserves some credit for what he did not do that one might have expected from a Democratic President.

You combine the two. The Federal Reserve is taking care of inflation and the President leaving the economy alone. This strong economy may still last for a few more years and defy some of the rules, although I doubt whether the ups and downs are finally done away with. I see a great economist in the Chamber. I am referring to the Senator from Texas. Maybe someday

when we have the time he could talk about the economic cycle.

But I come here today for two other reasons. First, Mr. President, I really do not believe it is fair to the American people for the other side of the aisle and the White House to continue to talk about this package as if it helps the rich and hurts the poor.

First of all, Mr. President and fellow Senators, the only odd game out is the White House and the Treasury Department, who are furnishing the Democrats with the evaluation of the distribution of this tax cut package. No other institution of significance and broad acceptance is using that broad definition of income to evaluate the distribution of these tax cuts. And that is because the Treasury Department does not use the income that average people make to determine what bracket people are in.

It might shock you to know, Mr. President, and millions of Americans, that what the Democrats are talking about magically turns into $65,000 income family out of a $40,000 actual-income family.

Let me repeat. The Treasury Department's approach says, fellow Americans, taxpayers, what you are earning—and then you look at it and I am paying $6,000 in taxes—they are saying that is not your income.

They take income, add the value of the rent of your house, the value of fringe benefits, the value of all your assets if you were to sell them—unrealized capital gains—plus the value of our pension and life insurance. That is why a family who thinks they earn $40,000 appears on the Treasury's charts as a family earning $65,000.

Your income under the Treasury definition assumes that you are out on the street and you rent your own house. So they add about $8,000 or $10,000 to your income. Believe it or not, if you have any stock in any American corporation, even 10 shares, they have gone through the difficulty of imputing to you, the stockholder, the earnings of the corporation in which you have stock, even if they did not declare a dividend. Won't that be a shock to Americans, if they thought they were earning all that much money every year.

Let me make our case on this side. Actually, we rely upon the Joint Tax Committee. They are bipartisan and professional.

We did not use the White House's very strange way of calculating income called the family economic income approach which counts all of this phantom income I just outlined.

I put a credit card up here just to show you about it. I call it the Family Economic Income credit card. This is what the administration would give to an American taxpayer as the White House's credit card. But like the familiar add campaign for other credit cards, if you want to really buy something, you better have a Visa card because the country's shop keepers don't take the Family Economic Income Card.

Interestingly enough, Senator GRAMM, if you took this Family Economic Income card to a store to buy something, it's no good. If you took it somewhere to pay your college kid's tuition, it's no good.

This card inflates your income between 50 percent and 65 percent. It creates paper income. Or said another way, it counts phantom income as real income. So you can throw it away, just as you ought to throw away the evaluation of this tax package made on these kinds of evaluations.

It is absolutely plain and simple, and I defy anyone anywhere, including editorial boards, those who are commenting on the news—you just go ask, ask the Treasury Department, ''Is a $40,000 income earner who, under this package that the Republicans have, if that person, that family is going to get back a certain amount of taxes and you apply that to the taxes they paid before, and if the difference is a savings of $3,000 in income taxes, you ask them are they giving you credit for that? Or do they have some other process to evaluate what you got by way of a tax cut?'' I assure you they will not give you credit for the tax cut you got, because they started out by figuring you were in a different income bracket. Isn't that amazing? That is absolutely amazing.

How can somebody come to the floor and say this package is predominantly for the rich when one simple fact disposes of it?

Mr. President, 78.8 percent of the benefit under this bill goes to families earning $75,000 or less. Senator GRAMM, isn't that what you understood when the bill was reported out of committee? Isn't that what the Joint Tax Committee said to you?

Because we put income earning limitations on the $500 child credit we designed the credit to target the middle class. The $500 child credit is a huge portion of this tax cut. And the next component that is significant is for middle-income Americans, is the $1,500 education tax credit. It likewise has income limitations.

If you take those two together pieces of the package it constitutes over 82 percent of the tax cuts, how can it be that the charts used by the other side of the aisle are right?

It is because some of the Democrats are not using the income that Americans earn. They are using an imputed income calculation called family economic income. Imputed means we count it as income if you did not earn it. It is as if your earnings include what you could have earned, rather than what you have earned.

We want to make the point today. We are going to try very hard, against very difficult odds to rebut the media reports that this is a tax cut for the rich. The fact is this: 78 percent of the tax benefit goes to middle-class families earning less than $75,000.

Mr. President, for those who want to look up here, this is the way the Joint Tax Commission of the United States, a bipartisan group, says these tax cuts are spread. Less than $10,000 gets .06 percent tax cut because they are not paying much taxes. Let's go down this chart. For people earning $10,000 to $20,000 the percent of the tax cut goes to 4.8; for people earning between $20,000 and $30,000 their taxes are cut by 15 percent; and for those earning between $30,000 to $40,000 their taxes are cut by 32 percent; those earning $40,000 to $50,000 their taxes are cut by 48 percent.

That means families earning $75,000 of real income or less, 78.7 of this tax cut goes to them.

If you want to report that the tax cut goes to the rich you ought to report that 75 percent of the benefits goes to American wage earners who are earning $75,000 or less.

Having said that I want to move on quickly. There will be a little obfuscation because the White House will say this family income approach is not theirs, it was done in the Reagan White House.

This is a way to figure out how much people are worth. And they did that as a model for tax reform. Does it mean that on income tax and other taxes that you are paying currently, that this is a true model of what your income is? Of course not. Because it assesses to you income you never earned, you probably will not earn, and it says it does not matter, we are ''imputing'' it to you anyway. That is the way you are distributing this money pursuant to those kinds of tables.

Let me move, for a minute, to a couple of more facts. We are on the threshold of passing the largest tax cut in 16 years. It will help Americans of all ages and all brackets. Again, I commend the chairman and I commend the Democratic Senators who voted for the package. I thought it was an exemplary example of bipartisanship. As I said, apparently some of them if not all of them have decided to produce a new package today, just to prove a point and try to make a point based on White House Treasury analysis rather than those analyses done by the experts that represent us.

Let's put this in perspective. Parents of 43 million children will pay $500 per child less in taxes; 4.8 million parents with kids in college and taxpaying students will have $1,500 more to spend; and 7.2 million recent job entrants will be able to deduct their student loan interest. That is a pretty big percentage of Americans, and a huge portion of Americana, and essentially all of them are, for all intents and purposes, all of them are middle-class Americans if you use $75,000 as the definition of middle class.

Mr. President, the $500 child care credit will help the working poor and the middle class. The value of the personal exemption has been eroded over time, and the cost of raising a family has become more expensive. The credit in this bill will totally eliminate the

Federal income tax burden for tens of thousands of families in New Mexico. I am particularly pleased that the Finance Committee decided to design the credit so that the working poor would also see the benefit of the $500 credit. Of the 718,850 families who file tax returns in New Mexico, 175,087 of them claim an earned-income credit. I applaud the Finance Committee's approach. It is a logical sequel to the new welfare reform law with its emphasis on moving from welfare to work.

I want to speak for a minute and I hope every Senator avails himself or herself of this, the $500 credit will save New Mexico families $454 million over 5 years.

A $500 per child credit is significant tax relief. According to the Heritage Foundation, a family with two kids eligible for two $500 credits would have an extra $1,000 a year in the family budget, and this amount would be enough to pay the mortgage for 1.5 months or pay for 15 months of health insurance or buy gas for the family automobile for 8 months.

In New Mexico, about 78 babies are born every day. In fact, I just was looking at a list. I have it here. I ask unanimous consent that their names be printed in the RECORD, just to show that on the day they are born they earn for a parent a $500 child care tax credit reduction. If they are too poor and eligible for an earned income tax credit, they still get $250 of that, under the bill the committee reported out.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Albuquerque Tribune, June 2, 1997]

BIRTHS

Here are the recent births at Albuquerque hospitals. Unless otherwise indicated, the parents live in Albuquerque.

PRESBYTERIAN HOSPITAL

Feb. 5

Velda and James Harrison of Grants, boy, Stephen Jordon.

Tess and Tom Kerstetter of Tijeras, boy, Justin Lawrence.

Tonija and Jim Pitts, girl, Sara Nicole.

Geneva and Rogue Tena, girl, Dannion Lee.

Cindy Weatherford, boy, Xavier Michael Dax.

Feb. 6

Selina and Scott Burt of Rio Rancho, boy, Michael Duncan.

Feb. 7

Mary and Christopher Andres of Bemalillo, boy, Christopher James.

Rhonda and George Buffet II, girl, Rachael Michelle.

Delilah and Bruce Langston, boy, Jeremiah Edward.

Zoyla and George Nuanez, boy, Antonio Andres.

Jessica Small and Gregory Foster, girl, Ryleigh Madison.

Feb. 8

Kathryn and Rick Carnes, girl, Theresa Jordon.

Feb. 9

Joyce and Lorenzo Barela of Belen, boy, Michael Andrew.

Genevieve and Michael Gomez, girl, Savannah Renee.

Karla Vallo and Christopher Sarracino of Acoma, girl, Raquel Elaine.

Feb. 10

Amy and Dan Conley, boy, Gunnar Ty.

Brenda and Mark Edwards, boy, Eligah Jordon.

Roberta and Carlos Gutierrez, girl, Samantha Dawn Elaine.

Paula and David Jackson of Belen, twins, Kaitlyn Joann and Ashley Nichole.

Denise and Donnie Tapia, girl, Savannah Adeline.

Feb. 11

Kalynn and John Kemaghan of Los Lunas, girl, Bryanna Marie.

Lisa and Bill Nesbitt, girl, Kathryn Anne.

Loretta and Thomas Mordstrand, girl, Angela Michelle.

Dolores Sanchez and Antonio Alire, boy, Antonio Jose Jr.

Carolyn and David Torres, boy, Nicholas Antonio.

Feb. 12

Jamela Eudora Antone of Torreon, girl, Emain Fawzi Gadri.

Tracie Asenap and Lorenzo Bemal, boy, Jakob Matthew.

Renee and David Samora, girl, Desiree Alexis.

Amber Woods and Christopher Lucero II, girl, Sierra Rae.

Feb. 13

Annie and Andrew Chavez, boy, Andrew Steven.

Jodi and Andy Darnell of Bernalillo, girl, Rachel Emily.

Monica Garcia and Alfred Baca of Los Lunas, boy, Alfred Gene Jr.

Annette Gurule and Lee Acosta, girl, Desiree Annette.

Brenda and Kevin Judd, boy, Brandon Lee.

Ann Michelle Nelson, boy, Taylor Emory.

Michelle and Juan Tena of Grants, boy, Armando Alberto.

Feb. 14

Angelique and Steven Garcia, girl, Elena Merced.

Monica Monroe and Michael Smith, boy, Clayton Steward.

Yvonne and Antonio Berni of Los Lunas, girl, Jasmine Danielle.

Feb. 15

Evangeline and Ricardo Duran of Los Lunas, boy, Ricardo.

Freda Billie and Ronald Begay of Gallup, girl, Fershaylynn Ervin Percy.

Victory and Michael Brohard, boy, Michael Matthew.

Kristin and Christopher Johnson, boy, Luke Nakaya.

Brigida Leyba and Wallace Jackson, girl, Jazmine Jacklyn.

Kristine Pineda, boy, Adrian Tomas.

Dana and Johan Resediz, girl, Vanessa Annette.

Danielle Stebleton and Dartanian Benson, girl, Dajour Tanae.

LOVELACE MEDICAL CENTER

May 14

Jennifer Duran and Anthony Hernandez of Albuquerque, twin boys, Marlano and Martino.

May 18

Bobbie Jean Leach and James Gonzales of Albuquerque, boy.

May 19

Daniel and Paula Vasquez of Albuquerque, boy.

May 20

Bill and Dianna Matier of Albuquerque, girl.

Roy L. Wade and Elizabeth Shoats of Albuquerque, girl, Jessie Daniel.

Antoinette and Marco Lovato of Albuquerque, girl.

Chad and Nancy Mills of Albuquerque, girl.

May 21

Ronald and Theresa Sanchez of Albuquerque, girl.

Daniel and Julie Sandlin of Albuquerque, boy, Eric Matthew.

May 22

Marvin and Frances Dominguez of Albuquerque, boy.

May 23

Jim and Deanna Fafrak of Albuquerque, girl, Tatiana Marie.

Maurice and Anna Ortiz of Albuquerque, boy.

May 24

Paul and Yvette Baca of Albuquerque, boy.

May 27

Jay Hale and Kyona Lucero of Albuquerque, boy.

Randy and Kelly Irwin of Sandia Park, boy.

May 28

Patric and Erin Carabajal of Albuquerque, girl.

May 29

Martha Jane Cavic and Paul Burdette Tilyou of Albuquerque, girl.

Camille and Larry Vigil of Albuquerque, boy, Kyle Anthony.

May 30

Bibiana Gower and James Kaminski of Albuquerque, boy.

June 1

Eric and Samantha Clark Rajala of Albuquerque, girl.

Louie Apodaca and Cynthia Mendoza of Albuquerque, boy.

June 3

Rick and Kathleen Emmert of Farmington, boy.

Quentin and Mary Doherty of Edgewood, girl.

ST. JOSEPH NORTHEAST HEIGHTS HOSPITAL

April 28

Ernie and Laura Manzanares of Albuquerque, boy.

April 29

Ross and Gloria Tollison of Albuquerque, girl.

April 30

Angle West and Casey Hamblin of Albuquerque, girl.

May 1

Mike and Charla Smith of Albuquerque, boy.

Monique Rawinsky and Getty Litts of Albuquerque, girl.

Scott and Katie Jacobson of Albuquerque, girl.

May 2

Kenneth Schafer and Siobhan Martin-Schafer of Albuquerque, girl.

Craig and Angie Parr of Albuquerque, boy.

May 3

Bryan and Betty Bareia of Albuquerque, boy.

Jeff and Evelyn Coleman of Albuquerque, girl.

May 4

Joseph and Sheri Tafoya of Albuquerque, girl.

May 5

Larry Davidson and Angela Archibeque of Albuquerque, boy.

Mark Bigoni and Catherine Gragg of Albuquerque, boy.

May 7

Jeffrey and Andrea Ehlert of Albuquerque, girl.

Mark and Judith Neuman of Albuquerque, girl.

May 8

Jon Ira and Cheryl Robertson of Albuquerque, girl.

Herman Wilson and Shryl Benally of Albuquerque, boy.

Gilbert and Morayma Sanchez of Albuquerque, boy.

May 9

Loren and Debra Cushman of Albuquerque, girl.

Antoinette Barela and Eric Lopez of Albuquerque, girl.

Bill and Liz Montgomery of Albuquerque, boy.

Nilufar and Anwar Hossain of Albuquerque, girl.

May 10

Arturo and Yeavette Andujo of Albuquerque, boy.

May 11

Maria Elena Vargas and Phillip Lopez of Albuquerque, girl.

May 14

Marnie and Omar Sadek of Albuquerque, boy

Lianne Patterson of Albuquerque, boy.

Karen and Steve Lillard Albuquerque, girl.

May 15

Ryan and Victoria Fellows of Albuquerque, girl.

May 18

Hal Byrd and Mary Dewitt-Byrd of Albuquerque, boy.

May 19

Luisa Lara and Ben Lucero of Albuquerque, girl.

David and Theresa Spinarski of Albuquerque, girl.

May 20

Toby Avalos and Maranda Pugh of Albuquerque, boy.

Wendy and Eugene Garcia of Albuquerque, boy.

Jim and Elaina Freesc of Albuquerque, girl.

Thomas and Tina Rowland of Alburquerque, boy.

May 21

Cabot and Patricia Follis of Albuquerque, boy.

Eddie Salas and Silvia Valencla of Albuquerque, girl.

May 22

Melanie Herrera and Christian Dunn of Albuquerque, girl

Orlando and Marie Encinias of Albuquerque, boy.

May 29

Amanda and Aaron Tucker of Albuquerque, boy.

UNIVERSITY HOSPITAL

Feb. 26

Kathleen and Juan Arellano of Albuquerque, boy, Alonzo Luis.

Feb. 27

Ana and Mario Rivera of Albuquerque, girl.

Feb. 28

John and Mary Matthews of Albuquerque, girl, Anna Kathleen.

March 8

Jason and Maria Cordova of Albuquerque, boy, Vincent Layson.

Cameron and Lois Cole of Albuquerque, girl, Rebecca Elizabeth Marie.

March 9

William and Livia Treat of Albuquerque, girl, Alejandra Maria.

Albert and Laura Carrasco of Albuquerque, boy, Albert Jr.

Cang Phan and Dat Nguyen of Albuquerque, girl Donna Nguyen Tan.

Jeremy and Michelle Lee of Albuquerque, girl, Ashley Nicole.

Vincent and Tracey Everett of Albuquerque, girl, Christina Isabelle.

March 11

Sonia Gutierrez and Anthony Martinez of Albuquerque, girl, Elena.

John and Emily Loucks of Albuquerque, boy, Thomas Edward.

March 16

Tim and Kathleen Newell of Albuquerque, girl, Emily Allison.

Mary Ann Vasquez of Albuquerque, boy, Mark Anthony.

March 18

Doug and Terry Lengenfelder of Albuquerque, girl, Hayley Shannon.

Julie Lopez and Damion Jenkins of Albuquerque, girl, Jenaya Neshae.

March 20

Juanita Carrillo and Charles Orona of Albuquerque, girl, Allcia Maria

March 21

Virginia Garcia of Albuquerque, girl, Stephanie Amanda.

Mr. DOMENICI. This bill provides some very, very good deductions and credits for going to college. So a tax cut, as I view it, is long overdue. In 1948, American families sent about 3 percent of their income to Washington for taxes. Today it is closer to 25 percent. I believe it is much better to leave more money in the hands of our families and our parents and our people.

This bill provides eight separate provisions that help finance college. The most significant is a $1,500 tax credit for 50 percent of the tuition for the first 2 years of a 4-year college; 75 percent of the tuition paid at a community technical school. I believe the committee designed these right and I believe they make good sense.

There is the deductibility of student loan interest. This provision automatically shifts the benefit toward children of low- and middle-income families. The $2,500 deduction of student loans and the interest on them is well designed, and it will produce some powerful incentives as students graduate for them to get on with their lives and get out from under the debt burden as soon as possible. This bill makes an exclusion of $5,525 worth of education assistance.

Mr. President, I have additional remarks that analyze my State but I close by once again repeating: This is the chart of the Joint Committee on Taxation of the United States, that says this is the distribution of our tax cut based on income the American people are making. It has a few imputed things in it but nothing like the White House, and people will be surprised how much they are allegedly earning under the Treasury of the U.S. evaluation of their earnings.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. Mr. President, I yield such time as the Senator from North Dakota will consume.

Mr. DOMENICI. Mr. President, I believe we have a lot more time left. Could we ask how much time is left?

The PRESIDING OFFICER. The Senator has an hour left and the other side has 39 minutes left.

Mr. DOMENICI. I wonder if we could start to equalize it a little bit by going on our side.

Mr. DORGAN. I ask the manager, my understanding of the process was we were going back and forth on the presentations.

Mr. DOMENICI. I was not here. Is that correct?

Mr. CONRAD. That was the agreement.

The PRESIDING OFFICER. There was an agreement to that effect, 4 hours equally divided.

Mr. GRAMM. Mr. President, let them go ahead if they want to. We have over an hour and they have 39 minutes. What we were going to do is try to run ours down. But I always am interested in being informed by our colleagues. Let them go ahead and respond and then, if I could be recognized, I will speak.

The PRESIDING OFFICER. The Senator from North Dakota yields how much time to the Senator from North Dakota?

Mr. CONRAD. So much time as he shall consume.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. I ask if the Senator from North Dakota will yield to me for a question?

Mr. DORGAN. I will be happy to yield to the Senator for a question.

Mr. CONRAD. We have heard from our friends on the other side with respect this question about imputed income in charts that have been used. I would just ask the Senator from North Dakota if he is aware, if you take imputed income out—take it out—it does not change this chart an iota, it does not change it at all; not a whit? It would change the income amounts for each of these categories, it does not change the relationships at all. The reality is, if you compare these two plans, the top 20 percent of the income groups in the United States under the Finance Committee plan gets 65 percent of the benefits. Under the Democratic plan, they get 20 percent of the benefits.

The fourth quintile gets 21 percent of the benefits under the Democratic plan and gets 32 percent of the benefits under the plan out of the Finance Committee. You take imputed income, put it aside, you don't want to use that, although it has always been used here as the measurement for distribution under Republicans and under Democrats. That's the way it has been done.

I happen to agree, you ought to leave imputed income out of it. But if you take the cash income, this is the same distribution that you get on these two plans. You have five quintiles, and those five quintiles bear the same relationship. What changes is the income categories attached to each. That is a fact.

The relationship between the quintiles does not change. Under the plan that is being advocated by our friends on the other side, the biggest benefits go to the wealthiest among us. It is undeniable. That is the case. They want to quote Joint Tax. Let's talk about what is wrong with the Joint Tax proposal.

Rather than assess the effect of the tax cuts when fully implemented, Joint Tax tables, cited by our friends on the other side of the aisle, cover only the years up to 2002. I ask my colleague from North Dakota if he is aware, as a result, the Joint Tax Committee's tables ignore 94 percent of the combined $82 billion of capital gains tax changes, estate tax changes and IRA tax cuts contained in the Roth bill. Is the Senator from North Dakota aware?

Mr. DORGAN. Senator CONRAD is exactly correct. And, if I might reclaim my time, let me add to Senator CONRAD's presentation something that is not from us, but something from the New York Times. Let me read an editorial from the New York Times, because I know anyone can bring anything to this floor. You can bring a chart to this floor that says shrimps whistle, pigs fly, and the Moon is made of green cheese. You can bring a chart that shows anything you want. Will Rogers said it best about this debate. He said: ''It's not what he knows that bothers me. It is what he says he knows for sure that just ain't so.''

Let me read you the New York Times editorial about this discussion we are having:

> Before Congress votes on anything, it should get its facts straight. The Republicans present bogus tables suggesting their tax package is fair. The tables stop at the year 2002, before the cuts that favor the wealthy on capital gains, inheritance and retirement accounts take hold. Also, the GOP treats as burdens the tax payments that the investors will voluntarily make as they sell stocks and bonds to take advantage of a lower capital gains rate. The bizarre implication is that investors are hurt by a rate cut. These tables suggest that the middle class reaps most of the benefits. Independent analysts say that about 50 percent of the cuts will go to the richest 5 percent of the taxpayers.

That is not me saying it, it is a New York Times editorial.

Is the New York Times correct? Yes, they are correct. Why? Here is the reason. The chart that we have just seen illustrated on the floor of the Senate about burdens is a chart that covers only the years up to 2002, and it ignores 94 percent of the costs of capital gains, estate, IRA tax cuts in the Senate bill. When the tax cuts proposed in this bill are fully phased in, there is no question what the distribution of this tax cut is. By far, the preponderance of the tax cuts offered in this bill will go to the richest Americans.

This chart that we have just seen, the burden table that is offered on the floor of the Senate, portrays capital gains tax cuts as increasing the tax burden on upper income taxpayers, and it also excludes the estate tax cuts, which total $35 billion in the Senate bill. That is why you have a table that is simply wrong.

Is it right in the context of what it proposes to tell people in a snapshot of time? Sure, but what it proposes to tell people is something that doesn't include all of the facts. It says, take a look at this little slice, and then we are going to give you the conclusion about this little slice of facts, but it is not real.

Mr. President, we are having a discussion about whether the proposed tax cut can be improved. The answer is, yes, it can; it can be improved. One of the things that traps everyone in this Chamber and I think everyone in Congress is the minute you start talk about cutting taxes, we rush immediately to the corner and begin to talk about taxes, and then we begin immediately to talk about capital gains. Let me describe another approach that makes more sense.

Two-thirds of the American people pay higher payroll taxes than taxes. The tax that has increased in this country in recent years has been the payroll tax. The folks who go to work, work hard, sweat, get dirty, take a shower after work are the folks who earn a wage. They don't sit home clipping coupons. They don't get big dividends. They don't have big stock gains. They work for a wage. And then someone who showers before work and sits on the front porch and never raises a sweat and never gets dirty because they are simply cashing in their dividend checks and watching the stock market go up, and so on, they get capital gains. But we are told that stream of income somehow is preferable to the income from work.

So we have a philosophy in this Chamber that says let us tax work, but let us exempt investments. Why? Why tax work and exempt investment? And if you do that, what is the consequence? The consequence is easy to understand. Who has the investments and, therefore, who gets the tax break if you exempt investment? Who works and who pays the higher payroll taxes because they work? Then who is largely left out of this equation when it comes time to talk about cutting taxes?

The other side says to us, ''Well, except we propose a per-child tax credit, and that's going to help all those families with children,'' except they propose the tax credit not go to nearly 40 percent of the children in this country because the folks don't make enough money to qualify for it. Why? Because they measure it only against the income those folks earn as opposed to measuring it against the payroll tax they pay—and, I might add, a higher payroll tax at that.

Can this be improved? Absolutely. Should it be improved? You are darn right it should be improved. Has Senator DASCHLE proposed something that will dramatically improve this tax relief proposal so when you pass around the largess of tax cuts, you go around that table and you see the income earner sitting at the table, those at the bottom fifth, those at the second fifth, on and on, each of them are going to get a significant part of the tax relief? Is that what Senator DASCHLE has proposed? I think so. If we don't pass this substitute, we will end up with a tax bill that goes around that table and passes out tax cuts in a way that is fundamentally unfair. Oh, there are some at the table who will get almost nothing, some just a few crumbs, some a few tiny little slices, and some at the other end of the table will sit there with a huge platter and three-fourths of the cake. All we are suggesting is there are other ways to measure proposals for tax cuts that provide a fairer distribution.

I find interesting this discussion we have about the economy and where we are and where we are headed. The economy is doing better in this country. Some wouldn't give this administration credit under any set of circumstances. But this economy rests not on the shoulders of the Federal Reserve Board, the last American dinosaur that sits down there in that concrete temple; this economy rests on the confidence of the American people that we and others will do the right thing to keep this economy on track.

Doing the right thing in 1993 meant a Deficit Reduction Act that brought down the Federal budget deficit in a serious way. It was not fun to vote for that because it wasn't politically smart to vote for that, and my party paid a significant price for passing it. I can recall—and I won't mention names—I can recall those who stood up and said, ''You pass this and this country will be in a recession.'' ''You pass this and this country will be in a depression.'' ''You pass this and you will throw the economy completely off track.''

We passed it. We indicated to the American people we were serious about reducing the deficit. Guess what? The American people took hope and confidence from that, and the result is when you have confidence, you buy cars, houses, you make decisions about the future based on that confidence. When you lack confidence, you defer those purchases and you have an impact on the economy that is negative. When you have confidence, you have an impact that is positive. I am pleased we did what we did in 1993, and the economy is better because of it. Inflation is down, the deficit is down, unemployment is down, economic growth is up.

So, in that context, while we balance the budget, or attempt to balance the budget, with a series of decisions now and attempt to provide some tax relief, the question today is, who will receive the relief? And we get these burden sharks that give us a vision of who gets the relief that is simply wrong.

Again, I refer to the New York Times editorial. You can't give us a description of who gets tax relief by leaving out the bulk of the tax relief that is going to go to the upper income folks.

Let me finish on one additional point. One of my concerns about what we are doing is we will create a tax shelter industry if we go the totusporcus route of capital gains. I believe very much that recreating the tax shelter business in this country is unhealthy for America.

Senator DASCHLE is proposing something that makes sense. Let's measure against payroll taxes paid; let's measure against that an ability to receive tax relief based on the refundable child care tax credit. That makes great sense to me. If we don't make that child care tax credit refundable against payroll taxes paid, which are the taxes that have increased in recent years, then we will not have done working families a great favor with this bill.

So I stand today and hope that colleagues will support the substitute offered by Senator DASCHLE, cosponsored by myself and others. I think it is substantially more fair, and I think it substantially improves the tax relief bill the Senate is now considering.

Mr. President, I know others wish to speak. I appreciate the courtesy of the Senator from Texas. My understanding was we were going back and forth, and I appreciate very much the courtesy of the Senator from Texas.

I yield the floor.

Mr. GRAMM. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas for 10 minutes.

Mr. GRAMM. Mr. President, this is not a debate about taxes, this is a debate about class warfare. I do not understand how people can love jobs and yet hate the process that creates those jobs. If America is going to be saved, it is going to be saved at a profit, and I am not going to apologize for trying to provide incentives to create jobs, growth, and opportunity in America.

We can stand here and shout back and forth with our colleagues who are saying, ''Well, if you make $30,000 a year but you own your own home, if you rented your home, you would get another $8,000 of income, so you make $38,000. And if you own a life insurance policy, it is building up internally, and so while you think you are making $30,000, but you actually have $8,000 from your home and another $6,000 from your insurance policy, and your retirement is going up, and, really, you are making $45,000 a year—you only think you are making $30,000 a year, but really you are rich.''

Let me tell you, I can cut through all that stuff. There is a simple code that if you understand, you will understand everything they are saying: If you pay taxes, then you are rich under the Democrats' plan.

Their basic program is very simple: Never cut taxes, because taxes are only imposed on rich people. Always raise taxes, because taxes are always imposed on rich people. So, as a result, they always want to raise taxes, but never want to cut them.

It is interesting to note that the average tax burden on working Americans today is at the highest level in the history of the United States of America.

We have heard a lot of talk about their great bill in 1993. Might I remind my colleagues that the word then was that this bill only taxes rich people.

Who were those rich people? Everybody who buys gasoline. Who were those rich people? People on Social Security in the President's original bill who made $25,000 a year, if you counted what they would get if they moved out of their own homes and rented it for income.

But, look, this is not a debate that is worthy of America. What we should be debating is, will this tax cut create jobs? Our objective should not be trying to spread the misery or redistribute the wealth. It ought to be to try to create wealth.

We hear our colleagues say, ''Can you believe that the tax cut before us does not cut taxes for the lowest 20 percent of all income earners in America?'' Did you hear that? ''This bill does not cut taxes for the lowest 20 percent of income earners in America. How could that possibly be so?'' Well, the reason it is possibly so is because the lowest 20 percent of income earners in America pay no income tax.

This is not a welfare bill. This is a tax-cut bill.

The top 20 percent of income earners in America pay 78.9 percent of all the income taxes in America. The bottom 40 percent, on balance, pay no income taxes at all. Is anybody surprised that the top 20 percent, who pay almost 80 percent of the income taxes, will get a tax cut when you are cutting taxes and that the bottom 20 percent, who do not pay any income taxes, will not? Why is that supposed to be a revelation? Do we have to increase welfare every time we try to help working families?

In the bill that is being proposed, we have yet another massive increase in a welfare program. It has a wonderful name, EITC, the earned-income tax credit. What it has become is an unearned-income tax credit. This is a program which pays people who do not pay taxes but is called a tax cut.

The last time taxpayers got a tax cut was in 1981. In 1981, the average amount we were giving away in EITC, this welfare program the Democrats call a tax cut, was $285. Today, that average beneficiary is getting $1,395. The average American who does not pay income taxes but who is getting an earned-income tax credit to offset taxes—in many cases when they have no tax liability—has had their subsidy increase from $285 a person to $1,395; while working families who do pay taxes have not gotten a dollar of tax cuts. In fact, their after-tax income has actually declined.

Now we are here trying to give a $500 tax credit per child for every working family in America, so that Americans who make $30,000 a year and have two children will be off the income tax rolls. What is the complaint from our Democratic colleagues? Their complaint is that we are not giving money in our tax cut in large enough amounts to people who are not paying taxes.

This is a tax-cut bill. This is not a welfare bill.

We pass a lot of welfare bills around here—too many of them—but this is not one of them. This is a tax-cut bill. We should ignore all this malarkey about the bottom 20 percent not getting any income tax cut, they do not pay any income taxes.

Our colleagues have lamented the payroll tax. They claim that they are really worried about the payroll tax. Well on May 22, 1996, John ASHCROFT, the Senator from Missouri, offered an amendment to allow moderate-income people to deduct their payroll tax from their income in calculating their income tax.

Every person who has spoken in favor of this amendment, who has criticized the underlying bill for not giving tax cuts to people who do not pay income taxes, and who has lamented the payroll tax—every one of them voted against Senator ASHCROFT when he tried to cut taxes for people who are paying big payroll taxes.

Let me also say that all of those who I have heard today speak in favor of this amendment also supported the Clinton health care bill that would have raised the payroll tax by 8.9 percent to pay for socialized medicine. Of course, today they are terribly upset about the payroll tax and they want to give income tax cuts to people who are not paying income tax.

What is their program? Their program is tax cuts for people who do not pay taxes, capital gains tax cuts for people who do not own capital.

Our program is to cut taxes for people who actually pay taxes. I am not going to apologize for the fact that when 20 percent of the people pay 80 percent of the taxes, when you are going to do a tax cut, that 20 percent is going to get a bigger tax cut.

Listening to all this talk, you would think that every year the tax burden is getting heavier and heavier on lower income people. It is not true. The tax system has become more progressive every day since Ronald Reagan became President. In fact, his tax cut made the system more progressive, as does our tax cut.

We really should not even be talking about this because it just smacks of us

pitting one group of people against another based on their income. Many of the people in the Senate today grew up in families that were low- or moderate-income families. You are not stuck being poor your whole life because your parents are poor.

Neither of my parents graduated from high school, but they did not resent people who made money, nor did they feel the Government should come along and take it away from somebody else to give it to them.

Now, maybe this sells. Maybe this sells politically to say, ''Twenty percent of the income earners get no tax cut.'' Maybe it sells. But remember, they do not pay any income taxes either.

This is a tax-cut bill.

In 1993, taxes were increased by $250 billion in the Clinton tax-increase bill. We are cutting it by $74 billion in our bill and 75 percent of it is going to families that make $75,000 a year or less. Maybe those families are rich to the Democrats. Maybe a working couple making $75,000 should be taxed into poverty. I do not think so. I want them to be able to keep more of what they earn.

I thank the Chair for its indulgence.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BINGAMAN. Mr. President, I yield myself up to 10 minutes.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I want to change the subject just slightly in this debate and talk about a different aspect of why I believe the Democratic alternative being proposed here is preferable to the bill which was reported by the Finance Committee. That is because, as I see it, the Finance Committee bill has in it what have been referred to as fiscal ''time bombs,'' which would explode the size of the revenue loss as we move into the next century.

Our bill, our alternative, the Democratic alternative, tries to eliminate those fiscal time bombs, and in doing so is more fiscally responsible for the long-term future of the country.

Let me talk about that aspect of it slightly. I do so first with this chart that I have here. This chart shows tax cuts—the Senate bill; this is the bill we are debating and getting ready to vote on here either late tonight or tomorrow—shows that the tax cuts in this Senate bill are heavily backloaded.

What that means is that, although the budget agreement calls for $85 billion in tax cuts in the next 5 years, through the year 2002, it calls for $250 billion in tax cuts up through the following 5 years, up to 2007, and if you take the next 10 years and look at what happens in that period so that you have the full 20-year period in mind, it goes to $830 billion in tax cuts and lost revenue to the Treasury. That is what we mean by backloaded.

You say, why are we losing that much revenue? What is there in this tax bill that is costing that much revenue? Here are three of the main reasons why we are losing that revenue.

Of course, this chart only goes through the year 2007, but it shows that the alternative minimum tax, of course, the change there is losing $15 billion, the change in the capital gains is losing $24 billion in this second 5-year period, and the change in the IRA's is losing $45 billion.

I want to talk a moment about the provisions in this bill related to IRA's and how we are going about losing that much money.

We are losing it primarily because of a provision in this bill that is called the IRA Plus—the IRA Plus. People need to understand a little bit about the IRA Plus.

Mr. President, there are two kinds of IRA's that are available to any of us today in America. One is a deductible IRA where you are able to deposit into your individual retirement account money before you pay tax on it. That is deductible money, deductible from your tax return.

The other, of course, is a nondeductible IRA. You can deposit up to $2,000. If you do not use the deductible IRA, you can deposit up to $2,000 in a nondeductible IRA. That is money that you have already paid tax on.

You can have either under current law.

Let me just talk a moment about the deductible IRA. Under current law, all taxpayers with incomes below $50,000—that is joint filers—so a family that earns less than $50,000 or reports income of $50,000 may make a deductible contribution to an IRA. They can put up to $2,000 in an IRA every year without paying tax on that money. That can be saved by them for their retirement into the future. They do not have to take it out, do not have to begin taking it out until they are over 70 years old. That is a very good benefit.

All ratepayers who are not covered by an employer-sponsored plan may make deductible contributions regardless of their income level. So we are saying that if you are not covered by any kind of employer-sponsored plan, you can go ahead and deposit your $2,000, take the tax deduction under current law, and you are not penalized. This covers over 70 percent of all of those who are eligible, so that 70 percent of the people filing tax returns today can take this $2,000 deductible contribution if they so choose.

Under the proposals in this bill on deductible IRA's, all taxpayers then with incomes below $100,000—we are essentially doubling or increasing by twice the income level for joint filers—and any family with an income up to $100,000 can make a deductible contribution to an IRA. All taxpayers who are not covered by an employer-sponsored plan may make deductible contributions regardless of the income level.

The estimate here is that we are now talking, under the proposed bill, of 90 percent of all taxpayers, 90 percent of all families will be eligible to make deductible contributions.

We are going next, Mr. President, to the real clincher in this so-called IRA Plus.

An IRA Plus is a nondeductible IRA. It is not a deductible IRA. It is not the kind of IRA that is available to people who have $100,000 or less in income or who are covered by an employer-sponsored retirement plan. This is aimed primarily at those who earn over $100,000 in income and who have employer-sponsored retirement plans already.

Current law says that you can go ahead and deposit your $2,000 each year. That money compounds, that money gains interest or capital gains of whatever kind until such time as you start drawing the money out, at which time you pay tax on it.

The proposal in here, IRA Plus, says that not only can you have this, you can have it in a particularly attractive way.

First of all, we are going to let you take any IRA you have now and convert it into an IRA Plus if you want to and pay the tax that is due up to January 1, 1999. You have to pay it during the 5 years that it is covered by this budget plan so we can take full credit of those funds in deciding whether we have balanced the budget, but you can pay that, and then once you have set that up, the nondeductible IRA is no longer taxable.

There is no tax owed when you realize a gain. There is no tax owed when you distribute money out of that IRA. There is no tax owed when you spend the money. We are setting up essentially, Mr. President, our own version of a Swiss savings account or a Swiss bank account.

We have all read about people with lots of money who go to Switzerland and set up a bank account so they can avoid taxes that way. They will not have to do that anymore. They can just set up an IRA Plus, put money in there, and then any gain they realize on that for the rest of their life is not taxable.

This is the only place in our tax law, as far as I know—I am not an expert on tax law—but as far as I know there is no place else in our tax law where we set up this kind of a provision, where we say if you put money in one of these accounts we will no longer charge you any tax on that or on the gains from that money for the rest of your life. This is what the IRA Plus is. This is why this bill is so heavily backloaded.

Clearly, this is a fiscal time bomb. There is no other way to look at it. There is no justification, in my view, for us putting this kind of a benefit in for individuals who have over $100,000 in income and who are also covered by another employer-sponsored retirement plan. This is a provision which is not, as I understand it, in the House bill that is being considered on the House side.

I hope very much later in the debate today I can offer an amendment to try to strike this provision from our own bill. If we do strike this provision, we will deal with a great deal of the problem that exists in the Finance Committee bill in the backloading of this provision. It will be much more fiscally responsible to eliminate this provision, and clearly it will be fair to working Americans at all income levels.

I still want all Americans to have the right to deposit the $2,000 after tax into an IRA, just as they can under present law. That is entirely appropriate. But they ought to have to pay tax on the earnings from that as they do today.

Mr. President, I hope this amendment is seriously considered when I do get a chance to offer it later in the evening. I also believe that the fact that we are eliminating this IRA Plus in the alternative that the Democrats are offering today is a major reason why I am planning to support that alternative.

I commend Senator DASCHLE for putting it forward today, and I yield the floor.

Mr. NICKLES. Mr. President, I yield myself 10 minutes.

Mr. President, first, I wish to urge my colleagues to vote no on Senator DASCHLE's substitute. I started to call it the Democratic substitute. I hope that is not the case. I really truly hope that is not the case, because we passed a bipartisan bill, one that had Democrats and Republicans supporting it.

For those people that are saying this bill that was passed is for the wealthy and so on, that is absolutely hogwash. This bill that we passed in the Finance Committee is very family friendly. The bulk of the benefits, over 80 percent of the benefits, are for families with kids and/or education. The child tax credit, for example, starts phasing out with families or individuals that have incomes above $75,000. Personally, I think it should be for all families, but we did not make it that way. I think we should make it for all families. Upper-income people will not get it.

So this idea that we are just benefiting upper-income people is absolutely not true. Upper-income people, the highest-income people, do not get the family tax credit. Everybody else does. I think we should make it apply to everybody, but we didn't. There are income limits on that.

There are income limits on the education tax incentives. They start phasing out with individuals at $40,000 and couples at $80,000. A lot of times we will not be able to tell our constituents that everybody gets this. People with incomes up to $40,000 will get it if they are individuals or couples at $80,000, but above that they might not. We cannot brag about this too much because not all Americans get the education incentive. Not all Americans get the child tax credit. I tell you, a lot more Americans will get these tax benefits under the package that is before the Senate, the bipartisan finance company, than under Senator DASCHLE's alternative.

Senator DASCHLE's alternative is redistribution of wealth. It is not a tax cut for taxpayers. It is using the tax system so we can channel more money to people that do not pay taxes in the first place. It is kind of complicated because he says we want people to get the child care tax credit, and then we also want them to get the earned-income credit in addition to that. Wait, what is he doing? On the child care tax credit, that is only $250. Ours is $500. Now, there is a little difference here. Ours is for $500, his is for $250. Ours apply to children up to age 18 and below age 13 everybody gets $500. In Senator DASCHLE's approach, they get $250. If they put it in an IRA, they get $350. That is the Government telling people what to do. Nobody gets any benefit under Senator DASCHLE's proposal if they are between ages 13 and 18 until the next century—until the year 2000. That does not make a lot of sense. He says he has a child credit, but it is only $250; but if you are 14 years old, you do not get anything under their proposal.

Why? Well, the reason why he did that is to have the credit be refundable. I urge my colleagues when they say tax ''credit refundable,'' really what they mean is we want to have a spending program. This is not a program to cut taxes. It is a program for Uncle Sam to spend money through the tax credit.

President Clinton likes this. There is a big increase in the so-called earned-income credit. I hope we change the name of that section of the Tax Code later on today or tomorrow. But they use that Tax Code as refundable tax credit to write people checks.

My colleagues on the Democrat side said we want to give whatever child tax credit and earned-income credit on top of that so Uncle Sam can continue writing more checks. I ask unanimous consent to have printed in the RECORD at the conclusion of my statement, a chart showing how much the earned-income credit has expanded in the last several years.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. NICKLES. In 1990, the maximum benefit was $953 for a family with 2 or more children. In 1993 it was $1,511. This year, the maximum benefit for two children is $3,680, and 90 percent of that is not a tax credit. It is Uncle Sam writing a check. It is not reducing somebody's tax liability. In most cases these are not Federal income tax liabilities, but Uncle Sam writing a check. Somebody said that is to make up for payroll taxes. They pay Social Security taxes, yes, 7.65 percent, but the tax credit is 40 percent, far and above what they pay in Social Security taxes.

I just mention to my colleagues, this is the welfare program, and our colleagues supporting Senator DASCHLE's amendment want to expand it. They want to give a child care tax credit and expand the earned-income credit, give both, so they can say we are giving money to low-income people. The Tax Code should not be for redistribution of wealth. If we are going to have a tax cut, it should be for taxpayers.

They say this plan that passed the Finance Committee is unfair because it advantages upper income. Absolutely false. Eighty-two percent of this package in the first 5 years falls to families with incomes less than $75,000 or $80,000; 75 percent of the whole package falls to families less than $75,000.

Then a couple of comments, well, it benefits the wealthy. They do well because we have capital gains. Absolutely false. I ask unanimous consent to have printed in the RECORD another chart, showing the highest 10 percent of the taxpayers pay 47 percent of the tax.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. NICKLES. How much of the benefit do they get out of this tax bill? The highest 10 percent pay almost half the tax. How much benefit do they get out of this bill: 13 percent. The highest 1 percent, the wealthiest people in this country, what percentage of the tax do they pay? They pay 18 percent. How much benefit do they get out of this bill? They pay 18 percent. Of the total tax bill of this cup, the highest 1 percent pay 18 percent of the total income tax. How much benefit do they get out of this bill: Two percent. Mr. President, the wealthy are not making away like bandits on this.

This is a family-friendly tax bill. If one believes that we should put the majority of this money in to help families, we have done it in the Finance Committee package. We have done it with the tax credit that says if you have 3 children you get $1,500 that you get to keep, that you get to save, and if you pay $1,500 in income tax, a little over $100 a month, you get to keep it. It is yours. You decide how to spend it. That is in the bill that passed the Finance Committee.

You can go to your constituents, as long as their incomes are less than $75,000 and say, what is your income tax, look at your W–2. If you have two kids, that is $1,000 a year you get to keep. If you have four kids, that is $2,000 of your money that you get to keep. That is in our proposal. It is not in the Democrat proposal. Senator DASCHLE's proposal is $250 for the first couple of years, $350 maybe if you put it into an IRA.

Mr. President, there is no comparison between these two packages. Unfortunately, Senator DASCHLE's proposal is really redistribution of wealth. It is not a tax cut. The Finance Committee proposal that we have is not perfect, but at least it is very family friendly. The $500 tax credit is real. It will apply to all families up to incomes of $75,000, where we start phasing it out, $110,000 for couples on the child tax credit.

I urge my colleagues to reject the DASCHLE amendment, have bipartisan

support and overwhelmingly vote for passage of this bill and overwhelmingly reject another income redistribution scheme that is propagated by my colleagues on the other side.

I might mention, as well, Mr. President, most of the people who have spoken out in favor of Senator DASCHLE's amendment, one, voted for the 1993 tax bill which was not a tax cut, it was a tax increase. They really have not been interested in tax cuts. They have been interested in tax increases. If you look at this proposal that they have, it is really trying to figure out how can we take more money from some people and give to somebody else. It is redistribution.

Mr. President, I urge my colleagues to vote no on their proposal and to support the proposal that was reported out of the Finance Committee.

I yield the floor.

EXHIBIT 1

EARNED INCOME CREDIT—TWO OR MORE CHILDREN

[Historical]

Year	Credit percent	Maximum credit	Min. income for max. credit	Max. income for max. credit	Phaseout income
1976	10.00	$400	4,000	$4,000	$8,000
1977	10.00	400	4,000	4,000	8,000
1978	10.00	400	4,000	4,000	8,000
1979	10.00	500	5,000	6,000	10,000
1980	10.00	500	5,000	6,000	10,000
1981	10.00	500	5,000	6,000	10,000
1982	10.00	500	5,000	6,000	10,000
1983	10.00	500	5,000	6,000	10,000
1984	10.00	500	5,000	6,000	10,000
1985	11.00	550	5,000	6,500	11,000
1986	11.00	550	5,000	6,500	11,000
1987	14.00	851	6,080	6,920	15,432
1988	14.00	874	6,240	9,840	18,576
1989	14.00	910	6,500	10,240	19,340
1990	14.00	953	6,810	10,730	20,264
1991	17.30	1,235	7,140	11,250	21,250
1992	18.40	1,384	7,520	11,840	22,370
1993	19.50	1,511	7,750	12,200	23,049
1994	30.00	2,528	8,425	11,000	25,296
1995	36.00	3,110	8,640	11,290	26,673
1996	40.00	3,564	8,910	11,630	28,553
1997	40.00	3,680	9,200	12,010	29,484
1998	40.00	3,804	9,510	12,420	30,483
1999	40.00	3,932	9,830	12,840	31,510
2000	40,00	4,058	10,140	13,240	32,499
2001	40,00	4,184	10,460	13,660	33,527
2002	40,00	4,320	10,800	14,100	34,613

Source: Joint Committee on Taxation.

Provided by Senator Don Nickles, 06/26/97.

EXHIBIT 2

DISTRIBUTIONAL EFFECTS OF FINANCE TAX BILL

	1997–2002		1997–2002	
	Total	Percent	Cumm	Percent
CHANGE IN TEXES IN MILLIONS				
Income Category:				
Less than $10,000	73	−0	73	−0
$10,000 to $20,000	(6,408)	5	(6,335)	5
$20,000 to 30,000	(13,667)	11	(20,002)	15
$30,000 to 40,000	(22,241)	17	(42,243)	33
$40,000 to 50,000	(20,309)	16	(62,552)	48
$50,000 to 75,000	(39,676)	31	(102,228)	79
$75,000 to 100,000	(20,217)	16	(122,445)	94
$100,000 to 200,000	(5,386)	4	(127,831)	98
$200,000 and over	(1,965)	2	(129,796)	100
Total	(129,800)	100		
Income quintile:				
Lowest	(539)	0	(539)	0
Second	(9,173)	7	(9,712)	7
Third	(29,261)	23	(38,973)	30
Fourth	(46,437)	36	(85,410)	66
highest	(44,390)	34	(129,800)	100
Total	(129,799)	100		
Highest 10%	(16,430)	13		
Highest 5%	(4,087)	3		
Highest 1%	(2,066)	2		
TAX BURDEN IN BILLIONS				
Income Category:				
Less than $10,000	30	0	30	0
$10,000 to $20,000	191	2	221	3

DISTRIBUTIONAL EFFECTS OF FINANCE TAX BILL—Continued

	1997–2002		1997–2002	
	Total	Percent	Cumm	Percent
$20,000 to $30,000	442	5	663	8
$30,000 to $40,000	622	8	1,285	16
$40,000 to $50,000	654	8	1,939	24
$50,000 to $75,000	1,578	20	3,517	44
$75,000 to $100,000	1,281	16	4,798	59
$100,000 to $200,000	1,639	20	6,437	80
$200,000 and over	1,638	20	8,075	100
Total	8,077	100		
Income Qunitile:				
Lowest	60	1	60	1
Second	340	4	400	5
Third	874	11	1,274	16
Fourth	1,614	20	2,888	36
Highest	5,190	64	8,078	100
Total	8,077	100		
Highest 10%	3,782	47		
Highest 5%	2,756	34		
Highest 1%	1,436	18		

Mr. LAUTENBERG. Mr. President, I rise as a cosponsor of the Daschle amendment, which would provide significant tax cuts for ordinary, middle-class families, without leading to exploding deficits in the future.

Mr. President, throughout this Nation, millions of middle-class families are struggling simply to live the American dream. They love their children, but they don't see them very much. They work long hours. They're trying to save for their retirement, and their kids' education. But they're having a hard time just paying their bills, and making ends meet.

Mr. President, these are the people who most need tax relief.

And yet, Mr. President, those are not the people who get the bulk of the relief in the underlying bill, as reported by the Finance Committee. The committee's bill provides more benefits to those in the top 1 percent of the population than to the entire lower 60 percent, combined. That's not right. And this amendment would correct the problem.

Mr. President, this amendment provides many of the same types of tax cuts that are included in the Republican plan. And the total amount of tax relief is roughly the same. But the provisions are structured differently, to give most of the benefits to ordinary Americans.

The Democratic alternative provides a $500 tax credit for children. But, unlike the Republican version, it makes the credit available for working families with little or no tax liability.

The Democratic alternative provides significant tax relief to help Americans handle the costs of higher education. And it provides substantially more benefits for those attending lower-cost community colleges than the Republican legislation.

The Democratic alternative would cut the capital gains tax rate. But, unlike the Republican version, it gives most of its benefits to the middle class, not the very wealthy.

The Democratic alternative also reduces estate taxes. But instead of lavishing huge breaks on the heirs to multimillion dollar estates, it focuses benefits on small businesses.

Mr. President, another advantage of the Democratic alternative is that it costs do not explode in the out years. The underlying bill has several provisions the costs of which increase substantially in the future, such as the so-called backloaded IRA and capital gains breaks. This problem is addressed in the Democratic alternative, which is much more fiscally responsible.

So, Mr. President, in many ways the Daschle amendment is a far superior alternative to the underlying bill, and I would urge my colleagues to support it.

Mr. President, while I have the floor, I wanted to take just a few minutes to discuss the first reconciliation bill that the Senate approved yesterday.

Mr. President, as one of the principal negotiators of the bipartisan budget agreement, it pained me to have to vote against the first reconciliation bill. Unfortunately, that bill went far beyond the bipartisan budget agreement, to a point that I felt I could not support it in good conscience.

I am especially concerned, Mr. President, that the first reconciliation bill includes substantial changes in Medicare—changes that have not been adequately considered, and that could be very harmful to the program, and to the millions of Americans whose health will depend upon it in the future.

For example, the bill would eliminate Medicare coverage for individuals aged 65 and 66. Yet it provides no alternative for these people. This could leave millions of older Americans without access to affordable health insurance. And that's not right.

The bill also would encourage higher income beneficiaries to leave the program, by completely eliminating all subsidies of their premiums. That could undermine Medicare's universal support, and lead to a two-tier system in which sicker, less wealthy seniors would be forced to pay more for less. And that's not right.

Finally, the bill would create a substantial economic burden for many frail and sick elderly Americans, by establishing a new copayment for home health benefits. This copayment could cost up to $760 per year—a substantial percentage of many seniors' income. And that copayment would come on top of an already substantial increase in premiums called for under the bill.

Mr. President, that's just not right.

Mr. President, none of these provisions was included in the bipartisan budget agreement. And none have really been seriously debated in the 105th Congress. The public has had little opportunity for input on this, and most Americans probably don't even know what's being considered in the Senate.

Mr. President, let me make one thing clear. There is no question that we will have to make changes to the Medicare program as the baby boomers reach retirement age. However, changes like these are too important to rush through Congress as part of a reconciliation bill that must be considered

under very expedited procedures. These are serious issues that deserve serious attention and public input.

Mr. President, I am hopeful that the final version of the first reconciliation bill will not include most of these problematic provisions. The President, and many in the House of Representatives, share many of my concerns about the Medicare changes. And so I continue to hope that these provisions will be eliminated in the final version of the legislation, and that I will be able to support it.

Mr. ABRAHAM. Mr. President, I have spoken previously about the problems associated with the Treasury Department's use of the concept called family economic income in assessing the distributional impact of the Taxpayer Relief Act. Under this controversial approach, the Treasury Department artificially inflates income by adding to it the value of fringe benefits, retirement benefits, unrealized capital gains, and the imputed rent on homes. The effect of this is to make middle-income wage earners appear to be richer than they really are. So if you get a tax cut under the Taxpayer Relief Act, the Treasury Department classifies you as ''rich.''

Under normal methods of measuring income used by the Joint Committee on Taxation, the CBO, and most private sector forecasters, this tax cut overwhelming by benefits middle-class families. Under this bill, 75 percent of the tax cut goes to people making $75,000 or less. And 82 percent of the tax relief goes directly to families with children. Those are the facts.

Mr. President, I ask unanimous consent that a study by economist Bruce Bartlett, which debunks the Treasury's use of this flawed concept, be printed in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

TREASURY'S DISTRIBUTION TABLES DON'T ADD UP

(By Bruce Bartlett)

One of the most important factors in evaluating tax legislation is the distributional impact of the tax changes. Toward this end, the Treasury Department and Congress's Joint Committee on Taxation (JCT) produce tables[1] showing the effects of tax cuts and tax increases on people with different incomes. The purpose of these tables is to help give legislators a sense of how a given tax bill will actually affect the well-being of their constituents. As a result, distributional tables have enormous political importance and often are critical in determining both the size and shape of tax legislation.

Unfortunately, the process of producing distributional tables is fraught with difficulty. There are serious conceptual problems in determining what is income, what is the appropriate tax unit for analysis, and the incidence of taxation. there are no clear-cut answers to these questions, and thus there is a great deal of arbitrariness in choosing what to include or exclude in putting together a distributional table. However, different assumptions can lead to wide differences in how tax legislation appears to impact on taxpayers. These assumptions are seldom spelled out explicitly either to policymakers or the general public.

In recent days, the Treasury Department has been highly critical of the tax bills being considered by Congress. The Treasury alleges that the benefits of the tax legislation approved by the House Ways and Means Committee and the Senate Finance Committee are skewed too heavily toward the rich and too little toward the poor. As Treasury Secretary Bob Rubin told the House Ways and Means Committee Chairman Bill Archer on June 11: ''We think this package disproportionately benefits the most well off in society at the expense of working families.'' According to the Treasury analysis, 67.9 percent of the Ways and Means bill and 65.5 percent of the Finance Committee bill would go to the richest 20 percent of families.

There are serious problems with the Treasury analysis, however, that cast grave doubt on its validity. Much of this relates to the concept of income as ordinary people understand it, or even to the concept of income everyone uses on their tax returns. For this reason, the Treasury analysis offers a very misleading picture of how pending tax legislation will actually impact on people.

The basic concept of income most people are familiar with is Adjusted Gross Income (AGI), because that is what the Internal Revenue Service uses to determine tax payments. AGI includes wages, salaries, taxable interest, dividends, alimony, realized capital gains, business income, pensions and other familiar forms of income. Treasury starts with AGI but adds to it many forms of income that are not included on tax returns and that most taxpayers would not consider to be income at all. These include the following:

Unreported income. This includes the incomes of people whose incomes are too low to require them to file tax returns as well as income that taxpayers fail to report. These adjustments increase AGI by about 13%.

IRA and Keogh deductions. These are normally deducted from gross income before AGI is calculated. However, Treasury treats them as if they are not deductible. Treasury also counts as income the return to previous IRA and Keogh contributions that remain undistributed.

Social Security and AFDC. For most taxpayers, Social Security benefits are not taxable. However, Treasury treats everyone's benefits as if they are taxable. AFDC (Aid to Families with Dependent Children) is the Federal Government's principal welfare program. It is also treated as if it is taxable income.

Fringe benefits. These include such things as employer-provided health benefits, life insurance and pensions that are presently tax-exempt.

Tax-exempt interest. Most interest on municipal bonds is free of federal income tax, however Treasury treats such income as if it were taxable.

Imputed rent. This is the ''income'' homeowners allegedly receive in the form of rent they pay to themselves. In other words, all taxpayers living in their own home are treated as if they were renters who rent out their home to someone else.

Unrealized capital gains. Capital gains are only taxed when realized. But Treasury counts unrealized gains as if they were realized annually.

Retained earnings. Owners of corporate stock are assumed to receive 100% of corporate profits, even though much of that profit is never paid out to them in the form of dividends but is retained by the corporation.

The result of all these changes is to increase AGI by about 50%. In other words, in the aggregate, all taxpayers are 50% richer than their tax returns say they are. The effect of this is to make many taxpayers of relatively modest means appear to be rich in Treasury's distribution table. For example, the number of taxpayers with incomes over $100,000 is three times higher under Treasury's definition of income than under the normal definition used on tax returns.

Although FEI generally increases income far beyond what most taxpayers would recognize by including unfamiliar forms of income, Treasury also excludes much income that taxpayers do find familiar. For example, pensions and dividends are not treated as income. Since pension contributions and all corporate profits are already attributed to taxpayers, including pension and dividend payments as well would constitute double-counting.

The effect of Treasury's methodology is to make many people with very low incomes appear to pay a lot of taxes. For example, any retired person living on pensions and dividends pays taxes on such income currently. But under Treasury's distribution table their income completely disappears. However, since their tax liability is unchanged, they appear to be paying an extremely high effective tax rate when they actually are not. Thus FEI not only makes many people with modest incomes appear to be rich, it also makes many people with modest incomes appear to be poor.

Another anomaly is that capital gains on corporate stock are excluded from income because all gains are assumed to result from retained earnings. Since such earnings are already attributed to shareholders, counting capital gains would constitute double-counting. The problem is that when shareholders sell stock it may represent many years of earnings, leading to a large tax liability. The effect, is to make people realizing capital gains appear to be much more heavily taxed than they actually are.

Finally, although Treasury includes imputed rent from homeowners, it does not make the same adjustment for those living in public housing. In fact, all non-cash welfare benefits except food stamps are excluded from FEI. Yet such benefits are economically very significant. According to the Census Bureau, in 1995 non-cash benefits reduced the number of people living in poverty from 36.4 million to 27.2 million. The effect of excluding non-cash benefits from FEI is to make many poor people appear to be utterly destitute.

Although Treasury's unusual definition of income is the main reason why its distribution tables make the Ways & Means Committee and Finance Committee tax bills appear to largely benefit the rich, there are also other reasons. The most important is that Treasury assumes that the tax bill is fully effective in 1998. However, many provisions of the tax legislation do not take effect for many years. This makes the tax cut appear much larger than it actually is.

Thus Treasury's distribution table is based on a tax cut of $71.2 billion in the case of the Ways & Means Committee bill and $60.8 billion in the case of the Finance Committee. Yet according to the JCT, the Finance Committee bill would actually increase federal revenue slightly in 1998. Even in the year 2007, when the tax cut is fully phased-in, it would only lower federal revenues by $40.2 billion. Thus Treasury's distribution table implies a tax cut between 50% and 100% larger than it actually is.

A major reason for this anomaly is capital gains. Under current law, capital gains are only taxed when realized. But Treasury assumes that all capital gains, even those that are unrealized, should be taxed annually. Thus any reduction in the capital gains tax

[1] Tables in this article are not reproducible in the Congressional Record.

rate automatically reduces federal revenue, regardless of its effect on realizations and actual government receipts.

However, experience shows that capital gains realization are highly sensitive to changes in the capital gains tax rate. Reductions in the tax in 1978 and 1981, as well as the rate increase in 1996, had enormous effects on realizations and, hence, revenues. Even Treasury admits that lowering the capital gains tax rate, as proposed by both congressional tax bills, would temporarily increase federal revenue by increasing capital gains realizations. Yet despite the fact that actual federal revenues rise, Treasury's distribution table still shows owners of capital assets getting a big tax cut. In effect, Treasury assumes that all capital gains—including those induced by the lower tax rate—would have been realized anyway.

The JCT uses this same methodology, which has the effect of making those paying more in capital gains taxes appear to be paying less. Professor Michael Graetz of Yale Law School has been very critical of this methodology. He points out that in 1990 the JCT's distribution table showed President Bush's proposed cut in the capital gains tax giving taxpayers a $15.9 billion tax cut, although its own estimate showed that federal revenues would be lower by at most $4.3 billion. Based on this contradiction, Graetz constructed the chart shown in Figure II. As one can see, those with incomes about $200,000 appear to be getting a tax cut four times larger than their actual reduction in tax liability could possibly be.

In short, Treasury's distribution tables bear no relationship to reality. While they may serve some purely academic purpose, they fail to convey to policymakers any sense of how real people are actually affected by proposed tax changes. They make some people appear to be much wealthier than they actually are and others poorer. Any ordinary persons looking at one of these tables will have no real idea of where they themselves stand, and will have a very distorted picture of how the proposed tax changes will affect them.

Professor Graetz believes that the methodology for creating distribution tables is so deeply flawed that they should be abandoned altogether during the legislative process. As he writes, ''The information transmitted to policymakers through the current practice of producing distributional tables is simply bad information.'' Instead, it would be better to stick to known concepts of income, such as AGI, that taxpayers are familiar with and produce illustrative examples of how taxpayers in different circumstances will fare under proposed tax changes. This will at least convey an accurate picture of how such changes will affect specific taxpayers. If distributional tables are produced, it should only be after the fact, showing the true impact of a tax change on actual taxpayers.

Another reason to abandon distributional tables because they have a tendency to dominate the tax legislative process to the exclusion of everything else. Sound principles of tax policy are routinely cast aside, the impact of taxes on the economy gets short shrift, and the tax code is made even more complex just to make the tables look right.

A good example of this is the Earned Income Tax Credit (EITC). The ETIC gives low-income workers a credit against their taxes of up to $3,556. However, if their actual income tax liability is less than this, they get a refund of the difference. Thus if a worker qualifies for $2,000 in EITC but only owes $800 in taxes, she get a check from the Treasury for $1,200.

This year the EITC is expected to cost the federal government $26 billion. Of this amount only $3.6 billion actually offset peoples' tax liability. The rest, $22.4 billion, will be ''refunded'' to taxpayers who have no tax liability and get a check from the government instead. In other words, although it is a provision of the tax law, the EITC essentially is a welfare spending program.

Although it is in fact a spending program, the EITC is important for tax policy because it allows politicians to say they are cutting taxes for the poor even though they pay no taxes. Indeed, some Democrats are in effect now trying to expand the EITC so that even more people will get government checks from the program. The way they propose to do this is by saying that taxpayers will be allowed to use the proposed child credit before calculating the EITC.

Under the Republican tax bill, all families with children would receive a credit against their income taxes of up to $500 per child. However, the credit would not be refundable. Families owing no taxes due to the EITC or other tax provisions would not be able to use the credit because they have no liability to offset. Under the Democrats' plan, if a family uses the child credit to eliminate their income tax liability before calculating the EITC, they will get a larger EITC check from the government.

Since those with low incomes pay no income taxes to begin with, the only way they can get a tax cut is by making it refundable. That is why the Democrats appear to offer a bigger tax cut to those with low incomes.

Republicans respond that expanding the number of people getting a check from the government is no way to conduct tax policy. They are right. But the bigger problem is the obsession with the distributional effects of tax legislation, to the exclusion of all other considerations.

In conclusion, the debate over the distributional effects of Congress's proposed tax cut is highly misleading. Because the measure of income and which Treasury's distribution tables are based has no relation to the average person's concept of income—or the IRS's—many of the ''rich'' are in fact people with middle incomes, as are many of those who appear to be ''poor'' in its analysis. This insofar as they purport to tell taxpayers how the tax bills would actually affect them, they are utterly worthless.

Mr. DODD. Mr. President, I rise today in support of the Daschle alternative tax cut amendment. First, let me commend the Finance Committee on the job it's done. Chairman ROTH and Senator MOYNIHAN should be commended for their efforts to craft a bipartisan bill, something that the other body failed to achieve in their tax-writing committee.

Clearly, the Finance bill is better than the bill offered in the House in several respects. However, I believe we can do better, and we must do better to assist America's working families. And that is what the Daschle substitute is all about. It offers families fair and equitable tax relief.

And let's be honest: even in the midst of the strongest economic recovery of the century, many families at the lower income levels are still struggling. They worry about job security, pensions, meeting the costs of higher education, and finding good quality child care. Appropriate, targeted tax relief for these families can help them meet these challenges.

The House and Senate bills, regrettably, shower most of their tax cut benefits not on working families, but on those who least need relief. They deny relief to taxpayers and small businesses in the middle and at the bottom of the income scale. The Finance Committee bill grants 65 percent of its tax cuts on the wealthiest 20 percent of the population.

Mr. President, the Daschle amendment seeks to right these wrongs by bringing relief to working Americans and small businesses. Unlike the competing proposals, the DASCHLE amendment promotes fairness and puts working families first. In contrast to the Finance Committee bill, our amendment provides 65 percent of tax relief not to the most affluent 20 percent, but to the middle 60 percent. That's about twice as much tax relief for the middle class as the Republican Finance Committee proposal.

Under the Daschle amendment, the affluent would get their fair share of the tax cuts, but no more. The top 1 percent of taxpayers would only receive 1 percent of the tax cut, compared to the Archer and Roth proposals which give 19 percent and 13 percent, respectively, of their tax cut to the top 1 percent of income earners.

But fundamentally this debate isn't about statistics. It's about meeting vital family needs and providing additional resources to meet the many challenges they face. The Daschle amendment strengthens families and puts working families first. It provides payroll tax relief by making the child tax credit refundable against all payroll taxes, not just income taxes. An average family of four earning $35,000 pays $2,700 in income taxes, and another $5,300 in payroll taxes. These are the families who desperately need tax relief, and these are the families who would benefit from the Daschle amendment. This provision alone would extend the child tax credit to 10 million more children and families.

The House Ways and Means and the Senate Finance bills deny credit to many working families. Families making less than $25,000 would receive no credit due to their negligible income tax liability. Further, these bills would cut the child credit for families qualifying for the Earned Income Tax Credit.

There are few issues more critical to American families than education. The Daschle amendment recognizes this and provides $10 billion more in education benefits to working American families. The Daschle amendment provides more for school construction, more for Pell grant recipients, and more for tax credits for families to send their children to college. The Ways and Means and Finance bills provide less—less for school construction, less for Pell Grant recipients, and less for tax credits for families to send their children to college. I think we can all agree that unless we tap and nurture the talents and energies of all our people, we won't be able to meet the challenges of the 21st century.

The Daschle amendment also offers fair and equitable relief to middle class

investors, small businesses, and family farms. Under the Daschle amendment, all investors would get the same 30 percent capital gains break that the top 1 percent of income earners already have. This proposal cuts the capital gains rate nearly twice as deeply for most small businesses and provides much needed relief.

Under the Ways and Means and Finance bills, however, primarily the wealthiest taxpayers would reap the benefits of an across-the-board capital gains tax cut. For example, a person who makes $45,000 would receive an average capital gains tax cut of $255, while one who makes $200,000 or more would receive an average cut of $11,520. Clearly, these bills are skewed to benefit the wealthiest income earners and disadvantage those who most need tax relief—working families.

Further, the Democratic alternative targets all estate tax cuts to family businesses and family farms, in an effort to relieve the tax burden felt by many. Again, however, the Ways and Means and Finance bills favor the wealthy by providing $35 billion in estate tax cuts to the wealthiest 1.4 percent of estate owners. Clearly, Mr. President, we must do better to bring relief to a much larger percentage of estate owners in America.

Finally, Mr. President, in the midst of providing tax relief that is fair and equitable, it is imperative that we not lose sight of our obligation to enact legislation that is fiscally responsible. The Daschle amendment allows us to maintain the fiscal discipline we have worked so hard to achieve in recent years, dating back to the wise decisions we made in 1993.

The Finance Committee bill is heavily backloaded. The Joint Tax Committee estimates that the cost of that measure will explode in the out years, costing $830 billion by the year 2017. I have grave concerns about facing the prospect of losing some $830 billion in revenue. And that is why I offered an amendment during the budget reconciliation negotiations which demanded that we adhere to our budget agreement in which we agreed to a net tax cut of $85 billion through 2002, and not more than $250 billion through 2007.

Mr. President, we must be committed to preserving the integrity of the balanced budget agreement and adopt a tax package that is fair and responsible. The American people will not be served by a budget that reaches balance briefly in 2002 and then veers back out of balance afterward. The Daschle amendment balances the budget by the year 2002, and does not threaten to push the budget out of balance beyond 2002.

Mr. President, Senator DASCHLE's alternative plan is fair, it puts families first, and it stimulates jobs and growth. And not least, it is not a ticking time bomb that threatens to push the budget out of balance, blowing a hole in the deficit in later years. And that, Mr. President, is why I urge my colleagues to support this fair, equitable, and modest measure.

The PRESIDING OFFICER. Who yields time?

Mr. WELLSTONE. Mr. President, I yield myself 15 minutes. I say to my colleagues I will probably take 10 minutes.

How much time remains?

The PRESIDING OFFICER. Fifteen minutes and thirty seconds.

Mr. WELLSTONE. Mr. President, I will try and take 7½ minutes and leave 7½ minutes for my colleague.

Mr. President, I have more than enough to say but just in response to my good friend from Oklahoma, there was a quote—and maybe this is the same argument he is making—from Speaker GINGRICH, ''When you take out billions of dollars in tax cuts for working people and put in billions of dollars for people who pay no taxes, that's increasing welfare spending.'' We are talking about the child credit.

Mr. President, let me just remind the Speaker and my good friend from Oklahoma, looking at CBO numbers, this is the percentage of working families who would not be eligible for the majority party's child tax credit, whose payroll taxes exceed their income taxes. The bottom fifth, 0 to $21,700, 99.6 percent; second fifth, $21,000 to $41,000, 97 percent.

There are a lot of working families in the State of Minnesota and all across this country who are not going to be eligible for this child tax credit who pay payroll taxes, who work hard, pay taxes, and are, quite frankly, resentful of this argument that is being made. As a Senator who represents those families, I am especially resentful of such an argument.

I only need to know one thing about this tax proposal, this reconciliation bill. In the State of Minnesota, the tax bill excludes 41 percent of the children. Mr. President, 607,463 children of the 1.5 million children in Minnesota would not receive a benefit from the child tax credit. I repeat, 607,000 children of 1.5 million children will not receive the benefit of the child tax credit. Those are working families.

I say to Democrats, every Democrat, every single Democrat, and as many Republicans as possible, ought to be out here advocating and fighting for those families. It is outrageous to make the argument that they do not pay any taxes or they are ''just on welfare.'' Absolutely outrageous.

Mr. President, you have heard the figures presented out here so I do not need to go through that again except to say I am telling you, in the cafes in Minnesota, when people get a close look at this reconciliation bill they are going to be amazed.

They are going to be really teed off because they are going to say, wait a minute, I thought there was going to be tax relief for us, the small business people, and us, working families. They are going to find out that the lion's share of the benefits go to the very top, the folks that are the CEO's, the multinational corporations who are raking in, on the average, $3 million a year.

You know, Mr. President, I sometimes think that my colleagues believe that if you make $100,000 a year, you are middle class. I would be surprised if more than 10 percent of the people in this country make over $100,000 a year. What about these working families?

Well, we have a proposal here that targets these tax benefits to working families, to small businesses, to family farmers. I am telling you, this is one of these moments where the differences between the two parties make a difference. My gosh, I think a lot of people in Minnesota are scratching their heads and saying: Has there been a hostile takeover of the Government process in Washington, DC? We have been hearing about all this money in elections, and we are now starting to believe that the only folks that sit down at the bargaining table and get their way are people who have the economic resources, because we sure are getting the short end of the stick.

And they are right. I hope we will get a huge vote for this alternative.

Mr. President, let me just summarize a couple of amendments. How much time do I have left?

The PRESIDING OFFICER (Mr. KEMPTHORNE). There are 10 minutes, 14 seconds remaining on the amendment.

Mr. WELLSTONE. I have about 3 minutes, I guess. Let me just mention a couple of amendments that fit in with this whole idea of tax fairness.

One amendment that I hope to do, with Democrats and Republicans, is to make sure we take the HOPE scholarship program and make these tax credits refundable. It is the same issue. Think about the community college students; many are older, going back to school and with children. If we want to make sure that we are really providing help to them—they are not going to be able to take advantage of this $1,500 because they are not going to have that liability. If we want higher education to be affordable for many of these working families, we simply have to do that. A higher education is so important to how our children and grandchildren will do that I hope we will be able to pass that amendment.

The second amendment that I want and hope to do with Senator BUMPERS takes the tax cuts and puts it into a Pell grant program. We simply make the Pell grant $7,000 a year, and that is the most efficient, effective way of making sure that higher education is affordable.

The third amendment I want to mention is the amendment I want to do with Senator CAROL MOSELEY-BRAUN, which has to do with tax credits and, again, for school infrastructure. I say, what are we doing with all of these tax benefits mainly going to wealthy people and we are not investing 1 cent into rebuilding rotting schools across America? What kind of distorted priorities are out here?

Finally, I want to mention—in case I don't have a chance later on as we run out of time—that I have an amendment I think is real interesting, which goes like this. If you have a company—and please remember that average wages rose 3 percent in 1996. Salaries and bonuses of American CEOs rose 39 percent to $2.3 million. So what I say to a company is: Look, if you want to pay your CEO over 25 times what the lowest wage worker makes, go ahead and do it, go ahead and do it. Right now, we say you can do it up to a million dollars. But don't do it on the Government's tax tab. You can pay your CEO anything you want to, but when it is above 25 times what the lowest wage worker makes, you don't get any tax breaks for doing that, just as we don't end up getting tax breaks when someone mows our lawn. We don't get to deduct that. What are we doing here, if we are talking about fairness?

Well, Mr. President, the differences make a difference. This is an outrageous argument that working families paying a payroll tax are only receiving welfare payments. This is an outrageous proposition that over 600,000 children are not going to benefit in the State of Minnesota from this tax credit. We are talking about a tax bill out here that provides the lion's share of benefits to those people least in need of the assistance.

Mr. President, there is no reason in the world for Senators to be quiet on this issue. I hope we get a very strong vote for our amendment. I yield the rest of my time to the Senator from—

Mr. ROTH. Mr. President—

Mr. WELLSTONE. Are we going to rotate?

Mr. ROTH. That is correct.

Mr. President, I yield 7 minutes to the distinguished Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized for 7 minutes.

Mr. BAUCUS. Mr. President, in the last couple of hours, in my judgment, this debate has turned into a rather partisan matter, with Republicans lining up on one side and Democrats lining up on the other. That is fine. I mean, each Senator has his right to say what he or she thinks. That is why we all ran for office and why we are here doing our very best for our constituents.

But I also think that our people at home want us to, as much as possible, work together. Sure, some of us have differences, but, as much as possible, they want us to work together for the best interests of the American people. That, I think, is why the President worked with the Congress to try to fashion, and did fashion, a budget agreement—an agreement which will reduce the budget deficit by the year 2002; an agreement which contains provisions that the President, the chief Democrat in our country, wanted; and provisions which the Republican leadership in the Congress wanted. It is not the best agreement in the world, but we are a democracy and democracies sometimes are messy and uneven. But it was a pretty good agreement, by most Americans' standards.

The House then attempted to put together its portion of the agreement. I might say that the Ways and Means Committee got pretty partisan. Democrats on the Ways and Means Committee fought vociferously with Republicans on Ways and Means. But the Republicans have a majority of the votes, so they won. Democrats lost, and from the Democrats' point of view, the bill that came out of House Ways and Means Committee is a pretty bad bill.

I take my hat off to the chairman of our Finance Committee and our ranking member. The chairman of our committee took a different tack. His view is to work together. The chairman of the Finance Committee, the Senator from Delaware, Senator ROTH—I have never seen anyone as fair with both sides of the aisle, in trying to come together with a solid agreement that made sense, near unanimous sense, to the members of that committee. It is wonderful. I have served with other chairmen of the Finance Committee. I know Senator MOYNIHAN knows of when I speak. Sometimes that did not happen in other Congresses. In other Congresses, sometimes it was all Republicans this and all Democrats that. When the other side has the votes, you can make a statement, but you lose.

In this case, Chairman ROTH worked with the Democratic side of the aisle, and, as a consequence, we came up with a lot better bill—better, I say, than what is produced in the House pursuant to the budget agreement, agreed to by the President and congressional leadership. Why is it better? It is better because he worked with us. It is also better for these reasons: It has a cigarette tax, which I think most Americans want; it gave a big chunk of dollars to child care, to health insurance, which people want in this country; there is a big emphasis on education, which I think most people in this country want.

There are many provisions which are very good. Now, in return for Chairman ROTH working so hard with Senator MOYNIHAN to put an agreement together, Chairman ROTH asked a very reasonable question with respect to six key points, in the final hours of putting this bill together. The six key points, very simply, dealt with a ticket tax, cigarette tax, with unified credit, and there are a couple others. But there are six key points. He asked us, would all the members of the committee agree to support that agreement? He asked for a show of hands. Every hand went up. Every member of the committee raised his hand to support the agreement.

Now, here we are on the floor today, Thursday afternoon, and my party leader has come up with a very good substitute. In many respects, I think it is better than the bill that came out of the committee. But I made an agreement. I pledged my honor to support the six terms that Senator ROTH asked us to support, so that we would come up with a better bipartisan bill. That is not to say I support or am bound to support every provision of the bill. But with respect to those six key points, I feel duty-bound to honor that commitment, and I will do so here today.

Now, if we could find a Democratic substitute which did not contravene any of those six points, I would probably support it. But the substitute before us does contravene those six points. I feel, as a matter of honor, that I cannot support the Democratic substitute.

I must say that the bill before us—the Finance Committee bill—is not that bad. Remember, we are operating under the agreement that the President and congressional leadership agreed to. Given those parameters, this is not that bad a bill. It reduces the budget deficit, it does reduce taxes, it gives a child tax credit, it helps education, and it is good—not perfect, but it is good.

Now, on down the road, we will have opportunities to still improve upon the bill. The President, after all, has the authority to sign or not sign the bill. I very much pledge to work with all Members of Congress, with my constituents at home, and with the President and the conferees, whoever they may be, to keep improving upon this bill.

I must say, Mr. President, that this is a very difficult position to take because I do not like to be taking a position contrary to the leader of my party. But I do believe that it is the right position to take. After all, we are elected to do what's right. In my judgment, what is right is to support the agreement I reached with the chairman of the committee and also work to continue to improve upon this bill as it reaches different stages of this progress. I, therefore, will not vote for the substitute.

Mr. MOYNIHAN. Mr. President, I yield myself 2 minutes to say to the Senator from Montana that his was an immensely honorable and accurate statement. You raised your hand, as did we all, for $24 billion of child health. I have been 21 years on the Finance Committee and there has never been such a moment or such a provision. And that happened in a compromise in which the Republican majority agreed to a large tax increase we could use for the child health care.

Senator ROTH was remarkable throughout, and no words of praise are too great. In our world, your word is all you have. We gave our word. I think we did it responsibly and I think we will be seen to have done such.

Mr. BAUCUS. If the Senator will yield for 30 seconds, the choice we had in the Finance Committee was to either work with the chairman for a better bill or not work with the chairman and make a statement and get a worse bill.

Mr. MOYNIHAN. Precisely.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish to compliment my colleague from Montana for his statement. I will yield the Senator from Missouri 5 minutes.

Mr. KENNEDY. Mr. President, I thought we were rotating between those who supported and those who opposed. If I am correct, the Senator just spoke on the Democratic side in support of the Republican position. Are we rotating?

Mr. MOYNIHAN. Mr. President, the Senator from Massachusetts is correct. That is fine.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I yield myself the 7½ minutes that remain.

The PRESIDING OFFICER. The Senator may proceed.

Mr. KENNEDY. Mr. President, I wish my good friend and colleague from Montana had been on our side, and it would have been appropriate, obviously, for the other side to move ahead. But he made his decision and made his presentation, and now I would like to respond.

Mr. President, I will have the opportunity later on this evening to talk about really where we are in terms of the child care program.

The fact of the matter is that $16 billion that was put in the bill was suggested by the administration's proposal which had a $14 billion cut. The Finance Committee added $8 billion. I commend my colleague and friend, Senator HATCH, for making that effort and for making that fight. Without his efforts, that would not have taken place. So we are farther down the road than we were prior to the time of that particular markup.

But the fact of the matter is—and later on this evening I will have a chance to talk about where we really are in terms of the funding that has been allocated for children and the number of children that still remain. I find it interesting that this provision that the members of the Finance Committee took and accepted deals with accelerated depreciation, deals with airline tickets, a small amount of EITC, and the child care. I find it interesting that the Finance Committee was willing to accept the cigarette tax but use it for those non-child-related issues, even though the Republican leadership had opposed our cigarette tax.

I tried, with all respect, to understand this enormous sense of unity and deep moral commitment to this particular proposal when on its face it is difficult to really understand, given the fact that the originators of the tobacco tax were those Senators—Senator HATCH and myself—devoted toward addressing the needs of children in this country, the sons and daughters of working families who can't afford it. We got a part of it. But evidently the members of the Finance Committee swore in blood that depreciation on buildings as well as airline tickets was basically more important than the children. I am always interested in why that should be such a high moral issue and purpose. I have difficulty in understanding it.

But, Mr. President, the issue today with the particular recommendation before the Senate is whether this proposal really meets the test of fairness for all Americans. That should be the test. Will this really be fair to the taxpayers in this country, or are we tipping the scales in a very important and special way to the wealthier individuals and corporations of this country?

Senator DASCHLE has taken an enormous amount of time and painstaking diligence to fashion a proposal that fundamentally meets the agreement that was reached with the President in terms of what would be the tax adjustments. Senator DASCHLE has put forward a proposal that will be much fairer for all Americans.

We sometimes rail in this body about how the particular proposal really is fairer and more just, but I do think in any fair examination the overwhelming evidence shows that the proposal of Senator DASCHLE is fairer to the working families of this country, and decisively so. This should to be the test.

It is interesting, as we come closer and closer to the final conclusion, that the overwhelming majority of Americans understand this. Even prior to this debate on the various surveys—and I just saw this morning on the early morning shows—the American people understand the difference. They have not seen this debate or heard about this debate. They are out there working even while we are in the debate and discussion. But they understand fundamentally who is going to be on their side and who is going to be on the side of the working families. They are correct.

Senator DASCHLE, I believe, deserves great credit for his leadership in offering to the Senate a proposal that is fairer for working families and for many Americans who have in too many instances been left out farther and farther behind in the period of the last 20 years. Sixty or sixty-five percent of Americans are farther behind and are working harder. Their family members are working harder, and they are working longer in terms of total hours of the week, in terms of families and just being able to keep their heads above water. The reason is the increase in the payroll taxes they have been paying, as described by my friend and colleague, Senator WELLSTONE.

So we have an opportunity—one of the few opportunities that we have—for the 65 to 70 percent of the American families who have been working longer, who have really been the ones who have brought this economy back. We have a stronger economy today because working families have been out there working harder, longer, and smarter in terms of the American economy. They have benefited very little in terms of their own standard of living.

We have an opportunity this afternoon and tomorrow to make some difference in that. The real issue is, are we going to make that kind of a commitment to those working families, whether it is on the child credit programs, or whether it is the education programs, or whether it is basically the overall rate programs, or whether we are going to reward the smaller enterprises that are going to be innovative and creative and expand employment by giving them some adjustment in terms of capital gains? Yes; and whether we are going to make sure that those who are going to get some break in terms of estate planning are going to be those who are going to continue to work the farms and be a part of the American primarily heartland of this nation in terms of producing the food and fiber which we eat.

Those are the issues, Mr. President, and the issue is which way will the Senate of the United States go? Are we going to say to those 60 or 70 percent of the Americans, ''We care about your kids, we care about education. We fashioned the particular program in terms of the HOPE scholarship, and we are going to arrange the other provisions of the Tax Code so that you have a better opportunity, middle-income families, lower-income families, with a modest expansion of the Pell provisions''? Are we going to do that? Our answer is yes, and the Daschle proposal does so.

Are we going to really look out for the sons and daughters of working families? To Senator DASCHLE's credit, it is more expansive and more targeted in reaching the sons and daughters of working families.

So, if we are talking about fairness, if we are talking about equity, if we are talking about how we are adjusting the various rates, including the children's tax credit and the payroll tax, and adjusting those in ways so that we are saying, ''While you may not have been paying a great deal more out of your income tax, you surely are in terms of your payroll tax. We are going to provide some degree of relief.''

So that is the issue. We need to understand that. We can all say, ''We are for education.'' However, you have to look at the proposal. Whose proposal really meets the central challenge that working families and middle-income families are facing in sending their kids to school? It is the Daschle proposal. Whose proposal really does the most in terms of the children? It is the Daschle proposal. Who does the most in terms of trying to make sure that we are going to provide important incentives to smaller, modest, middle-income families who are trying to get started with smaller new businesses by providing enhanced job opportunities? It is the Daschle proposal.

So, Mr. President, I am just proud to support this proposal. It doesn't incorporate all of the kinds of factors that perhaps some of us would like to have. However, it is a serious and very important proposal that deserves the overwhelming support of the Members of this body.

Let me just finally point this out: On the overall issue of tax equity, the Democratic alternative is clearly fairer. More of the benefits of the Republican plan go to the top 1 percent of taxpayers than go to the bottom 60 percent of taxpayers—13.1 percent versus 12.7 percent.

In the Democratic alternative, only 1.4 percent of the benefits go to the top 1 percent of taxpayers and the top 20 percent of taxpayers only receive 20 percent of the benefits. The vast majority of the benefits go to taxpayers who have incomes in the middle 60 percent of the income distribution; 71 percent of the benefits. The Democratic alternative is vastly preferable to the regressive Republican bill because it is fairer to lower and middle-income taxpayers.

Mr. President, this Republican proposal is going to give a green light to all those individuals who have been doing extremely well—extremely well in terms of the stock market. We have seen that go right up through the roof. But who has been out there making those stocks go up, making those businesses work? It is hard-working men and women.

If we accept the Republican proposal, we are saying to all of those who have been able to make very substantial amounts of money that they are going to provide additional kinds of opportunities for them to be able to keep that money while we are saying to those who are working and have worked hard that you are going to get the crumbs. That is what the distribution issue is really all about.

I am not the only one making these observations. We have seen the Center on Budget and Policy Priorities estimate that the cost of the Republican proposal will increase by between $500 and $600 million in the 10 years following the current budget period.

I was 1 of 11 Senators who voted against the economic proposal in 1981 because we were going to balloon the deficit. Only 11 of us at that time voted against it. We are going to see the same kind of balloon now in the outyears.

Who is going to be out here at that time to try to make those adjustments and make those changes when Members of the Senate are going to say, ''Well, we had better close some of those tax loopholes?'' You know what will happen. They will cut back further in education. They will cut further back in children's program. They will cut further back on day care support—on all of the programs that have been continually cut back, or at least attempted to be cut back, in these past 3 years.

The Democratic alternative does not engage in these accounting tricks to balance the budget. The Democratic alternative is honest with the American people, fair to American taxpayers, and it deserves to be adopted.

Republicans make many arguments in favor of their proposal, and many of their concerns are valid. The current system is not perfect. There are many things to improve. We need to give tax relief to families, we need to encourage investment in education, and we need to grant relief from the hardships that are sometimes caused by the estate tax.

On all these general points, Republicans and Democrats agree.

However, the Republican plan uses these arguments as excuses to give enormous tax cuts to the well-heeled and the powerful and it does so as far as the eye can see. It therefore violates the fundamental principles that any tax bill must meet: tax fairness and fiscal responsibility.

The Democratic alternative, on the other hand, is true to both of these principles. It allocates the tax relief fairly among all income brackets. And it guarantees that the amount of the tax relief is responsible, so that we will have a balanced budget not only in the year 2002, but in the years after as well.

Both, the Republican proposal and the Democratic alternative have a child tax credit. On their face, the two proposals appear similar. However, the Republican credit will not benefit lower and many middle income people, while the Democratic proposal will. The Republican proposal will not benefit families who do not earn enough income to claim the full credit. This cut-off applies not only to the extremely poor, but also to families earning up to $30,000 a year.

Under the Democratic alternative, the credit is refundable against both income taxes and payroll taxes. Many more working families will be able to obtain the full benefit of the credit under the Democratic plan. This point is critical for those who earn less than $30,000 a year because their payroll taxes are larger then their income taxes. They deserve tax relief too.

In addition, the Democratic tax credit for children has another significant advantage. It is calculated or stacked prior to the earned income tax credit. Under the Republican plan, the credit is stacked after the earned income tax credit. This means that the working poor who are eligible for the earned income tax credit many not be able to obtain the full benefit of both credits.

If their income tax after taking the earned income tax credit is too small, then they will not benefit from the Republican child credit.

The Democratic alternative will enable these working families to benefit from the child credit too. 47 percent of American children would not be eligible for the child credit under the Republicans proposal. An additional 8 million children would be eligible for only a partial benefit. Clearly, the Republicans have gerrymandered their credit to save money by denying it to as many working families as possible.

Because the Democratic plan allows the credit to be offset against both payroll and income taxes, and allows families the full benefit of both the earned income tax credit and the child tax credit, the Democratic plan will reach 7 million more children than the Republican proposal.

In addition, the Republican child credit is not indexed for inflation. The effect of the credit will drop every year as inflation decreases its value. The Democratic alternative will index the child credit for inflation. We are serious about giving tax relief for families. The Republican proposal is designed to appear generous, but in reality it offers little to lower and middle income persons. Even those middle class and upper income families who receive the credit under the Republican version are better off in the long run under the Democratic version, because their credit is indexed for inflation as well.

The Democratic plan is not welfare. If a family does not work, and does not pay any federal taxes, they will not get the benefit of the credit.

The Democratic alternative gives the credit only to working families. It will help those who need this credit the most, the working poor. The Republican proposal will not help them at all. The Democratic alternative offers an honest tax break. The Republican proposal is a let-them-eat-cake tax break.

The Democratic proposal also does a better job of encouraging investment in education.

The education provisions of the Republican bill are skewed toward higher-income taxpayers. The bill provides only $20 billion for the HOPE scholarship and nothing at all for the tuition deduction. But it provides over $7 billion for other savings provisions that help higher income families.

The bill's allocation of only $20 billion to HOPE scholarship falls far short of the commitment made under the budget agreement to provide $35 billion for tax benefits for higher education. The letter signed by NEWT GINGRICH and TRENT LOTT on the budget agreement specifically states that tax relief of roughly $35 billion will be provided over 5 years for post-secondary education, and that the education tax package should be consistent with the objectives put forward in the HOPE scholarship and tuition tax proposals contained in the Administration's fiscal year 1998 budget to assist middle-class parents.

The administration's proposal had two goals: to help middle class families during the critical years while students are in college, and to encourage lifelong learning.

Students and families across the nation are concerned about escalating tuition, and this bill does not do enough to help them. The Republican bill is flawed in other major respect in this area—it utterly fails to address

the need to help workers expand their skills and education.

The Daschle alternative addresses these problems. It provides a broader HOPE scholarship, and a valuable tuition tax credit for lifelong learning. This credit will enable taxpayers to recover 20 percent of their tuition costs up to a maximum of $10,000, for learning after the HOPE credit expires. This provision can give real benefit to teachers, nurses, auto mechanics and all others in jobs that need continual upgrading of skills. The workplace depends more and more on highly trained workers. To sustain a strong economy, we must invest in ongoing education throughout life.

The bill also provides a disproportionate education benefit to high income families. It contains three separate provisions to encourage savings for college, at a total cost of over $7 billion over the next 5 years. Lower income families do not have the luxury to save as much as higher income families do, and will not be able to take advantage of these provisions.

The Democratic alternative provides some additional benefits for students that are also in the bill, and I support these provisions. Specifically, I support the permanent extension of section 127, the provision for employer-provided tuition, including graduate students. I also support the elimination of the $150 million cap for institutions of higher education, and the restoration of the deduction of student loan interest.

I also strongly support funding for crumbling schools. The deterioration of hundreds of schools across the United States is a disgrace. But this bill offers only a token help on this problem. This bill allocates only $360 million over 5 years by making changes in bond rules. The Democratic bill, on the contrary, will result in a real commitment to improving our schools. It also encourages States to allocate that money to school districts with the greatest needs. The Republican bill offers only band-aids to put over leaking roofs. The Democratic bill provides real relief for school districts to repair their crumbling schools.

The Democratic bill provides for these benefits—the crumbling schools, the section 127 aid, the student loan interest—in addition to HOPE and a tuition tax credit.

In contrast, the Republican bill provides the additional benefits by taking away from HOPE and eliminating a tuition tax break. It pits student against student, giving these additional benefits to some students only at the expense of students who could benefit from HOPE and the tuition credit.

Investing in education is investment in the future. We must do more to help all needy students. The tax benefits need to be targeted to those who need them, and not wasted on those who can afford to save and pay for college on their own.

The Democratic proposal also better addresses the problem with the current estate tax, without creating a giveaway to the rich.

In the current tax system, the estate tax often creates real hardships for families who have just lost a loved one. When the owner of a family business or farm dies, there can be a large estate tax bill at one of the worst times possible. There may well be many other expenses such as funeral costs and legal bills. The estate tax could force the family to sell the business or farm.

Relief is appropriate in these situations, and the Democratic alternative provides it. There would be special estate tax treatment when 50 percent or more of an estate consists of a family business or farm. In these cases, the first $900,000 of the estate is exempt from estate tax, as long as the children or grandchildren continue to actively operate the business or farm for 10 years.

The Democratic alternative is targeted to cases where families may not be able to easily liquidate their holdings to pay the tax. The Republican bill gives relief to all estates. Even if the estate is that of a rich person who invested in stocks and other investments which are easily liquidated, the Republicans still give tax relief. The problems that deserve to be addressed occur only in approximately 1.4 percent of all estates. Instead of extending justifiable relief to these 1.4 percent of estates, they extend relief to all estates. Clearly the Republicans are using rare cases of hardships for family farms and businesses as a fig leaf to cover a massive estate tax break for the wealthy.

Finally, the 20-cent increase in the tobacco tax contained in this amendment is a critical element in tax fairness—and for achieving priority public health goals as well. I am pleased that it is not only a feature of this amendment but of the bill reported by the Finance Committee with a strong bipartisan vote.

Tobacco is one of our most undertaxed industries. Even with the 20 cents per pack cigarette tax increase, the tobacco industry remains grossly undertaxed—whether the standard is historical tax levels, comparison to other countries, or the costs that smoking inflicts on our society and on non-smoking taxpayers.

In 1965, Federal and State tobacco taxes accounted for 51 percent of the retail price of a pack of cigarettes. By 1996, the figure had fallen to just 31 percent. Even with the 20-cents per pack increase, the share of the cost of a pack of cigarettes going to federal and state taxes will be 39 percent—still far below the 1965 level.

Raising the cigarette tax by 20 cents will being our tobacco taxes more in line with the rest of the industrialized world. Our current 24 cent per pack cigarette tax is one of the lowest among all industrialized nations—and it will still be one of the lowest, even with the 20 cent per pack increase in the bill.

The costs that smoking inflicts on our society and on non-smoking taxpayers are immense. It kills more than 400,000 Americans a year. It costs the nation $50 billion a year in direct health costs, and another $50 billion in lost productivity. The average pack of cigarettes sells for $1.80 today—and it costs the nation $3.90 in smoking-related expenses.

It is time that the tobacco companies paid a fairer share of these costs—and this bill is the time to start. Not only is a higher tax on tobacco products the fair thing to do, it is the most important single step we can take to stop the epidemic of youth smoking—an epidemic that will ultimately claim the lives of 5 million of today's children if we do nothing. One million young people between the ages of 12 and 17 take up this deadly habit every year—3,000 new smokers a day. The average smoker begins smoking at age 13, and becomes a daily smoker before age 15. Raising the tobacco tax by 20 cents a pack will save the lives of 400,000 of these children. The fact is that a twenty cent a pack increase is only a starting place. We should do more—much more.

Eight billion dollars of the funds raised by the tobacco tax increase over the next 5 years are earmarked for children's health insurance. Here, too, we need to do more. Even with the combination of these funds and the $16 billion in the budget agreement, at least four and a half million uninsured children will still be left out and left behind. Without the tobacco tax funds, 6.7 million children will remain uninsured. A tobacco tax increase devoted to children's health is the right policy at the right time.

These facts are bad enough. But the problem is growing worse.

According to a Spring 1996 survey conducted by the University of Michigan Institute for Social Research, the prevalence of teenage smoking in America has been on the increase over the last five years. It rose by nearly one-half among eighth and tenth graders, and by nearly a fifth among high school seniors between 1991 and 1996.

Once children are hooked on cigarette smoking at a young age, it becomes increasingly hard for them to quit. Ninety percent of current adult smokers began to smoke before they reached the age of 18. Ninety-five percent of teenage smokers say they intend to quit in the near future—but only a quarter of them will actually do so within the first eight years of beginning to smoke.

If nothing is done to reverse this trend in adolescent smoking, the Centers for Disease Control and Prevention estimate that five million of today's children will die prematurely from smoking-caused illnesses.

Increasing the federal cigarette tax is one of the most effective ways to reduce teenage smoking. Study after study has shown that the cigarette tax is the most powerful weapon in reducing cigarette use among children, since they have less income to spend on tobacco.

Philip Morris, the nation's largest tobacco company, conceded as much in an internal memorandum as far back as 1981, which noted that ''it is clear that price has a pronounced effect on the smoking prevalence of teenagers, and that the goals of reducing teenage smoking and balancing the budget would both be served by increasing the federal excise tax on cigarettes.''

Frank Chaloupka, an economist at the University of Illinois at Chicago, found that an increase in the federal cigarette tax by 20 cents will reduce teenage smoking by 7 percent, saving the lives of almost 400,000 children.

Finally, on the overall issue of tax equity, the Democratic Alternative is clearly fairer. More of the benefits of the Republican plan go to the top 1 percent of taxpayers than go to the bottom 60 percent of the taxpayers (13.1 percent vs. 12.7 percent). In the Democratic alternative, only 1.4 percent of the benefits go to the top 1 percent of taxpayers, and the top 20 percent of taxpayers only receive 20 percent of benefits. The vast majority of the benefits go to taxpayers who have income in the middle 60 percent of the income distribution (71.6 percent of the benefits). The Democratic alternative is vastly preferable to the regressive Republican bill, because it is fair to lower and middle income taxpayers.

The Democratic alternative is honest to the American people. The Republican bill states that it will result in a balanced budget by the year 2002. In fact, it might accomplish this.

But in future years, the amount of Republican tax cuts will explode, and the deficit will increase enormously. The Center on Budget and Policy Priorities has estimated that the cost of the Republican proposal will increase by between $500 billion and $600 billion in the 10 years following the current budget period. It will be nearly impossible to balance the budget in those years if this Republican tax giveaway is enacted into law.

The Democratic alternative does not engage in these accounting tricks to balance the budget. The Democratic alternative is honest with American people and fair to American taxpayers, and it deserves to be adopted.

I withhold the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I yield the distinguished Senator from Missouri 7 minutes.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 7 minutes.

Mr. BOND. Mr. President, I thank the distinguished chairman of committee and the manager of the bill.

Having been enlightened by quite a few minutes of debate on the floor, I asked for 2 additional minutes.

First, I want to emphasize that what we are talking about here is a bipartisan bill. My friend from Massachusetts characterized it as a Republican bill.

I particularly appreciated the kind comments by the Senator from Montana. As I listened to his praise of the measure, I was reminded of those immortal words of Mark Twain. When asked about the music of Wagner, he said, ''It is not as bad as it sounds.'' There was some of that in the praise that the Senator from Montana heaped upon this measure. I appreciate his support and his good words.

When I listened to my colleague from Massachusetts, I found out why this music sounds so much better than the alternative because, Members of the Senate, I agree that we are looking for saving and protecting the working men and women of America, the small business owners. As chairman of the Small Business Committee, I have had the opportunity to listen to those people who are struggling to make a living for themselves and provide jobs for others through small business.

I can tell you that after we dealt last year with some of the significant problems in regulatory reform, it was clear that the small businesses of America are overtaxed and overburdened by the Federal Government's desire for more money. They are the ones who are pulling the wagon. They are moving the economy. And they are paying the tariff for this Government.

This measure, the bipartisan agreement reached between leaders of Congress and the President, provided that there would be spending reforms and that there would be tax reductions—tax reductions in the process of getting to a balanced budget. Those tax reductions are absolutely essential if we want to continue the dynamic engine that moves this country forward.

I rise in strong opposition to the Daschle amendment because, No. 1, the Daschle amendment only provides $68.1 billion in net tax cuts— a 20-percent reduction from the bipartisan plan. It goes back on the agreement reached between the leaders of Congress and the President on what we need to do to get this economy moving again.

The Daschle plan provides $14 billion less to American families than the bipartisan plan would in the child tax credit. Families under it would only receive $350 per child instead of $500 per child, and children aged 13 and over would not even be eligible.

The Daschle plan, moreover, is a bad deal for seniors. Seniors get about one-third of the capital gains realized in this country. They would have to pay 10 percent more in capital gains taxes under the Daschle scheme.

But it is a particularly bad deal for small business owners and farmers. It contains less than half the death tax relief contained in the bipartisan plan, and on capital gains taxes, seniors, small business owners, farmers, and self-employed would pay 10 percent more.

As I said, the Daschle plan is a dealbreaker. The DASCHLE plan is outside of the scope of the agreement under which we are working.

Mr. President, in saying that, I want to emphasize that there is one important element which must and will be added to the measure pending before us. One of the top priorities for farmers, ranchers, truckdrivers, and small business men and women across this country is getting fairness in tax treatment of the money paid for health insurance premiums. For too long people who are self-employed have suffered because they have not gotten the same breaks that a large corporation or institution gets in being able to deduct 100 percent of what is paid for health insurance.

Now, I fought long and hard in 1995, and I included an amendment in the Balanced Budget Act, unfortunately, vetoed by President Clinton, which would have increased the health insurance deduction for the self-employed to 50 percent from 25 percent. In 1996, I worked with Senator Kassebaum to include in the Health Insurance Portability and Accountability Act an increase in the self-employed health insurance deduction incrementally to 80 percent. That is not far enough and that is not fast enough. Today, while the self-employed can deduct 40 percent of their health insurance costs, they are still not on a level playing field, and very few of them can wait until 2006 to get sick.

The budget resolution reported out of the Budget Committee includes an amendment I offered that was cosponsored by every member of the Budget Committee present, which calls for a portion of the resources available in this legislation to be set aside for an immediate 100-percent deductibility of health insurance for the self-employed. As I said, it was cosponsored by all members, Democrat and Republican.

Earlier this month, I originated a letter to the Senate Finance Committee urging full deductibility for the self-employed. That letter was signed by 53 Senators. I believe that is a majority.

Now, an immediate deduction of 100 percent would make health insurance more affordable and accessible to some more than 5.1 million self-employed who lack health insurance, almost a quarter of the self-employed work force. In addition, full deductibility of health insurance by the self-employed will also help insure 1.4 million children who live in households headed by self-employed individuals.

Coverage of these self-employed and their children through the self-employed health insurance deduction will enable the private sector to address these health care needs. I am proud to cosponsor the amendment put forward by my colleague and neighbor from Illinois, Senator DURBIN, which would pay for the cost of this deductibility with a 10-cent increase in the tax on cigarettes. This is one way we can pay for this measure. We know that 3,000 children become regular smokers every day and start down that dangerous

road at 13. By enacting this amendment, we cannot only pay for health insurance, we can provide a deterrent against children smoking and thus help save lives. In addition, the revenues raised will be used for a directly related purpose, reducing the cost of health care coverage for the self-employed and their families.

Last week, with my colleague and neighbor from Arkansas, Senator BUMPERS, I introduced a measure, the Pregnant Mothers and Infants Health Protection Act, to set up a fund to discourage smoking among pregnant women and among parents with small children because of the tremendous impact of birth defects from smoking and because of the danger of SIDS for those who smoke.

In any event, I believe that this amendment will improve the measure. I urge defeat of the Daschle amendment. The budget resolution calls for full deductibility of health insurance. I look forward to working with my colleagues to include that measure in the final bill as reported out.

I thank the Chair, and I thank the chairman of the committee.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I yield 5 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 5 minutes.

Mr. GREGG. I thank the Senator from Delaware. I wish to join with the many Members of this Senate who have congratulated the Senator from Delaware and the Senator from New York for bringing forward this bipartisan initiative, which is really rather extraordinary when you think about it. It is obviously an outgrowth of the fact that the President and the leadership of the Congress have gotten together on how to balance the budget and give a tax cut to working Americans.

This bill is a product of that initial agreement which occurred in May. The fact it came out with almost unanimous support out of the Finance Committee is something that we should take very seriously as a Congress and especially as a people, in recognition of the fact that this is a bipartisan initiative.

Now the leader of the Democratic Party has come forward, even though a large—well, the entire Finance Committee membership of the Democrat Party voted for the underlying bill—the leader of the Democrat Party has come forward with a proposal as an alternative. I think a couple of comments need to be made about the specifics of that because it has some problems in the way it handles children and families with children.

To begin with, it is a phased-in child credit. So, under Senator DASCHLE's proposal, it is not until the year 2000 that families get the $500 credit. In fact, if you have a child who is over the age of 12, you do not get any credit, any credit at all until the year 2002.

Well, the practical effect of that is that there are going to be a lot of kids who outgrow the credit; the kids grow up; they get older. The credit will not be available. The families will not have a credit between now and the year 2000 if their children are under 12. It will be a phased-in credit. And if their children are over 12, they won't get it until 2002. If you have a child who happens to be a 12-year-old today, you are never going to get this credit under the—not the Democrat proposal, because the Democrats are supporting the underlying bill—under the DASCHLE proposal.

It is pretty outrageous, really, to claim that that bill is more effective in addressing kids than the bipartisan proposal when it does not even cover kids. It does not even cover kids who are over 12 years old until the year 2002.

Equally significant is the practical effect of the way that they recover the credit from working families. Under the Daschle proposal, the effective tax rate of families earning between $70,000 and $80,000 that have a number of kids in the family would be 58 percent not counting the FICA tax. So the actual tax rate under the Daschle bill is 73 percent—73 percent for those folks in that income bracket.

Now, there are a lot of working Americans today who have a fair number of kids who have to have both parents work to support them. And, in fact, unfortunately, one of the facts of America today is that many parents have to work simply to pay taxes. One of the spouses works full-time simply to pay the taxes on the family and the other spouse works to try to take care of the family. One is working to take care of the Government; the other one is working to take care of the family.

If you have a number of kids and you are getting hit with a 73-percent tax rate, even though you may have a fairly high income with a fair number of kids, that tax rate essentially wipes out your income, wipes out not only the income of the spouse working for the Government, but it does a pretty good job on that spouse who is out there trying to earn for the family.

Mr. DOMENICI. Will the Senator yield for a question?

Mr. GREGG. I am delighted to yield.

Mr. DOMENICI. Will you explain for the Senate one more time what that 73 percent is?

Mr. GREGG. If you happen to have a large number of kids, and I think the Senator from New Mexico may have a few children——

Mr. DOMENICI. They are already gone, but, yes, I do.

Mr. GREGG. When we were coming up through the ranks, if you had seven to eight kids, which is a lot of kids, you would need an income probably of $70,000 to $80,000. Both parents would have to be working to maintain those families. In that bracket, you would be paying an effective rate of 58 percent on your income tax. And another FICA tax on top of that works out to be an effective rate of 73 percent on the additional earnings.

Mr. DOMENICI. And that is under the Daschle proposal?

Mr. GREGG. That is under the Daschle plan.

Mr. DOMENICI. Do they raise taxes in those areas?

Mr. GREGG. That is exactly what happens, because the manner in which they recover the tax credit from people after they start to phase down the tax credit is a tax increase of significant proportions, well above the base rate of 28 percent.

The PRESIDING OFFICER. The Senator has used his 5 minutes.

Mr. DOMENICI. I thank the Senator.

Mr. GREGG. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I yield 5 minutes to the Senator from Pennsylvania.

Mr. SANTORUM. I thank the Senator.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 5 minutes.

Mr. SANTORUM. I thank the Chair.

Mr. President, I rise in very strong support of the bill that came out of the Finance Committee, the tax bill that provides tremendous tax relief for all Americans, because what this bill is aimed at doing is creating jobs, creating opportunities, getting an infusion of capital so we can increase our productivity.

Those are the kinds of things I thought we were going to be debating on the floor of the Senate. I thought we were going to talk about how we can create economic growth, how we can create better jobs for people, how the people at the bottom end of the economic strata can rise as a result of the opportunities that are available in the United States. And now what the Senate has evolved into today has been a bunch of charges that this isn't fair, that we should not look at economic opportunities or growth or jobs, a tune that is heard often here—jobs, jobs, jobs. We shouldn't look at job creation; we shouldn't look at economic growth; we should look at what is fair, who is getting the benefit, and we should draw class warfare lines in the sand here.

I just want to, if I can—I hate to even sort of get down, though, to that level, but that has really been the focus of this debate. I want to throw out—I hesitate to do this because we just get numbered to death in the Senate, but let me throw out a couple of numbers that I think are very easy to understand.

The top 20 percent of income earners in this country, the rich, the top 20 percent pay 79 percent of all income taxes. The top 20 percent pay 79 percent of all income taxes.

Now, they pay 79 percent of all taxes. What percentage of the tax cuts in this bill do the ''rich'' get? Twenty-two percent. In other words, the group that pays three-quarters of the tax get one-fifth of the benefit. And this is being

charged as a tax break for the rich. If I were rich, I would say you are ripping me off. I am paying all the taxes and everybody else is getting all the benefit.

But, no, they come here to the floor and they charge this is unfair; these people who are poor need tax cuts. Well, let me just straighten this out a little bit. Thirty-seven percent, the ''bottom 37 percent,'' of income earners in this country pay no taxes net. In other words, with the tax credits and the EITC and the other things that are out there, they pay no Federal income taxes.

Now, I do not know how you give tax cuts to people who do not pay taxes, but that is what the other side wants to do. In fact, if you go deeper into the analysis, you find that not only does the bottom 37 percent pay no Federal income taxes, the bottom 20 percent pays no payroll taxes net. In other words, all that money, the FICA that you have to pay out for Social Security and Medicare, if you are in the bottom 20 percent of income earners in this country, you get more back in earned-income tax credit than you pay out in payroll taxes.

But that isn't good enough. So people are getting—not only do they pay no income taxes, they pay no payroll taxes. In fact, they get more back than they pay. The other side wants to give them even more money. I am not opposed to helping people out, but where is this money coming from? It is coming from people who are paying taxes, people who are in the middle class who have been paying taxes for the last 16 years at very high rates, who deserve a break.

I am really about up to here with people running around saying we are for tax breaks for the middle class, but what they propose is welfare for people who pay no taxes. So let us get it straight. I am going to offer a resolution, a sense of the Senate, that says Federal income tax relief should go to people who pay Federal income taxes.

Now, you would think that that would be a joke, that everybody would vote for that—anybody who pays Federal income tax would be the only ones eligible to get tax relief—but, unfortunately, you are going to find a whole bunch of people who are not going to vote for that.

That is how far we have come. This is ''Washingtonspeak.'' For those of you who have not been in Washington very long, welcome, and this is what it is like. People actually stand around here and talk about giving tax breaks to people who do not pay taxes. While people who do pay taxes, anybody, is rich. Anybody who pays taxes in this country, by definition of what the Democratic plan is, is rich.

If that is where we have come in America, then I think the Founding Fathers will be turning over in their graves because they thought they created the land of opportunity where people were rewarded for working hard, for taking care of their families, for providing for themselves. What we are saying here is you are the bad guys, you are the ones who have to pay more.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. ROCKEFELLER. Mr. President, I yield myself 5 minutes off the bill.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 5 minutes.

Mr. ROCKEFELLER. Mr. President, I have talked with Senator MOYNIHAN and with Chairman ROTH about what I am now going to say. That is, I am going to vote for the Daschle alternative. It is a more difficult decision if you have been on the Finance Committee, because of what the others who have spoken of which has been referred to as the oath that we took, to support the bill. I view my oath as being upheld, and I say so for the following reasons.

This is a moral issue with me as well as a political philosophy issue. The piece of paper that we bound ourselves to, I will stick by. I was not satisfied, for example, with the earned income tax credit/child tax credit relationship that came back. I read it to be a certain thing. It did not turn out to be that way. On the other hand, for those eight pieces on that piece of paper—Finance Committee members will know what I am talking about—I did say that I would uphold those on the floor. And I will continue to uphold those. If, for example, a Democrat offers an amendment which would bring the EITC, child care credit, or child tax credit—bring it more in my direction, the way I would like it to be, then I will oppose that even though it is in the best interests of the country, and, I think, the right policy in our country. I will do that because that is what I consider I took my oath of loyalty to. It was not an oath of loyalty in some military sense. It was simply a matter of the way a very complex and difficult, bipartisan committee like the Finance Committee works. If you are bound together and you bind yourself together through the act of raising your hand, et cetera, that has an implication; it expects a response and that response will be forthcoming from me if individual amendments are offered which are related to the deal.

On the other hand, we have Democrats and we have Republicans in this body and I do think that the Democratic alternative being offered by Leader DASCHLE—and I greatly respect him and the work he has done on this, in a very trying period in his personal life—is a better alternative. Because I think it is a better alternative, it becomes—although I think that most people would understand it is probably not going to prevail—I think it becomes very important to say this is a better alternative. If we were doing it, if the Democrats had control of this body, this would be more likely the way we would do it. That is the kind of statement I wish to make in making my vote.

I care very much about what happens to the people of West Virginia. The economy of West Virginia is more fragile, the individual incomes in West Virginia are more fragile, especially as they are particularly young or particularly old, and I have a strong responsibility to that, as I do to my own sense of honor and my own word, within my work in the U.S. Senate and the particular nature of the Finance Committee.

So I gladly say I am going to be supporting the Daschle amendment because it is the better approach to solving our country's problems. Just as I was very glad, back in 1993 when Chairman MOYNIHAN turned to me and said I want you to cut $59 billion out of Medicare in order to ensure its solvency—I did not say slow the rate of increase, I said cut—and I went ahead and did it. And I helped put our economy in a position where we have been able to do things like provide a tax credit to hard working American families, and a number of other things which have been talked about on the floor.

But I want to make the reasons for my vote clear. It is something important and delicate because of my respect not only for my Ranking Member MOYNIHAN and Chairman ROTH, who has been eminently fair and bipartisan in the way he has conducted the Finance Committee, and his fine staff, all of them have been very fair. I want to make it clear I think the Democratic approach is a better one and I will be voting for it for that reason.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I yield 5 minutes to the distinguished Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 5 minutes.

Mr. COATS. Mr. President, I thank the Senator for yielding, and I also commend the Senator for some extraordinary work in putting together a real tax cut package for the American people.

There are items in this tax package that we have been attempting to incorporate, to give relief to American taxpayers, for many, many years. The Senator has been a leader and a champion of these. I am pleased to see we have arrived at a point where we can make substantial progress towards achieving these goals. The $500 tax credit for children is something that parents desperately need. It is something that has been far too long in coming. Parents have been put at tremendous disadvantage over the years under our Tax Code, if they are raising children, trying to pay for their expenses. This $500 tax credit is a big step in the right direction, in terms of redressing that.

I have some concerns about the designation, the mandate that designates

the credit is only received for children 13 and older if it is put into an education savings account. I will be speaking to that later, when the Senator from Texas introduces his amendment to make that optional. But I do support the other items in this package. It is far superior to the package that is being offered by Senator DASCHLE and some Democrats.

I say ''some Democrats,'' because this is a bipartisan package. There will be a number of Democrats supporting us in this because they know families need tax relief, because they know that capital gains spurs investments, creates jobs, and more important, goes to seniors and to people, small business owners and others who are not rich but who have saved and accumulated over a lifetime, assets that are taxed away by the Government because of appreciation of those assets or, more important, because of inflation. One-third of the capital gains available today under this tax package goes to seniors. So the DASCHLE bill is an antisenior bill. A clear understanding of capital gains will demonstrate that.

The changes in inheritance tax don't go to the rich, they go to the farmer who has been working on his land for his entire lifetime and would like to leave it to his children. They go to the small business owner who maybe started in his basement or garage and built up his business to a certain degree of asset level only for his family to see it taxed away and sold when that taxpayer dies, instead of passing on to his children. It goes to a large percentage of people who have every right to claim those assets. To suggest that we need an income redistribution, above what we already have, I think is a disservice. So I am in strong support of the Senator's position in opposition to Senator DASCHLE's proposal.

The PRESIDING OFFICER. Who yields time?

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, how much time do we have?

The PRESIDING OFFICER. The Senator from New Mexico controls 9 minutes and 30 seconds.

Mr. DOMENICI. I yield 4 minutes to Senator CHAFEE.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 4 minutes.

Mr. CHAFEE. Mr. President, I wish to take a few minutes this afternoon to urge support for the tax bill reported out of the Finance Committee last week, and the bill that is before us today. Obviously I am not referring to the substitute, I am talking to the basic bill that came out of the Finance Committee with the support of 18 members in that committee.

That vote, 18 to 2 in the committee, more than anything else is a clear indication of the bipartisan process in which the chairman of the Finance Committee crafted the legislation. Others have talked about the major provisions of this bill, all of which are extremely important. I would just like to touch on some lesser known provisions, if I might, briefly.

The bill before us includes a permanent extension of the orphan drug credit. This provision encourages drug companies to conduct clinical research on rare, what they call orphan diseases, diseases that do not occur very often and thus there is not a large market for the drugs that are produced to care for that particular situation. Drug companies are reluctant to risk the investment or research dollars with such a small patient population, as, for example, exists for cystic fibrosis or hemophilia or Lou Gehrig's disease or Tourette's syndrome. This bill encourages and provides tax credits for those drug companies that spend the research money in these particular areas.

The bill also includes an extension of the work opportunity tax credit, which is an important tool to encourage businesses to hire individuals on public assistance. We passed, last year, the Welfare Reform Act. We want opportunities for those coming off welfare to find a job. The work opportunity tax credit does this. Currently, under the law, it is required that the individual work 400 hours in a job before the tax credit is available to his employer. Under this legislation, the 400 hours is reduced to 120 hours—with a reduced credit, but nonetheless something that will encourage employers to hire these individuals.

Another provision that is included in this particular section says that the work opportunity tax credit extends to disabled individuals, those receiving SSI benefits. This is a separate group from those coming off from welfare.

Another provision in the bill, which I think is very significant, small though it is, is the estate tax incentive for the preservation of open space. America is losing 4 square miles a day to development, 4 square miles. In my State, over 11,000 acres of farmland have been lost to development since 1974. It is a small State. Think of that, 11,000 acres gone to development from farmland. What this does is provide that those individuals who currently, if they keep their open spaces, are subject to stiff estate taxes—thus either they have to go into development to pay the taxes or, when they have to, sell it to developers—this provides a lower estate tax for land, as long as the owner is willing to keep the land undeveloped in perpetuity. In other words, he has to sign a conservation easement, keeping the land open in perpetuity, so there will be some open spaces around our major cities, places where there can be habitat for wildlife and plants and fish. This is a very, very significant piece, this section that is in the bill, that Senator ROTH was good enough to give us leadership on.

Mr. President, I yield to the chairman the remainder of my time.

Mr. ROTH. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 5½ minutes.

Mr. ROTH. I yield the remaining time I have to the distinguished Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. FAIRCLOTH. Thank you, Mr. President. How much time do I have?

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator has 5 minutes, 18 seconds.

Mr. FAIRCLOTH. Mr. President, I rise in strong opposition to the tobacco tax in this revenue bill. I am also troubled by this amendment to further increase tobacco tax. Make no mistake, these are flat-tax increases, plain and simple. This is no extension or loophole closure, it is a tax increase. That is what it is.

I didn't think that we were here to raise taxes on American families. I didn't think we were here for that purpose, but, obviously, that is what we have done.

The tobacco tax is the most regressive tax on the books today. We will drive up taxes on the working people more than anything, up to $100 or more per year.

The people who earn $30,000 a year pay 1.2 percent of the income tax in this country, but the people who earn $30,000 a year pay 47.2 percent of the tobacco tax. It is the most regressive tax on the books.

I find it a bit odd that some of the big tobacco tax supporters are the same people preaching the need for greater equality in the tax relief package. You just cannot have it both ways.

Mr. President, I say to my colleagues, is your talk about tax fairness anything more than talk? Is it airy persiflage, or do you mean what you are saying? Would you come to the floor to defeat a tax increase on the common man who smokes?

This bill raises tobacco taxes by 20 cents a pack. The DURBIN amendment would raise taxes by 10 cents a pack. This will hurt the 18,000 tobacco farmers in North Carolina and thousands more throughout the Southeast. It will cost them, literally, their jobs and their livelihood. Sure, it will let politicians tell the news media that we really took a shot at ''Big Tobacco.'' Well, ''Big Tobacco'' can look after itself, but the people who are growing it, the farmers, who they are really taking a shot at, cannot. The companies will not be bothered by this. The people who are going to be hurt are farmers, families, and communities.

It will hurt the 77,000 working people in North Carolina who grow tobacco and manufacture cigarettes. Just the tobacco sales bring in over $1 billion in cash receipts to the farmers of my State. The entire tobacco sector employs 150,000 people. It is a $7 billion business in North Carolina alone.

These are the fundamental core people of this State—hard-working men, women, and their families. Can you imagine the joy that they expressed when I went home and told them that they were going to be thrown out of

business but that we had cut the cost of international air travel? Tobacco pays the mortgages, the grocery bills, and sends the children to college. These people don't do international air travel. Tobacco builds and has built the hospitals, it builds the churches, and it builds entire towns and communities.

So, Mr. President, you be the judge. Is to say the tobacco tax is about politics not correct?

The other side points to this tax and says this is about children's health insurance. They say it is about underage smoking, and they say it is about changing people's behavior.

But it is not about children's health insurance. The settlement that the tobacco industry just signed clearly addresses this issue. There is $18.5 billion over 6 years for children's health insurance in the settlement that is now working its way through the process. The tobacco companies have already signed on the dotted line that they will pay into a fund for children's health insurance. There is already $16 billion in the bill for children's health insurance, and now we are going to vote another $8 billion for children's health insurance when the President only asked for $8 billion in the original bill and said that would be enough. Now we are going to $24 billion, and he only asked for $8 billion. I have never known him to ask for too little.

It is not about underage smoking. The industry just agreed to a sweeping package of changes to prevent underage smoking. The agreement virtually bans all advertising. The industry even agreed to massive fines if underage smoking did not drop drastically over the next 8 years. I don't know how they are going to stop people from smoking, but that we will have to work on when it gets here.

Mr. President, I ask unanimous consent for 2 additional minutes.

The PRESIDING OFFICER. The manager may yield time off the bill. All time on the amendment has expired.

Mr. ROTH. I yield 2 minutes off the bill.

Mr. FAIRCLOTH. Mr. President, if this were it, the bill would include favors for a variety of special interests. The liquor tax would get special breaks, even skydiving would get a special break. No, no one ever caused an accident on the road after a night of smoking, and I never heard anyone being attacked after a cigarette binge.

My point is, this bill isn't about public health, it is about the easy politics of attacking tobacco. The politics may be easy for Senators outside the Southeast, and particularly North Carolina, but this point reaches beyond politics. It reaches to the men and women in North Carolina and throughout the Southeast, hard-working people wondering why the U.S. Congress and their elected representatives are determined to throw them out of business and out of a job.

Everyone in Washington talks about the small farmer. We hear it daily. North Carolina is made up of small farms. The size of an average U.S. farm is over 450 acres, and in North Carolina, it is around 150 acres. We are small farms.

Tobacco pays the bills. An acre of tobacco will yield roughly $1,200 a year in net profit. Nothing else compares, and there really isn't anything else they can grow that begins to fit into the pattern and growth and lifestyle of the area.

Tobacco keeps eastern North Carolina and Southeastern United States farmers on the land, and that is the simple bottom truth line. Tobacco keeps the family on the family farm. Washington politicians are driving families off the farm just to score political points back home.

I want every Senator to understand what this tobacco tax means to real people. These farmers have names. They are good people. They are sending their children to school, and they are being driven out of a job to score political points. I hope that all Senators think about the people and the jobs that they are destroying when they next take a vote on a tobacco tax.

And another question, who is next on the hit list from the tax increase crowd? Tobacco today, tomorrow who knows what product they have decided to tax out of existence. I hope my colleagues will vote against any other tax increase. It is time to stand up for the people who are in the business working for families. Mr. President, I yield the floor.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. MOYNIHAN. Mr. President, I yield the distinguished Senator from Louisiana such time as he may require from the bill.

Mr. BREAUX. Mr. President, I thank the ranking member. I won't be that long. I rise to commend the Democratic leader on our side, Senator DASCHLE, and others who have put together a major effort in trying to offer a package of democratically oriented tax cuts which, in great sincerity, many, many people feel would be, by far, the better way to proceed—a more balanced, more honest package of tax cuts and how those tax cuts should apply to society.

I think that what he is offering is yeoman's work in terms of fairness and making sure that if there is going to be a tax cut, people who need them the most will benefit the most from those tax cuts.

While I praise my Democratic leader, I rise to say that I will not be able to support that package when it is called to be voted. I say that because we do not live in a perfect world. Neither is the Congress a perfect place. Neither is the Finance Committee a perfect group of individuals who have the wisdom of Solomon to craft a perfect bill. But what we have crafted in the Senate Finance Committee, because of the work of both Democrats and Republicans working together, I think is a package that merits our support.

It is a better package from many perspectives, but let me concentrate just on the Democratic perspective of why the bill, in fact, is better than when it started.

First of all, there is $24 billion more money which is directed at children for health care, for young children who today do not have health care. That is a major, significant achievement. That was achieved in a bipartisan fashion with major input from Democrats who insisted that whatever money we are able to generate should be used for children who need help and need assistance. That is in this package which is before us today.

There is $8 billion of additional assistance that was achieved because, in a bipartisan fashion, we agreed to raise the cigarette tax on tobacco products and use a portion of those revenues for insuring the most vulnerable among us, the children, for one of the most important things that we can help children with, and that is their health care, both now and in the future. That is the result of a bipartisan working arrangement in the Senate Finance Committee.

In addition, I think that we have taken what was originally a Republican proposal to give everybody a $500-per-child tax credit that you could use for whatever purpose. You could use it to take care of your children, but you could also use it to buy alcohol, you could use it to go to the racetrack, you could use it for whatever purpose. In a bipartisan fashion, we worked to craft an amendment that said you will have these additional tax credits if you use a portion of it to educate your children. I suggest that there is not a better thing that we can do for families with children than to help those parents educate those children for the future so they can be successful members of our society.

We, as Democrats, I think, argued against indexing of capital gains saying we can't afford it. Let's take a capital gains reduction, we hope it will increase jobs and increase expansion in business, but also don't take the next step of indexing it. Because of working it in a bipartisan fashion, that in fact is in the bill.

Again, working in a bipartisan fashion, we made some tough decisions on Medicare and Medicaid, as a result of what we did, to try and bring about competition, to try and say we will make the tough decisions now and no longer will we have to say to people who tell us to fix Medicare, no longer will we say not now, not with us and not with this program. We have taken the tough decisions, and we have accepted them. When people say fix Medicare, this Finance Committee can say that we did what was necessary when we were called upon to make those decisions.

So I think as you look at the total package, it is better than when it

started. I, for one, as a person who participated in that process would feel less than totally honest if I was able to get the things that make it better in the package, and then when it came to vote for that package, walk away and say, ''No, I am going to vote for something else.'' That is not, I think, the way things should operate in a democratically elected body which is a divided Government. But while we have a divided Government, we do not have a divided Finance Committee. I think because of that bipartisan spirit and what we were able to do, today we have a better package before us.

Again, I commend our Democratic leader for offering something that I think if we were in control would be the bill that would be before this committee. But that is not the case. But what is the case is a fairly arrived at package that makes this bill much better. I think it deserves our support.

Mr. MOYNIHAN. Well said.

Mr. BREAUX. I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The distinguished Democratic leader.

Mr. DASCHLE. I will use my leader time, whatever time I may consume, to close the debate on the amendment.

I think it has been a good debate. We have had the opportunity to exchange views. I think perhaps there has been some misinformation about what the amendment does and does not do. I have heard that it is antisenior. I have heard that it raises taxes. There are a lot of concerns that perhaps at times like this we ought to spend time rebutting, but let me just get down to the basics.

The basics are that we want to provide as much help to middle-class families as we can. We want to provide as much growth and opportunity for expansion to startup companies, to companies that really need the help as we can.

Our view is that those companies that are in the multi-multibillion-dollar category, multinational companies that have extraordinary assets ought to be viewed differently than those companies that are just beginning, those startup companies that need all the help they can get to be able to survive and compete. We want to help those. We realize that our resources are not unlimited. So if they are not unlimited, we have to target the best we can those companies that indeed need the greatest degree of assistance.

We provide that in capital gains. We provide that in a number of investment incentives that allow those companies the opportunity to do all the things that they can to be competitive, be the next Microsoft or the next IBM.

Third, we feel it is as important as anything we do in this bill to target as many of our resources to education as possible.

And fourth, we want to do it in a fiscally responsible way. We are very concerned about the tax time bomb that could occur in 10 or 15 years, as we watch this explosion with great dismay, having worked so hard now to balance the budget and to bring this budget into balance within the next couple of years.

So, Mr. President, that is what we do, those four things. We provide more targeted assistance to those families who need it the most. I respect immensely the work done in the Senate Finance Committee. I respect the effort made in particular by the chairman and the ranking member in working in a bipartisan way. I respect Members who have made decisions on either side of this amendment for whatever agreements may have been consummated and the interpretation of the agreement as it relates to this amendment. I respect that.

I intend to vote, if we are not successful with this amendment, for the final package. But I do believe we can do better. I believe that when we provide 65 percent of the benefits to the highest 20 percent of incomes in this country, we can do better in distributing benefits across the board more effectively. I believe that our bill, which provides 75 percent of the benefits to the 60 percent in the middle, does a better job of using limited resources where they can do the most good.

Mr. President, that is what this amendment does. That is why I feel so enthusiastic about supporting it. That is why I am hopeful we can get a good vote this afternoon.

I yield the floor and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on agreeing to the amendment No. 527 offered by the Democratic leader. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Kansas [Mr. ROBERTS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 38, nays 61, as follows:

[Rollcall Vote No. 134 Leg.]

YEAS—38

Akaka	Ford	Lieberman
Biden	Glenn	Mikulski
Bingaman	Harkin	Moseley-Braun
Boxer	Hollings	Murray
Bumpers	Inouye	Reed
Cleland	Johnson	Reid
Conrad	Kennedy	Robb
Daschle	Kerry	Rockefeller
Dodd	Kohl	Sarbanes
Dorgan	Landrieu	Torricelli
Durbin	Lautenberg	Wellstone
Feingold	Leahy	Wyden
Feinstein	Levin	

NAYS—61

Abraham	Bennett	Bryan
Allard	Bond	Burns
Ashcroft	Breaux	Byrd
Baucus	Brownback	Campbell
Chafee	Gregg	Murkowski
Coats	Hagel	Nickles
Cochran	Hatch	Roth
Collins	Helms	Santorum
Coverdell	Hutchinson	Sessions
Craig	Hutchison	Shelby
D'Amato	Inhofe	Smith (NH)
DeWine	Jeffords	Smith (OR)
Domenici	Kempthorne	Snowe
Enzi	Kerrey	Specter
Faircloth	Kyl	Stevens
Frist	Lott	Thomas
Gorton	Lugar	Thompson
Graham	Mack	Thurmond
Gramm	McCain	Warner
Grams	McConnell	
Grassley	Moynihan	

NOT VOTING—1

Roberts

The amendment (No. 527) was rejected.

Mr. MOYNIHAN. I move to reconsider the vote.

Mr. CHAFEE. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 520, AS AMENDED

Mr. ROTH. Mr. President, I ask that the Senate now resume consideration of amendment No. 520, the committee amendment.

The PRESIDING OFFICER. The Senator has that right. The pending amendment now is amendment No. 520.

Mr. ROTH. Mr. President, this amendment includes the $8 billion additional funds for the children's health initiative. As we have discussed earlier, the children's health initiative is a critical piece of the legislation before the Senate. Members on both sides of the aisle, both ends of the political spectrum, and everyone in between are committed to addressing the issue of reaching our Nation's children.

Each morning, more than 10 million children wake to face a day without health insurance. Clearly, this situation has weighed heavily upon us.

Throughout the first quarter of the 105th session of Congress, a number of Members have contributed to various proposals for reaching these children. I thank all my colleagues for their hard work and effort. At this hour, we have now reached a bipartisan agreement on the structure of how to help the States reach more of these uninsured children. Now that we have a structure, we must also ensure that it is adequately funded.

The committee amendment will provide an additional $8 billion for the children's health initiative, will secure that final necessary piece to make this bipartisan agreement work. Some Members may argue that $16 billion is too much money for the children's health initiative. Other Members will argue that $24 billion is not enough. The Finance Committee, which has carefully considered this issue, has agreed on a bipartisan basis that it is just right, and with this committee amendment we will inject $24 billion into reaching the goal of providing health insurance to more children.

Let me remind my colleagues that the States will also be required to provide matching funds. So the total amount will rise even higher. Of the 10

million children without health insurance, about 60 percent are either eligible to be enrolled into the Medicaid Program or they live in families with incomes about 250 percent of the poverty level. For a family of four, that is more than $40,000.

We do not, of course, want to displace the role of the private sector in providing health insurance for children. So this new initiative is really meant to be targeted for those approximately 3.8 million children who live in families who earn too much to qualify for Medicaid but not enough to pay for private insurance. The committee amendment will ensure that there are sufficient funds to meet the goal of reaching these children, and I urge all of my colleagues to support the Finance Committee provisions on this critical issue.

Mr. MOYNIHAN. Mr. President, in brief, sir, in the history of child health care, in the U.S. Congress there has been no measure equivalent in size and range to the measure the distinguished chairman brings before you. We spent much of the 103d Congress on this subject and did not add a penny to child health care. In 2 days, the Finance Committee added $24 billion, which we bring to you in this amendment, which I am sure will be supported on both sides.

Mr. KENNEDY. Will the Senator yield for a question? Will the chairman yield for a question?

The PRESIDING OFFICER. The Senator from Delaware controls the time.

Mr. ROTH. I am happy to yield for a question.

Mr. KENNEDY. Thank you very much. As I understand it, by accepting this proposal, the cigarette tax, which will be used to fund the Hatch proposal on child care, will actually terminate as a funding stream 5 years from now, and the revenues that will be raised by that tax will be used to offset the increased expenditures in the IRA's—just so that we all have an understanding of the final decision made by the Finance Committee.

Mr. ROTH. Mr. President, I say to my distinguished friend and colleague that the cigarette tax is permanent; it is not limited to 5 years.

Mr. KENNEDY. But the funding stream for the Hatch proposal——

Mr. ROTH. The funding stream is a 5-year plan.

Mr. KENNEDY. At the end of the 5 years, the funds that would be provided by the tobacco tax will be terminated for the children's health insurance proposal. So, effectively, we are saying to the States, as I understand it, that they are going to get a funding stream for 5 years. At the end of that, at least in this proposal, there will be no further funding.

Mr. ROTH. I will yield to the distinguished Senator from Utah to comment on that.

Mr. HATCH. Mr. President, I will respond to my colleague from Massachusetts. Because of the unique situation in which we were able to add this spending provision to the tax bill, this is the way it is written.

Mr. ROTH. I point out that the tobacco tax was for all purposes in the bill, not just for the children's health insurance.

Mr. KENNEDY. Well, I thank the Senators. As I understand it, then, the tax will be permanent, but those revenue streams that will fund the children's health insurance—the $8 million—will terminate after 5 years, and those revenues that would be created by the cigarette tax will be used for the offset, either on the IRA's, or the capital gains, or the estate taxes. I think I understand it correctly.

Mr. ROTH. I point out that what we have here is a 5-year plan, as I think was originally the case for the distinguished Senator from Massachusetts. Obviously, the plan can be renewed at the end of the 5 years.

Mr. KENNEDY. I just wanted to clarify the limitations on this funding stream. But I am grateful for the chairman's answer.

Mr. ROTH. I yield to the Senator from Utah.

Mr. HATCH. The original Hatch-Kennedy bill proposed a $20 billion health insurance program for children, plus it contributed $10 billion for deficit reduction. It was a 5-year authorization. Both of the sponsors assumed—and I believe properly so—that this program will work well, that children will benefit from it, and that it will be reauthorized at the end of 5 years. I have no doubt that is the case here as well.

But the provision the Finance Committee adopted continues the tax beyond the 5-year period, and the revenues may be used for other purposes.

To be clear, I assure my colleague from Massachusetts that, should this program work well, we will be revisiting it in 5 years.

And there is an additional point I wish to make for those of my colleagues who believe the additional funding is not needed. It seems fairly clear that the $24 billion, as important a sum as it is, will not cover all of the 10 million children who lack insurance. If we are very, very lucky, or if the Congressional Budget Office is smiling on us that day, it will cover at most about 8 million children. These figures are obviously subject to the way the States craft their programs, their cost-sharing requirements, and whether the States choose block grants or Medicaid.

For example, if all of the States chose Medicaid, which I do not believe would happen based on conversations I have had with Governors, I estimate that the most children we could cover with the $24 billion is around 5 million.

The other point I feel compelled to raise is that the CBO estimates are coming in very meager. I am not sure why, but they have been consistently scoring the major children's health proposals as helping very few children.

For example, I am told their preliminary estimate for the CHIPS proposal was that it would cover 2 million kids. Their initial estimate on the House-passed block grant was that it would help around 500,000 children, although that was later revised to 860,000.

As a simple gauge, I use the figure of $1,000 per child to measure coverage. This is more than the Federal share of an average Medicaid child, and equal to or slightly less than the average high-quality group health plan. This is also the rough measure that Dr. Bruce Vladeck at HCFA uses.

Based on that rough calculation, $24 billion over 5 years would cover just short of 5 million kids per year. That assumes that the funding were equal each year, and it assumes that there would be absolutely no inflation.

But to those who express concern about the shelf-life of the $8 billion figure we are considering today, the bottom line is that we are going to see how this program works.

I assure my friend and colleague and partner on this effort, a legislator who has been a tireless advocate for children for decades, that if this program works and it is benefiting children, we are going to reauthorize it five years from now.

It is that simple. I give my assurances that I intend to do everything in my power to live up to that promise. And I hope that our colleagues will support that.

This particular amendment has been brought up separately—not as part of the overall bill—because it is a spending amendment on the tax bill.

Because a point of order has been lodged, we need 60 votes in order to retain my provision in the bill.

I believe I am not overstating it—and I would like my colleagues to correct me if I am wrong—when I say that resolution of this issue as part of the total tax spending package was the critical juncture in bringing us together in the Finance Committee. That is a key reason why we have had so much support on both sides of the aisle.

So, it is critical that we pass this as part of the overall plan. I hope our colleagues will take that into consideration.

The tobacco tax is considerably less than that embodied in the Hatch-Kennedy bill, S. 526. But because of the $16 billion already in the spending bill we passed last night—which most would agree was placed there largely in response to the original Hatch-Kennedy filing—and because of the $8 billion we are adding today, we should have an adequate amount to take care of a substantial number of uninsured children in the foreseeable future.

If we approve this proposal and then retain the full $24 billion in the final conference agreement that is signed by the President, it would be a terrific thing for our society.

Adoption of this amendment can only help bring a larger bipartisan vote on the tax bill. And, in the end, I think we could all walk away feeling that we had accomplished the most significant

advance in children's health for decades.

I yield at this point.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, this is a very important measure that the distinguished chairman of the Finance Committee is advancing here this evening. What we are doing is, as he mentioned, our very best to care for the maximum number of low-income children with health care. There is a prescribed or suggested package of benefits that includes eyeglasses and hearing aids for these children from very, very low-income families. So, Mr. President, I urge my colleagues to support this measure.

I want to commend the chairman of the Finance Committee, the distinguished Senator from Utah, and, of course, the ranking member, Senator MOYNIHAN, for everything they have done to advance this proposal.

Mr. KENNEDY. Mr. President, I am certainly going to support the proposal that is recommended by the committee itself. I want to commend my friend and colleague, Senator HATCH, for his perseverance and persistence and tough-mindedness in moving us as far down the road as we are. But I think we are receiving numbers, even as we are here, about those that will be covered and, also, for example, by CBO—the number that they believe will be covered is considerably less than has been estimated by the Finance Committee.

It just seems to me that the great concerns that have been so well-articulated by the chairman of the committee and my friend and colleague from New York, Senator MOYNIHAN, Senator CHAFEE, and Senator HATCH, about the numbers of uninsured, and the fact that they are at the margin in terms of their income, being able to have to provide approximately after-tax income of almost maybe $800 or so, in that range, it is still a very heavy burden. I certainly hope that we can find—with the strong health implications of raising the tobacco tax and the importance of this particular national need, we welcome the fact that now it is an accepted Senate position that we are going to have a 20-cent increase, but that we can get about the business of assuring that all of those children are going to be covered. So I want to thank those Senators, Senator HATCH in particular and our other colleagues, for being willing to accept the concept and framework of the Hatch proposal. I also indicate that I think we have an opportunity to take care of the other remaining uninsured children. I don't know why we would take care of one child and not take care of another when they are all basically the sons and daughters of working families.

So I hope the Senate will accept this proposal. I want to make it very clear that we are preserving our right to make sure we are going to get coverage for the other children as well.

Mr. ROTH. I yield 3 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I thank both my ranking leader and the chairman of the committee. I say to my good friend, Senator KENNEDY from Massachusetts, that having witnessed this process, Senator HATCH fought like a tiger, would not yield in very close quarters, in order to get the additional $8 billion added on for children's health insurance, along with Senator CHAFEE, myself, and others. I think that ought to be very clear.

As Senator CHAFEE said when Senator CHAFEE and this Senator's bill failed, we managed to raise the standards of the bill to pass to such a degree to being very effective. As for not covering all children, that will be a matter of debate because of the uninsured already eligible and how to get to them.

I urge support of the committee amendment.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, this is one of the finest moments the 105th Congress will know. It could not have come about without the courage and the conviction of the Senator from Utah. I would like to affirm everything he has said about the support on both sides of the aisle. It would be nice to have a unanimous vote. Let us hope we do have that, or near thereto.

Mr. CHAFEE. Mr. President, I would like to contribute regarding the work that the Senator from West Virginia did. But for the groundwork he laid in connection with what type of benefits there would be, what kind of assurances there would be for these children, I don't think we would be where we are.

So I want to pay tribute to the Senator from West Virginia.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I yield 5 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, this morning we started the first of a series of hearings in the Judiciary Committee on the tobacco global settlement. I have to say that the funding for this $8 billion, as well as a number of other provisions that will be in the tax bill, happens to come from the 20-cent-per-pack tax on cigarettes.

The reason that Senator KENNEDY and I originally put into our original bill a 43-cent tax on cigarettes is because tobacco is the number one preventable cause of death in this country today.

It is particularly important in this instance because of these 10 million children who are without health insurance, 5 million of them it is estimated will ultimately wind up smoking if we do not find some way to make smoking less attractive for them. It is also a proven fact that every time smoking goes up 10 percent in cost that 7 percent of these kids will never attempt to smoke, which is a very wise thing here. It is a spinoff benefit that we get in adding the cigarette tax.

I might also add that 50 percent of all smokers began before the age of 14, and 90 percent began before the age of 18.

So this particular amendment and this particular aspect of this particular bill has many, many good reasons for its adoption.

I hope our colleagues will support this because I think it is critical, and I think my colleagues on both sides who are really familiar with this will say that it is critical in the overall binding together in a bipartisan way of Democrats and Republicans in the best interest of our country and in support of these major, major two pieces of reconciliation legislation.

If you stop and think about it, this is one of the most just taxes that we have ever passed, and we have limited it to 20 cents rather than 43 cents. The advantage of that is that we will raise enough money to help not only children but help with some other serious problems on the committee.

It was a very difficult discussion because we always have revenue-raising problems, we always have offset problems, and we always have problems of differences on the Finance Committee. But here basically everybody was brought together. Ultimately this side of the equation passed 18 to 2. The spending side passed 20 to zero.

I hope our colleagues will support this amendment because it is critical to the overall passage of this matter.

It is also critical to these children. I don't know of a better thing we can do. We spend an awful lot of time around here doing an awful lot of good for people who can't help themselves, and here is a case where we have children 90 percent of whom live in families with at least one parent who works who can't help themselves but would if they could. This is the way to solve that.

It is a reasonable compromise. It is something that will work. It gets enough money out there in comparison to Hatch-Kennedy that I think it will work. It does it in a thrifty savings way.

I want to personally compliment the chairman and the ranking member of this committee and other members of this committee for their willingness to see through the solution of these problems with this amendment. I hope my colleagues on our side will support this amendment. I hope our colleagues on the Democrat side will support it because in doing so we will be pushing this process greatly forward.

I thank all of those who have participated and who will participate in helping us to do so.

I yield the floor.

Mr. HATCH. Mr. President, why do we need 8 billion on top of the 16 billion already appropriated?

We learned earlier that the House Commerce block grant may be scored

as reaching only 860,000 uninsured children. I understand that this is a complicated matter because some funds will be used for direct services and not to purchase insurance. But it just shows you that this whole area is not cheap.

We heard from Bruce Vladeck it costs about $1,000 or so for a good, solid insurance policy. We also know that the Federal share of Medicaid this year averages about $860 per child.

In the first year of the CHILD Program there will be an even 50/50 split between health care and deficit reduction so that $3 billion will be used for program costs. In year five, this program component will grow to $5 billion.

Using these numbers as a guide, it seems reasonable to expect that, depending a great deal how states chose to implement this program that our bill will be able to cover about 3.5 million or so children in the early years of the program and about 5 million children in the fifth year.

There are many variables such as which States chose to participate, what their State matching requirement is, what coinsurance and copayments they require, and so on. We must also take into account inflation which will erode the purchasing power of the yearly allocation.

Another way to look at the problem is to see how many children the $16 billion in the budget agreement could cover. This $16 billion amounts to an average of $3.2 billion per year. If we used all of this money to buy Medicaid coverage at $860 per child, it would cover about 3.7 million children.

This would still leave 1 million children under 125% of poverty with no health insurance.

Twenty-four billion dollars is about $4.8 billion per year spread over 5 years.

Depending on how States implement the program, cost-sharing requirements and so forth, I think that would cover between 5 and 6.5 million, perhaps 7 million children.

The PRESIDING OFFICER (Mrs. HUTCHISON). Who yields time?

Mr. ROTH. Madam President, I don't see anyone requiring further time to debate this issue.

So I yield whatever time I have remaining.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Is all time yielded?

The PRESIDING OFFICER. All time has been yielded.

Mr. DOMENICI. Madam President, I raise the point of order under section 302(f) of the Budget Act that amendment No. 520 results in the Finance Committee exceeding its spending allocations under section 602(a) of the Budget Act.

Mr. ROTH. Madam President, I move to waive all points of order against the committee amendment language for consideration of this provision now, and also for the language, if included at later stages, of the revenue reconciliation process such as in a conference report.

Mr. McCONNELL. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question occurs on agreeing to the motion to waive the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Kansas [Mr. ROBERTS], is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 80, nays 19, as follows:

[Rollcall Vote No. 135 Leg.]

YEAS—80

Abraham	Durbin	Lott
Akaka	Enzi	Lugar
Allard	Feingold	Mack
Baucus	Feinstein	McCain
Bennett	Frist	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Gorton	Moynihan
Bond	Graham	Murkowski
Boxer	Grassley	Murray
Breaux	Hagel	Reed
Brownback	Harkin	Reid
Bryan	Hatch	Robb
Bumpers	Hollings	Rockefeller
Burns	Hutchison	Roth
Byrd	Inouye	Santorum
Campbell	Jeffords	Sarbanes
Chafee	Johnson	Shelby
Cleland	Kempthorne	Smith (OR)
Cochran	Kennedy	Snowe
Collins	Kerrey	Specter
Conrad	Kerry	Stevens
D'Amato	Kohl	Thomas
Daschle	Landrieu	Torricelli
DeWine	Lautenberg	Warner
Dodd	Leahy	Wellstone
Domenici	Levin	Wyden
Dorgan	Lieberman	

NAYS—19

Ashcroft	Grams	Nickles
Coats	Gregg	Sessions
Coverdell	Helms	Smith (NH)
Craig	Hutchinson	Thompson
Faircloth	Inhofe	Thurmond
Ford	Kyl	
Gramm	McConnell	

NOT VOTING—1

Roberts

The PRESIDING OFFICER. On this vote the yeas are 80, the nays are 19. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to. The Budget Act is waived.

Mr. ROTH. Madam President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Madam President, I ask unanimous consent that the next two first-degree amendments in order to S. 949 first be an amendment by Senator DOMENICI regarding budget enforcement, to be followed by an amendment by Senator BYRD regarding the budget.

Mr. KERRY. Reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. Reserving the right to object. I will not object.

Mr. DURBIN. Reserving the right to object, if I might ask the chairman before this unanimous consent is considered, I have an amendment pending, which I believe is the regular order, that I would like to have called up.

Mr. ROTH. I would say to the distinguished Senator from Illinois that we want to move ahead on a few amendments that I had mentioned here on a unanimous-consent basis. We will discuss with the Senator later his amendment.

Mr. DURBIN. Do I have the chairman's assurance that this amendment will be protected, there will be time for debate on it this evening?

Mr. ROTH. Yes. There will be time to debate it this evening. That is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 520, AS AMENDED

THE PRESIDING OFFICER. The question now occurs on amendment No. 520, as amended, offered by the Senator from Delaware. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 520), as amended, was agreed to.

Mr. ROTH. Madam President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. ROTH. I believe the distinguished Senator from New York would like us to go into morning business.

Mr. MOYNIHAN. Could we have 10 minutes for morning business, that we might discuss a momentous decision or nondecision by the Supreme Court this morning?

Mr. ROTH. I so move, Madam President.

The PRESIDING OFFICER. Without objection, it is so ordered. We are in 10 minutes of morning business.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

RAINES V. BYRD

Mr. BYRD. Madam President, earlier today, in a seven-to-two decision, the United States Supreme Court ruled that Members of Congress do not have the requisite constitutional standing necessary to challenge the Line Item Veto Act.

That decision overturns the April 10 ruling of the U.S. District Court, which held that the Act does, indeed, injure

Members sufficiently to confer standing. Moreover, having granted standing, the District Court went on to conclude that the Act was an unconstitutional delegation of Congress' Article I lawmaking power.

As the Senator whose name titles today's decision—Raines v. Byrd—I am obviously disappointed that a majority of the Supreme Court denied standing to Members of Congress. However, I remain mindful of the fact that the most important decision in this matter lies ahead. In the meantime, I am somewhat heartened by the fact that at least one member of the Court was willing to consider the merits of our argument. In what I believe will be a vindicated position, Justice John Paul Stephens wrote that ''. . . the same reason that the [Members] have standing provides a sufficient basis for concluding that the statute is unconstitutional.''

Madam President, let me take this opportunity to personally thank two groups of individuals who, I know, share my concern with the Court's decision.

First, I wish to thank my Senate colleagues—Senator MOYNIHAN, Senator LEVIN, and former Senator Hatfield—for their support, their wisdom, and their counsel throughout this process. Although this has been a collaborative effort, I, for one, have valued their contributions. And there were two Members of the other body who, likewise, joined us—Mr. SKAGGS and Mr. WAXMAN. Of course, I would be remiss if I did not acknowledge the absolutly stellar legal work provided to us by Lloyd Cutler, Louis Cohen, Alan Morrison, Charles Cooper, and Michael Davidson. Despite the temporary setback, I am convinced that no other group of attorneys could have provided us with better, or more sound, advice.

Finally, be assured that there will come a time when a State or locality, or an individual or group of individuals, will feel the brunt of the misguided legislative gimmick called the line-item veto, and will seek judicial relief. When that time comes, I will stand ready at the helm to support that effort.

Mr. MOYNIHAN. Madam President, it is characteristic of our beloved former President pro tempore to thank others for the efforts that have led to the Court's nondecision today. Might I take the opportunity to thank him. It is his magisterial understanding of the Constitution and his Olympian commitment to it that brought us together, and brought to us the finest legal minds of this time to prepare the briefs that first won hands down in the U.S. District Court for the District of Columbia, and now have been put aside by the Court, but only temporarily. I think it would be not inappropriate to note that one judge and one Justice have spoken to this subject, and in both cases they have spoken to the unconstitutional nature of the act.

I ask the Senate if I might just indulge to read a paragraph from Justice Stevens' dissenting opinion this morning. He says:

> The Line Item Veto Act purports to establish a procedure for the creation of laws that are truncated versions of bills that have been passed by the Congress and presented to the President for signature. If the procedure were valid, it would deny every Senator and every Representative any opportunity to vote for or against the truncated measure that survives the exercise of the President's cancellation authority. Because the opportunity to cast such votes is a right guaranteed by the text of the Constitution, I think it is clear that the persons who are deprived of that right by the Act have standing to challenge its constitutionality. Moreover, because the impairment of that constitutional right has an immediate impact on their official powers, in my judgment they need not wait until after cancellation authority to bring suit. Finally, the same reason that the respondents have standing provides a sufficient basis for concluding that the statute is unconstitutional.

Madam President, I thank you for your indulgence. I think we may have overrun by a moment or two. I most appreciate that.

Again, our appreciation to Senator BYRD. I yield the floor.

Mr. DOMENICI. Has all time expired?

The PRESIDING OFFICER. There are approximately 3 minutes left in morning business.

Mr. TORRICELLI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

PRAISE FOR SENATOR BYRD

Mr. TORRICELLI. Madam President, I, too, would like to join in words of praise for Senator BYRD. Every Member of this institution knows the Senate of the United States has no finer scholar nor better defender of the U.S. Constitution than the Senator from West Virginia. I share his disappointment in the decision of the Court today that standing does not rest with Members of Congress. But, indeed, as Senator MOYNIHAN noted, this is not only not a defeat, it is not even a retreat. The only two judges who were to consider this matter on its merits have reached the inescapable conclusion that by statute the Congress of the United States cannot rearrange basic constitutional powers as contained in the Constitution itself.

There will be another day with other parties who will bring this matter before the Court on its merits. And on that date, this Court will again, as it has on so many occasions, preserve the basic structure of the U.S. Government as contained in the Constitution. On that day, Senator BYRD will have his victory. It is postponed, it is delayed, but it will not be denied.

I once again offer my congratulations to the Senator from West Virginia on what will be his ultimate victory.

I yield the floor.

Mr. BYRD. Madam President, I thank the Honorable Senator for his gracious remarks.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there anyone wishing to speak in morning business? If not, morning business is closed.

REVENUE RECONCILIATION ACT OF 1997

The Senate continued with the consideration of the bill.

AMENDMENT NO. 537

(Purpose: To implement the enforcement provisions of the Bipartisan Budget Agreement, enforce the Balanced Budget Act of 1997, extend the Budget Enforcement Act of 1990 through fiscal year 2002, and make technical and conforming changes to the Congressional Budget and Impoundment Control Act of 1974 and the Balanced and Emergency Deficit Control Act of 1985)

The PRESIDING OFFICER. The Senator from New Mexico is recognized for an amendment.

Mr. DOMENICI. Madam President, I believe it is my turn to offer an amendment. I am going to offer an amendment on behalf of myself and Senator LAUTENBERG of the State of New Jersey.

Before I send the amendment to the desk, let me just talk a little bit about what I am trying to do. In the agreement reached with the White House, on the very last page of it, the White House, members from both sides, and the House, agreed that we would, as part of enforcing this 5-year budget, that we would extend and revise the discretionary caps for 1998 to 2002 at agreed levels shown in tables included in the agreement, and to extend the current law of sequester, which had its early origins in T. Gramm–Rudman-Hollings.

We also agreed within the discretionary caps we would establish what we call firewalls. They have been in existence for some time. We struck a compromise and said for now we would only extend them for 2 years instead of for the entire agreement, meaning we will have to bring those up in about a year, but we will have an opportunity on the next budget resolution, or the one after that, for those who want to extend it beyond that time, and I do.

We also agreed, and I want everybody to understand this one, to return to current law on separate crime caps at levels shown in the agreed tables. That has to do with a matter that is of real importance to Senator BYRD, Senator BIDEN, and the distinguished Senator from Texas, Senator GRAMM. That is an extension of the trust fund for crime prevention, to fight crime, which was established here in the Senate when Senator GRAMM on one day sought to use up the savings attributable to a reduced workforce, as I recall, and then said in that, if we are going to save the money, we ought to spend it for something everybody understands and would be worthwhile.

That trust fund then came into being with the amendment of the Senator

from Texas, supported by Senator BYRD and others. Now, that law expires in 2 years, but we agreed in the sessions with the White House and the leadership that we would extend the trust fund within the caps for the 2 remaining years of that law, meaning 1998 and 1999, after which the Congress is free to pass a new law on the trust fund or whatever they would like with reference to the trust fund.

But I think it is clear that without a new law, since that is a trust fund, you couldn't just continue to appropriate, and the trust fund is a fund set aside within the caps and getting the highest priority because it is already there in trust.

We agreed to four or five other things that are less important, and then we agreed to extend the pay-go, pay-as-you-go provisions which had heretofore been adopted and become part of the Senate's working process from the year 1990. Those pay-go provisions essentially said, if you are going to raise entitlement spending, you must offset it with entitlement cuts or tax increases. If you are going to cut taxes, you must offset that with entitlement cuts and vice versa.

We have in this amendment done all of those things. The distinguished Senator from New Jersey, who was part of the agreement and also my ranking member on the Budget Committee, joins me in sending a Domenici-Lautenberg amendment to the desk on this matter, and we ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself and Mr. LAUTENBERG, proposes an amendment numbered 537.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. DOMENICI. Mr. President, I want the Senate to know that this amendment is subject to a point of order, and I won't wait around for a point of order. I want the Senate to know that I am fully aware that this amendment is subject to a point of order, because it is obviously not part of deficit reduction. I am fully aware that a point of order could be made. I knew that from the beginning, and we knew that when we discussed extending this and putting in the caps for 5 years, which is the only way to enforce the discretionary savings in this budget. So I won't wait for a point of order. When the time is expired, I myself will move to waive the Budget Act in order to allow this legislation to be considered on this bill.

I say to my fellow Senators, there are many process amendments around. When the Senator from New Mexico said I would not offer this on the first bill, about 12 amendments came tumbling down because they are all waiting for process reform. Some of those amendments I would sympathize with, others I would not, which is not necessarily very relevant. But I must make a point of order on each and every one of those, if the sponsors do not, that they, too, will take 60 votes, unless somebody has some magical way—and maybe Senator GRAMM will try a magical way, maybe he won't—to try to get these amendments in at 50 votes. But I think everybody who wants to do these kinds of process changes ought to get 60 votes or they ought not get it done. That will be applying the law to everybody who wants to change our processes.

I hope everybody knows we could be here for the entire remainder of this bill if everybody who has a process change intends to offer it.

I will use no more time other than to shortly yield to Senator LAUTENBERG with reference to the amendment which he cosponsors. But let me make it very simple, if we do not adopt this amendment, or something like it, there is no way of enforcing the 5-year caps on appropriations. This was a three-legged stool. We get savings on the caps on appropriations, we get savings in entitlements, and we would do that sufficient to allow for a $85 billion tax cut, the third leg. There will be no enforcement of the appropriations total accounts that they can spend, and there will be no firewall between defense if we don't adopt something like this amendment.

I think it is properly drawn, and I hope that we can adopt it later on this evening when the debate is finished.

I yield the floor to Senator LAUTENBERG.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Madam President, I join with Senator DOMENICI in offering the amendment. It implements a provision in the bipartisan budget agreement that relates to the budget process. Without the support that comes from this, I think the work that had been done would be relatively penetrable in so many ways that we would not be able to come up with the final target that we are shooting for, and that is to make certain that we have the deficit down to zero at the end of 2002, and then we have preserved the caps that were placed there to achieve that objective.

The amendment extends several provisions in the Budget Enforcement Act that otherwise will expire and preserves the existing system for enforcing the fiscal policies established by the Congress.

Madam President, current law establishes an overall cap on the amount of spending that Congress can appropriate each year, but discretionary spending—I am referring to the programs appropriated annually by the Congress, including the entire gamut of Federal Departments and Agencies and most of their day-to-day operations. By contrast, discretionary spending does not include entitlement spending, Social Security, Medicare, which flows without the need for annual congressional action.

Under current law, total spending on discretionary programs cannot exceed the prescribed limits. However, these limits expire in fiscal year 1998, and the amendment would extend these limits to 2002 in accordance with the budget agreement. The levels established are the same as those adopted in the agreement and in the budget resolution.

In addition, the amendment extends the so-called pay-as-you-go or pay-go system. Under that system, all tax cuts, all increases in entitlement spending have to be offset by either revenue increases or reductions in other entitlements. The amendment will extend this system through 2002.

There was little disagreement in the bipartisan budget negotiations that the discretionary spending limits and the pay-as-you-go system ought to be extended. These two budget mechanisms are at the very core of the Budget Enforcement Act. The act has been in place since 1990 when it replaced the old Gramm-Rudman-Hollings law, and the system has proven to be successful.

There are many ways to measure success, but I begin by pointing to the bottom line. Since BEA, the Budget Enforcement Act, was put into place, our deficit has been reduced from $270 billion plus down to about $70 billion, a $200 billion reduction. By contrast, the old Gramm-Rudman system had promised dramatic deficit reduction, but when it came to producing results, frankly, it laid an egg.

When Gramm-Rudman came into effect in 1986, the deficit was $221.2 billion. By 1990, when Gramm-Rudman was repeated, the deficit had moved from $220 billion to the same level, $221.2 billion. That, Madam President, is not my idea of progress. Beyond helping to implement the real deficit reduction, the Budget Enforcement Act has avoided many of the political and policy distortions that were originally created by the Gramm-Rudman-Hollings legislation. The old system created an incentive for both Congress and the White House to use unrealistic economic assumptions and other gimmicks in order to game the system.

Since BEA was enacted, while there are still plenty of games in Federal budgeting, the process has dramatically improved. For example, Presidential budgets have used much more realistic economic assumptions, and we have largely been free of the threat of massive across-the-board cuts in defense and domestic appropriated programs that used to be so disruptive.

So, Madam President, I, along with Senator DOMENICI and Congressman KASICH, Congressman SPRATT and the administration, all in the negotiations agreed we should retain the basic framework of the Budget Enforcement

Act system. That is what we are proposing in the amendment before us. It is a fairly simple proposition.

In addition, this amendment includes separate spending limits for defense discretionary programs and nondefense discretionary programs in the next 2 fiscal years. This also reflects the bipartisan budget agreement.

Along with many other Democrats, I have long been skeptical of firewalls, but I remind my colleagues that these firewalls apply equally to both sides of the discretionary budget and could protect domestic initiatives from those who would shift funding from domestic discretionary to the military. I will also note that the separate defense and nondefense caps expire after 2 years.

Another provision in this amendment, which also implements the bipartisan budget agreement, would revise the rule governing scoring of asset sales. Under the proposal, asset sales could be counted in budget calculations only if they do not increase the deficit. This should help ensure we don't sell assets only for short-term income if those assets would generate significant revenues in the future. An example might be a Government-owned recreational facility that generates significant user fees.

Madam President, this amendment also includes provisions that establish reserve funds for Amtrak, highways and transits. These provisions will allow us to implement the comparable reserve funds that were included in the budget resolution, and they have been top priorities for me and, given my longstanding commitment to transportation investment, I worked very hard to make sure that we were going to provide the funds necessary to provide the investment in infrastructure so critically needed in our country.

Finally, Madam President, this amendment includes a variety of technical changes that are designed to correct errors and eliminate unnecessary reporting requirements and to revise the outdated provisions. So, I hope my colleagues will support us in this amendment. I express my appreciation, once again, to Senator DOMENICI and the staff, especially Sue Nelson, my Budget Committee staff, for their hard work and cooperation in the development of this legislation. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The distinguished majority leader is recognized.

Mr. LOTT. Madam President, I have a unanimous consent request that I have cleared with the Democratic leader.

PROVIDING FOR ADJOURNMENT OR RECESS OF BOTH HOUSES OF CONGRESS

Mr. LOTT. Madam President, I ask unanimous consent that the Senate now proceed to the consideration of H. Con. Res. 108, the adjournment resolution, which was received from the House. I further ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 108) was agreed to, as follows:

H. CON. RES. 108

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, June 26, 1997, it stand adjourned until 12:30 p.m. on Tuesday, July 8, 1997, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Thursday, June 26, 1997, Friday, June 27, 1997, Saturday, June 28, 1997, or Sunday, June 29, 1997, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this concurrent resolution, it stand recessed or adjourned until noon on Monday, July 7, 1997, or such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

Mr. LOTT. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

REVENUE RECONCILIATION ACT OF 1997

The Senate continued with the consideration of the bill.

AMENDMENT NO. 537

Mr. DOMENICI. How much time do I have on the amendment?

The PRESIDING OFFICER. Forty-four minutes.

Mr. DOMENICI. And the opposition has 44 minutes?

The PRESIDING OFFICER. Sixty minutes.

Mr. DOMENICI. So we have used 16. Actually, unless Senator LAUTENBERG has anything further to say, I believe I have stated the case for the DOMENICI-LAUTENBERG amendment No. 537. Does Senator GRAMM want to offer an amendment to the amendment?

Mr. GRAMM. I think Senator BIDEN is going to offer an amendment first, and after his amendment is disposed of, then I will have an amendment, as will several other people.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Madam President, I wonder if the Democratic manager would yield me time off the bill.

Mr. DOMENICI. The Senator has time on his amendment.

Mr. BIDEN. Parliamentary inquiry. Can I get time in my own right?

Mr. DOMENICI. I yield back my time.

The PRESIDING OFFICER. The time is controlled by Senator DOMENICI and Senator ROTH.

Mr. LAUTENBERG. I yield back my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DOMENICI. We yielded back our time.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

AMENDMENT NO. 539 TO AMENDMENT NO. 537

Mr. BIDEN. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for himself and Mr. GRAMM, proposes an amendment numbered 539 to amendment No. 537.

Mr. BIDEN. Madam President, I ask that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 43 of the amendment, strike lines 14 through 21 and insert the following:

''(5) with respect to fiscal year 2001—

''(A) for the discretionary category: $537,677,000,000 in new budget authority and $558,460,000,000 in outlays; and

''(B) for the violent crime reduction category: $4,355,000,000 in new budget authority and $5,936,000,000 in outlays;

''(6) with respect to fiscal year 2002—

''(A) for the discretionary category: $546,619,000,000 in new budget authority and $556,314,000,000 in outlays; and

''(B) for the violent crime reduction category: $4,455,000,000 in new budget authority and $4,485,000,000 in outlays;

as adjusted in strict conformance with subsection (b).''.

(2) TRANSFERS INTO THE FUND.—On the first day of the following fiscal years, the following amounts shall be transferred from the general fund to the Violent Crime Reduction Trust Fund—

(A) for fiscal year 2001, $4,355,000,000; and

(B) for fiscal year 2002, $4,455,000,000.

Mr. BUMPERS. Will the Senator from Delaware yield for an inquiry for a moment?

Mr. BIDEN. I would be happy to.

Mr. BUMPERS. Could the managers of this bill tell us how many second-degree amendments there are to this process?

I assume we are on the second-degree amendment process; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BUMPERS. Could the managers tell us how many second-degree amendments they anticipate on this?

Mr. DOMENICI. I do not know.

Mr. GRAMM. I believe there will be four. Senator BIDEN will offer one for himself. Once that is adopted, I will offer a second-degree amendment. And

then we have two other Senators who want to offer second-degree amendments, so they will be seriatim.

Mr. BUMPERS. Then there are five, because I have one also. I am just wondering if we could get some kind of sequence so we know how they are going to be offered so we do not spend the rest of our lives waiting.

Mr. DOMENICI. I say to the Senator, you can be assured there will be four ahead of you, if you would like to be fifth.

Mr. BUMPERS. I thank the Senator for his courtesy.

Mr. GRAMM. Why don't you do yours last?

Mr. DOMENICI. That is what I said.

Mr. BIDEN. Madam President, the second-degree amendment I have at the desk is very simple and straightforward. The Senator from New Mexico is introducing a budget process amendment, and what the amendment of Senator GRAMM and myself does is, quite frankly, it merely extends the crime law trust fund for the extension of this agreement.

I am told by the staffs of the majority and minority that in the budget process agreement that was agreed to with the administration, there is a line on page 90 of the concurrent resolution of the budget fiscal year 1998. On page 90, it says, ''Retain current law on separate crime caps at levels shown in the agreement tables.''

All we are doing here is extending the crime law trust fund. We are not making judgments on how that will be disbursed within the trust fund. We are just extending the trust fund to the extent of this agreement. And, Madam President, as I offer this amendment, we are maintaining a commitment to one of the few specific ways the reconciliation package can, by virtue of the type of legislation it is, maintain a commitment.

The commitment we made was to fight violent crime. And, ironically, it is working. It is working. And so for us now to extend the violent crime trust fund, let it expire 2 years before this budget agreement expires, means we are going to be back at it again in the year 2000 or before, fighting over something we now know works.

So I realize we can take a long time debating this. But the bottom line is this: We are not suggesting, as the Senator from New Mexico knows, how this trust fund money within the caps will be disbursed; merely that we have the continuation of the trust fund as long as the budget agreement to the year 2002.

Of all the priorities addressed in this budget package, I believe that none is more important than continuing our fight against violent crime and violence against women.

The amendment I am offering, along with Senator GRAMM seeks to maintain this commitment in one of the few specific ways this reconciliation package can—by virtue of the type of legislation this is—maintain this commitment. That is by extending the violent crime control trust fund will continue through the end of this budget resolution, fiscal year 2002.

Senator BYRD, more than anyone, deserves credit for the crime law trust fund. Senator BYRD worked to develop an idea that was simple as it was profound—as he called on us to use the savings from the reductions in the Federal work force of 272,000 employees to fund one of the Nation's most urgent priorities: fighting the scourge of violent crime.

Senator GRAMM was also one of the very first to call on the Senate to ''put our money where our mouth was.'' Too often, this Senate has voted to send significant aid to State and local law enforcement—but, when it came time to write the check, we did not find nearly the dollars we promised.

Working together in 1993, Senator BYRD, myself, Senator GRAMM, and other Senators passed the violent crime control trust fund in the Senate. And, in 1994, it became law in the Biden crime law.

Since then, the dollars from the crime law trust fund have: Helped add more than 60,000 community police officers to our streets; helped shelter more than 80,000 battered women and their children; focussed law enforcement, prosecutors, and victims service providers on providing immediate help to women victimized by someone who pretends to love them; forced tens of thousands of drug offenders into drug testing and treatment programs, instead of continuing to allow them to remain free on probation with no supervision and no accountability; constructed thousands of prison cells for violent criminals; and brought unprecedented resources to defending our Southwest border—putting us on the path to literally double the number of Federal border agents over just a 5-year period.

The results of this effort are already taking hold: According to the FBI's national crime statistics, violent crime is down and down significantly—leaving our nation with its lowest murder rate since 1971; the lowest violent crime total since 1990; and the lowest murder rate for wives, ex-wives, and girlfriends at the hands of their intimates to an 18-year low.

In short, we have proven able to do what few thought possible—by being smart, keeping our focus, and putting our ''money where our mouths'' are—we have actually cut violent crime.

Today, our challenge is to keep our focus and to stay vigilant against violent crime. Today, the Biden-Byrd-Gramm amendment before the Senate offers one modest step toward meeting that challenge:

By assuring that the commitment to fighting crime and violence against women will continue for the full duration of this budget resolution.

By assuring that the violent crime control trust fund will continue—in its current form which provides additional Federal assistance without adding 1 cent to the deficit—through 2002.

The Biden-Gramm amendment offers a few very simple choices: Stand up for cops—or don't; stand up for the fight against violence against women—or don't; and stand up for increased border enforcement—or don't.

Every Member of this Senate is against violence crime—we way that in speech after speech. Now, I urge all my colleagues to back up with words with the only thing that we can actually do for the cop walking the beat, the battered woman, the victim of crime—provide the dollars that help give them the tools to fight violent criminals, standup to their abuser, and restore at least some small piece of the dignity taken from them at the hands of a violent criminal.

Let us be very clear of the stakes here—frankly, if we do not continue the trust fund, we will not be able to continue such proven, valuable efforts as the violence against women law. Nothing we can do today can guarantee that we, in fact, will continue the Violence Against Women Act when the law expires in the year 2000.

But, mark my words, if the trust fund ends, the efforts to provide shelter, help victims, and get tough on the abusers and barterers will wither on the vine. Passing the amendment I offer today will send a clear, unambiguous message that the trust fund should continue and with it, the historic effort undertaken by the Violence Against Women Act that says by word, deed, and dollar that the Federal Government stands with women and against the misguided notion that ''domestic'' violence is a man's ''right'' and ''not really a crime.''

I urge my colleagues to support the Biden-Gramm amendment.

At the appropriate time—and I am not quite sure yet when is appropriate—I will ask for the yeas and nays on this.

But make no mistake about it, what we are voting on here is whether or not we are going to commit now to the extension of the trust fund, the violent crime trust fund, for the extent of this agreement. That is all this does. That is everything it does, but that is all it does.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from New Mexico.

AMENDMENT NO. 537, WITHDRAWN

Mr. DOMENICI. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 537) was withdrawn.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized.

AMENDMENT NO. 540

(Purpose: To eliminate tax deductions for advertising and promotion expenditures relating to alcoholic beverages and to increase funding for programs that educate and prevent the abuse of alcohol among our Nation's youth)

Mr. BYRD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 540.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

TITLE —ALCOHOL ADVERTISING RESPONSIBILITY ACT

SEC. 01. SHORT TITLE.

This title may be cited as the ''Alcohol Advertising Responsibility Act''.

SEC. 02. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) alcohol is used by more Americans than any other drug;

(2) it is estimated that the costs to society from alcoholism and alcohol abuse were approximately $100,000,000,000 in 1990 alone.

(3) in 1995, the alcoholic beverage industry spent $1,040,300,000 on advertising, while the National Institute for Alcohol Abuse and Alcoholism was funded at only $181,445,000;

(4) more than 100,000 deaths each year in the United States result from alcohol-related causes;

(5) 41.3 percent of all traffic facilities in 1995, or 17,274 deaths, were alcohol related;

(6) in addition to severe health consequences, alcohol misuse is involved in approximately 30 percent of all suicides, 50 percent of homicides, 68 percent of manslaughter cases, 52 percent of rapes and other sexual assaults, 48 percent of robberies, 62 percent of assaults, and 49 percent of all other violent crimes;

(7) approximately 30 percent of all accidental deaths are attributable to alcohol abuse;

(8) alcohol advertising may influence children's perceptions toward an inclinations to consume alcoholic beverages;

(9) 26 percent of eighth graders, 40 percent of tenth graders, and 51 percent of twelfth graders report having used alcohol in the past month; and

(10) college presidents nationwide view alcohol abuse as their paramount campus-life problem.

(b) PURPOSES.—The purposes of this title are—

(1) to repeal the existing tax subsidization for expenses incurred to promote the consumption of alcoholic beverages;

(2) to reduce the amount of alcohol advertising to which our Nation's youth are exposed; and

(3) to increase funding for those programs that educate and prevent the abuse of alcohol among our Nation's youth.

SEC. 03. DISALLOWANCE OF DEDUCTION FOR ADVERTISING AND PROMOTION EXPENSES RELATING TO ALCOHOLIC BEVERAGES.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end of the following:

SEC. 280I. ADVERTISING AND PROMOTION EXPENDITURES RELATING TO ALCOHOLIC BEVERAGES.

''(a) IN GENERAL.—No deduction otherwise allowable under this chapter shall be allowed for any amount paid or incurred to advertise or promote by any means any alcoholic beverage.

''(b) ALCOHOLIC BEVERAGE.—For purposes of this section, the term 'alcoholic beverage' means any item which is subject to tax under subpart A, C, or D of part I of subchapter A of chapter 51 (relating to taxes on distilled spirits, wines, and beer).''.

(b) CONFORMING AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end the following:

''Sec. 280I. Advertising and promotion expenditures relating to alcoholic beverages.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31 of the year in which this Act is enacted.

SEC. 04. ALCOHOL ABUSE EDUCATION AND PREVENTION AMONG YOUTH.

(a) IN GENERAL.—Subject to subsection (c), there shall be transferred, from funds in the Treasury not otherwise appropriated, to the entities described in subsection (b) amounts to the extent specified under subsection (b).

(b) EDUCATION AND PREVENTION PROGRAMS.—

(1) SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION.—The amounts specified in this subsection shall be:

(A) IN GENERAL.—With respect to the Substance Abuse and Mental Health Services Administration, $120,000.000 for fiscal year 1998, $180,000,000 for fiscal year 1999, $180,000,000 for fiscal year 2000, $210,000,000 for fiscal year 2001, and $210,000,000 for fiscal year 2002, to supplement substance abuse prevention activities authorized under section 501 of the Public Health Service Act (42 U.S.C. 290aa).

(B) USE OF FUNDS.—Amounts provided to the Substance Abuse and Mental Health Services Administration under subparagraph (A) shall be used directly or through grants and cooperative agreements to carry out activities to prevent the use of alcohol among youth, including the development and distribution of public service announcements.

(2) CENTERS FOR DISEASE CONTROL AND PREVENTION.—

(A) IN GENERAL.—With respect to the Centers for Disease Control and Prevention, $120,000.000 for fiscal year 1998, $180,000,000 for fiscal year 1999, $180,000,000 for fiscal year 2000, $210,000,000 for fiscal year 2001, and $210,000,000 for fiscal year 2002, to carry out a comprehensive strategy to prevent alcohol-related disease and disability.

(A) REQUIRED USES.—In carrying out the comprehensive strategy under subparagraph (A), the Centers for Disease Control and Prevention shall—

(i) enhance and expand State-based and national surveillance activities to monitor the scope of alcohol use among the youth of the United States;

(ii) enhance comprehensive school-based health programs that focus on alcohol use prevention strategies;

(iii) develop and distribute commercial advertising to prevent alcohol abuse among youth; and

(iv) enhance and expand Fetal Alcohol Syndrome prevention activities throughout the United States.

(3) NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION.—With respect to the National Highway Traffic Safety Administration, and in addition to any funds authorized from the Highway Trust Fund, $120,000.000 for fiscal year 1998, $180,000,000 for fiscal year 1999, $180,000,000 for fiscal year 2000, $210,000,000 for fiscal year 2001, and $210,000,000 for fiscal year 2002, to carry out programs under sections 402, 403, and 410 of title 23, United States Code, and to develop and implement a paid media campaign targeting high-risk youth populations to improve the balance of media messages related to alcohol impaired driving.

(4) INDIAN HEALTH SERVICE.—With respect to the Indian Health Service, $40,000,000 for fiscal year 1998, $60,000,000 for fiscal year 1999, $60,000,000 for fiscal year 2000, $70,000,000 for fiscal year 2001, and $70,000,000 for fiscal year 2002, to supplement the programs that such Service is authorized to carry out pursuant to titles II and III of the Public Health Service Act (42 U.S.C. 202 et seq., 241 et seq.).

(c) AUTHORITY TO TRANSFER FUNDS.—The Committee on Appropriations of the House of Representatives and the Committee on appropriations of the Senate, acting through appropriations Acts, may transfer the amount specified under subsection (b) in each fiscal year among the entities referred to in such subsection.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, would the Chair indulge me momentarily?

I protect my right to the floor.

The PRESIDING OFFICER. The Senator from West Virginia will be protected in his right to the floor.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. BYRD. I thank the Chair.

Mr. President, last Friday negotiators from the tobacco industry and State attorneys general announced the landmark agreement addressing the impact of tobacco use on our Nation, particularly our young people. Although this important deal will likely face many obstacles and has a long way to go toward implementation, it is an unprecedented first step toward curbing tobacco use and paying for the harm caused by that use.

This process has caused our Nation to focus on an important public health danger and is an important step in working toward a meaningful solution.

While I applaud the action being taken to address the pernicious health effects of tobacco, I am concerned that its evil twin, which also has a staggering impact on our Nation, is to a large measure being ignored.

Mr. President, the cost of alcohol abuse to our country is staggering. According to the National Institute on Alcohol Abuse and Alcoholism of the National Institutes of Health, alcohol is used by more Americans than any other drug. And the results are devastating.

The flood tide of alcohol causes more than 100,000 deaths each year in the United States. Alcohol abuse and alcoholism imposes approximately $100 billion in cost each year on society. Links have been found between alcohol abuse and cirrhosis of the liver, as well as other harmful health conditions. Alcohol is a contributing factor in assaults, murders and other violent crimes, including fatal drinking and driving accidents.

At the bottom of every empty bottle is another family in crisis, another career being destroyed, or another dream washed away.

The amendment I am offering today would eliminate the tax deduction for alcoholic beverage advertising expenditures. In addition, it would increase funding for a number of programs that educate and prevent the abuse of alcohol among our Nation's youth.

What should be of the utmost of our concern in our Nation is the impact of alcohol on our children and our grandchildren.

I am introducing this amendment on behalf of the children who died because they were drinking and driving, and on behalf of the millions of children who are drinking right now without the full appreciation of what they are doing to themselves and what they could potentially do to others.

Alcohol is the drug of choice among teenagers.

Mr. President, more specifically, and looking at this chart compiled by the National Center on Addiction and Substance Abuse, the use of alcohol by our Nation's youth is highlighted among different age groups, including children between the ages of 12 and 17. Among children between the ages of 16 and 17, 69.3 percent have at one point in their lifetimes experimented with alcohol.

Clearly, as made evident by these alarming statistics, alcohol is the leading problem among teenagers—not marijuana, not cocaine.

In the last month, approximately 8 percent of the Nation's eighth graders have been drunk—have been drunk. We are talking about eighth graders, 13 years old—13-year-olds. I never heard of such a thing when I was in my teens, as a young man, or in my middle age. We are talking about eighth graders, 13-year-olds.

Every State has a law prohibiting the sale of alcohol to individuals under the age of 21. How is it then that two out of every three teenagers who drink report that they can buy their own alcoholic beverages?

The youth of this country, who at the delicate age of 15 should be enriching their minds with schoolwork, improving their bodies with exercise, and discovering the wonders of life through God and family values, instead are experimenting and endangering themselves with booze. Junior and senior high school students drink 35 percent of all wine coolers and consume 1.1 billion cans of beer a year. I know, because I pick some of them up off my lawn—I am talking about the beer cans, not the young people.

I will repeat what is common knowledge to us all: Every State has a law prohibiting the sale of alcohol to individuals under the age of 21. Alcohol is a factor in the three leading causes of death for 15- to 24-year-olds—the three leading causes—accidents, homicides, suicide. In approximately 50 percent to 60 percent of youth suicides, alcohol is involved.

Links have been shown between alcohol use and teen pregnancies and sexually transmitted diseases. Eighty percent of the teenagers do not know that a can of beer has the same amount of alcohol as a shot of whiskey or a glass of wine. By the time they are in college, 40 percent have binged on alcohol during the previous 2 weeks.

In 1994, 8.9 percent—almost 95,000—of the clients admitted to alcohol treatment programs that received at least part of their funding from the State were under the age of 21, including over 1,000 under the age of 12. And 31.9 percent of youth under the age of 18 in long-term State-operated juvenile institutions were under the influence of alcohol at the time of their arrest.

While our Nation's education system needs repair, it seems that our society has been successful in teaching these kids something. The problem is that what we have taught them is deadly.

Drinking impairs one's judgment. We all know that. Nobody will dispute that. Alcohol mixed with teenage driving is a lethal, a lethal combination. We read about it all the time in the Washington Post, the Washington Times, and every newspaper in the land. In 1995, there were 1,666 alcohol-related fatalities of children between the ages of 15 and 19. The total number of alcohol-related fatalities that year was 17,274. Mr. President, for many years I have taken the opportunity, when addressing groups of young West Virginians, to warn them about the dangers of alcohol. I supported legislative efforts to discourage people, particularly young people, from drinking any alcohol. For example, 2 years ago I authored an amendment that requires States to pass the zero-tolerance laws that will make it illegal for persons under the age of 21 to drive a motor vehicle if they have a blood alcohol level greater than .02 percent. This legislation not only helps to save lives but it also sends a message to our Nation's youth that drinking and driving is wrong, that it is a violation of the law, and that it will be appropriately punished. Unfortunately and tragically, we all know someone, whether it is a family member or a friend or an acquaintance, whose life has been cut short by a drunk driver. These are senseless losses that are devastating to the families and the friends who are left behind.

As if the aforementioned statistics about youth alcohol use and the results of that use are not frightening enough, young people who consume alcohol are more likely to use other drugs.

On the chart to my left, Senators will note these statistics, compiled by the National Center on Addiction and Substance Abuse at Columbia University, statistics which show that 37.5 percent of young people who have consumed alcohol have used some other illicit drug, versus only 5 percent of young people who have never consumed alcohol; 26.7 percent of those who have consumed alcohol have tried marijuana, versus 1.2 percent of those who have never consumed alcohol; 5 percent of youths who have partaken of alcohol have tried cocaine, while only 0.1 of 1 percent of those who do not drink have used cocaine. So it is not a question that is even debatable that youths who drink alcohol are more likely to use other drugs.

Mr. President, as the aforementioned facts and figures indicate, alcohol exacts a tremendous cost on our society. These costs are not always clear-cut. For example, consider the costs of the lost productivity of a person showing up at work on a Monday morning with a hangover and inadequately performing his or her job, perhaps making a mistake that results in injury. How many of us would like to ride in the automobile that was made on such a Monday morning? How many of us would like to fly on the airplane whose maintenance man or woman, whose mechanic was on a binge the previous day? While there is no way to accurately gauge the enormous costs that alcohol exacts upon our society, there can be no doubt that the pleasures of alcohol consumption exacts a considerable price on our Nation.

The purpose of the amendment that I introduce today is simple. My proposal would simply tell all producers of alcoholic beverages that they can no longer deduct the costs of their advertising expenditures on those products from their Federal income tax liability. While advertising is generally deductible as a legitimate business expense, I believe there exists a moral, legitimate reason to create an exception for producers of alcoholic beverages whose products exact such considerable costs on our society. My proposal would not make illegal any advertising of alcoholic beverages. It does not say that any advertising of alcoholic beverages is unconstitutional. It does not attempt to ban such advertisements, nor would it create any additional Federal bureaucracy to regulate alcohol products. Rather, it would simply end the American taxpayers' subsidization of alcohol advertising by amending the Internal Revenue Code of 1986 to include a disallowance of any deduction for any amount paid or incurred to advertise or promote by any means any alcoholic beverage. This is not a sin tax. It is, rather, an end to the sin subsidy that has left American taxpayers footing the bill for both alcohol advertising and the high health care costs inflicted on society by alcohol consumption. Now there may be those who argue that it is wrong to single out alcohol advertising expenses. I counter that with the question: What other product, with the possible exception of tobacco, costs society $100 billion each year? What other product results in more than 100,000 deaths each year in the United States? The statistics are indeed staggering.

Mr. President, in these complicated times, the innocence of youth, the innocence of youth is dashed away at an early age by the irreverent messages spewing from the television set. Profanity and violence on television programming are interrupted only by the aggressive commercials seeking to influence viewers in the name of profit.

Our impressionable youth, pressured by the self-indulgent motives of revenue-hungry corporations are bombarded by countless images glorifying an unrealistic view of reality, often insincerely portraying alcoholic beverages as an ingredient for ideal lifestyles. Our children are besieged with the message that if you drink you will attract beautiful women, if you drink you will be popular, if you drink you will excel at sports. Are these the images of reality or do they leave out something important? Do they leave out some important facts about alcohol consumption? What about the negative and all too prevalent results of alcohol consumption—the hangovers that result in lost productivity, the tragic deaths, the injuries caused by a drunk behind the wheel, the hospital visits for alcohol poisoning, the horrible effects of cirrhosis of the liver and the families torn apart by alcohol abuse.

The industry indicates that their advertisements do not target young people, although this is debatable. A January Wall Street Journal article, detailing a competitive media reporting survey commissioned by the Journal, found that beer advertisements are often aired during programs that are watched by large numbers of adolescents. The findings of this survey are extremely disturbing. In one example, referenced in the article, a beer ad ran during the airing of a popular cartoon show on the MTV station of which 69 percent of the audience was comprised of children under the age of 21.

Mr. President, I ask unanimous consent to have printed in the RECORD the Wall Street Journal article.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal]

ARE BEER ADS ON BEAVIS AND BUTT-HEAD AIMED AT KIDS?

(By Sally Beatty)

When a commercial for Schlitz Malt Liquor appeared last year on MTV during ''My So-Called Life,'' a show about teenage girls, beer maker Stroh called the airing an aberration.

Even as the ad helped launch a Federal Trade Commission probe into alcohol advertising to children, Stroh said it had a longtime policy of aiming ads only at adults of legal drinking age; MTV said the ad ran by mistake because of a last-minute programming switch.

In fact, the commercial was hardly an isolated event. Despite the beer industry's insistence that it doesn't target kids, its commercials regularly wash over underage viewers. A survey by Competitive Media Reporting for the Wall Street Journal showed that during one arbitrarily chosen week—the first week of September—youths under the drinking age made up the majority of the audience for beer commercials on several occasions.

For instance, Molson beer was advertised during a 10 p.m. episode of ''Beavis & Butt-Head,'' the popular MTV cartoon series about two obnoxious teens. Fully 69% of all the episode's viewers that night were under 21—the legal drinking age in all 50 states—according to Nielsen Media Research's widely used ratings data. Molson, which is marketed in the U.S. by Philip Morris's Miller Brewing, also advertised on MTV's racy youth dating show, ''Singled Out,'' just after 7 p.m., when 52% of the audience was under 21. And Stroh advertised Schlitz Malt Liquor during MTV's prime-time music-video show at 8:30 p.m., when 56% of the audience was under 21.

That same week, Adolph Coors ran two ads on the Black Entertainment Television channel after 8 p.m., when 65% of the audience wasn't old enough to drink. Also that week, Anheuser-Busch ran an ad for its Budweiser brand just after 8:30 p.m. on BET during music-video programming, when 70% of the audience was under 21.

These commercials look like clear violations of the chief beer industry trade group's own guidelines for TV ads. ''Beer advertising . . . should not be placed in magazines, newspapers, television programs, radio programs or other media where most of the audience is reasonably expected to be below the legal purchase age,'' states the Beer Institute's published ''advertising and marketing guidelines.'' The industry is pointing to these guidelines in an aggressive lobbying effort against proposed new federal restrictions of beer and liquor advertising.

The number of ads reaching kids is ''very troubling,'' says Jodie Bernstein, director of the FTC's bureau of consumer protection and a top official involved with its ongoing probe into alcohol marketing to kids on television. Her bureau enforces laws banning unfair or deceptive ad practices, including a statute that says it's unfair to aim ads at people who aren't legally able to buy the products. A company that runs afoul of such laws can face fines, orders to pull ads and regular FTC screening of future advertising.

Ms. Bernstein won't comment on the FTC's probe. However, she says that in any investigation, the commission would look first at whether alcohol advertisers are ''following their own guidelines.'' For example, ''Is it OK if [the percentage of underage viewers] gets up to 70% once in a while? I don't think it's OK.'' And she says the commission would ''never act on just one episode or one mistake—we would act on the pattern.''

Brewers and TV executives insist that it doesn't make sense to evaluate beer ads on a single night's audience. ''Any attempt to analyze the beer industry's media-buying practices by examining only selected broadcast media buys during a one-week period is misleading and simplistic,'' said Miller Brewing in a statement responding to questions about the survey. Miller added that more than 75 percent of the broadcast audience reached by the programming it buys is over 21.

At Stroh, officials argue that there's a difference between putting ads in front of kids and targeting them explicitly. ''We understand that when an ad is run it's going to be seen by some people who are under 21 years of age, whether it's a billboard, in a magazine or on TV,'' says Stroh general counsel George Kuehn. ''That does not mean we target the group that is under 21.''

Whether the beer industry advertises to kids became a hotly debated question after the liquor industry last year abandoned its longstanding guidelines banning TV ads. That sparked a national uproar over exposing kids to alcohol ads—putting the beer industry in the spotlight.

In Congress, Rep. Joseph P. Kennedy II (D., Mass.) has introduced legislation that would ban most forms of alcohol advertising from 7 a.m. to 10 p.m., require health warnings on print, radio and TV ads and require alcohol ads that run in publication with a 15% or more youth readership to appear only in black-and-white text.

There are already signs that brewers and Madison Avenue are worried about the threat of regulation of beer ads. No. 1 brewer Anheuser-Busch revealed last month that it quietly pulled all its beer advertising from MTV, saying it hoped to ''ensure that our intent is not misperceived in today's climate.'' The Madison Avenue's main trade group, the American Association of Advertising Agencies, recently abandoned its longtime stand against restrictions on ads for products like alcohol and cigarettes. It proposed setting up a new self-regulation committee, warning that the industry otherwise faces a government crackdown on ads for beer and other adult products.

But setting reliable guidelines for such ads remains tricky. TV executives argue that Nielsen ratings aren't reliable measures of kid viewership—even though the ratings are the TV industry's gold standard for gauging the cost of ad time. Says John Popkowski, executive vice president in charge of ad sales at MTV Networks: ''If you pick one show on an isolated night you might find one that's an aberration statistically,'' since cable channels' viewership is sometimes relatively small.

On the E! Channel, for instance, Miller Brewing ran a Foster's ad on Sept. 2, just before 7:30 p.m., during the show ''Melrose Place.'' That night, 41% of the show's audience was under 21, according to Nielsen. But David T. Cassaro, senior vice president in charge of ad sales for E! Entertainment Television, says that from July 1 to Sept. 29 between 7 p.m. and 8 p.m., only about 28% of E! Entertainment's audience was under 21. Overall, Mr. Cassaro adds, only 19% of E! Entertainment's total audience isn't old enough to drink.

''With networks like BET the numbers are so small that they jump all over the place,'' adds John Goldman, a spokesman for Adolph Coors. ''You take as much care as you can but the programming changes often.'' Mr. Goldman says that in the third quarter, the over-21 audience reached by BET between 7 p.m. and 8 p.m. ranged from 80% to 43%.

Mr. Goldman adds that Coors doesn't buy MTV as a matter of company policy. ''We want to avoid any misperception that we're aiming at an underage audience.''

Mr. BYRD. Mr. President, looking at another chart to my left, this chart demonstrates competitive media reporting estimates that the alcoholic beverage industry spent more than $1 billion on alcohol advertising in 1995.

In contrast, in 1995, the Federal investment in the National Institute on Alcohol Abuse and Alcoholism was a mere $189.8 million for alcohol research. Does the industry expect us to believe that it would spend this huge amount of money—$1.1 billion—if it were not getting something for that money? Some may argue that this legislation would adversely affect the advertising industry by forcing producers of alcoholic beverages to eliminate their advertising expenditure. Poppycock. I do not believe that this would be the case.

Alcoholic beverage producers spend large amounts of money to advertise their products because it encourages people to consume their product and it, therefore, increases sales. Eliminating the advertising deduction will not eliminate the fundamental business practice. By making these advertisements less profitable, this amendment may reduce the overall amount of alcohol advertising in our society. However, let there be no doubt that the alcohol ads will keep on running. You

can bet your bottom dollar on that. They will. The difference, however, will be that the American taxpayer will no longer be subsidizing this activity and that the money will go, instead, to getting the other side of the alcohol story out. That is what we need to start doing. We need to start now getting the other side of the alcohol story out. It is perhaps not the most popular thing politically to attempt to do here, but it needs to be done.

This amendment is all the more necessary because, last year, the Distilled Spirits Council of the United States decided to reject its self-imposed ban on advertising hard liquor on television and radio. I decried this decision by the Distilled Spirits Council because it is a step backward at a time when our Nation is working to curb alcohol abuse. Now hard liquor advertisements will be flowing over the airwaves. This is not the direction in which our Nation should be moving.

According to the Joint Committee on Taxation, the elimination of the tax deduction would result in $2.9 billion in savings over 5 years. My amendment targets the savings from the elimination of the disallowance to programs to prevent alcohol abuse among our Nation's young people and to educate children about alcohol. The Substance Abuse and Mental Health Services Administration would be given increased funds to supplement programs to prevent the use of alcohol among young people and to fund a media campaign designed to counteract the constant bombardment to which our children are subjected daily by alcohol advertisements. It is important to give our children information about the risks associated with the consumption of alcohol. We should not sit idly by and leave unchallenged the messages of alcoholic beverage advertisements that only good things happen to those who drink alcohol.

This amendment will also direct funding to the Centers for Disease Control and Prevention to carry out a comprehensive strategy to prevent alcohol-related disease and disability. The CDC would be given authority to enhance and expand fetal alcohol syndrome prevention activities throughout the Nation. According to the NIAAA, fetal alcohol syndrome is estimated to affect from one to three children out of every 1,000 live births.

To address the distressing problem of alcohol-impaired driving, the National Highway Traffic Safety Administration's alcohol-impaired driving incentive grant program, previously known as section 410, would receive additional funding. Funding is also made available to NTSA to launch a media campaign about the perils of driving under the influence.

The Indian Health Service will receive funding for its alcohol abuse programs to address the issue of alcohol abuse, which has such a devastating effect on the first Americans. I don't refer to them as native Americans. I don't refer to them as native Americans. I am a native American. If I am not a native American, of what country am I a native? I refer to them as the original Americans, or the first Americans.

The harm that alcoholic beverages cause our Nation is not a second-rate hangover, but a serious affliction that kills more than 100,000 people each year. By adopting this amendment, we would be making a positive effort to improve the health of our Nation, particularly of our children, and to send a sober message to those who are capitalizing on profits generated by recklessly advertising alcoholic beverages through far-reaching and seductive means, such as television.

We should act in the best interests of the American people and announce ''last call'' to those who have been receiving tax breaks for peddling booze, take a step in the right direction and begin to repair some of the damage brought by alcohol in this country. Let us begin by putting a cork in the tax loophole that has left American taxpayers picking up the tab for the alcohol industry.

Now, Mr. President, I am very well aware that a point of order will be made, or can be made. I am well aware of that. But I think the debate has to start at some point. I think that point is now. We hear a great deal about tobacco and we hear a great deal about children, about children's health. I hope those who support those programs and talk much about them would support this effort. We are talking here about children's health. We are talking here about something that kills 100,000 people every year. I am not seeking to ban alcohol. I am not seeking to regulate alcohol. I am simply seeking to end the subsidization by the taxpayers of this country of alcohol.

Think about it. Think about it on your way home tonight as you drive out the George Washington Parkway and see someone in front of you wobbling from one side of the road to the other. Think again. Suppose your wife is up at Tyson's Corner getting ready to drive home with the children and that same fellow who was in front of your car wobbling may kill your wife and your children.

So let's start talking about it. Let's start airing the subject here. Let's stop putting it behind the curtain, putting it under the rug, saying it is taboo. It is not. It is not taboo. Think about our children, our grandchildren. This is the product that kills other people. Tobacco may kill me. Tobacco may kill the individual who smokes it. But alcohol may not kill the person who imbibes; it may kill the innocent—the driver in the other car.

So I hope that Senators will support my amendment. As I say, I am sure that there is a process or a motion available, but I am accustomed to those things. I say let the Senate work its will.

I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. I yield 5 minutes to the distinguished Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, I thank the chairman of the Finance Committee for yielding me a few moments. I listened very carefully to my good friend and colleague from West Virginia and to his observations about the dangers of drinking and driving, with which I completely concur.

Of course, representing Kentucky, as my friend from West Virginia knows, not only do we have 60,000 tobacco growers, which is, of course, the subject of a number of amendments that may come on this bill; we are also the home of bourbon. If this kind of whiskey is not made in Kentucky, it cannot be called bourbon. Let me suggest that there are no industries—and I checked with the Finance Committee staff—that have been singled out by law and, as a result of being singled out, are not allowed to deduct their expenses for advertising. So this would be a first.

To begin with, as a matter of tax policy, certain kinds of legal industries are not allowed to deduct their advertising, and others are. There is also—while we are thinking of both cigarettes and alcohol—another important distinction. There is no argument that misuse of alcohol is a problem in this country. As a Senator from a tobacco-producing State, I never make the argument that smoking cigarettes is good for you. Obviously, it isn't. But there are many in the medical profession who would say that the consumption of alcohol, if used properly—properly—is actually good for you. I am not a physician, I can't make that argument, but there is a growing argument being made by many in the medical community that a certain amount of alcohol, properly used, is actually good for you health, not bad for your health.

So we have here a legal product, Mr. President, which, arguably, if properly used, might actually be good for you, which the distinguished Senator from West Virginia, I gather, is saying when misused, of course, is clearly a terrible thing and a disaster not only for the person misusing it, but for others who may be affected by that, and that because a product may be misused, the Government should step in and say: Your advertising is not allowed.

Regardless of how you may feel about this——

Mr. BYRD. Will the Senator yield?

Mr. MCCONNELL. Yes.

Mr. BYRD. For a correction only. My amendment does not say your advertising will not be allowed. I am not saying that at all. The alcohol industry may continue to advertise. I am just saying, let's stop the subsidization of that advertising, the subsidization by the taxpayers.

Mr. MCCONNELL. I thank the Senator. I think I did understand his

amendment to disallow a deductibility for advertising, which would make this the only industry of which the Finance Committee is aware where such deductibility would be disallowed.

Aside from my home State and the product, which, if properly used, might actually be good for you, I wonder if my friend from West Virginia doesn't share my concern that once we go in this direction, we might find other activities that some may find offensive being subject to the same kinds of efforts to disallow deductibility for certain kinds of business expenses.

I think, for example, West Virginia and Kentucky used to trade back and forth in terms of coal production. One year West Virginia would be first; the next year Kentucky would be the first. Alas, neither are first anymore. Wyoming is. But there are many Americans who think, as a result of the burning of coal, that the area is polluted and that, as a result of that, people contract lung problems. In fact, there is an initiative by the Clinton administration just announced this week which the Senator from West Virginia and I both have serious reservations about designed to cut down on air pollution—so the argument goes—so there will be less lung disease.

I wonder, if we go down this path of trying to pick out which industries' deductions for certain kinds of business expenses are to be allowed or not allowed based upon our judgment about what is harmful to the public, whether or not somebody might come in and say, ''Well, we shouldn't allow production costs associated with the mining of coal to be deductible because, after all, the burning of coal leads to the pollution of the air, which then leads to lung disease, which then leads to death.''

I just am concerned that this is a step in the wrong direction. I understand fully the concerns of the Senator from West Virginia, and I share them. I think the use of alcohol leads to a great deal of tragedy.

But I hope we will not single out this legal industry producing a product, which, if properly used, many people in the medical field feel is actually good for you, for this kind of selective treatment on deductibility.

Finally, let me say that I am not an expert on the budget deal. But it is clear that there is a lot of momentum in this body to hold the deal together, and this is clearly not part of the budget deal.

I hope that the proposal will not be approved, in all due respect to my good friend and colleague from West Virginia. I hope this would not become part of the measure before us.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, may I say that I fully understand the economic impact of the tobacco industry on the State of the distinguished Senator who has just spoken. West Virginia grows good tobacco crops as well, and the income from those tobacco crops certainly impact upon many families in many counties of West Virginia. We are talking about here, though, a product that results in the maiming and in the killing of people—innocent men, women, and children.

The distinguished Senator from Kentucky mentions the carbon dioxide emissions and other greenhouse gas emissions and possible implications of those emissions on health. People who breathe that air may well, indeed, suffer an adverse impact on their health. But they don't go out and maim. They don't go out and drive an automobile, lose their proper judgment, and end up killing innocent people. They do not go home and abuse their spouses if they smoke cigarettes or if they breathe air blown from them. They don't go home and abuse their children. They don't go home and assault and batter the other members of their family.

I am talking about a product that we all know—it is not just this Senator's opinion. We all know when we read the daily newspapers about the effects of drinking and driving. We all read the newspapers in the spring following the graduation exercises at high schools, and we read, with horror, the stories of a few young people who get into an automobile and wrap that automobile around a telephone pole and they are all killed or maimed—maimed for life.

That is what we are talking about. I am not talking about singling out an industry. I am talking about an industry that creates a product that is hurtful—not just hurtful to the person who uses it, but endangers, as I said already, the lives of others. We all know that.

But I do appreciate the fact that the Senator is from Kentucky, and I respect him for that, and I respect his viewpoint and count him and his fellow Kentuckians as good neighbors.

I yield the floor.

Mr. ROTH. How much time would the Senator from Montana like?

Mr. BURNS. Probably no more than 5 minutes.

Mr. ROTH. I yield 5 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. I thank my friend from Delaware.

Mr. President, no one on this floor makes his case with such passion as my friend from West Virginia. We have a couple of things in common that we will not go into here. But I also know from where he comes. And when you start talking about this issue of singling out something, then we have to look at probably the real facts.

First, there is the presumption in this amendment that somehow the advertising is evil or bad, or that it wreaks health problems on the American people. There is no question in anybody's mind across this land that the abuse of alcohol is one of our greatest problems—no doubt. Yet, there is no scientific evidence that would even suggest the casual relationship between advertising and abuse.

In order to get to the root of the problem of alcoholism and all of the problems that it brings, study after study after study has been made in the relationship of advertising. In fact, during the 1980's, when the advertising for alcohol products was increasing, actual consumption per capita actually was decreasing. So not only does advertising not impact abuse, it doesn't even impact the overall consumption.

Singling out a product is not, I don't think, what fair tax law is about.

So let's be upfront about it, because I am familiar with the broadcast industry. It has economic impacts on small business. It has economic impacts. And once we start singling out products, do we start talking about red meat, eggs, or sugar? Where do we draw the line? The impact it might have on the national pastime? We could say, ''OK, we don't need it in the broadcasting industry. We can all pay for pay-per-view''—the impact on an industry within itself. And the list goes on and on trying to explain to our constituents why different things happen and cost more, because there is a decrease in advertising support in free television. That also brings us our weather, our farm reports, our news, our emergency conditions. All of these things that are supported by free over-the-air broadcasts will be impacted if this amendment is successful.

The industry has taken steps to limit or try to curb the abuse that alcohol has on a person or individual. There is no doubt about it. And in some areas some would say it is even working.

I know that all of us want a tax cut. All of us want a balanced budget. But to single out and start limiting an ad tax or deductibility for legal products is not the right approach. It is not the right approach—not on a legal product.

So I urge my colleagues to oppose this. It is unwarranted. I think it is unwise. And I am not real sure, it might have some constitutional overtones because advertising is still freedom of speech. It cannot be treated differently than any other form.

The Senator from West Virginia makes a point. It is the abuse of the product. The advertising has very little to do with the abuse of the product.

Thank you, and I urge the defeat of this amendment.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, the Senator talks about red meat, eggs, and sugar. The Honorable Senator is my friend. Who ever heard of anybody eating red meat, eggs, and sugar, and getting out in the car and having that car plunge into a tree, weave all across the road, and kill and maim other people? Red meat doesn't cause an individual to drive drunk and get in the car and

drive all over the highway. Eggs and sugar don't do that in their form as eggs and sugar, in their natural form.

The Senator also, I think, made reference to the Federal Trade Commission in 1985, which found ''no reliable basis to conclude that alcohol advertising significantly affects consumption, let alone abuse.'' Well, let's see what the conclusions are from the effects of the mass media on the use and abuse of alcohol.

The National Institute of Alcohol Abuse and Alcoholism, U.S. Department of Health and Human Services, Research Monograph-28, 1995:

[The] preponderance of the evidence indicates that alcohol advertising stimulates higher consumption of alcohol by both adults and adolescents . . . It appears to be a contributing factor that increases drinking to a modest degree rather than being a major determinant. (Dr. Charles Adkins, Department of Communications, Michigan State University.)

Now I shall quote Dr. Sally Casswell, Alcohol and Public Health Research Unit, School of Medicine, University of Aukland:

[T]here is sufficient evidence to say that alcohol advertising is likely to be a contributing factor to overall consumption and other alcohol-related problems in the long term.

Now quoting Dr. Joel Grube, Prevention Research Center:

[A]lcohol advertising can influence children, particularly their beliefs about alcohol and, indirectly, their intentions to drink as adults.

Finally, let me quote Dr. Esther Thorson, School of Journalism, University of Missouri:

If research were designed to take account of what the advertiser is trying to do and if it examined the relationship between the specific structure of the message and the individual or group for whom that message is targeted, investigators probably would find ''whopping effects''.

Mr. President, I appreciate the views that have been expressed by my friend from Montana and, as I have already indicated, by my friend from Kentucky. I appreciate their views, and I respect their views.

Mr. President, I don't think there should be any doubts in the minds of any Senator or any person who is viewing this Chamber via that electronic eye that the drinking of alcohol affects the judgment of people, and that there are many other costs that are not tangible, that cannot be translated into dollars and cents— the cost of lost productivity, the cost of broken homes, the cost of children abused. And I could go on.

I have made my case, and I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. I yield back the balance of my time.

The PRESIDING OFFICER. The Senator from Delaware has the remaining time.

Mr. ROTH. Mr. President, I yield back the remainder of my time, and I make the point of order that the pending amendment is not germane to the provisions of the reconciliation measure and I therefore raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

Mr. BYRD. Mr. President, I move to waive the point of order and ask for the yeas and nays on my motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There is an hour equally divided on the motion.

Mr. BYRD. Mr. President, I yield back my time.

Mr. ROTH. Mr. President, I yield back the balance of my time.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. MCCAIN (when his name was called). Present.

Mr. NICKLES. I announce that the Senator from Kansas [Mr. ROBERTS], is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 12, nays 86, as follows:

[Rollcall Vote No. 136 Leg.]

YEAS—12

Bumpers	Glenn	Rockefeller
Byrd	Hatch	Sarbanes
Cleland	Helms	Thurmond
DeWine	Kennedy	Wellstone

NAYS—86

Abraham	Faircloth	Lieberman
Akaka	Feingold	Lott
Allard	Feinstein	Lugar
Ashcroft	Ford	Mack
Baucus	Frist	McConnell
Bennett	Gorton	Mikulski
Biden	Graham	Moseley-Braun
Bingaman	Gramm	Moynihan
Bond	Grams	Murkowski
Boxer	Grassley	Murray
Breaux	Gregg	Nickles
Brownback	Hagel	Reed
Bryan	Harkin	Reid
Burns	Hollings	Robb
Campbell	Hutchinson	Roth
Chafee	Hutchison	Santorum
Coats	Inhofe	Sessions
Cochran	Inouye	Shelby
Collins	Jeffords	Smith (NH)
Conrad	Johnson	Smith (OR)
Coverdell	Kempthorne	Snowe
Craig	Kerrey	Specter
D'Amato	Kerry	Stevens
Daschle	Kohl	Thomas
Dodd	Kyl	Thompson
Domenici	Landrieu	Torricelli
Dorgan	Lautenberg	Warner
Durbin	Leahy	Wyden
Enzi	Levin	

ANSWERED ''PRESENT''—1

McCain

NOT VOTING—1

Roberts

The PRESIDING OFFICER. If there are no other Senators wishing to vote, the yeas are 12, the nays are 86. One Senator responded present.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

PRIVILEGE OF THE FLOOR

Mr. ROTH. Mr. President, I ask unanimous consent that Barbara Angus and Mel Schwarz of the staff of the Joint Committee on Taxation be granted full floor access during consideration of S. 949.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the chair.

The PRESIDING OFFICER. The Senator from Delaware has the floor.

Mr. MCCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Delaware has the floor.

POINT OF ORDER—SECTION 602

Mr. ROTH. Mr. President, I move to withdraw the request for a waiver of the point of order on section 602 of S. 949.

The PRESIDING OFFICER. Is there objection?

Mr. BOND. Mr. President, reserving the right to object, what is the section?

Mr. KERRY. What is it? Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Delaware has the floor. Does he yield?

Mr. BROWNBACK. Will the Senator from Delaware explain the section?

Mr. ROTH. Mr. President, this was a motion to strike section 602, ''Incentives conditioned on other DC reform.'' This part deals with:

Amendments made by section 701 shall not take effect unless an entity known as the Economic Development Corporation is created by Federal law in 1997 as part of the District of Columbia government.

Senator BROWNBACK made a point of order on this matter and I, in turn, asked for a waiver. We are now asking that the waiver be withdrawn, so that the point of order will lie.

The PRESIDING OFFICER. Is there objection to withdrawing the waiver?

Mr. KERRY addressed the Chair.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Delaware does not lose the floor.

Is there objection?

Mr. KERRY. Reserving the right to object, Mr. President.

Mr. President, I will not object.

Mr. ROTH. Mr. President, I move to withdraw my waiver of the point of order.

The PRESIDING OFFICER. Is there an objection to moving to withdraw the waiver.

Mr. BROWNBACK. Reserving the right to object, do I understand the chairman to say now that you are removing your waiver to the point of order that I have raised?

Mr. ROTH. Yes.

Mr. BROWNBACK. OK. So the point of order would lie.

Mr. ROTH. Correct.

Mr. BROWNBACK. I thank the Senator. I just needed that clarification.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is the Senator reserving the right to object?

Mr. ROTH. Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The point of order is withdrawn.

The motion to waive the Budget Act was withdrawn.

Mr. DURBIN addressed the Chair.

Mr. ROTH. Mr. President, please.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. KERRY. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued with the call of the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I ask unanimous consent that the following Senators, in the order listed, be able to bring up their amendments, the time for each of the amendments be listed and divided equally between the two sides. The first would be Senator DURBIN for 20 minutes, to be equally divided; Senator NICKLES 10 minutes, to be equally divided; Senator GRAMM 20 minutes to be equally divided; Senator KERRY of Massachusetts 20 minutes equally divided, and——

Mr. FORD. Reserving the right to object, Mr. President. Reserving the right to object.

You have in there Senator DURBIN's amendment for, what, 20 minutes equally divided?

Mr. ROTH. That is correct.

Mr. FORD. Mr. President, I want to object to that one. And you can jerk it out if you want to, because you have rolled over the tobacco industry and my farmers long enough. And I don't intend to sit here without a fight for the additional 11 cents you want to put on after you have already put on 20 cents.

So if you want to change that one, that is fine; otherwise, Mr. President, I will have to object.

Mr. GRAMM. Take it off.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. ROTH. I yield for a comment.

Mr. KERRY. Can I suggest, Mr. President, the following. We are going to have to resolve that issue. We are obviously not going to resolve it immediately if an objection is going to be lodged.

So I recommend that we put in line reserving the time that the Senator has agreed to already cut it down to, in the event we reach some agreement that it will be able to be debated, absent that, that we set it aside temporarily with the understanding we take the order as you have described it.

Again, let me just ask, if I could, Mr. President, how much time remains for each side so we know we are dividing this properly?

The PRESIDING OFFICER. The Senator from Illinois has 43 minutes on his amendment.

Mr. KERRY. I am referring to both sides total on the bill.

The PRESIDING OFFICER. The majority has 1 hour and 35 minutes; the minority has 1 hour and 18 minutes.

Mr. KERRY. Mr. President, I ask then unanimous consent that added to that list, for the minority side, the order be as follows: Senator DODD, Senator LANDRIEU, Senator TORRICELLI, Senator HARKIN, Senator LEVIN, Senator BINGAMAN, Senator WELLSTONE, and Senator KOHL, each of them to have 10 minutes on our side.

Mr. FORD. Mr. President, reserving the right to object. Reserving the right to object.

Mr. ROTH. Mr. President, it is obvious we are not close to unanimous consent as to how to proceed, so I think we will just have to go to regular order and call upon Senator DURBIN to bring up his amendment.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Delaware withdraw his request?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. DURBIN. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending question is the amendment of the Senator from Illinois.

Mr. DURBIN. I seek the regular order.

The PRESIDING OFFICER. The Senator from Illinois and the Senator from Delaware control the time.

The PRESIDING OFFICER. Who yields time?

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I seek recognition on this amendment.

I want to make it clear to my colleagues, I am more than willing to accommodate on the remainder of the time. As I understand it, there are about 42 minutes left on this amendment. I do not need all that time. I am more than happy to reduce it equally on both sides and allocate the remaining time on this amendment, any time left before the Senate, among the Members. And I hope that there is no objection to that. But if there is such an objection, I have no other recourse but to proceed on this amendment. And I now have the floor.

I yield for the purpose of a question to the Senator from Oklahoma.

Mr. NICKLES. Will the Senator yield, not for the purpose of a question, but maybe for a suggestion?

Mr. DURBIN. Yes.

Mr. NICKLES. That we go ahead and debate the Senator's amendment until he is satisfied with it, his cosponsors are satisfied with it, and then maybe at that time you can set it aside, and we will go ahead and vote on the other amendments, and you then have had your debate, and we will have a vote on yours somewhere in the pecking order.

Mr. DURBIN. I thank the Senator.

It is the only way I can proceed at this point since there is no unanimous consent that is going to be agreed to.

Mr. KERRY. Mr. President, if the Senator would yield for a moment.

Mr. DURBIN. I yield to the Senator from Massachusetts for a question.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I believe the Senator from Kentucky will agree to a time. I believe the Senator would agree to a time. And I think, in fairness to all the other Senators, that if we could try to establish some kind of order, I think that everybody will benefit that much more. I think we were very close to having that arranged, if the Senator from Oklahoma would just forbear for a moment.

Mr. ROTH. What is the order, Mr. President?

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. DURBIN. Mr. President, I can proceed on this amendment. And if Members can work out some accommodation, I will do my best to abbreviate this debate and give everyone a chance, because I know many people waited.

Mr. President, this—

Mr. KERRY. Would the Senator yield for a question?

Mr. DURBIN. Yes.

Mr. KERRY. Can we get a sense for what the Senator from Illinois means about abbreviating this? Is there some period of time?

Mr. DURBIN. Yes. The Senator is going to try to do it in the 20 minutes that was in the UC request, allocating an equal amount of time to the Senator from Missouri.

Mr. KERRY. Mr. President, if the Senator will yield just for the purposes of asking something.

Mr. DURBIN. Yes.

Mr. KERRY. Will the Senator from Kentucky agree to a 20-minute time period on the Senator from Illinois' amendment?

Mr. FORD. Mr. President, since it has been laid on me—and I do not mind that at all. I have always heard when you tear the hide off it comes back—you are tougher. And I will agree to the 20 minutes. I do not want to, but I will agree to it.

All I hear for the last week is banging my State and my farmers and my tobacco. And I think I ought to have an opportunity to defend myself and my people. If I am going to be limited to 10 minutes, you know, I am not sure that my colleague and I, with 5 minutes each, can do it adequately. We can do as well as anybody else in 5 minutes.

But I hope they would give some consideration to it.

Mr. President, I will agree to the 20 minutes equally divided, since I have used 5.

Mr. KERRY. I thank the Senator.

Mr. DURBIN. I want to make certain, Mr. President, that I understand. Is this time being taken from the time allocated on my position on the amendment?

The PRESIDING OFFICER. Time is being charged to the Senator from Illinois.

Mr. DURBIN. I hope we can reach agreement quickly then. And I yield for the purpose of a question to the Senator from Delaware. I believe the chairman has a suggestion.

Mr. ROTH. I suggest that we proceed with my proposal, Senator DURBIN having 20 minutes equally divided; Senator NICKLES 10 minutes divided; Senator GRAMM 20 minutes divided; and then Senator KERRY of Massachusetts 20 minutes divided.

Mr. DORGAN. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Reserving the right to object, and I will not object, but I do want at this point to try to understand the circumstances.

When the time has expired on this bill—that will occur I guess in an hour and a half or 2 hours, less than 2 hours—I am wondering what the intentions of the chairman and the ranking member are with respect to further proceedings on the bill.

Will we cast record votes this evening, for example, on the DURBIN amendment? How many additional record votes this evening? How long will we be in session this evening? And when do we intend to begin tomorrow, and with how many amendments?

Mr. ROTH. It is the intent, I say to the Senator from North Dakota, that when the 10 hours expires today, to go out until tomorrow morning, at which time the amendments can be offered and voted upon.

Mr. DORGAN. Further reserving the right to object, is the intent of the chairman to have the additional recorded votes, for example on the DURBIN amendment?

Mr. ROTH. It is unclear at this time. I urge that we proceed, let the debate proceed, and we can work out the other details forthwith.

I move the adoption of my unanimous consent request.

Mr. KENNEDY. Reserving the right to object.

Mr. President, like many others here, I would like to just be able to get a short period of time. To be able to get on the early part of that queue, I would be glad. But I have an amendment with regard to tobacco tax. So I wanted to just make sure that we are going to even be able to discuss this or at least have some idea where we are to have that, too.

Mr. ROTH. Mr. President, in order to get things moving, let us proceed. Regular order. I urge Senator DURBIN to proceed to debate his amendment, and we can try to work out things.

Mr. KERRY. Mr. President, if I could just answer my senior colleague.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. DURBIN. I am going to proceed. I hope that my colleagues will meet and discuss UC's, and Senator BOND and I would like to explain an important amendment.

Mr. FORD. Are we on 20?

Mr. DURBIN. I do not think we have any agreement at this moment.

Mr. KERRY. Would the Senator yield for one moment? I think we can get this locked in place.

Mr. DURBIN. I yield only for a question.

Mr. KERRY. Mr. President, will the Senator permit the Chair to hopefully rule on the unanimous-consent request that was proposed, during which time we will have whatever Democrat time, whatever time on this side of the aisle that remains, divided equally among everybody who has an amendment so that no Senator's preference goes over another, just divide it equally?

Mr. DURBIN. I say to my colleague from Massachusetts, I would be happy to do that, so long as I do not yield my right to the floor in the process.

Mr. ROTH. Mr. President, I move the adoption of my unanimous consent.

Mr. KENNEDY. Mr. President, how much time would remain at the end? I am glad to divide it all up with my colleague, but how much time remains?

Mr. ROTH. Mr. President, I have been going around in a circle about 10 times now. I think the best thing to do is to let the Senator from Illinois proceed with the debate of his amendment, and we can try to work out further agreements subsequently.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. DURBIN. Thank you, Mr. President.

AMENDMENT NO. 519

Mr. DURBIN. Mr. President, this amendment was offered last night. It is an amendment which I think most Members are conversant with because it is not a new issue. This is an issue which has been literally before Congress for almost 50 years.

It is an issue of rank discrimination. It is an issue of unfairness. It is an issue of inequality. And it goes to the heart of protecting American families.

The issue at hand is the deductibility of health insurance premiums.

Those Americans fortunate enough to work for corporations, employees and management, enjoy a 100 percent deductibility of all health insurance premiums. I think that is good policy. It encourages health insurance protection. It protects families.

If you happen to be one of the 23 million Americans who are self-employed and you buy health insurance for your family, your tax deductibility is 40 percent. What does that mean? It means, unfortunately, a higher percentage of self-employed people and their families are uninsured. It means that the children, of course, of these self-employed do not have health insurance protection, and it basically means a discrimination in our Tax Code which should have been removed long ago.

There are those who have argued for gradualism. Let us very, very slowly, in a glacial-like pace reach the day when we have equality and parity, 100 percent deduction for all Americans.

I am happy to be joined by my colleague from Missouri, Senator KIT BOND, and also my other colleagues who have said that they think as I do, that it is time for us to end this inequality and to give real parity and fairness so that both the self-employed and those working for other businesses have the same opportunity for 100 percent tax deduction.

I ask unanimous consent Senators BOND, DORGAN DASCHLE, HARKIN, BOXER, MIKULSKI and JOHNSON be added as cosponsors of my amendment No. 519.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Let me say at this point, too, it is easy to come before this body and to propose new tax benefits. We know the difficult part, the offsets—how do you pay for them?

I have come up with a means of paying for this which I think you can detect has some controversy attached to it, but I think it is reasonable. It would impose an additional 11-cent-per-package tax on cigarettes sold in America and a parallel percentage increase on spit tobacco and snuff.

Now, the bill proposed by the Senate Finance Committee already raised the Federal tax on tobacco and cigarettes, for example, from 24 cents to 44 cents. This bill would add an additional 11 cents. Make no mistake, it is a tax. For

those who have told me, as I have spoken to them, ''Oh, I never vote to increase the tax,'' I remind you if you are voting for the Senate Finance Committee bill, you are voting for an increase in this very same tax.

I ask you to consider whether or not it is worth 11 cents on a package of cigarettes to extend this kind of protection to over 20 million Americans. I think it is. I hope you will agree with me.

If we do not make this move this evening, if we do not finally grasp this opportunity, seize this opportunity and increase the deductibility of this health insurance for self-employed, they will languish for 8, 9, or 10 years before ever approximating or reaching parity. That is not fair. It is not fair to the self-employed. It is not fair to the Americans who are disadvantaged by this provision in the Tax Code.

I might also add that many of my colleagues are interested in small business. They believe, as I do that small business is the real engine of economic growth in this country. One of the largest associations of small businesses is the National Federation of Independent Businesses, over 600,000 businesses. When they surveyed their members nationwide, they learned last year that the No. 1 issue—the No. 1 issue—on the minds of their members was the deductibility of health insurance. Business Week magazine recently noted that this was one of the two top obstacles to success for many small businesses. So if you want to encourage small business and the creation of jobs, I urge you to support this amendment.

Let me speak for a moment about this tobacco tax. I know that my colleague and friend from the State of Kentucky feels very passionately about this issue. I might tell him that I do as well. I will tell you what will occur if you increase the cost of tobacco products. Children will be less inclined to buy them. As these products become more expensive, children cannot afford them. It is a fact that has been proven over and again. It was recently shown just a few years ago in Canada when they had a dramatic increase in their tobacco tax. So we know that by increasing this tax by 11 cents, we end up making over 20 million Americans who are self-employed, give them a position of fairness when it comes to tax treatment, and we reduce the likelihood that children will end up using these tobacco products.

Now I know there will be a lot said about tobacco farmers in opposition to my amendment. I want to make this a matter of record. I have said from the beginning I am prepared to work with those Members who want to help transition tobacco farmers into other crops and other livelihoods. I believe that is the wave of the future and it should be part of any comprehensive change in tobacco policy.

I will conclude and then defer to my colleague from Missouri. An estimated 4½ million American children and teenagers smoke cigarettes and another million use smokeless tobacco. Every 30 seconds in America a child smokes for the first time—3,000 a day—and a third of them—1,000—will die with this addiction to nicotine. And teenage smoking has risen by nearly 50 percent since 1991.

So I say to my colleagues, I think this is a balanced approach. It helps those who truly deserve it. It says to the tobacco industry, we will make your product a little more expensive and take it out of the hands of children. This is a reality. If you look at the State taxes around the United States, some of them range as high as $1 a package and they are going up. The States understand this is a source of revenue which is a reasonable source to turn to for legitimate reasons. We should turn to the source of revenue, turn to it this evening.

I yield for purposes of debate, but do not yield the floor, to my colleague from Missouri, Senator BOND.

The PRESIDING OFFICER. The Chair recognizes the Senator from Missouri.

How much time is yielded?

Mr. DURBIN. Five minutes.

Mr. BOND. Mr. President, I thank my distinguished colleague and neighbor from Illinois. I commend him for his perseverance in being able to hold on to the floor. These are very difficult times and this is a very important amendment. I congratulate him on staying with it so we can bring this up and debate it while we have the attention of this body.

I believe my experience in the State of Missouri is probably like the experience that most of us have had in our own States. As we travel around and talk to farmers, to people involved in small business, to truck drivers, day care operators, people who work for themselves, they ask an unanswerable question: Why is it that I can only deduct, now, 40 percent of what I pay in health insurance premiums for myself and my family when my neighbor next door who works for a large corporation, or in the country when my neighbor next door who works for a large corporate farm gets his or her health care paid and the employer deducts 100-percent of what they pay and they do not have to include any of the health insurance on their income tax? Why does the self-employed person only get to deduct 40 percent?

Frankly, there is no answer, Mr. President. There is a gross inequity in this system. It is an inequity that has been pointed out by every farm organization in my State time and time again. It has been pointed out by organizations representing small business.

At the conclusion of my remarks, I will enter in the RECORD a letter from the NFIB of June 26 expressing their strong support for the 100-percent deductibility for the amounts paid for health insurance for self-employed business owners.

This is a matter of equity. This is a matter that is absolutely essential to see that the 5.1 million self-employed individuals in the country today have health insurance and the 1.3 million children who do not have health insurance and who live in a family headed by an entrepreneur, a self-employed business owner.

This, to me, is not only an inequity, but it is a very bad policy outcome. We are talking about the health of children. One of the best things we can do is provide 100 percent deductibility.

Mr. President, the reason I am here joining with my colleague from Illinois, we have pointed out in this tax relief bill, this tax reduction bill that is before the Senate now, with $85 billion in taxes, we have pointed out that this is one of the top priorities of small business and of farmers, of the struggling working middle class of America.

Before the debate began, I circulated a letter signed by 52 of my colleagues, in addition, saying that this was important. Unfortunately, the three top small business priorities were excluded—the self-employed tax deduction for health care, the home office business deduction, and the independent contractor. This measure, unfortunately, is not in either the House or the Senate bill. We feel it is vitally important to put it there. I congratulate my colleague from Illinois in choosing the tobacco tax. Tobacco taxes are being raised in this bill. There is no more important place to put those taxes than this, guaranteeing health for self-employed and their children.

In addition to the figures that my colleague from Illinois stated, about 3,000 children becoming regular smokers every day, last week when Senator BUMPERS and I introduced a measure to encourage pregnant women to stop smoking, I pointed out that while tobacco use among most pregnant women is declining, tobacco usage among teenage pregnant women is on the increase. In my State it is 50 percent above the national average, and not surprisingly our birth-defect rate is 50 percent above the nationwide average. This will have an impact on discouraging teenagers from starting to smoke. It will help encourage pregnant women, particularly pregnant teenagers, to stop smoking.

Mr. President, this is an important matter of equity. It is a matter of health care policy. I urge my colleagues to support what I know will be a required budget waiver so that this could be included.

Before I yield the floor, I ask unanimous consent to have printed in the RECORD the letter of June 26 from the vice president for Federal Government relations of NFIB, Dan Danner, saying, ''The self-employed have an extremely difficult time purchasing health insurance. This is why 3 million self-employed business owners have no health insurance, nor do 1.3 million of their children.''

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
June 26, 1997.

Hon. CHRISTOPHER BOND,
U.S. Senate, Washington, DC.

DEAR SENATOR BOND: On behalf of the 600,000 members of the National Federation of Independent Business, I am writing to express our strong support for 100% deductibility of the amounts paid for health insurance for self-employed business owners.

The CEOs of large corporations can deduct 100 percent of their health care costs, while the self-employed can only currently deduct 40 percent of their health care costs. This is simply not fair. The Kassebaum/Kennedy health care law was a good first step, but still does not give the self-employed the fairness they deserve in that the law only allows the self-employed to deduct 80 percent of their health care costs by the year 2006.

The self-employed have an extremely difficult time purchasing health insurance. This is why 3 million self-employed business owners currently have no health insurance, nor do 1.3 million of their children. Full deductibility will help make health insurance more affordable for these small business owners. Therefore, the self-employed need full deductibility now.

Sincerely,

DAN DANNER,
Vice President,
Federal Governmental Relations.

Mr. BOND. I yield the floor.

Mr. NICKLES. Mr. President, would the Senator from Delaware give me 4 minutes?

Mr. ROTH. I yield 4 minutes to the Senator from Oklahoma.

Mr. NICKLES. Mr. President, one, I want to ask my colleagues to vote no on the Durbin-Bond amendment and tell them I think I have a pretty good record—I heard the support of NFIB for deductibility for the self-employed. I used to be self-employed, so I support that.

For my colleagues' information, I will be offering an amendment after the Durbin amendment, very soon, that will accelerate and allow self-employed people to deduct a greater percentage for their health insurance at a much faster rate than now is under existing law. It does not go to 100 percent, but likewise we do not increase taxes another 10 cents, which I think a lot of people, not just from tobacco States, are saying ''Wait, we are already increasing it 20 cents, almost doubling the tax, should we do another 10 cents?''

I might mention the Finance Committee said we would stop at 20 cents. I do not think the Durbin amendment will become law. I want to let my colleagues know we will offer an amendment that will accelerate deductibility for the self-employed. We will be offering that subsequent to this so they can vote no on the Durbin amendment, vote yes on the amendment that Senator HAGEL and I will be introducing momentarily that will give the self-employed a greater benefit for deducting their insurance.

I yield the floor.

Mr. ROTH. I am pleased to yield 5 minutes to the Senator.

Mr. FORD. My other colleague will need some time, too. I thank the chairman.

You know, Mr. President, this has been an interesting week. We had a negotiation with the attorneys general around the country, and the tobacco industry is stuck for almost $370 billion. The price of cigarettes go up. How much more do you want? And then the Finance Committee puts on 20 cents more, and that raises the price of cigarettes and smokeless tobacco. And now we want to put on 11 cents more. Why? To help the small businessman get a deductible on his health insurance?

At the same time, you are putting 65,000 farm families out of work in my State. You say you are going to help. You may never get the bill to help. I think it is time to stop it. It is time we quit. My farmers have to survive. And we hear all the States have an excise tax. Well, we had a good many here in the past that would vote against any excise tax because they thought it all should go to the States. It is their prerogative. But when you add 20 cents onto the State, and you add another 11 cents onto the State, then you add 75 cents on, if you get the negotiated agreement out there, the income to the community and to the Federal Government are going to go straight down. They are playing with funny money, because the more you increase it, the less income you are going to have. When you increase the tax, the less income you are going to have. So now you say you have all this income coming in—you are playing with funny money.

One other point, Mr. President. You talk about low income—59.5 percent of this tax will come out of those who make less than $30,000 a year—$30,000 a year—and 34 percent of the money the Senator from Illinois and the Senator from Missouri want will come from those that make less than $15,000. Talk about the little man—you are talking away from the man that makes $15,000 and a man with a family that makes less than $30,000. You are going to take 60, 65 percent of that money from that group. What do they benefit? You put them out of business.

I ask unanimous consent to have printed in the RECORD the Tax Foundation's analysis on where the cigarette tax and smokeless tax would come from and how many States would lose what money, and how many individuals of what financial income category would have to pay for this.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BOTTOM LINE ON FINANCE COMMITTEE'S PROPOSED 20¢ CIGARETTE EXCISE HIKE: BOTTOM INCOME EARNERS WOULD PICK UP MOST OF THE TAB

WASHINGTON, D.C., JUNE 20, 1997.—The Senate Finance Committee' proposed 20¢ per pack addition to the current 24¢ federal cigarette excise could play havoc with lower-income Americans' pocketbooks, according to an analysis by the Tax Foundation.

Tax Foundation Economist Patrick Fleenor says that, judging by historic cigarette consumptions patterns, over a third of the $15 billion that the Finance Committee hopes to bring in over five years will be paid by those earning less than $15,000 a year (see Chart 1). Another 25 percent of the total revenues will be paid by Americans earning between $15,000 and $30,000. In all, those earning $30,000 or less would foot about 60 percent of the total bill for the new tax.

CHART 1: NEW COLLECTIONS BY INCOME GROUP BASED ON FINANCE COMMITTEE'S 20¢ CIGARETTE EXCISE HIKE

Adjusted gross income	5-year total (millions)	Share of tax burden (percent)
under $15,000	$5,098.2	34.0
$15,000 under $30,000	3,819.9	25.5
$30,000 under $45,000	2,315.2	15.4
$45,000 under $60,000	1,318.8	8.8
$60,000 under $75,000	911.6	6.1
$75,000 under $115,000	982.5	6.6
$115,000 under $300,000	474.2	3.2
$300,000 and over	80.0	0.5
Total	15,000.0	100.0

Source: Tax Foundation estimates based on data from IRS, Bureau of the Census, and Center for Disease Control.

Juxtaposed to this, those earning $115,000 or more will account for less than four percent of the additional tax revenues.

''Whether the Finance Committee recognizes it or not, the proposed tax will really make a dent in the budgets of America's lower-income households,'' Mr. Fleenor stated.

In a state by state comparison, California will bear the single largest burden if the new tax is enacted, paying $1.16 billion to the U.S. Treasury over five years (see Chart 2). The 10 states with the highest projected tax payments will pay 50 percent of the overall tax increase, according to Mr. Fleenor's calculations (see Chart 3).

Chart 2: New collections by State based on Finance Committee's 20¢ cigarette excise hike, 5-year total

[Share of tax burden; in millions of dollars]

Alabama	$278.1
Alaska	35.0
Arizona	200.0
Arkansas	177.7
California	1,155.5
Colorado	199.2
Connecticut	167.5
Delaware	57.7
Florida	852.0
Georgia	452.2
Hawaii	34.9
Idaho	56.3
Illinois	638.8
Indiana	501.8
Iowa	169.4
Kansas	148.0
Kentucky	429.5
Louisiana	293.7
Maine	81.8
Maryland	251.2
Massachusetts	299.7
Michigan	507.3
Minnesota	246.5
Mississippi	183.3
Missouri	420.7
Montana	48.8
Nebraska	92.1
Nevada	92.1
New Hampshire	115.6
New Jersey	413.1
New Mexico	70.2
New York	829.5
North Carolina	563.5
North Dakota	33.0
Ohio	801.8
Oklahoma	229.0
Oregon	186.8
Pennsylvania	743.4
Rhode Island	59.1
South Carolina	258.1
South Dakota	45.7
Tennessee	413.7

Chart 2: New collections by State based on Finance Committee's 20¢ cigarette excise hike, 5-year total—Continued

Texas	880.9
Utah	62.9
Vermont	46.0
Virginia	448.9
Washington	229.7
West Virginia	135.8
Wisconsin	306.5
Wyoming	34.7
District of Columbia	21.5

Source: Tax Foundation estimates based on data from IRS, Bureau of the Census, and Centers for Disease Control.

Chart 3: Top Ten State Contributors to Senate Finance Committee's 20¢ Cigarette Excise Hike

1. California	$1,155.5
2. Texas	880.9
3. Florida	852.0
4. New York	829.5
5. Ohio	801.8
6. Pennsylvania	743.4
7. Illinois	638.8
8. North Carolina	563.5
9. Michigan	507.3
10. Indiana	501.8
Total	7,474.5

Source: Tax Foundation estimates based on data from IRS, Bureau of the Census, and Centers for Disease Control.

''What's ironic about this tax,'' noted Tax Foundation Executive Director J.D. Foster, ''is that, with over half of it earmarked for healthcare costs for poor children, it amounts to a case of the poor paying for new programs for the poor.''

NEW TAX FOUNDATION ANALYSES QUESTION ROLE OF EXCISE TAXES IN SOUND FEDERAL AND STATE TAX POLICY

WASHINGTON, D.C., JUNE 20, 1997.—Do excise taxes represent good or bad tax policy? The Tax Foundation recently published the first two in a series of five Background Papers focusing on this and other questions relating to the role excise taxes play in our economy.

In ''Excise Taxes and Sound Tax Policy,'' Dr. John R. McGowan, Associate Professor of Accounting at Saint Louis University's School of Business, provides an overview of how and why the federal excise system evolved.

Excise taxes have always played a large role in the federal government's revenue collections, forming the bulk of total revenues in the early years of the republic.

While excise taxes constitute under five percent of total revenues today, the federal government still imposes excises on a wide variety of goods and services, including gasoline and diesel fuel, tobacco and alcohol products, airline tickets, firearm sales and firearm dealers, heavy trucks and trailers, large tires, coal, vaccines, fishing equipment, and even bows and arrows. Federal excise receipts recently approached $60 billion.

Today, about 70 percent of excise revenues come from the taxes on alcohol, tobacco, and gasoline and diesel fuel, says Dr. McGowan. The accompanying charts shows that federal excises on distilled spirits, beer, and wine, raised about $7.2 billion in 1995, while the tobacco excise raised about $5.9 billion, and gasoline and diesel fuel taxes raised over $22.6 billion.

Dr. McGowan concludes that while excise taxes are relatively easy for governments to impose, they generally do not represent sound tax policy. Excise taxes can introduce significant amounts of inefficiencies into the economic marketplace and create a net reduction of benefits for consumers. Most significantly, excise taxes are widely believed to be regressive and therefore contrary to long-held concepts of fairness in the United States tax system.

In ''The Use and Abuse of Excise Taxes,'' Dr. Dwight R. Lee, of the University of Georgia, examined the inefficiencies of the excise tax. While he acknowledged that inefficiencies are inherent in any taxation, because taxes distort the economic choices that people make, Dr. Lee observed that the most efficient tax system minimizes this type of distortion.

Excise taxes, however, are conspicuously at odds with the goal of reducing tax distortions, says Dr. Lee. They are the most distorting of all taxes per dollar raised. Instead of spreading the tax burden as neutrally as possible over a broad tax base, excise taxes single out a few products for a high and discriminatory tax burden. While obviously unfair to the consumers of the taxed product, imposing or increasing excise taxes to fund tax relief for other taxpayers only exacerbates the problem.

Excise taxes are sometimes proposed to fund specific government spending programs, called ''earmarking.'' Only in a very few situations—where the consumption of a product is complementary to the use of some other good that cannot easily be priced directly—can earmarked excise taxes be efficient. But even here the efficiency of the excise tax depends upon the revenues being unconditionally allocated to the complementary use to reduce the cost of rent seeking. The greater the rent seeking over the allocation of the revenues from a potentially efficient excise tax, the less efficient it is and the lower the efficient rate of taxation (under reasonable assumptions about the relevant elasticity of demand).

Mr. FORD. Mr. President, let's be fair. We had a negotiated agreement. It wasn't good enough. That may be the floor. So here we come with 20 cents more, and then 11 cents more. I have 65,000 farm families that this legislation will put out of business. Oh, we are going to take care of them. Well, you take care of them, then I will talk about taxes. You take care of my farmers and I will talk about taxes after that. I will talk about how much you get from the tobacco industry. I will talk about how much you are going to do for this group or that group. So take care of my farmers, take care of my people. I have stood by and watched these people be run over long enough. Oh, you can come out here with crocodile tears. I can tell you all the sad stories. But small businessmen are small businessmen, and a small farmer is still a small farmer. And 69 percent of my farmers have another job. It becomes a husband, wife, and family occupation. You want to put them out of work.

I understand smoking. I have been smoking for 54 years and I am still here, thank God. I understand smoking. My grandchildren don't smoke, and I understand all of that. But then, a while ago, we didn't put a little deductible, or eliminate the deductible on the distilled spirits industry—beer, wine, and distilled spirits. Here we have tobacco and you pile on and pile on and pile on.

Mr. President, I hope my colleagues will do the best they can to help in this case. It is an additional tax. It is putting my people out of work. It is saying to children on the farm—children on the farm—that you are going to have less income next year. You are going to have less next year. Substitute another crop. That indicates that you don't know what tobacco brings, you don't know what corn brings, or what soybeans brings—$1,844 net profit for an acre of tobacco, and $100 from soybeans. You have to plant acres and acres and acres of soybeans and one acre of tobacco.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FORD. I suppose it's time. I was sweating anyhow.

Mr. ROTH. Mr. President, I yield 5 minutes to the Senator from Kentucky, [Mr. MCCONNELL].

Mr. MCCONNELL. Mr. President, if I were a Senator from any other State listening to this debate, I guess I would have to conclude that I don't have any tobacco growers. Cigarette smoking is obviously not good for your health. Why should I not vote for the Durbin-Bond amendment?

Reason No. 1: We entered into a budget agreement and this breaks it wide open. There has been a lot of momentum in this Chamber over the last week to stick to the budget agreement. This is a deal breaker. It wasn't negotiated by the President and the leaders of the Republican Congress. It wasn't even voted on by the Senate Finance Committee.

So the stake you have in this, I say to my colleagues, you will be voting to bust the budget deal wide open, in order to raise taxes on low-income Americans. What a great idea. This is supposed to be a package about lowering taxes by $85 billion, or close thereto, over the next 5 years, and a vote for the Durbin-Bond amendment turns it into a tax increase bill—a tax increase bill on the lowest income people in America. In fact, 60 percent of any tobacco tax increase will be borne by Americans making less than $30,000 a year. So you will be transforming this bill, which has been criticized by some downtown as somehow a benefit for the wealthy, into a major tax increase on the most vulnerable, low-income people in our society.

Regardless of how you feel about tobacco, regardless about how you feel about smoking—I don't smoke and don't support it particularly; I think it is not good for you—it is a legal product. That isn't the issue here. Why in the world, in a bill designed to lower taxes, would we want to have a whopping tax increase on the lowest income people in America?

My good friend from Missouri said it is a matter of equity. It sure is. What is equitable about it? We are singling out one industry and one socioeconomic group in America for a major tax increase in a bill designed to lower taxes on working American families. It absolutely distorts everything this tax reduction bill is supposed to be about. Obviously, it has an impact on my State. Senator FORD and I feel passionately about this. Maybe some product

in your State will be next. But this transforms this bill into a major tax increase on low-income Americans. I can't think of a worse direction to go in.

Finally, let me say that it is estimated that it will cost our State of Kentucky 2,700 jobs, just like that. Clearly, that is a matter of major concern to us. But the consumers of cigarettes are all over America, not just in Kentucky, not just in North Carolina. They are, by and large, lower income people, who will continue to smoke after that, and you have just socked them with a major tax increase, Mr. President.

I certainly hope my colleagues will not, A, break the budget deal and, B, have a whopping tax increase on low-income Americans.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I yield 5 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 5 minutes.

Mr. FAIRCLOTH. Mr. President, I don't know of a lot more that can be said on the subject. It has been very adequately and eloquently addressed by the two Senators from Kentucky. But we talk about equity and we talk about fairness, but the truth of it is that is not even in the vernacular of what we are saying here tonight. What we are doing is very simply this—I said it yesterday, I think, or the day before—they said it was a historic session. Yes, it is a historic session. We are destroying an industry that has served this country for 300-plus years, and we are simply wiping it out.

Now, when you go to the 77,000 workers in North Carolina and say to them, your job is gone, your industry is gone, but the good news is that international air travel is cheaper for you—most of them haven't been out of the county. So that is what we are saying here.

I don't doubt that the real interest here is to reduce and enable people to deduct their health insurance. I didn't notice that it was proposed to be paid for by any 10-cents-a-bushel tax on corn. And they go back to Illinois and Missouri and explain to the corn farmers there that we really have done you a great favor. No, it is on tobacco, which has been the whipping boy. Anybody in the Senate or in the Congress in the last year or two that had an ax that needed to be ground, they have come to the tobacco industry to grind it for them. That is very simply what happened. This is a source of money for whatever eleemosynary or good feeling or cause we have. This is a source of money.

As has been said earlier, enough is enough. I hope colleagues in the Senate will recognize that this has gone far enough. It breaks a budget agreement, and it is time to stop it.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I yield 5 minutes to the distinguished Senator from North Carolina, Mr. HELMS.

The PRESIDING OFFICER. The Senator from North Carolina, Mr. HELMS, is recognized.

Mr. HELMS. Mr. President, we have taken on the air of a Gilbert and Sullivan comic opera here tonight and all this week. I heard on the radio, I say to my colleague from North Carolina, on the early morning news, several days ago, I heard a Senator say, ''Yes, we are going to give umpteen hundred million dollars to children''—he didn't say children, he said ''chillin,'' and, oh, how benevolent he was—''because we are going to raise the cigarette tax,'' we are going to sock the tobacco companies. Well, he is not going to do any such thing. But that is what he wants the folks back home to think.

Speaker after speaker has pointed out that you are not taxing the tobacco companies; you are taxing the lower income people of this population of the United States. If you don't believe it, look at the record. Yet, they say, we are socking it to the tobacco companies—the evil tobacco companies—and they have all sorts of statistics that they pulled out of their hip pocket, saying how many lives it is going to save. They are not going to save any lives.

The point is, I say to my friend from Kentucky, it is so much hot air. They know it is hot air, but they have nothing else to say. And they want a headline back home that Senator Joe Blow really socked it to the tobacco companies. No, Joe Blow is not socking it to the tobacco companies.

He is socking it to the low-income people of this country who do something that maybe Joe Blow doesn't do—enjoy cigarettes. I don't smoke. Nobody in my family does. But I will tell you one thing. When you get down to it, it's a matter of choice and statistics—and you can play all sorts of games with statistics. But LAUCH FAIRCLOTH has it right and so does the distinguished Senator from Kentucky. Both of them have it right about how many jobs this is going to adversely affect.

This is the game we play. Go ahead and play it if you think you can win. I hope you can. But get you a little monkey and one of these organ grinders and sing this debate that you are making about tobacco, then you can be really funny.

I thank the Senator. I yield such time as I may have.

Ms. MOSELEY-BRAUN. Mr. President, I would like to express my support for the spirit embodied in Senator DURBIN's amendment to S. 949. This amendment seeks to increase the health insurance deduction for self-employed individuals to 100 percent. I agree that this is the right thing to do and that the Senate should consider options for ensuring that small business owners, particularly women, and farmers have access to the same tax deductions that are available to large corporations. I do not, however, agree with the way my Illinois colleague has suggested we pay for this particular increase, and for that reason, I cannot support this amendment.

The bill before us today reflects a long and tedious, bipartisan compromise among the members of the Finance Committee. That compromise, which provides for increased access to education, increased savings incentives, family tax relief, and agricultural and business investment incentives, also reflects some hard choices regarding upon whom the burden to pay for such benefits should fall. A part of the compromise made by the members of the Finance Committee was the decision to forgo increasing tobacco taxes at the present time. This decision was made with due consideration to the ongoing tobacco litigation, which may result in a dramatic increase in current tobacco taxes.

I definitely support the spirit of Senator DURBIN's amendment. A 100 percent deduction for health insurance premiums could reduce the annual net cost of health insurance for a typical family by as much as $500 to $1,000. In addition, such a deduction could provide tax equity for the 10.6 million self-employed Americans who currently can only receive a 40 percent deduction, unlike large corporations, who currently can deduct 100 percent of incurred health insurance premiums. There is no doubt that there is merit to the goals of this amendment.

As much as I would like to support the amendment presented by my colleague today, however, I believe that the compromise made by the Finance Committee should be honored. To do otherwise could place other programs and incentives of vital importance to the average American family and small business at risk. Because I believe that we have an obligation to make good on the promises of this bill, I cannot support this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. Would the Senator yield 1 minute to me?

Mr. ROTH. I yield 1 minute to the Senator from Oklahoma.

Mr. NICKLES. I again remind my colleagues. I urge them to vote ''no'' on the Durbin amendment. There may be a point of order raised on it. I hope they sustain the point of order. I again remind them that right after this amendment, we will be offering an amendment that will have a significant improvement on deductibility for self-employed persons, one that I believe we cannot only pass but hopefully prevail in conference on as well.

The PRESIDING OFFICER. Who yields time?

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Could I ask my friend and colleague from Delaware, are there

any more requests for time on their side of the aisle?

Mr. ROTH. No. I will yield back my time.

Mr. DURBIN. Might I have 3 or 4 minutes? Then I will be prepared to yield back the floor as well.

Mr. ROTH. Does the Senator have time remaining?

Mr. DURBIN. Yes. I believe I have some time remaining.

The PRESIDING OFFICER. The Senator from Illinois has 23 minutes left.

Mr. DURBIN. I will not use that, I guarantee you.

Let me say this. I want to respond to some of the points raised in this debate. I have been involved in this debate for over a decade and have heard many of these arguments, and I disagree with them. But I do respect my colleagues both in the House and in the Senate who make these arguments. I believe they are heartfelt and sincere. I believe they are speaking for the people that they represent.

I believe I am speaking for the people that I represent not only in Illinois but across the Nation when I talk about the need to have some fairness when it comes to hospitalization insurance premiums and to stop all of the promises that have gone on for more than a decade that we are going to give these people fairness. ''Oh, we love small business. Oh, we love the family farmer. We are going to get around to helping you on health insurance matters in the next year 2 years.'' Senator NICKLES said maybe 10 years from now we are going to get around to it.

Please. I have been involved in that debate. Senator DORGAN has. Senator CONRAD has. This has gone on for more than a decade.

All of these promises we can deliver on tonight.

Listen to the arguments. Again, I find it incredible.

One of my colleagues from Kentucky stands up and says this busts the budget deal. What? There was a provision in the budget deal that I voted for on this floor that limited the tobacco tax to only a 20-cent increase? I missed that provision. I don't think it was in there. If you will read it closely, that wasn't part of the budget deal.

I might say to my colleagues. This is meddling strange—that you can impose a 20-cent increase in the Finance Committee, and it has no impact on employment in Kentucky or North Carolina, but Durbin wants to put 11 cents on, and all of a sudden we have thousands of people out of work. My goodness. Twenty cents has no impact, and 11 cents more we have tipped the scales, and it is all over for tobacco? Give me a break. Give me a break.

What we are talking about here is an 11-cent increase on an item which is going to cost you $2, $3, or $4 a pack anyway.

You know, they talk about it being a regressive tax. Poor people smoke. Yes, they do. Yes, they do. They are correct in saying that. Eighty-five percent of the people smoking today—poor and rich, it is the same thing—''I wish I could quit. I really wish I could quit.'' Some of them say, ''You know, if the tax gets too high, I might not be able to afford these darned things.''

So you are talking about helping poor people. You are going to help them quit smoking, and help them live a little longer. That is a real help.

Again, one of my colleagues said, ''Why don't you go around and tax corn? You have corn in Illinois. Why are you taxing tobacco from my State?''

There is a big difference. The corn in Illinois and the corn in Missouri can be used for nutritious purposes. When it comes right down to it, tobacco is neither food nor fiber—neither food nor fiber.

And let me add this. Tobacco is the only crop regulated by the U.S. Department of Agriculture which has a body count, the biggest single preventable cause of death each year. Don't stand up and tell me this is another agricultural product, another farm commodity. This is an item which, used according to manufacturers' directions, will kill you. That is what tobacco is all about. It is not another agricultural product.

So when you talk about imposing a tax on this, we are talking about the health of America and the health of children. Oh, yes, in that low-income group, that regressive tax, that tobacco tax—the low-income group includes a lot of Americans who live on allowances they get from their parents. Those are the low-income Americans, too, kids going and buying tobacco on the corner.

Mr. FAIRCLOTH. Will the Senator yield?

Mr. DURBIN. I am happy to yield.

Mr. FAIRCLOTH. Would you give me an estimate of how many people are sick or die from drinking liquor a year made out of corn?

Mr. DURBIN. I can't answer you that question.

Mr. FAIRCLOTH. If you know a lot about tobacco, then you should know something about corn.

Mr. DURBIN. I know that corn is a nutritious product and can be used and is probably consumed on a regular basis by the Senator who asked me the question. He looks pretty healthy.

I will tell you something else. Tobacco is the No. 1 preventable cause of death in America today. You can't say that about corn, soybeans, wheat or any other commodity. You can't say that about it. You know it as well as I do. You can't make light of the fact that a product, if used as intended, kills people. You can't make light of the fact that when you follow the manufacturers' directions, you die when you use that product.

Mr. FAIRCLOTH. What is the point? I am not trying to—

Mr. DURBIN. Mr. President, let the Senator speak on his own time.

Mr. President, regular order.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. DURBIN. Let me tell you this in closing.

I have heard a lot of arguments tonight made about the defense of tobacco. I say to my colleagues on both sides, if you are ready to vote for this tax bill, you are already imposing a tax on tobacco of 20 cents. I am saying to you that 11 cents is going to buy a lot of good for America—not only keeping the products out of the hands of kids but finally keeping our promise to small business and family farmers.

I urge you to look beyond some of the arguments that you have heard tonight, that you have heard over and over again, and think about the bottom line when this is done. Thirty-one cents on a package of tobacco is not going to break the tobacco industry. But it is going to save a lot of small businesses which will have a chance to survive.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, has the distinguished Senator from Illinois returned all time?

The PRESIDING OFFICER. No. The Senator from Illinois has 18 more minutes remaining.

Mr. ROTH. Does the Senator want to yield back?

Mr. DURBIN. I am prepared to yield back my time.

Mr. ROTH. I am prepared to yield back the remainder of the time.

The PRESIDING OFFICER. All time is yielded.

Mr. ROTH. Mr. President, the pending amendment is not germane to the provisions of the reconciliation measure. I, therefore, raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DURBIN. I move to waive the Budget Act, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ROTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question occurs on agreeing to the motion to waive the Budget Act in relation to the Durbin amendment No. 519. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Kansas [Mr. ROBERTS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 41, nays 58, as follows:

[Rollcall Vote No. 137 Leg.]

YEAS—41

Abraham	Glenn	Lugar
Biden	Gorton	McCain
Bingaman	Gregg	Mikulski
Bond	Harkin	Murray
Boxer	Hutchison	Reed
Bumpers	Johnson	Reid
Collins	Kennedy	Santorum
Daschle	Merry	Sarbanes
DeWine	Kohl	Shelby
Dodd	Landrieu	Specter
Dorgan	Lautenberg	Torricelli
Durbin	Leahy	Wellstone
Feingold	Levin	Wyden
Feinstein	Lieberman	

NAYS—58

Akaka	Enzi	Mack
Allard	Faircloth	McConnell
Ashcroft	Ford	Moseley-Braun
Baucus	Frist	Moynihan
Bennett	Graham	Murkowski
Breaux	Gramm	Nickles
Brownback	Grams	Robb
Bryan	Grassley	Rockefeller
Burns	Hagel	Roth
Byrd	Hatch	Sessions
Campbell	Helms	Smith (NH)
Chafee	Hollings	Smith (OR)
Cleland	Hutchinson	Snowe
Coats	Inhofe	Stevens
Cochran	Inouye	Thomas
Conrad	Jeffords	Thompson
Coverdell	Kempthorne	Thurmond
Craig	Kerrey	Warner
D'Amato	Kyl	
Domenici	Lott	

NOT VOTING—1

Roberts

The PRESIDING OFFICER. On this vote, the yeas are 41, the nays are 58. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained and the amendment falls.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 518

Mr. BAUCUS. Mr. President, I opposed the Bumpers Amendment that would repeal percentage depletion for hardrock mining companies operating on public and formerly public lands. I believe this amendment is the wrong approach to bringing about mining law reform.

Hardrock mining provides many high-paying jobs and is essential to the economy of Montana. This amendment would raise taxes on the hardrock mining industry which will negatively effect everyone that depends on mining for their economic livelihood.

The intent of this amendment is not about percentage depletion. This amendment is an overt attempt to punish the hardrock mining industry for the lack of success in reforming the 1872 Mining Law. Percentage depletion is being used as a surrogate to bring about reform. If there are problems with the 1872 Mining Law, we should approach those problems directly—not in the form of repealing percentage depletion. Let's not wage economic warfare against an entire industry.

The repeal of percentage depletion is the wrong tool for bringing about mining law reform. The Bumpers amendment could have potentially devastating effects on the hardrock mining industry.

CHILDREN'S HEALTH CARE PROVISION

Mr. MCCAIN. Mr. President, today, I voted for an amendment to the Budget Act which would improve access to health insurance for uninsured children in our country by providing an additional $8 billion to the $16 billion already contained in this bill for children's health care. This $24 billion in new Federal funding will allow us to expand Medicaid coverage for very low-income children and will put affordable health care insurance within the reach of every family.

I am deeply concerned about the approximately 10 million children in our country who are currently lacking health insurance coverage. It is distressing that such a large number of our children lack access to primary and preventative care. I find it even more disconcerting that recent reports indicate that most of these children reside in families with one or more working parents.

Providing access to health care for uninsured children has been a priority for me since coming to the Senate. During the 103d Congress, I offered legislation which attempted to address this problem and provide access to health care for many of our Nation's uninsured children. This issue has remained a high priority for me in the 105th Congress and I am pleased that we were able to pass this amendment today.

This amendment is financed by a 20-cent-a-pack increase in the cigarette tax, which will raise enough revenues to provide the additional $8 billion for children's health insurance coverage. Although I have traditionally opposed new taxes, I believe that this proposal is necessary to help working parents purchase affordable health care coverage for their children.

I wholeheartedly believe that every child deserves a healthy beginning in life. There should not be any children in our country who cannot count on access to quality health care when they need it. I believe that this bipartisan children's health insurance proposal will address this problem in a fiscally responsible manner and allow us to provide coverage to our Nation's most vulnerable population.

Mr. MURKOWSKI. Mr. President, I rise in strong support of the tax cut bull that forms the heart of the second reconciliation bill.

I want to take this opportunity to commend the chairman of the Finance Committee, Senator ROTH and the ranking member, Senator MOYNIHAN, for their efforts in ensuring that the Finance Committee's bill was reported with strong bipartisan support. I hope the spirit of bipartisanship that permeated the committee's work will extend to our debate on the Senate floor.

Mr. President, during this past week, we considered the first budget reconciliation bill which was designed to slow the growth of Federal spending and to stop the hemorrhaging of the Medicare Program. And we successfully achieved both goals while at the same time making a commitment to boost funding by $16 billion to enable more children in America to obtain health insurance.

The tax bill we are considering today builds on that achievement by earmarking $8 billion from increased tobacco taxes for expanded children's health insurance. With this unprecedented $24 billion commitment of funds for children's health insurance, I believe the Senate has made an investment in the health of the children of America that should alleviate the anxieties and fears of millions of parents about paying for the health care of their children.

What is even more remarkable about the reconciliation bills we are considering this week is that at the end of the process, we will have set this Government on course to finally achieve a balanced budget. While I believe the tax cuts contained in this bill provide much needed financial relief for the vast majority of working Americans, I believe our greatest achievement is balancing the budget.

What that means is that when this agreement is fully implemented in 5 years, the Federal Government will no longer have to borrow to keep this Government operating. Most importantly, the balanced budget will give us the opportunity to finally begin paying down our enormous $5-plus trillion national debt.

Mr. President, on Monday, the world's financial markets were reminded of the enormity of the American Government's debt and the impact that debt has on the global marketplace. When Japanese Prime Minister Hashimoto suggested that he was tempted to sell off portions of Japan's American debt portfolio to stabilize the yen/dollar exchange rate, markets plummeted throughout the world. On Wall Street, we saw the Dow Jones average drop 192 points, the second largest point decline in exchange history.

Although markets recovered after Japan's Finance Minister dismissed the idea that Japan would dump it's Treasury securities, the lesson is unmistakable. The security of our economy can

never be assured so long as this country continues to run deficits and pile up billions in additional debt. As long as we must turn to world markets to finance Government spending, our economy's health is always in danger of being held hostage to the political whims of foreign governments and speculators.

That is why it is so important that we balance the budget and begin to pay down the debt. And that is why these reconciliations bills are vital to our Nation's economic security.

Mr. President, the tax bill before us provides much-needed relief for the hard-working middle-income families who have not seen their tax burden reduced in 16 years. Despite what some of my colleagues on the other side of the aisle may allege about this tax bill, the lion's share of the income tax cuts—81 percent—will go to families earning between $12,000 and $62,000.

This bipartisan bill will reduce the taxes paid by every low- and middle-income family with a child by $500. For a family with three children under 13, their tax burden will be reduced by $1,500. That's $1,500 that the family will have available to pay off bills, buy clothing for their children or spend as they see fit.

A provision in the bill requires families with children between the ages of 13 and 17 to invest their $500 children's tax credit in an educational savings account. While I think it is important that we do as much as we can to encourage families to save for college, I think it is inappropriate for us to require families to establish these accounts. I will support an amendment that will debate this provision from the bill.

The bill also provides more than $30 million in tax relief for families that are facing enormous college education bills. And it encourages economic growth and savings by reducing the capital gains tax and expanding individual retirement accounts.

I also applaud the changes the committee made to the estate tax, with the goal that family businesses should be kept together rather than split apart in order to pay estate taxes. In fact, Mr. President, it is my hope that we can fundamentally change, if not eliminate, the estate tax with what can only be called confiscatory tax rates. Although we have not been able to achieve that result in this bill, I think that should be one of our goals when we consider fundamental tax reform in the future.

Mr. President, the items I have just noted represent the highlights of the bill. What is again worth mentioning is how we were able to craft this bill. We did it with input and good debate between Republicans and Democrats on the committee. There was no rancor. We were not partisan, we tried to work within the confines of the budget agreement negotiated by our leadership with the White House.

I would hope that that spirit of bipartisanship will continue as we debate this bill since I think we can all agree that the goal of providing tax relief for hard-working Americans and encouraging savings and investment are in the best long-term interests of our Nation.

AMENDMENT NO. 518

Mr. KYL. Mr. President, as he has done numerous times over the past 10 years, Senator BUMPERS again attacked the hardrock mining industry in the United States. This time, he chose to introduce an amendment to the Tax Reconciliation Bill to repeal the percentage depletion allowance. This allowance has been in the tax code for over 60 years and repeal would be an arbitrary tax increase on the industry.

Repeal of the allowance is a tax increase. Mining companies cannot recover higher costs, including higher taxes, by raising prices because mineral prices are set by international commodity market. It should be noted that the mining industry already pays high average federal tax rates—32 percent per a GAO study—because of the corporate alternative minimum tax.

In addition to the damage that would be done by this arbitrary tax increase, I would emphasize that this is not the way to reform the mining law. Although Senator BUMPERS and I may not agree on the specific reforms necessary, we do both agree that a comprehensive, responsible reform is necessary. Along with my other Western colleagues, I would like to see reform that is environmentally sound and allows industry to thrive in a healthy and supportive atmosphere. A one-shot tax increase on the Senate floor is neither comprehensive nor responsible. Any reform of such an economically significant domestic industry should be done through the committee process where all parties have a chance to be heard and the issues can be dealt with in a thoughtful and meaningful manner.

I voted against the Bumpers amendment today and I am pleased that it was defeated.

BROAD BASE REFORM

Mr. SHELBY. Mr. President, the bill before the Senate tonight, promises to provide about $75.8 billion in tax relief over the next 5 years and approximately $238 over 10 years. Mr. President, that is a good step forward. But, Mr. President, I rise tonight to remind and encourage my colleagues that while this bill might be viewed as a good step forward in providing tax relief to the American people. It is just that: a step forward—hopefully, toward greater reform in the future.

I will offer a sense-of-the-Senate resolution for a very simple, but very important purpose: We must not forsake our broader agenda to seek comprehensive reform of our tax system. Tax cuts are not a substitute for broad based reform.

Mr. President, while we live in a society that accepts the notion that some level of taxation is necessary to finance the cost of government, our challenge has always been how much government and at what cost.

In my view, the power to tax is the most ominous and potentially destructive power granted to government by the people and that is because taxes empower governments, not people, With that in mind, our tax policy should do no more harm than is necessary to achieve its stated good. This maxim underscores why we need to change our current system, and specifically eliminate the estate and capital gains taxes.

Our current tax system promotes waste and inefficiency, penalizes savings and investment and rewards dependency. Not only is the current Tax Code inequitable in who and how it taxes, it is responsible for fueling much of the growth of government and Federal spending. Changing how we collect revenue to pay for the cost of government will be a significant step in helping devolve power from Washington back to the people and restoring greater freedom.

We need to address significant tax policy changes that will not only provide taxpayers' relief, but will simplify and equalize tax collection. Taxation is bad enough without administering that tax through an inefficient, inequitable, complex and unresponsive tax system.

Yesterday, the National Commission on Restructuring the IRS came out with their report and recommendations. I have not had an opportunity to review their report completely, but I did note that simplification on the Tax Code was among one of their primary recommendations, including establishing one broad based tax system.

While the Commission was not tasked and did not address specific legislative proposals to reform the tax system, I believe that the underlying principle of seeking a''truly fair and comprehensive'' tax system is something we can all agree on And I would take this opportunity to commend my colleagues from Nebraska and Iowa for their leadership on this issue.

While I believe a flat tax is the most equitable replacement that supports the most freedom at the least cost—this resolution is not an endorsement of the flat tax. It only calls for Congress and the President to move forward with consideration of broad based reform.

While this bill attempts to reverse the punitive effects of our tax policy and tax system which currently punishes the basic values of work, savings and individual liberty, it is not sufficient to undo the basic premise that seems to underlie the current system and that is that the Government is entitled to all that you earn. And only through selected, targeted tax credits, deductions, exemptions and the like are the American people allowed to keep portions of the income that they work hard every day to earn.

Our tax policy should support the most freedom at the least cost and embody the least intrusive means of levying and collecting taxes. But most importantly of all, Mr. President, we need a policy that does not punish the basic values of work, savings and individual liberty.

Mr. President, without comprehensive tax reform, we will never truly be able to say that the era of big government is over.

Mr. President, I would encourage my colleagues to join me and the Senator from Idaho in supporting this sense-of-the-Senate resolution.

Mr. LOTT. Mr. President, I do want to propound a unanimous consent request here, that would allow us to carry out the indication that we have put at the table here that this would be the last vote of the night.

Before I do that, I want to say again I really appreciate the bipartisan cooperation that we have had throughout this week. I think it has made the Senate look good and it has taken a lot of work and several of us have had to keep our commitments in a way that was not always easy, but we have stuck by it on both sides of the aisle. I thank the Senators for doing that. I appreciate also your tolerance when I suffered mightily on one of the votes myself today.

The chairman and the ranking member have been a pleasure in working through all of this. I thank them and their staff. It is a little premature. I think we are tired, we are trying to find a way to complete our work, but it is important we also take note of the fact that we have been doing some good work working together. We want to keep that going.

So we have a unanimous consent request that we have worked with Senator DASCHLE on. He has made a lot of very positive recommendations. We think this would be the fairest way under the process that we have now to complete our work.

I want to say, Senator DASCHLE and Senator DOMENICI, Senator BYRD and I have been talking about the fact that we need to take a look at the process and see if we cannot come up with a little better way to do it without the votes in seriatim at the end of this process. Senator BYRD has a resolution he is going to introduce. Senator DASCHLE and I are going to appoint a task force of senior Senators to see if we cannot come up with some ideas we can agree to, to allow this process to be done better in the future.

UNANIMOUS CONSENT AGREEMENT

Mr. LOTT. But, in view of what we have to deal with, I ask unanimous consent, now, that during the remainder of the consideration tonight of S. 949, the following be the only amendments in order, other than agreed-upon amendments to be offered by the managers: The Nickles amendment, the Gramm amendment, and Kerry of Massachusetts amendment. I further ask at the conclusion of the debate on the above listed amendments, it be in order for any Member of the Senate to address the Senate with respect to an amendment that may be offered after all time is expired, but there be no further amendments to be in order this evening.

I further ask that at the conclusion of the remainder of the time on S. 949, the Senate automatically proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each. That way, if all time has expired and you have an amendment that you are going to offer tomorrow, you have that 10 minutes in which you can explain tonight what your intentions are, what is in the amendment; so I ask at the conclusion of the remaining time on S. 949 the Senate automatically proceed to this period of morning business.

Mr. BIDEN. Reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object. Mr. Leader, would you clarify for me please, and I regret to take your time, will there be no amendments offered tomorrow that are not offered tonight?

Mr. LOTT. No. Under this agreement, if a Senator has not had the opportunity to offer his amendment today, he or she would be able to offer their amendment in the morning with time equally divided between those for and against it, 2 minutes each—the usual 1 minute on each side to explain that amendment and a vote.

Mr. DOMENICI. Mr. Leader, they would have 1 minute on a side tomorrow?

Mr. LOTT. Yes. Right.

Mr. DOMENICI. Mr. Leader, we have worked with everybody that had process amendments. They don't have to offer them, and I am not asking especially for them to offer them, but I wonder if we couldn't get an agreement that would set in motion, so everybody would understand, these process amendments? Could I try a request on for you and see if you can agree?

I ask consent that the withdrawn amendment No. 537, that withdrawal be vitiated—that is the one I offered—and that a motion to waive with respect to amendment 537 be made and that it not be amendable, the motion to waive is agreed to the amendment, and if it is, it be treated as original text. Then I ask consent that the following Senators, if they choose, be authorized to offer amendments for budget process: BIDEN, GRAMM—Senator GRAMM of Texas, Senator BUMPERS, Senator GREGG, Senators BROWNBACK, FRIST, and ABRAHAM. And if they offer them they would be taken up in that order tomorrow.

Mr. LOTT. These are the amendments having to do strictly with process questions. I know there is a lot of interest in these process amendments. I am not familiar with the content of all of them.

Several Senators addressed the Chair.

Mr. LOTT. Our understanding is Senator BYRD is going to offer his separately.

Mr. President, I renew my request based on the three-unanimous consent request paragraphs I read, with the addition of the Domenici request.

Mr. REID. Reserving the right to object.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I direct the question to both leaders. I have some trouble understanding why there would be amendments in order in the morning. It would seem to me this process has gone on for several days and there should come a time when you make a decision whether you are going to offer an amendment. The leaders have been very generous, they are going to allow amendments to be offered after the time has expired. But I would think that should end sometime tonight. I don't think we should come in here in the morning, fresh as daisies, with a big pile of new amendments.

Mr. LOTT. The Senator's point is well taken and I certainly agree. Senator DASCHLE and I would hope there would not be a long series of amendments offered tomorrow.

Some Senators will feel very strongly and feel like they should have that opportunity. Under the rules as they now exist we could not cut them off. We have had a good debate. We have had the alternative amendment offered by the Democratic leader. We have had other good amendments and debates that occurred. We hope we could bring it to a conclusion at a reasonable time tomorrow.

I remind my colleagues we had 16 votes yesterday, I believe it was. We started at 9:30 and we finally concluded that at about 5 o'clock yesterday afternoon. Now I believe we can do a better job. We'll start earlier tomorrow and we will stick to the 10-minute vote after the first vote. And we will try to move it right along. But we found the other night that when we said OK, just leave your amendment with the managers of the bill, when we came in in the morning we had 61 amendments. Then the leadership, Senator DASCHLE and his whip team, as we were, were running around trying to find out which amendments really—what they do. You know, will the Senator insist on offering it? Can we get them accepted? It really complicated the process.

We really believe by this process Senators will be able to debate these amendments and other amendments tonight. Then they, based on their thinking tomorrow, they would have the opportunity or perhaps would choose not to offer the amendments tomorrow. But if they do we cannot—we cannot cut off the Senators' right to offer an amendment.

Mr. REID. Reserving the right to object, continuing my reservation, I say

to my friend the majority leader, I am going to withdraw my reservation. But I do say this. I want everyone to hear, including the senior Senator from West Virginia. If we don't get a change in the process by next year I am going to object to everything. This is a ridiculous process. I don't think it is good for the system and I hope we change it.

Mr. LOTT. I agree and I appreciate the Senator's comment on that. I have been thinking that for several years. I remember one day here we had, what, 39 votes and set a record, a historical record Senator BYRD told us. It is just not a good process.

We are committed to coming up, by September 8, within the next couple of months, with a way to change the process. In fact, Senator BYRD has some good ideas. But I just want to make sure that we have thought it through and we don't start and change it without thinking about unintended consequences. I don't believe anybody intended 10 years ago, when reconciliation was set up, that it would lead to this type of voting process. We are committed on both sides, the leadership and our senior Members, to coming up with a better process. We are going to do that. We certainly would like the input of the Senator from Nevada, too.

Mr. DASCHLE. Mr. President, reserving the right to object?

Mr. ALLARD. Mr. President, I say to the majority leader, I did not hear my name listed on that list of amendments, it is the Allard-4Abraham-Brownback amendment.

Mr. DOMENICI. We have Senator BROWNBACK. Do you have a separate one from Senator BROWNBACK?

Mr. ALLARD. It's under my name actually, Allard-Brownback; Senator ABRAHAM is a cosponsor.

Mr. LOTT. It's ALLARD-BROWNBACK. OK. We got that.

Mr. DASCHLE. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. For purposes of clarification, let me first say I subscribe to what the majority leader is attempting to do here. We hope that we can accommodate the largest number of Senators with this process. I think there are some questions, however, about what happens tomorrow morning beginning with what time we vote. I think the majority leader has now indicated 9 o'clock.

Mr. LOTT. Yes, 9 o'clock, so we will start earlier and we will start voting—we would have the brief explanation and we would start voting immediately after that. We would then vote one after the other until we completed the process.

Mr. DASCHLE. The second question has to do with the request made by the distinguished Senator from New Mexico. As I understand it, what he is attempting to do is sequence a series of amendments. I guess the question would be, at what point tomorrow does that sequencing begin?

Mr. DOMENICI. I think that's up to the floor manager as he sequences over the evening. He'll go over all the amendments and I assume he'll sequence the way we did and put the whole list together. We are not seeking any special preference in that list.

Mr. DASCHLE. It doesn't preclude any other Senator from offering amendments?

Mr. LOTT. Not at all. It would not preclude other Senators from offering amendments. I want to say to the Senator—

Mr. DASCHLE. The question would be—I'm sorry, if I can just interject? If there was an amendment on one of the amendments offered, would the sequencing preclude an amendment to one of the amendments?

Mr. DOMENICI. I did not make that request.

Mr. DASCHLE. I ask consent that be considered. I don't think that would matter, but I think we need to protect Senators in that regard.

Mr. DOMENICI. If a Senator wants an up-or-down vote on his process I would not object to that request.

Mr. LOTT. I have not had a chance to get into the specifics of each one of these amendments, but I hope we could pursue the possibility of not going through the long list of process amendments. At least half of these are on our side of the aisle. So I hope we could find another time, another day, another way to do these process amendments. I will certainly be working on that later on tonight and in the morning.

Since we have the first 3 votes already lined up that would give us time to do some work on exactly whether or not this is essential. I will work with Senator DASCHLE on that.

Mr. DOMENICI. Mr. President, there are points of order not waived on any of these. The points of order—if people want to make them you have to get 60 votes and everybody knows that.

The PRESIDING OFFICER. Is there objection? The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, this is not an objection. I am not going to object. But just the question, if I could ask it. My understanding is—I mean, there are a number of us—all of us would like to finish. Some of us have been waiting a long time, many, to have amendments and to discuss them and I don't think we want to prolong the matter. My understanding is as opposed to the beginning of the week, we don't actually have to lay the amendment down tonight in order to have that amendment up tomorrow; am I correct? My second question is, wouldn't it be a little bit more expeditious if in fact the amendment could be laid down so we don't have to go through that process at all tomorrow morning with the requirement if they are not laid down tonight they would be out of order?

Mr. LOTT. We have discussed that back and forth. We tried to again, in a bipartisan way, figure the best way to deal with this, the fairest way, and also the way that would hopefully not lead to the largest number of amendments. We really think that we may actually wind up having fewer amendments finally voted on tomorrow by doing it this way. We tried it the other way. Bear with us as we try it this way.

Again I urge, unless you just really feel you have to have a vote on your amendment tomorrow I urge you, and I will be saying it on this side—but but if you feel strongly, you can talk about it tonight and offer your amendment tomorrow.

Mr. DODD. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I inquire of our leader or our friend from New Mexico, is it necessary the process amendments be considered as part of this budget agreement, or would it not be better to deal with that as a side issue and deal with the amendments that bear directly on the tax bill and then bring up the process amendments on a separate occasion? Is there reason that has to be a part of this, I inquire of the leader or distinguished Senator from New Mexico?

Mr. DOMENICI. I could have offered a process amendment that I think is needed and other Senators think are needed. I could have offered it on the first bill that went through here, the reconciliation bill. I chose to wait for this bill. It is just as in order on this bill and just as subject to a point of order on this bill as on the other bill, but there is no other reconciliation bill coming down the field.

Mr. DODD. I understand. If my colleague will yield, I understand this. Time is running out. If we don't debate it this evening or during morning business, tomorrow we will be limited to a 1-minute explanation of process amendments that have to do with the budget process that I think are rather significant.

I am concerned that something as profound as dealing with the budget process is left to seconds to debate them, and unnecessarily so. I raise the issue of whether we ought to set that for a separate time, rather than deal with this?

Mr. LOTT. Mr. President, if I can respond again, I share a lot of the Senator's feelings. We will work to see if there is some way we can get an agreement on these process amendments to limit the number or to find another time and opportunity for them to be offered.

I remind you that yesterday, one unanimous consent agreement that we worked out took nine amendments off the board in one swoop, and we agreed to something that was passed by voice vote. I am not sure we can do that here. Part of what we need is a little time to work with what we have left.

Mr. DODD. I understand.

Mrs. BOXER. Reserving the right to object, and I shall not object, I have a

question for the majority leader. If we were able to work out amendments cleared on both sides, is it necessary for us to personally offer it, or can one of the managers offer it in our name if it has been cleared, because that would speed things along.

Mr. LOTT. The UC specifically says ''other than agreed upon amendments to be offered by the managers.''

Mrs. BOXER. I want to make sure they will be offered in the name of the Senator who wrote them rather than the manager.

Mr. LOTT. I believe that is the way they do them.

Mrs. BOXER. I have no objection.

Mr. COATS. Reserving the right to object.

Mr. BYRD. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I have a question for the majority leader. He listed three amendments to be debated this evening, I believe those of Senator NICKLES, Senator GRAMM of Texas, and Senator KERRY. Is there a time limitation on the debate of those? The reason I ask is because for those who want to stay afterward and take the 10 minutes to describe an amendment that will be offered tomorrow, it will be good to know that there is some limitation on the time for debate for those three particular amendments.

Mr. LOTT. In answer to the Senator, I say there was no time agreement worked out, partially because the Senators didn't want that time agreement. I am hoping they will be actually relatively short in time. I know Senator NICKLES doesn't need a lot of time. I believe these amendments will go relatively quickly, and there will be time left for other Members to address the Senate on their amendments. And then after that, when all time has expired, Senators can still talk in morning business for up to 10 minutes. We did not get a time agreement in our effort to get the UC worked out, but I think we are talking about a relatively short period time of time.

Mr. BYRD. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. My reservation, Mr. President—

The PRESIDING OFFICER. May we have order in the Senate, please? The Senator from West Virginia.

Mr. BYRD. While I have submitted a reservation, may I offer a parliamentary inquiry? Will a motion to recommit, either a straight motion to recommit or a motion to recommit with instructions, still be in order, even though a Senator has not reserved a spot on this list?

The PRESIDING OFFICER. Under the Budget Act, the only motion to recommit that can be considered is one that occurs within 3 days; it specifies the bill be reported back in 3 days.

Mr. BYRD. And is that motion in order any time prior to the conclusion of action on the bill?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. Mr. President, reserving the right to object—I will not object—I am concerned about these process amendments. I am particularly concerned that there may be a process amendment that would wipe out the Byrd rule. I am also concerned that there might be a process amendment that would wipe out all 60-vote points of order. Either of those would be pretty fatal to this process.

And I hope that while we have both leaders here and a good size attendance, that we will be very aware, very alert to the possibility of either of those, which would mean that the reconciliation process, as we know it—perhaps we don't like it as we know it—but it will be gone. Period. I hope it won't happen. Would the Senator include me as a Senator who might offer a process amendment or a motion?

Mr. DOMENICI. I so request. May I say to Senator BYRD, we very carefully looked at these amendments with the view that you have in mind, and I can tell you that none of the process amendments that are listed in the unanimous-consent request address either the Byrd rule, nor do any of those amendments—what was your other?

Mr. BYRD. Wipe out 60-vote points of order.

Mr. DOMENICI. Nor do they attempt to permit us to vote with less than 60 votes on any of these matters that are subject to a point of order.

Mr. BYRD. Mr. President, I am greatly relieved, and I thank the Senator.

Mr. LOTT. Mr. President, before I put forth the unanimous-consent request one more time, we did add the Byrd resolution or amendment to the process list of amendments, and I renew my unanimous-consent request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LOTT. For the information of all Senators, then, there will be no further votes tonight. Following debate on the three amendments, any Senator wishing to discuss an amendment that may be offered tomorrow may do so. The Senate would then begin voting at 9 a.m. on Friday, on or in relation to the three listed amendments and any amendments offered tomorrow. If Senators do intend to offer amendments tomorrow, I urge them to please give a copy to the managers, since there will be no debate time other than the 2-minute-equally-divided time. It will be very helpful to all Senators to have these amendments available so they can be given to interested Senators.

I yield the floor. We have approximately 1 hour and 5 minutes left of time on the bill.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, the Senate is still not in order.

The PRESIDING OFFICER. May we have order in the Senate so we can continue on the 1 hour and 5 minutes that is rapidly dissolving? If staff will please take their seats and if conversations will please cease, we can continue with the business of the Senate.

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank you for getting order in the Senate.

Mr. KOHL addressed the Chair.

Mr. NICKLES. Mr. President, I will be happy to yield to the Senator from Wisconsin for 2 minutes without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

AMENDMENT NO. 524

Mr. KOHL. Mr. President, tomorrow I will up amendment No. 524 which I believe is at the desk. This amendment creates a tax incentive for companies that provide child care for the dependents of their employees. The amendment is also cosponsored by Senators DASCHLE, DEWINE, BOXER, D'AMATO, MOSELEY-BRAUN, SNOWE, SPECTER, and JOHNSON.

Our amendment creates a tax credit for employers who get involved in increasing the supply of quality child care. The credit is limited to 50 percent of $150,000 per company per year.

The amendment is based on S. 82, the Child Care Infrastructure Act, which has received praise from businesses, parents, and day care workers alike. Working Mother magazine gave the initiative its ''Lollipops'' award in the January issue, and the Children's Defense Fund has endorsed it. S. 82 is also endorsed by the National Center for the Early Childhood Work Force and the National Child Care Association.

The amendment responds to a great need, a great challenge, and a great opportunity. The need is to provide a safe and stimulating place for our youngest children to spend their time while their parents are at work. The challenge is to make the American workplace more productive by making it more responsive to the needs of the American family. And the opportunity is to take what we are learning about the importance of early childhood education and use it to help our children become the best educated adults of the 21st century.

The credit is offset by authorizing an anti-fraud program that will keep parents who do not have custody of their children from unlawfully claiming child-related tax benefits.

Child care is an investment that is good for children, good for business, good for our States, and good for the Nation. We need to involve every level of government—and private communities and private businesses—in building a child care infrastructure that is the best in the world. Our amendment is a first, essential and deficit neutral step toward that end, and I urge all my colleagues to support it.

Mr. HATCH. Mr. President, I rise to support Senator KOHL's amendment. This amendment would provide tax credits to encourage businesses and other institutions to provide child care for their employees.

This proposal, which is similar to one that I included in my original child care bill several years ago, would provide a tax credit for businesses that build on- or near-site day care centers, jointly participate with other businesses in running child care centers, or contract with child care facilities. This amendment is important in order to meet the rapidly increasing demand for child care. I recognize the importance of finding safe places for our children while their parents are at work, preferably places where they can learn and have wholesome fun. We use the Tax Code to encourage a variety of private endeavors; we should not hesitate to use the tax code to encourage private businesses to become involved in providing child care for dependents of their employees.

This tax credit would be equal to 50 percent of the qualified child care expenditures up to a maximum of $150,000, paid or incurred by the employer during the taxable year to acquire, construct, rehabilitate, expand, or operate a qualified child care facility.

Parents of young children are joining the work force in record numbers, leading to more young children in the need of care as their parents go off to work. There are more single parents today than ever before. In has been reported that up to 62 percent of working mothers have children under 6 years old and 59 percent had children under 3 years of age. This amendment would give incentives for any company, small or large, to provide child care to its employees.

Studies have shown that organizations that provide child care benefits to their employees attract and retain better qualified applicants and experience reductions in employee absenteeism. But, the argument goes that if the employer benefits from providing child care benefits, why should we subsidize the costs with a tax credit. That is not a bad question.

But, I suggest that society has a stake in this as well. Not only will our workforce respond positively given the peace of mind that comes from knowing that your children are safe and thriving, but also, we must be concerned with the health and safety of our children. It is disturbing whenever we read about children left alone or children in inadequate or unsafe facilities. I believe that the small innovation of a tax credit to defray the costs of employer-sponsored child care will do wonders to address this increasing need of American families.

Mr. President, child care is an investment for the future. It is good for business, good for our communities, and good for the Nation. There certainly is a need for quality child care. As a nation, we have made significant increases in the education of our older children, aged 5 to 25. We have increased Headstart. But, we need to do more. And, we need to create more options.

This tax credit proposal made by Senator KOHL is the least intrusive and least expensive way I can think of to stimulate private sector investments in child care. It is now time to set the infrastructure in place for the most important years in the development of our children. There is an increasing struggle to balance work and family. How well we respond will determine the success of our future.

I encourage my colleagues to support this important amendment, and I commend Senator KOHL for his work on it.

Mr. KOHL. I ask unanimous consent that this be the first amendment taken up tomorrow morning for a vote after the three amendments laid down tonight.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Can I ask a question about whether we can at least get an understanding about the sequence? I don't mind whether I am fourth or eighth.

Mr. NICKLES. Mr. President, I think I have the floor.

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Mr. NICKLES. Mr. President, I yielded to the Senator from Wisconsin for 2 minutes, and now I wish to reclaim the floor.

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

AMENDMENT NO. 551

(Purpose: To increase the deduction for self-employed health insurance costs, and for other purposes)

Mr. NICKLES. Mr. President, tonight I offer an amendment on behalf of myself, Senator HAGEL, Senator CLELAND, and Senator DOMENICI which would increase the deductibility of health insurance for self-employed individuals. I will not take long. I mentioned it a couple of times during debate on the Durbin amendment.

The current law allows for self-employed persons to deduct 40 percent in 1997. We actually increased that—if I remember, Senator Dole, Senator ROTH and several of us last year in the last Congress increased that—over several years, and eventually by the year 2004, it would be at 60 percent. We would like to accelerate that. That is what this amendment does. It would improve it from 1997, the year we are in, from 40 percent to 50 percent. In 1999, it improves it from 45 percent to 60 percent, and in the year 2003, it improves it from 50 percent to 80 percent, and so on. We want to improve and accelerate health insurance deductibility for the self-employed.

Mr. President, I used to be self-employed, and it always bothered me that I used to manage a corporation and the corporation could deduct 100 percent of health care premiums, but my company, when I was self-employed—it was a janitor service—could only deduct 40 percent. I would like parity, and, hopefully, eventually we will get there.

In this amendment, we don't get there for several years, but at least we will accelerate it and make a better deal for self-employed persons at a more rapid rate.

On behalf of my colleagues cosponsoring this amendment, I send the amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for himself, Mr. HAGEL, Mr. CLELAND, Mr. DOMENICI, and Mr. THURMOND, proposes an amendment numbered 551.

Mr. NICKLES. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 212, between lines 11 and 12, insert:

SEC. ___. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—The table contained in section 162(l)(1)(B) is amended to read as follows:

"For taxable years beginning in calendar year—	The applicable percentage is—
1997	50
1998	55
1999 through 2001	60
2002	65
2003 through 2005	80
2006	90
2007 or thereafter	100."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

On page 159, line 15, strike "December 31, 1999" and insert "May 31, 1999".

On page 159, line 18, strike "42-month" and insert "35-month".

On page 159, line 19, strike "42 months" and insert "35 months".

On page 160, lines 10 and 11, strike "December 31, 1999" and insert "May 31, 1999".

On page 160, lines 19 and 20, strike "December 31, 1999" and insert "May 31, 1999".

On page 400, between lines 14 and 15, insert:

SEC. ___. MODIFICATION OF RULES FOR ALLOCATING INTEREST EXPENSE TO TAX-EXEMPT INTEREST.

(a) PRO RATA ALLOCATION RULES APPLICABLE TO CORPORATIONS.—

(1) IN GENERAL.—Paragraph (1) of section 265(b) is amended by striking "In the case of a financial institution" and inserting "In the case of a corporation".

(2) ONLY OBLIGATIONS ACQUIRED AFTER JUNE 8, 1997, TAKEN INTO ACCOUNT.—Subparagraph (A) of section 265(b)(2) is amended by striking "August 7, 1986" and inserting "June 8, 1997 (August 7, 1986, in the case of a financial institution)".

(3) SMALL ISSUER EXCEPTION NOT TO APPLY.—Subparagraph (A) of section 265(b)(3) is amended by striking "Any qualified" and inserting "In the case of a financial institution, any qualified".

(4) EXCEPTION FOR CERTAIN BONDS ACQUIRED ON SALE OF GOODS OR SERVICES.—Subparagraph (B) of section 265(b)(4) is amended by adding at the end the following new sentence: "In the case of a taxpayer other than a financial institution, such term shall not include a nonsalable obligation acquired by such taxpayer in the ordinary course of business as payment for goods or services provided by such taxpayer to any State or local government."

(5) LOOK-THRU RULES FOR PARTNERSHIPS.—Paragraph (6) of section 265(b) is amended by adding at the end the following new subparagraph:

''(C) LOOK-THRU RULES FOR PARTNERSHIPS.—In the case of a corporation which is a partner in a partnership, such corporation shall be treated for purposes of this subsection as holding directly its allocable share of the assets of the partnership.''

(6) APPLICATION OF PRO RATA DISALLOWANCE ON AFFILIATED GROUP BASIS.—Subsection (b) of section 265 is amended by adding at the end the following new paragraph:

''(7) APPLICATION OF DISALLOWANCE ON AFFILIATED GROUP BASIS.—

''(A) IN GENERAL.—For purposes of this subsection, all members of an affiliated group filing a consolidated return under section 1501 shall be treated as 1 taxpayer.

''(B) TREATMENT OF INSURANCE COMPANIES.—This subsection shall not apply to an insurance company, and subparagraph (A) shall be applied without regard to any member of an affiliated group which is an insurance company.''

(6) DE MINIMIS EXCEPTION FOR NONFINANCIAL INSTITUTIONS.—Subsection (b) of section 265 is amended by adding at the end the following new paragraph:

''(8) DE MINIMIS EXCEPTION FOR NONFINANCIAL INSTITUTIONS.—In the case of a corporation, paragraph (1) shall not apply for any taxable year if the amount described in paragraph (2)(A) with respect to such corporation does not exceed the lesser of—

''(A) 2 percent of the amount described in paragraph (2)(B), or

''(B) $1,000,000.

The preceding sentence shall not apply to a financial institution or to a dealer in tax-exempt obligations.''

(7) CLERICAL AMENDMENT.—The subsection heading for section 265(b) is amended by striking ''FINANCIAL INSTITUTIONS'' and inserting ''CORPORATIONS''.

(b) APPLICATION OF SECTION 265(a)(2) WITH RESPECT TO CONTROLLED GROUPS.—Paragraph (2) of section 265(a) is amended after ''obligations'' by inserting ''held by the taxpayer (or any corporation which is a member of a controlled group (as defined in section 267(f)(1)) which includes the taxpayer)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

Mr. NICKLES. Mr. President, for the information of all my colleagues, I think under the unanimous-consent request, already agreed to by the leader, it has been agreed upon that we will vote on this amendment, I believe it will be the first amendment we will vote on at 9 o'clock tomorrow morning.

Mr. MOYNIHAN. Mr. President, might the Senator from Illinois have 1 minute to comment at this point?

Mr. NICKLES. Certainly.

Mr. DURBIN. Mr. President, I thank the Senator from New York.

I will be supporting the Senator from Oklahoma. He is improving the process. I will continue to fight for 100 percent. Maybe the day will come when he and I can both agree on a way to do it.

Mr. NICKLES. I hope so.

Mr. HARKIN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, are we in morning business?

The PRESIDING OFFICER. We are not in morning business yet. We have some time remaining yet on the actual debate of the bill.

Mr. HARKIN. Further parliamentary inquiry.

Under the rules of the Senate, under the rules of which we are debating this bill, if someone is recognized, since there is no time limit, can that Senator yield time to other Senators for purposes other than asking a question?

The PRESIDING OFFICER. It is my understanding that when there is no time limit, that each Senator would have to get his own time on the bill.

Mr. HARKIN. Therefore, a Senator may only yield for a question; is that correct?

The PRESIDING OFFICER. He could yield for a question provided it were a question and not another speech.

Mr. GRAMM. Regular order, Mr. President.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I have completed my statement.

I ask unanimous consent that Senator THURMOND be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 552

(Purpose: To let families decide for themselves how best to use their child tax credit)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], for himself, Mr. COATS, Mr. NICKLES, Mr. HUTCHINSON, Mr. GRAMS, Mr. SMITH of New Hampshire, Mr. SESSIONS, and Mr. ABRAHAM, proposes an amendment numbered 552.

Mr. GRAMM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SECTION 1. CHILD TAX CREDIT FLEXIBILITY.

On page 12, line 13, strike all through page 13, line 8, and on page 16, line 3, strike all through page 17, line 6.

Mr. GRAMM. Mr. President, I have sent this amendment to the desk on behalf of myself, Senator COATS, Senator NICKLES, Senator HUTCHINSON of Arkansas, Senator GRAMS, Senator SMITH of New Hampshire, Senator SESSIONS of Alabama, and Senator ABRAHAM of Michigan. I am going to try to be very brief. I have a couple of my cosponsors here who have waited to speak on this amendment, and I hope we can accommodate them. We will all try to be brief.

This is a very simple amendment. For the last 4 years we have been talking about a $500-per-child tax credit. Our argument has always been the same: We want to let families decide how to invest their own money in their own children and for their own futures.

The whole purpose of a $500 tax credit was to allow families to invest their own money—which after all they earned—in the education, housing, nutrition, nurturing, and health care of their children.

This is what the whole tax debate is about: It was in the Contract With America and even President Clinton has endorsed it. Nobody ever disputed the fact that the purpose here was a clear-cut tax cut to let families decide how to spend their own money on their own children. Remember, this is not all of their money; only $500 per child.

Out of the Finance Committee has come a provision that says for children 13 to 16, in order to get the tax credit, you have to put it into an education account. And remarkably, it saves money for one, and only one, reason: because some people will not take the tax credit.

Mr. President, if there has ever been an effort to go back on a deal, this is it. I think families ought to be able to invest in an individual retirement account. I think they ought to be able to set aside the money for that purpose. But the idea of making them do it is Government paternalism in its worst form.

So what I am asking that we do is live up to what we said. I am asking that we give the $500 tax credit and that we give it for every age of a child covered, and that we let that child's father and that child's mother decide what is in their best interest.

I think what we are trying to do here is dissuade people from taking their $500 tax credit by playing God with what they are supposed to use that money for. I know the intentions are good. I know they were aimed at trying to bring people together. But a deal is a deal. I have heard everybody here talk about a budget deal and what the President got and what we got and what we agreed to; but we had a deal with the American family. The deal with the American family was a $500 tax credit that the family got to spend.

If we were reneging on a deal with the President, oh, people would be jumping up and down screaming, hollering, ''But we promised the President,'' or if the Democrats were trying to do something that was not in the budget deal, some would say, ''Well, the President promised us.'' This does not have to do with the President. This does not have to do with us—it has to do with the families of America.

We are not living up to the deal. This is a lousy provision, and it should be removed. I am not saying there are not good intentions and I am not saying this is not part of some political deal. I am saying it is an unacceptable provision. It should not be in here. It fails to live up to the deal we made with the American people, and it needs to come out.

Mr. President, I ask unanimous consent to have two letters printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONCERNED WOMEN FOR AMERICA,
June 25, 1997.

DEAR SENATOR: The over 500,000 members of Concerned Women for America (CWA), many of whom reside in your state, urge you to pass an unencumbered $500-per-child tax credit for children.

We strongly oppose the current Senate Finance Committee version of the $500-per-child tax credit because it requires parents of teens 13–17 to put their tax refund into an Individual Retirement Account (IRA). This credit was created to give needed tax relief to American families; it was never intended to become a new way for the government to tell families how they should and should not spend their own money.

Therefore, CWA urges you to support the Gramm Amendment. This amendment will remove the IRA restrictions and allow parents of teens to use the child credit for immediate needs, such as food and healthcare. Only families are capable of deciding the best use of family funds.

Thank you for your attention to this important matter. The over half million members of CWA appreciate your support for the Gramm Amendment.

Sincerely,

BEVERLY LAHAYE,
Chairman and Founder.

CHRISTIAN COALITION,
Washington, DC, June 25, 1997.

TAX BILL KEY VOTES

VOTE FOR THE GRAMM MOTION TO STRIKE WHICH WILL QUALIFY TEENAGERS FOR THE $500 PER CHILD TAX CREDIT

VOTE AGAINST THE DASCHLE AMENDMENT

VOTE FOR FINAL PASSAGE IF THE GRAMM AMENDMENT PASSES

DEAR SENATOR: Sen. Phil Gramm and many others intend to offer a motion to strike that will restore teenagers to the $500 per child tax credit. We strongly urge you to vote for the Gramm motion.

Family tax relief in the form of a $500 per child tax credit has been our highest legislative priority since 1993. We are pleased that the Finance Committee has included the credit in the tax bill. However, we cannot support the bill in its current form. The single biggest disagreement we have with the Finance Committee version of the $550 per child tax credit is the exclusion of teenagers. Under the bill, only children up to age 12 qualify for the credit. The Gramm motion will restore teenagers to coverage of the $500 per child tax credit.

Excluding teenagers would be a deep disappointment for the families of teenagers that struggle to meet the financial pressures they must endure during the costly teenage years. Indeed, caring for children reaches its most expensive point during these years. The high cost of teenagers has been well documented by the Clinton Administration's recent 1996 report, titled ''Expenditures on Children by Families'' published by the Department of Agriculture. This report compares the cost of food, clothing, health care, housing, child care, education, and transportation by age group.

This report documents that teenagers are by far the most expensive age group. It concludes that it costs between $710 and $1,140 more to raise a child age 15–17, than it does to raise a child age 9–11.

Cutting off teenagers from the child tax credit would be a double blow to the families of eleven million teenagers. These families will already spend dramatically more than previously to raise their children. Under the bill, they would also begin paying an extra $500 in taxes once the child credit is taken away from them. Added together, families with teenagers would face a whopping $1,210 to $1,640 in extra out of pocket costs.

Here is how the Gramm motion would operate vis-a-vis the Finance Committee provision. Instead of a $500 per child tax credit for teenagers, the Finance bill creates a second education IRA for teenagers. It mandates that a tax credit worth $500 be placed into an education IRA. If the money is not put into the IRA, the $500 is forfeited. The Gramm motion strikes the mandatory language, making the IRA optional. In other words, parents who don't choose the IRA would then have an unrestricted $500 per child tax credit. This makes much more sense. Parents are the only ones who should make these decisions. The federal government should not mandate the choice of saving for education over other more pressing needs. There are many financial needs families must meet apart from the worthy goal of saving for education.

We strongly urge you to vote against the Daschle amendment. The amendment diminishes the value of the $500 per child tax credit in several ways. It cuts the amount of $350, phases it in unnecessarily, exempts teenagers for five years, and eliminates the tax credit all together for some middle class families by drastically lowering the income caps.

If the Gramm motion prevails (and no amendments are passed which would weaken the $500 per child tax credit), we certainly urge you to vote for the tax bill on final passage. If the Gramm motion fails, we regrettably will not be able to support the tax bill at this time. We would actively work to add coverage of teenagers in conference, and reserve judgment on the conference report until it is finalized. We certainly hope that in the end, we will be able to support the report. That certainly is our goal.

We will select a vote to be included in our Congressional Scorecard relating to the $500 per child tax credit. At this time, we can not predict which vote will be selected. Thank you for your consideration of our views.

Sincerely,

BRIAN LOPINA,
Director,
Governmental Affairs Office.

Mr. GRAMM. Mr. President, I ask unanimous consent to add Senator THURMOND as a cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. I wonder if my friend from Texas would wish to modify the term ''rotten.''

Mr. GRAMM. This abrogates the deal with the working men and women of America. Some may see it as rotten and some may not. Some may see it—

Mr. MOYNIHAN. Surely the Senator does not mean it as rotten.

Mr. GRAMM. Some may see it as an acceptable deal and some may see it as a rotten deal. But the point is—I am happy to strike the word if it offends our dear colleague. But I feel strongly about it because the tax cut, after all, is about families. That is what it has been about to begin with.

I have several of my colleagues here. If I could just let them all speak for 2 or 3 minutes, we would all be happy.

I ask unanimous consent that each of them may have 2 minutes each.

Mr. KERREY. Reserving the right to object.

Mr. MOYNIHAN. I know they will be kind and thoughtful and even benevolent remarks.

Mr. KERREY. No. Mr. President, reserving the right to object, I would like the Senator to be a little more specific. He said, ''I have a number of colleagues.''

Mr. GRAMM. We have one, two, three, four; and they will speak 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I commend Chairman ROTH for the great leadership he has demonstrated in bringing this legislation before us. And I commend Senator GRAMM for this amendment tonight.

My good friend and colleague from Arkansas, Senator TIM HUTCHINSON, and I were freshman Members of the House in 1993 when we came together with Senator COATS of Indiana to develop a budget proposal called Family First that could serve as the taxpayer's alternative to the higher taxes and bigger Government plan offered by President Clinton.

The key component of our legislation was family tax relief through a $500 per child tax credit.

We convinced the House and Senate leadership to make our Families First bill—with the $500 per child tax credit as its centerpiece—the Republican budget alternative in 1994.

For overtaxed American families, 1997 looks to be the year this long-promised, long-overdue middle-class tax relief is finally delivered.

As you know, working families today need tax relief more than ever.

Factor in State and local taxes and the hidden taxes that result from the high cost of Government regulations, and a family today gives up more than 50 percent of its annual income to the Government. So all we are saying is let us let the working people of this Nation keep a little bit more of their own money.

The $500 per child tax credit proposal in the bill before us goes a long way toward delivering tax relief to working families raising children. However, it imposes restrictions that will significantly dilute the purpose of the child tax credit.

The legislation before us tells families that, yes, we will give you a tax credit, but if your children are between the ages of 13 and 16, you are going to have to spend it the way Washington thinks it should be spent. In this case, it would have to be spent on education. By mandating how the tax credit must be spent, we are in effect denying it to teenagers, leaving 11 million children out in the cold.

And if your child is 17 or 18, you do not get it at all.

Mr. President, I applaud the parents that take the $500 per child tax credit and dedicate it to an IRA or their child's college education.

But that is a decision that belongs with parents, not with Washington. It is not our place to tell families how they can spend their money.

The family tax relief provisions in the bill before us can be greatly improved by striking the mandate that the tax credit be dedicated to education. I am pleased to be joining my colleagues in offering this amendment to give that choice back to families. And I urge all my colleagues to support this amendment.

Thank you, Mr. President.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, I also want to commend Senator ROTH. The $500 per child tax credit is truly the heart of this tax relief bill. I especially want to thank Senator GRAMM for taking the lead in solving this problem, which is a very serious problem.

There are 382,000 families in Arkansas who benefit from the $500 per child tax credit, but there are many teenaged children who are excluded because of the provision that is in the Finance Committee's bill. I believe parents should have the right to decide. They are better arbiters, they are better decisionmakers on the use of that money than bureaucrats and even lawmakers in Washington, DC. And no matter how good educational savings for teenagers may be, it is better to let the parents make that decision.

I think I will have a hard time explaining to those parents of that 13-year-old why, when their child was 12 he was eligible or she was eligible for the $500 per child tax credit, but at the age of 13 they are not. Perhaps that 13-year-old will have an emergency. Perhaps that 13-year-old needs braces. Perhaps that 13-year-old needs a math tutor to enable that child to ensure that he or she is ready to go to college when they graduate from high school. The parents will not have the option, will not have the opportunity, will not have the eligibility under the current bill. That is why this amendment is so important that we ensure that the parents have the ultimate decisionmaking authority.

Forty percent of young people who graduate from high school do not go straight on to college. They should not be excluded from the benefits of this tax bill. Parents should decide, not Washington, DC.

I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I compliment my colleague, Senator GRAMM. We tried to do this in the Finance Committee. Unfortunately, we fell a couple votes short. But the basic principle is we want to tell everybody their kids are going to get the $500 tax credit, not to say, well, it only applies to people 13 or younger, that if you are older you have to put it into an educational IRA.

I think educational IRA's are a good idea. I compliment Senator ROTH because he has been the champion of IRA's, but it should be an option. It should not be mandatory. We should allow them to have this choice. I hope a lot of them choose it before age 13. I think it would be a great idea for a parent, if they can do it, if they can afford it, to put the $500 into an IRA for their child and let that accumulate and do that every year so they have a nest egg for their college expenses. It would be a positive thing for them and our country.

But we should not mandate it. Presently, under the bill we mandate it for kids that are 14, 15, 16, 17 years old. I compliment my colleague from Texas and the cosponsors.

I urge my colleagues to vote for this amendment to allow parents to choose whether they get the $500 tax credit to spend as they choose or whether or not to put it into an IRA. They should make that choice. We should not mandate it from Washington, DC.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I want to thank Senator ROTH for his outstanding leadership that he has given on this important issue. But I feel very, very strongly that we need to do more for working families. Working middle-class American families today are struggling to get by.

My youngest son will start college this fall. But I will tell you, I have children; three of them under age 13 and three of them over age 13. It costs more for a 14- or 15- or 16-year-old than it does for a 12- or 10-year-old. Anybody who has raised a family knows that.

The demands on those families are fierce today. They are struggling to get by. This is the heart and soul of a family middle-class tax cut. Many kids will not be going off to college. They will never be going to college. But even if they are, many of those families need the money now. They have a flat tire and they need to replace a tire. They need shoes or to go on a school trip. They need to make their own decision about how to spend their money.

This is important to me. It is important to American families. I salute Senator GRAMM for raising this issue, and I am in support of this amendment.

I yield the floor.

Mr. MOYNIHAN. Mr. President, I yield to the Senator from Louisiana such time as he may require.

The PRESIDING OFFICER. Under the previous order, the Senator from Massachusetts has the floor.

Mr. MOYNIHAN. Would the Senator from Massachusetts, who has been Joblike—he has been No. 2 since 9:30—would he allow 3 minutes to the Senator from Louisiana and 3 minutes to the Senator from Nebraska to respond, and the remainder of the time is his?

Mr. KERRY. Mr. President, could I inquire how much the remainder of the time is?

The PRESIDING OFFICER. There is approximately a half an hour in total time.

Mr. KERRY. I would be very content with that.

Mr. MOYNIHAN. You have been very patient. We thank you, sir.

The PRESIDING OFFICER. That would require unanimous consent.

Mr. MOYNIHAN. I ask unanimous consent that that may occur.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. My friend from Texas would refer to this provision as the ''rotten'' provision. I am sure what he meant to say was the ''forgotten'' provision, because he obviously forgot what we did to this in the Finance Committee when we greatly improved it. If anyone wants to have a $500-per-child tax cut, we presume that it is for the children.

Under the suggestion of the Senator from Texas, we would give the family a $500 tax rate to use for whatever they want. If they want to use it to go to the casino, fine. If they want to use it to buy a six-pack of booze every week, fine. It is about $9.66 a week, so under the provision of the Senator from Texas they could take it, put it in their pocket, and don't use it for children at all—just do whatever you want with it.

Interestingly, the Citizen Council, a respected voice of both parties, says, ''In our view, a no-strings child credit is a cruel hoax on the very children who are supposed to benefit from it. We expect that most of the credits would disappear into the family's general budgets, or be used to pay bills''—and I add, not for the children, that the tax credit is supposed to be for.

What we have done is to craft a compromise from zero to 13, the family can use it for anything they would like, no strings attached, but from 13 to 17, when children need to be educated, there is an obligation that the tax credit be used to educate the children. For all of us who want to help children and our families and help parents raise those children, what is better than to give that family help and assistance in educating that child?

Some say the Tax Code should not tell people what to do. The Tax Code is full of examples—a mortgage deduction is only available if you buy a house; a charitable contribution is only available if, in fact, you give to charity. So what I think the Finance Committee was able to do was to erect a compromise, a blending of what that suggestion was coming from this side, blending it with what many of our people said, use it for educating children. If we are going to have a tax credit for children, let's at least ensure that part of the time it is used for one of the basic functions that a family has as an

obligation to those children, and that is to educate those children.

So I think that what we have come forward with makes a great deal of sense. It is a legitimate compromise. It adds to the education package which I think everyone is for, and it helps families with small children.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. This proposal began in 1995. I heard the Senator from Texas describe it as a sacred part of the Contract With America.

In 1995, Senator LIEBERMAN and I introduced KIDSAVE as a modification to this $500 per child tax credit, and it set up a savings account for children. It was mandatory. The idea was that Americans are not saving enough money, they are struggling to put aside savings, and that is especially revealed when you look at one of the most important parts of this tax proposal, which is the reduction of tax on estates.

Mr. President, about 1 percent or 2 percent of Americans have estates over $600,000. It is a provision that affects a relatively small number of Americans. I appreciate my colleagues on the other side of the aisle saying that is one of their top concerns, that 1 percent or 2 percent of Americans who have estates over $600,000. KIDSAVE is put together as a consequence of our concern for the 98 percent of Americans that do not. The only way that you will be able, particularly for middle-income people, to acquire that wealth is to save a little bit of money over a long period of time.

So I say we are not breaking any deal. We introduced this bill in 1995. It was endorsed at the time by the Heritage Foundation. The only thing that is going on here, in my judgment, is the Christian Coalition is arguing that this is a violation of something they want. So they are rallying the troops and trying to get it changed. I appreciate the Senator from Texas does not like the proposal, but it was introduced in 1995, and its purpose is to help Americans generate wealth. We know we cannot redistribute wealth. We are trying to enable Americans to create wealth by saving their money.

The $500 child tax credit goes from 0 to 17. That is the law. It ends at age 17. I would have preferred 0 to 4, frankly, for this thing to go into effect. It was a compromise. We agreed to do this as a consequence of the desire to increase the amount of money that Americans have, not only for education but this money, particularly for those that are not going to school, would be better off staying in a savings account until retirement so those individuals can look to their retirement and say in addition to having Social Security there for them they will have a source of wealth.

So in my view, this is an amendment that would deny Americans the opportunity to acquire wealth. I think it is a very important provision in this Tax Code.

I hope my colleagues will vote against the Gramm motion to strike.

Mr. MOYNIHAN. I endorse wholeheartedly the position that the Senators from Louisiana and Nebraska have stated on behalf of the committee bill. I thank them.

I yield the balance of our time to the distinguished Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the distinguished party manager. I will probably not use all the time but I ask unanimous consent that the balance of the time I have be divided between Senator DODD and Senator KENNEDY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, we just heard a debate about the $500 tax credit. We heard a number of Senators state what a critical component of the effort to restore families this is and how important it was to the early efforts of the contract. The fact is that the committee bill will deny 38 percent of the children in the United States with the lowest incomes access to a tax credit. In Massachusetts, as a matter of fact, 46 percent of all children would be excluded from receiving this important tax credit. That means about 850,000 children, plus, in my State, will not receive a tax credit.

Now, I ask my colleagues what kind of profamily policy takes $81 billion over the next 5 years but completely denies this help to the 9.5 percent of all children in families with the lowest 20 percent of incomes, and denies the tax credit to 86.6 percent of all the families in the second 20 percent of income.

I direct my colleagues' attention to this chart. These are the percentage of children ineligible for the child tax credit, the way it has been structured by the Finance Committee. Fully 99.5 percent of the lowest 20 percent, and 86.6 percent of the children in the second fifth will not get the benefit of this credit.

I propose, therefore, a very simple amendment so that working families could have access to this credit. My amendment that I will send to the desk momentarily lets those families whose net Federal taxes are greater than zero get a full or partial children's tax credit, and the amount accomplishes this in a very simple way. It makes the credit refundable to the full extent of the family's Federal payroll taxes once it has offset all of the family's income tax liability.

This refundability, I want to emphasize, is not my idea. The refundability was a provision of the Republican's Contract With America. It was in the child tax credit bill which was sponsored by the Senator from Texas, who a few moments ago was talking about the virtues of providing a $500 tax credit to children. In fact, Senator COATS, Senator LOTT, Senator GRAMM and others on the Republican side supported the very proposal that I am now offering which would, indeed, allow those children to be able to get that credit.

My colleagues on the other side of the aisle were right when they proposed a refundable credit. And Speaker GINGRICH was right when he called the refundable credit in the Contract With America the ''crown jewel'' of the contract.

As Marshall Wittman, the Legislative Affairs Director for the Christian Coalition, said, ''Allowing families with children to retain a larger share of their hard earned income will be a first step toward freeing America's parents from the national treadmill of working long hours at the expense of time with their children.'' The Heritage Foundation endorsed the children's tax credit in the contract, which was a refundable tax credit.

Mr. President, I am proposing that we adopt the Contract With America's refundable tax credit which would provide 7 million more children with access to the credit, to the tax credit. The simple question is, why would you want to deny those people who work—we are not talking about people who are solely relying on welfare, or people who get the earned-income tax credit; we are talking about two-parent families with two children who are working and paying taxes, who still will not get credit the way it has been structured under the Republican proposal. These children live in families that pay income or payroll taxes, and payroll taxes are a reflection of work. Work, after all, is what we are trying to put a premium on—both in the welfare reform bill, as well as, I think, in a $500 credit.

My amendment would take the refundability against payroll taxes from the Contract With America and it lowers the income phaseout more slowly and phases in the credit by the age of the child. The reason we phase in the credit and the reason we do the income difference is to keep this revenue neutral. It is revenue neutral. I want to emphasize, this amendment takes the Contract With America payroll provisions but it remains revenue neutral.

It would seem to me, Mr. President, that all of us would want to try to find a way to guarantee that families earning $110,000 are not going to get a $500 tax credit, while a family working and earning $20,000 gets nothing—nothing. That is exactly what happens under this proposal the way it is done.

My credit would begin to phase out at $60,000 and it would finish at $75,000. By doing that, we manage to spread it to those people at the lower end of the income scale, most of whose income goes into the payroll tax but who nevertheless are working and deserve as much of a break as anybody else. My amendment would allow the bottom 80 percent of American families to get a full or partial credit, and the richest 20 percent would not. A very simple tradeoff.

Mr. President, I think it is critical to understand that the tax bill, as it

comes out of the Finance Committee, which we are voting on, that the tax bill credit for children as currently written, most of the children who would be denied the credit or have the credit reduced live in families who are working and paying Federal taxes. It is just that their tax burden often amounts to several thousand dollars, even after the effects of the earned-income tax credit are accounted for. The claims that these peoples pay no taxes is simply incorrect.

The Joint Tax Committee data issued this week shows that taxpayers with incomes between $10,000 and $20,000 will owe an estimated $191 billion in Federal taxes. Taxpayers with incomes between $20,000 and $30,000 will owe $442 billion in Federal taxes between 1997 and the year 2002. These figures from the Joint Tax Committee reflect the fact that these taxes are owed after the EITC benefits are subtracted.

Mr. President, the vast majority of the taxes that these families pay—we have to acknowledge, if they are working and they are playing by the rules and they are trying to climb up the economic ladder, why should they be denied access to the $500 credit—the taxes that they pay consist mostly of payroll taxes because that is the way life is for people at that end of the income scale.

I hope my colleagues who say that this is a fair way to adjust more appropriately what has happened in the committee mark —I want to emphasize that a two-parent family, the kind of family that most people in the Christian Coalition or in the Heritage Foundation or others feel have been the most hard hit in America in the recent years, a two-parent family with two children with an income of $20,000, under my proposal, would get the full $1,000 credit, $500 for each child under this proposal, which is the contract proposal. They would not get that under the proposal of the Finance Committee.

Mr. President, I think if we are going to accept the notion that we will provide the children's credit for as many working taxpaying families as possible, it is important to change the base and to guarantee we are reaching those kids.

Everybody knows what has happened to income distribution in America in the last 15 years, how the bottom has not been the part of America that has grown. I might add, here is a chart that shows the percentage of working families whose payroll taxes exceed their income taxes. They are all in the bottom three-fifths of America. You have 99 percent in the bottom fifth, 97 percent in the second fifth, and 90 percent in the next fifth—all work, all have payroll taxes that exceed their income tax, and, therefore, do not get the full benefit of the credit.

Finally, I simply point out to my colleagues that income for young working families has not increased in over 20 years. These are the young families of America earning $18,000 in the lowest quintile on average, and $30,000 in the second quintile on average. Look at what happened to payroll taxes during that period of time. Payroll taxes in 1975 were $374 for that family. But, in 1985, they were $2,171. In 1995, they were $2,523. So the payroll taxes went up, but at the same time in both quintiles and, yet, their income went down and they are not going to get the credit.

So I respectfully hope that my colleagues will join in an effort to rectify what I hope is simply an oversight in distribution and help to guarantee that every family in America that works, that is struggling to raise their children, can actually have the benefit of this $500 credit, and that would, I think, be deemed a benefit to the Senate and to the country if we were to make that happen.

Mr. President, under the previous agreement, I yield the balance of time divided equally to Senator DODD and Senator KENNEDY.

The PRESIDING OFFICER. There are 10 minutes left on the Democratic side.

Mr. DODD. On the bill?

The PRESIDING OFFICER. There are 10 minutes on the proponents' side.

Mr. COATS. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. COATS. Mr. President, I don't understand why we are allocating time here because in the unanimous-consent request—I specifically asked the Chair and asked in the request if the three amendments agreed to under the unanimous-consent request were on any kind of a time limit. The answer was, no, they are not on any kind of a time limit.

I further raised the statement saying that there are a number of Senators under the agreement that would stay beyond the three to offer and discuss their amendments this evening. They would be allowed to speak for up to 10 minutes in support of their amendments. I don't believe we are under a time agreement and that there needs to be allocation of a time agreement. This Senator has not yet spoken on the Gramm amendment, which I would like to do. I don't feel there is any constraint on the amount of time I have to speak.

The PRESIDING OFFICER. Under the consent agreement, there was still time remaining on the bill. The time remaining on the bill could be used by each side presenting their amendments. There was an order to the amendments. We are on the third one, which was the Kerry amendment. Senator KERRY was allotted the time on the proponents' side, which was 20 minutes. There is an opponent side of 20 minutes that would be allocated, which would be the majority party side.

Following the expiration of all time, which would be the remaining 38 minutes, then there will be a period for morning business where any Senator can be recognized for up to 10 minutes to introduce his motion, which would put it in order for tomorrow, but in no particular order for tomorrow.

The Senator from Massachusetts is recognized.

Mr. KERRY. If I could say to my colleague, I had the full amount of time under the unanimous-consent agreement. I chose to truncate my remarks in order to accommodate my colleague within that. I don't mean to upset the order.

Mr. COATS. No. Mr. President, I am perfectly content to let the Senator take whatever time he wants. It is this Senator's understanding that the unanimous-consent agreement supersedes the reconciliation instructions regarding time under the agreement. The Senator from Massachusetts can offer any amount of time he wants to his colleagues. I am more than willing to wait for that.

The PRESIDING OFFICER. We have already ruled that, as far as allocating time to anybody else, there would have to be a unanimous consent agreement by that particular person who is speaking; otherwise, the time is up for grabs.

Mr. COATS. Further parliamentary inquiry. That is not my understanding of what the unanimous consent request was. The reason I am stating this is that I specifically asked the majority leader if my interpretation was correct, and he specifically said yes and included it in the unanimous-consent agreement. The Parliamentarian may not have heard that. I don't believe there is a ruling of that. In any event, I don't want to split hairs. I think everybody will have an opportunity to speak. He doesn't have to limit the Senator from Connecticut to 2 minutes. He can talk for 20, as I understand the unanimous-consent agreement.

Mr. KERRY. Mr. President, if I can simply clarify something. But before I do, I will send my amendment to the desk.

AMENDMENT NO. 554

(Purpose: To allow payroll taxes to be included in the calculation of tax liability for receiving the children's tax credit, and for other purposes)

Mr. KERRY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY], for himself, Mr. CONRAD, and Mr. JOHNSON, proposes an amendment numbered 554.

Mr. KERRY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, beginning with line 9, strike all through page 17, line 12, and insert the following:

''(2) LIMITATION BASED ON ADJUSTED GROSS INCOME.—The dollar amount in subsection (a)

shall be reduced (but not below zero) ratably for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds $60,000 but does not exceed $75,000. For purposes of the preceding sentence, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

''(3) LIMITATION BASED ON AMOUNT OF TAX.—The aggregate credit allowed by subsection (a) (determined after paragraph (2)) shall not exceed the sum of—

''(A) the excess (if any) of—

''(i) the taxpayer's regular tax liability for the taxable year reduced by the credits allowable against such tax under this subpart (other than this section), over

''(ii) the taxpayer's tentative minimum tax for such taxable year (determined without regard to the alternative minimum tax foreign tax credit), plus

''(B) the excess (if any) of—

''(i) the sum of—

''(I) the taxpayer's liability for the taxable year under sections 3101 and 3201,

''(II) the amount of tax paid on behalf of such taxpayer for the taxable year under sections 3111 and 3221, plus

''(III) the taxpayer's liability for such year under sections 1401 and 3211, over

''(ii) the credit allowed for the taxable year under section 32.

''(c) QUALIFYING CHILD.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying child' means any individual if—

''(A) the taxpayer is allowed a deduction under section 151 with respect to such individual for the taxable year,

''(B) such individual has not attained the applicable age as of the close of the calendar year in which the taxable year of the taxpayer begins, and

''(C) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B).

''(2) APPLICABLE AGE.—For purposes of paragraph (1), the applicable age is 13 in calendar year 1997, and increased by 1 year for each of the next 4 succeeding calender years.

''(3) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

''(d) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.

''(e) RECAPTURE OF CREDIT.—

''(1) IN GENERAL.—If—

''(A) during any taxable year any amount is withdrawn from a qualified tuition program or an education individual retirement account maintained for the benefit of a beneficiary and such amount is subject to tax under section 529(f) or 530(c)(3), and

''(B) the amount of the credit allowed under this section for the prior taxable year was contingent on a contribution being made to such a program or account for the benefit of such beneficiary,

the taxpayer's tax imposed by this chapter for the taxable year shall be increased by the lesser of the amount described in subparagraph (A) or the credit described in subparagraph (B).

''(2) NO CREDITS AGAINST TAX, ETC.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining—

''(A) the amount of any credit under this subpart or subpart B or D of this part, and

''(B) the amount of the minimum tax imposed by section 55.

''(f) OTHER DEFINITIONS.—For purposes of this section, the terms 'qualified tuition program' and 'education individual retirement account' have the meanings given such terms by section 529 and 530, respectively.

''(g) PHASEIN OF CREDIT.—In the case of taxable years beginning in 1997, subsection (a)(1) shall be applied by substituting '$250' for '$500'.''

Mr. ROTH. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROTH. Is it proper to offer an amendment under the unanimous-consent agreement?

The PRESIDING OFFICER. The Senator from Massachusetts, under the unanimous consent agreement that we had earlier, is allowed to offer one tonight.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, it may be that the Senator from Indiana missed it, but I asked unanimous consent at the opening of my comments, when I was yielded the full amount of time, that the balance of time that I didn't use be divided equally, and that consent order was entered into. I might add, if the Senator was correct, it was all of our understanding that after the expiration of all the time on the bill, the Senate would go into morning business, during which time Senators would have the opportunity to speak for as long as they wanted. So there is not in effect a time limitation with respect to the after period of the bill.

The PRESIDING OFFICER. A clarification on that. The consent order did call for 10 minutes per person in morning business.

Mr. KERRY. Well, Mr. President, I have been informed that Senator KENNEDY now does not wish to use his time. I ask unanimous consent that the balance now go to Senator DODD, at which point it would revert to the other side.

The PRESIDING OFFICER. The Senator from Indiana and those on this side have up to 20 minutes following the 8½ minutes of the Senator from Connecticut that will be allocated under the unanimous-consent agreement. The Senator from Connecticut is recognized for up to 8½ minutes.

Mr. DODD. Mr. President, rather than confuse this situation even further, I am going to yield for the purposes of offering an amendment to the distinguished Senator from Vermont. It is his amendment, and I am a cosponsor with him. I yield for that purpose. I ask unanimous consent that I may yield for that purpose.

The PRESIDING OFFICER. The Senator doesn't have the right to offer an amendment under this agreement. Only the managers can offer amendments under the agreement, until we get into the period for morning business, at which time—

Mr. DODD. I ask unanimous consent that I be allowed to offer an amendment.

Mr. JEFFORDS. I ask unanimous consent—

Mr. COATS. Mr. President, I hate to be a fly in the ointment here. I have been waiting to speak on one of the three designated amendments in the unanimous consent agreement, the GRAMM amendment. I have not yet had that opportunity. My understanding is that further amendments come after these three. I think if we just get going, we can get this done and get to the other amendments.

The PRESIDING OFFICER. The right to offer amendments is limited to the managers. The right to speak is not.

Who wishes recognition?

Mr. COATS. Mr. President, I would like to take just a few moments and I will be brief.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

AMENDMENT NO. 552

Mr. COATS. Mr. President, the hour is late and the week has been long. We all need our rest. I want to take a few moments to speak in support of the GRAMM amendment, the amendment we discussed just before the discussion of the KERRY amendment.

The reason I want to speak in favor of the GRAMM amendment is that, as someone who has been an original sponsor and long-time proponent of the child tax credit, we were surprised—first of all, we were delighted when, first, the President, and then the Budget Committee endorsed the concept of the $500-per-child tax credit. It is long overdue. It is only a partial step in remedying an inequity that has existed for a long, long time, in terms of giving families the ability to provide for their children.

Way back in the 1940s, Congress decided that raising families and raising children was a good thing. They provided a dependents exemption for that purpose. They did not index it for inflation. And over the years, because it was not indexed for inflation and because it was not raised by an act of Congress, the value of that particular exemption decreased—that is, the dependents exemption. Now, we finally doubled that exemption, and now index it, after the 1986 tax law. But it was still a third to a fourth of what it should have been if it had maintained pace with the cost of raising children. So families were squeezed and fell further and further behind other special interests that were granted benefits in the Tax Code.

We finally focused on the importance of raising children and the importance of families and the importance of providing support for the family. I am pleased that we are here discussing the $500 tax credit. I am pleased that the chairman of the Finance Committee incorporated the $500 tax credit in their mark. But I rise in support of the Gramm amendment because, in doing so, a provision was made whereby the credit would only be available up through the age of 12. At that point, the credit was available, but it was

conditioned on the fact that the money be put into an education savings account.

Now, it is ironic that, at the very time when the cost of raising children takes a dramatic jump, we take away the ability of parents to use that credit to pay for expenses related to those children.

As this chart shows, entitled ''Annual Child Rearing Costs; Children Ages 0 to 17,'' there is roughly a $7,850 cost per child for children, ages 0 to 2. It jumps to over $8,000 for children, ages 3 to 5. It goes to nearly $8,200 for children, ages 6 to 8. And it stays about that level through the age of 11. But at the age of 12—at no surprise to any parent in this room, or any parent trying to raise young children—there is a dramatic increase in the cost per child when you hit the ages of 12 to 14, and it continues to 15 to 17. Why is that? It is because no longer are you able to tell your children that the $5 Kmart tennis shoes are good enough to wear to school. All of a sudden, they discover the Michael Jordan tennis shoes, and it is now $140 a pair. All of a sudden, the dentist says it is time that you saw an orthodontist, because if you want your child to have straight teeth, this is the time. The baby teeth are gone, the new teeth have come in, and we all want our kids to have perfect smiles. Some might be for cosmetic reasons, and many might be for a misaligned jaw or an overbite, and so forth. And clothes begin to cost more. Kids start thinking about the opposite sex. So that involves the thought of beginning to date and, suddenly, you are buying movie tickets and, suddenly, they are going out for burgers, et cetera. It is no surprise to any parent that that is the point in time which the cost really escalates, particularly when they get into the 15 to 17 age range. Then they are starting to work after school and they need transportation. Heavens, what an embarrassment it would be to have to ride the school bus. You need a car, et cetera, et cetera. There are a lot of necessary costs at this particular time, also.

At that very time when it costs more, the Finance Committee has said, ''We recognize that it costs more, but you can't use the money for anything except the purpose we deem is acceptable.''

Now, it is a worthy thing to begin to save money for college, for secondary education, but not all children go to college. In fact, apparently, a large percentage don't go to college. So the education savings account that is begun or is mandated at the age of 13—they must use the child credit for that. I think that serves a purpose that we should not support.

Now, some have suggested that the reason all this was done was to make the budget numbers balance, that it was to save money because those families that would not send their children to college, or didn't have plans to send their children to college, or didn't have the funds to accumulate for college, would not take the $500 tax credit and, therefore, are a savings. I hope that is not the motivation. I don't think it was the motivation, but that may be the unintended result. So we have a situation here where, ultimately, what we come down to is that either the parents are going to decide how to use the funds on the child tax credit in the best interest of their children, or the Senate Finance Committee will decide.

Once again we continue the practice of Government knows best—not father knows best, not mothers know best, not family knows best, but Government knows best. We will tell you how you should spend or save money for your child. We will determine that it can only be used for one purpose. You have to continue a secondary education—a noble goal, a worthy goal, and one that I think we want to hold out as an option. But it should not be a mandate. It should not be limited to that particular goal.

There are a lot of families in this category that have expenses for their children at the ages of 13, 14, 15, and 16 that are more critical than forcing them to put the money into a savings account. Hopefully, they will be in a financial position, if we think they can put the money into a savings account. Again, I say it is a worthy goal. But it ought to be an option to those parents. It shouldn't be a mandate. We should not have a Government entity—whether it is an elected Government entity or a nonelected Government entity—making a decision as to how that money should be used.

It is almost humorous to say we know better about how a mother and father ought to spend money for their child than they do, that we know their family situation better, we know their education situation of their children better, we know their future plans better than the family knows its own plans.

So, as well-intended as this mark in the Finance Committee package might be, I think that the amendment of the Senator from Texas makes perfect sense because it simply says if you want to do that with a $500 tax credit, fine, you can do that. We will allow you to set up an education savings account.

One of the first bills I introduced when I came to Congress a long time ago was an education savings account. I think it is a worthy goal, a worthy idea. But if you deem that there are other purposes more appropriate, then we will allow you to do that also.

To suggest that at the age of 13 suddenly the 13-year old is given the money and the parents are going to say, ''I am going to take the money and go down to the casino,'' like the Concord Coalition suggested—talk about arrogance. Talk about an arrogant conclusion; that is, that parents don't care about their kids, that they are either going to spend the money on beer or they are going to spend the money at the casino almost defies belief.

Who do we trust here? Do we trust the parents? Do we trust the family? I am sure there will be examples. You can pick up the paper and read about some wayward father who took the tax credit and went down to the casino. Sure, that will happen. But that doesn't begin to describe the average American family who cares about their children, who want the best for their children, and are in the best position to make the decision as to how that money ought to be spent.

So I am a strong supporter of the Gramm amendment. I think that we ought to modify this. Whether this is put together to create a deal—it is a lousy deal. I won't call it a rotten deal. It is a lousy deal, and the wrong way to allocate these resources. Let's leave that decision in the hands of the parents and not in the hands of the Government.

Mr. SESSIONS. Mr. President, will the Senator yield for a question?

Let's imagine a single mother who is teaching school with three children ages 17, 15, and 12 hoping to save money for college and just getting by. The transmission breaks on the car, and there is a $400 bill. Who should decide who ought to spend that money? The Members of this body, or that mother?

Mr. COATS. Maybe that mother needs that car to get to work so she can continue to make money so she can send her children to school, but we will be effectively telling her, ''You can't fix that transmission.'' We will tell that mother, ''You can't use that money to buy a computer because maybe your child needs special tutoring.'' And, ''You can't buy a software program to give that child better math tutoring so they will be able to go to college. You can't use that money for that. You can't use that money to hire a learning center or some other organization to help your child prepare for the SAT's so that they can get into college. No. You have to do what the Finance Committee says. The Finance Committee says you have to put it in an education savings account.''

I just think it is wrong. As I said, it may be well intended and well motivated, but the consequences are such that I don't think we have thought these things through.

That is why the amendment of the Senator from Texas ought to be supported.

I thank my colleague from Alabama for his contributions.

Mr. President, I yield the floor.

The PRESIDING OFFICER. There are approximately 8 minutes left on the debate.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, may I make an inquiry? Is it in order for me to ask unanimous consent to offer my amendment at this time?

The PRESIDING OFFICER. The Senator may ask.

I have been authorized to object.

CHILD CARE

Mr. JEFFORDS. We will discuss the amendment which we will be offering on the floor at the appropriate time.

Mr. President, it is difficult to find high quality child care that is appropriate, affordable, and convenient for children today. How government can help parents achieve that goal is a very difficult and compelling question. I have, with my cosponsors Senators DODD, ROBERTS, KOHL, SNOWE, LANDRIEU, and JOHNSON put together an amendment which we will be offering. On the one hand the amendment will make it easier to find better child care that is more affordable. At the same time the amendment does some engineering by making it possible for more child care facilities and individual providers to improve their services and receive higher tax deductions for those efforts. My amendment also to shifts the amount of money that is available to parents in the child care tax credit and the dependent care assistance program to help them afford a better quality of care they may now be available to them. This combination of assistance for providers and parents will encourage that the child care facilities and individual providers will provide better care for the 12 million children who are in child care.

How we accomplish this is: First of all, to help middle- and low-income families, the amendment increases the level of income which qualifies for the maximum amount of the child care tax credit benefits $10,000 to $20,000. We make the child care tax credit refundable for low-income working families who qualify for the EITC. Then we go to the other end of the scale and phase the tax credit down, but not out, for wealthier people with incomes over $70,000, then we can pay for the increases at the lower end.

I also feel strongly that it is important to assist those businesses that are providing child care for their employees. The amendment creates an incentive which will allow businesses to receive a 50 percent tax credit for up to $150,000 in expenses to operate, improve, and develop appropriate child care for their employees.

As we all know from recent studies, the healthy development of children can very dramatically enhance, including their potential for future educational and social achievement, depending upon the kind of nurturing and affection they receive early in life, and the developmental and educational activities they are exposed to at birth. In order to make sure that kind of care is available for those children who need to be in child care while their parents work. This amendment provides the necessary incentives so they can find and afford to receive the care that will be safe and provide their children with a better chance for healthy development. That will be required if we expect to have a skilled workforce in the new world of the future.

What we are trying to do here is to balance the need to reduce the deficit and get the budget under control, with the need to improve the quality of child care for all children who must use it. Keeping in mind the funds that are available. We have offsets to pay for this child care amendment, which I think are very appropriate.

I yield to the Senator from Connecticut for a further explanation.

Mr. DODD. Mr. President, first of all, I want to commend my colleague from Vermont. This is an amendment which will be offered by the distinguished Senator from Vermont, along with myself, Senator ROBERTS of Kansas, Senator KOHL of Wisconsin, Senator LANDRIEU, Senator SNOWE, Senator JOHNSON, and others.

Mr. President, this is a modest proposal that is designed to do what all of us agree needs to be done.

We have provided over the last number of years some significant support for child care in this country. For example, there is the Child Care Development Block Grant program which Senator HATCH and I authored back in the mid-1980's. There is also the Head Start program, which has been very, very helpful to so many families in this country in providing a positive learning environment for children. There is also the current child care tax credit. All of these are designed to provide assistance to those families today who are trying to juggle the very difficult task of providing an income for their families and also a safer environment for their children.

Good quality child care can no longer be considered a luxury. There are 13 million children every day in this country who are placed in child care settings. There are an awful lot of single parents out there raising families. There are two-income families that are providing for their children. These families want to be sure that their children are in a safe place.

We have done a great deal to help families with the affordability of child care. We have done a lot to increase the availability of child care.

What Senator JEFFORDS, Senator ROBERTS, Senator KOHL, myself, Senator SNOWE, Senator LANDRIEU, Senator JOHNSON, and others are trying to do is to use the Tax Code to try to do a better job of dealing with quality.

I want to be very clear that there is nothing in this amendment which sets national standards for quality—as our colleagues over the years have had some serious reservations about setting national child care quality standards. This amendment simply defines a quality setting as one that meets standards or certification set by States, local governments or private, non-profit entities—we don't specify any standards—what those standards must be. With this amendment we just try to create incentives so that child care settings will get some encouragement to improve quality.

Let me just enumerate what some of those incentives are.

We expand the tax deductions for businesses who contribute educational equipment and supplies to public child care providers.

We provide tax incentives to families who seek out higher quality care, realizing that such care is more expensive.

Let me step back, if I can, for a minute.

Mr. President, earlier this year, national magazines had cover stories on early childhood development. We now know that in the earliest stages of a child's life—zero to 36 months—it is absolutely critical that they be nurtured and cared for so that they can develop to their fullest potential. We've all heard by now about how the synapses in the brain of a child are formed —1,000 trillion of them just in those earliest years. Now we have scientific evidence of how important it is to read to children, to hold children, and to play with children in order to wire their brains for the skills they'll need later.

Obviously, the best caretakers of children are loving parents. That is the best child care—be cared for by prepared parents. No one can argue against that. But we also know that there are a lot of these parents who can't be there all day with their children.

So what do we do to proximate that caring, prepared parent situation when the parent is unable to be there? What are we trying to do? Do we leave the situation to chance and say to parents, ''Good luck. Do what you can. Hopefully you can find the kind of care you would provide if you were there.'' That is a difficult statement to make to parents since we all understand that not every setting is a safe one or a healthy one, that in fact there are vast differences in the quality of child care.

Rather than applying any rigid standards here, however, we will leave to the States and to communities to decide what works best. And then we provide the tax incentives to businesses to contribute equipment and supplies to help to improve the quality child care. We provide the incentives to those parents who seek out quality child care because it can cost a bit more. In doing all this we will hopefully encourage other child care providers to improve their own quality and to ultimately raise the levels of quality around the country.

With this amendment we also make the child care tax credit refundable because we realize that as we go from welfare to work that we are going to have a lot of these poorer families out there who are going to have difficulty affording quality child care. Refundability is critical—if we only provide tax credits to those who pay

taxes, then we miss helping a lot of these poorer families who can truly use the assistance.

It is certainly a lot more expensive to provide child care than it is to provide welfare in most States. So as people move from welfare to work, do we want them leaving kids in the street, where hopefully a neighbor or someone else is around to keep an eye on them, or should they be in a quality environment? I think all of us agree they should be in a quality environment and one that their parents hopefully can afford.

Senator JEFFORDS has provided us with a way to reach this goal by using the Tax Code. It is not a direct appropriation. We realize how difficult it is to get funding for child care programs. Through the largess of our membership here over the last number of years, we have increased the child care block grant to $1 billion. That amount of money, but it does not even approximate the demand. And only 4 percent of that total amount is there for quality—hardly enough, really, when you think of the tremendous increase in demand for child care that is now going to occur across the country as a result of the enactment of welfare reform.

This proposal is designed to provide incentives to businesses to set up quality child care center and to families to seek quality care. We pay for this by making minor adjustments for those receiving the tax credit at the highest income levels by reducing the credit progressively by 1 percent, but never going below a credit of 10 percent of allowable expenses. So by just adjusting the benefit a bit we can provide the resources here to promote quality.

I urge our colleagues' support. This is going to need 60 votes, and that is a hard number to reach, but we ought to be doing everything we can to improve the quality of child care. This ought not to be a partisan debate. We have come up with an offset. We pay for this with minor adjustments to the Tax Code. This is a bipartisan amendment. With my colleagues from Vermont, Kansas, from Maine, from Louisiana, from Wisconsin and South Dakota, we have come up with a good proposal that we think meets the concerns that some have raised and still provides a way to ensure through the Tax Code that child care is not only available and affordable but also high quality.

And so, at the appropriate time, Mr. President, when the amendment is offered by the distinguished Senator from Vermont, we would urge our colleagues to be supportive.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DODD. I thank my colleague from Vermont.

AMENDMENT NOS. 556, 557, 558, 559, 560, 561, 562, 563, 564, AND 565, EN BLOC, AND 553

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. I ask unanimous consent that the following amendments be considered and agreed to en bloc: first, MCCAIN-LEVIN: Sense of the Senate regarding stock options with a statement; 2. ENZI: Sense of the Senate regarding estate tax with a statement; 3. DODD: Forgiveness of student loans; 4. GRAMS: Exception to UBIT for charitable giving; 5. DORGAN: Disaster relief. 6. DORGAN: IRA withdrawal for disaster relief; 7. BIDEN: Survivors' benefits/public safety officials; 8. DODD-D'AMATO: Disability benefits for firefighters and officers; 9. BOXER: Section 401(k) and employer stock; and No. 10. DASCHLE: Non-Amtrak States. I urge their adoption.

In addition, I ask that amendment 553 be called up and agreed to.

Mr. COATS. Mr. President, reserving the right to object—

The PRESIDING OFFICER. Is there objection?

Mr. COATS. Reserving the right to object—

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. I am only inquiring from the standpoint that I am a little lost again on procedure. How much time is left under the bill? Because I would like to respond to the arguments on the amendment of the Senator from Vermont.

The PRESIDING OFFICER. There are 3 minutes remaining on the bill. If the Senator will wait until the 3 minutes have expired, then he can have up to 10 minutes in his own right.

Mr. COATS. Further reserving the right to object, I asked relative to the unanimous consent request of the Senator from Delaware. I just wanted to make sure it didn't include—maybe I misunderstood, but it didn't include a request to go immediately to those amendments.

The PRESIDING OFFICER. These are amendments on which there appears to be agreement on both sides of the aisle.

Mr. COATS. To be accepted en bloc.

Mr. ROTH. I asked they be—

Mr. COATS. I withdraw my reservation.

The PRESIDING OFFICER. If there is no objection, the clerk will report the amendments en bloc.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH] proposes amendment No. 556 for Mr. MCCAIN, amendment No. 557 for Mr. ENZI, amendment No. 558 for Mr. DODD, amendment No. 559 for Mr. GRAMS of Minnesota, amendment No. 560 for Mr. DORGAN, amendment No. 561 for Mr. DORGAN, amendment No. 562 for Mr. BIDEN, amendment No. 563 for Messrs. DODD and D'AMATO, amendment No. 564 for Mrs. BOXER, and amendment No. 565 for Mr. DASCHLE.

The PRESIDING OFFICER. If there is no objection, the amendments are considered and agreed to en bloc.

The amendments considered and agreed to en bloc are as follows:

AMENDMENT NO. 556

(Purpose: To express the sense of the Senate that the Finance Committee should hold hearings on the tax treatment of stock options)

On page 267, between lines 15 and 16, insert the following:

SEC. . SENSE OF THE SENATE REGARDING TAX TREATMENT OF STOCK OPTIONS.

(a) FINDINGS.—The Senate finds that—

(1) currently businesses can deduct the value of stock options as a business expense on their income tax returns, even though the stock options are not treated as an expense on the books of those same businesses; and

(2) stock options are the only form of compensation that is treated in this way.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Committee on Finance of the Senate should hold hearings on the tax treatment of stock options.

Mr. MCCAIN. Mr. President, I am pleased to join my colleague from Michigan, Senator LEVIN, in offering an amendment regarding the current double standard employed by corporations today in accounting for stock options.

The amendment expresses the sense of the Senate that hearings should be held on S. 576, a bill sponsored by Senator LEVIN and myself.

S. 576 would close a tax loophole by requiring companies to treat stock options granted as compensation to employees as an expense for bookkeeping purposes, if they want to claim this expense as a deduction for tax purposes. The bill protects average workers by exempting companies from the requirements of the amendment if they provide stock options to substantially all of their employees, with more than half the stock options going to nonmanagement personnel and not more than 20 percent going to a single employee. The bill does not require a particular accounting treatment; that decision is left to the company. It simply requires companies to treat stock options the same way for both accounting and tax purposes.

The Joint Committee on Taxation provided an estimate of the revenue that is being lost because of this tax loophole. If this loophole is not closed, over the next 10 years, from 1998 to 2007, the U.S. Treasury will lose $1.6 billion. That's real money that could be used to reduce our ever-increasing $5.4 trillion national debt.

A great deal of attention has been focused recently on the outrageously high levels of executive compensation paid by some companies. The New York Times printed an article on March 30, 1997, that listed the compensation levels of several top corporate executives in 1996. For example:

IBM's Chairman, Louis V. Gerstner, Jr., received a compensation package worth $20.2 million.

General Electric gave its Chairman, John F. Welch, Jr., a package worth $30 million.

And Michael Eisner, Chairman of Walt Disney Corporation, got $8.7 million in salary and bonuses, plus stock options worth $181 million in today's market—the largest single grant in corporate history, according to the article.

Under current law, corporations can easily hide these multimillion dollar executive compensation plans from their stockholders or other investors. That is because the stock options that make up a large and increasing portion of these packages need not be counted

as an expense when calculating company earnings.

Simply put, if a company pays $100 to an employee as salary, that $100 is deducted from the company's total profits. That seems logical. But if a company gives that same employee 100 dollars' worth of stock options as part of their compensation package, the company's total profits are unaffected. And the actual value of those stock options may very well increase several fold over time.

Stock options given as compensation to company employees are simply mentioned in a footnote in the annual report to shareholders—which, by the way, is a much-needed yet inadequate change in the accounting rules required by the Federal Accounting Standards Board starting this year. The result is the shareholders are given an inflated picture of the company's profits, and the top executives can take credit for those artificially inflated profits.

An article in the Wall Street Journal, dated January 14, 1997, stated these new rules could reduce some companies' annual earnings by as much as 11 to 32 percent. Yet, the required footnote could be overlooked by all but the most astute of stockholders.

One might reasonably ask how an arcane accounting rule could have such a large effect on the bottom line of corporations. The answer lies in the growth and value of stock options as a means of executive compensation.

Stock option plans in 1996 accounted for almost 45 percent of total executive compensation at 56 of our Nation's largest corporations, an increase of 5 percent in just 1 year. The portion of compensation made up of actual cash salary declined by 5 percent in just 1 year.

At the same time, the value of stock options increased dramatically as overall market performance soared in the last few years. The New York Times piece cited earlier also estimated the future value of stock options to those top executives, based on the most likely time the options would be exercised. The most impressive gain would be realized by Mr. Eisner, whose $181 million in Disney options received last year would be worth $583.7 million in 2007.

Yet, if any Disney shareholder looked at the annual report, all they will find is a footnote about the value of stock options granted to Mr. Eisner and other top executives. The bottom line—the profit statement—will be overstated by at least $181 million.

Why shouldn't the true value of Mr. Eisner's compensation package be included in calculating Disney's earnings? How can stockholders evaluate the true value of executive compensation if the value is just buried in a footnote somewhere in the annual report?

I recognize that there is a serious opposition to S. 576 in the business community. And I fully understand why. Companies save millions every year by claiming the value of stock options granted to employees as a deductible expense on their taxes. The Wall Street Journal article states that companies saved hundreds of millions of dollars in 1996 taxes because of this loophole:

Microsoft saves $352 million.
Intel saved 196 million.
Disney Corporation saved $44 million.

No other type of compensation can be treated as an expense for tax purposes, without also being treated as an expense on the company books. This double standard is exactly the kind of inequitable corporate benefit that makes the American people irate and must be eliminated. If companies do not want to fully disclose on their books how much they are compensating their executives, then they should not be able to claim a tax benefit for it.

S. 576 would end an inequitable corporate subsidy and restore fairness in the treatment of stock options. It would provide an additional $1.6 billion in deficit reduction by closing this corporate tax loophole.

The amendment Senator LEVIN and I are offering today is intended to urge full and open hearings on this issue. Industry will have an opportunity to express their views and explain their opposition to S. 576. I urge my colleagues to vote for the amendment, and I look forward to the hearings.

At the appropriate place in the bill, insert the following:

SEC. . SENSE OF THE SENATE ON ESTATE TAXES.

(a) The Senate finds that whereas—

(1) The Federal estate tax punishes hard working small business owners and discourages savings and growth; and

(2) The Federal estate tax imposes an unfair economic burden on small businesses and reduces their ability to survive and complete with large corporations; and

(3) A reduction in Federal estate taxes for family-owned farms and enterprises will help to prevent the liquidation of small businesses that strengthen American communities by providing jobs and security;

(b) It is the Sense of the Senate that—

(1) The estate tax relief provided in this bill is an important step that will enable more family-owned farms and small businesses to survive and continue to provide economic security and job creation in American communities; and

(2) Congress should eliminate the Federal estate tax liability for family-owned businesses by the end of 2002 on a deficit-neutral basis.

Mr. ENZI. Mr. President, I rise to offer a sense of the Senate amendment that calls for a repeal of the Federal estate tax on family owned businesses by 2002. I commend Chairman ROTH and the Finance Committee on the progress they have made by increasing the estate tax exemption for individuals and by excluding the first $1 million family owned businesses from Federal death tax liability. I look forward to working with my colleagues toward repealing the death tax on family businesses.

I introduce this resolution because I believe there is still much work to be done. The Federal death tax on family owned business tax punishes those who have worked hard their entire life building up a small business or a family farm only to have their children see it disappear in order to pay the Federal death taxes. The death tax discourages thrift and pierces the very heart of the American economy—small businesses.

Mr. President, small businesses are the backbone of the American economy. The simple fact is that most businesses in this country are small businesses. Out of the nearly 5½ million employers in this country, 99 percent are businesses with fewer than 500 employees. Almost 90 percent of those businesses employ fewer than 20 employees. Since the early 1970's, small businesses have created two out of every three net new jobs in this country. This remarkable job growth continued even during periods of slow national growth and downturns when most large corporations were downsizing and laying off workers. Small businesses employ more than half of the private sector workforce and are responsible for producing roughly half our Nation's gross domestic product. By punishing small businesses, the Federal death tax stifles our economy, discourages ingenuity, and threatens the economic security of many of our families.

The Federal death tax also tears at the bonds that unite parents and children and families and communities. The family business has historically been one of the primary means for children to learn skills and virtues that help throughout their entire lives. Many of the small business in Wyoming are ranches and farms, and I know many of the hard-working men and women in Wyoming who run these family ranches and farms. The whole family pitches in to harvest the crops, feed the livestock, mend the fences, fix the irrigation ditches, plow the roads, herd the sheep and cattle, and plan for next year's yield. Children learn that hard work and responsible planning are necessary ingredients for success in work as in life. They learn respect for the land that is their livelihood. They learn to appreciate the labor of their parents and grandparents and they realize their own labor is an investment in their future and the future of their children.

I myself ran a small family owned shoe store in Gillette, WY. We didn't have a separate division for merchandising and marketing. We didn't have an accounting department to sort out the complicated Tax Code. We all wore many hats. We had to sell the shoes, balance the books, keep track of our inventory, and straighten out the shelves. Let me tell you that we all learned to pitch in to get the job done. We learned to work together and we learned to appreciate the hard work and sacrifices each of us made to keep the store running smoothly. We also learned firsthand the importance of living by the golden rule. If you don't treat your customers well in the retail business they don't forget. This is especially true of folks in small towns

where there are always a few people who remember what you did as a kid and who can even tell you stories about your parents and grandparents. The joy is, they also remember you when you treat them well. The family owned business is an important medium through which we pass on our heritage from one generation to the next.

Mr. President, our Tax Code represents our tax policy and we should be ashamed at a code which punishes families and stifles our economy. Every year our Tax Code forces thousands of families to sell their businesses just to pay the repressive Federal death tax. It is time we correct this injustice by providing meaningful relief for America's families and their small businesses. I commend the chairman for his diligent work in crafting a tax bill that takes an important first step toward reforming the death tax. I look forward to working with my colleagues in repealing this burdensome tax in the near future. This sense of the Senate resolution expresses our firm intent to work together toward this end. I ask for your support in this important endeavor.

I thank the chair and yield the floor.

AMENDMENT NO. 558

(Purpose: To amend the Internal Revenue Code of 1986 regarding the treatment of cancellation of student loans)

On page 77, between lines 11 and 12, insert the following:

SEC. . TREATMENT OF CANCELLATIION OF CERTAIN STUDENT LOANS.

(a) CERTAIN LOANS BY EXEMPT ORGANIZATIONS.—

(1) IN GENERAL.—Paragraph (2) of section 108(f) (defining student loan) is amended by striking ''or'' at the end of subparagraph (b) and by striking subparagraph (D) and inserting the following:

''(D) any educational organization described in section 170(b)(1)(A)(ii) if such loan is made—

''(i) pursuant to an agreement with any entity described in subparagraph (A), (B), or (C) under which the funds from which the loan was made were provided to such educational organization, or

''(ii) pursuant to a program of such educational organization which is designed to encourage its students to serve in occupations with unmet needs or in areas with unmet needs and under which the services provided by the students (or former students) are for or under the direction of a governmental unit or an organization described in section 501(c)(3) and exempt from tax under section 501(a).

The term 'student loan' includes any loan made by an educational organization so described or by an organization exempt from tax under section 501(a) to refinance a loan meeting the requirements of the preceding sentence.''

(2) EXCEPTION FOR DISCHARGES ON ACCOUNT OF SERVICES PERFORMED FOR CERTAIN LENDERS.—Subsection (f) of section 108 is amended by adding at the end the following new paragraph:

''(3) EXCEPTION FOR DISCHARGES ON ACCOUNT OF SERVICES PERFORMED FOR CERTAIN LENDERS.—Paragraph (1) shall not apply to the discharge of a loan made by an organization described in paragraph (2)(D) (or by an organization described in paragraph (2)(E) from funds provided by an organization described in paragraph (2)(D)) if the discharge is on account of services performed by either such organization.''

(b) CERTAIN STUDENT LOANS THE REPAYMENT OF WHICH IS INCOME CONTINGENT.—Paragraph (1) of section 108(f) is amended by striking ''any student loan if'' and all that follows and inserting ''any student loan if—

''(A) such discharge was pursuant to a provision of such loan under which all or part of the indebtedness of the individual would be discharged if the individual worked for a certain period of time in certain professions for any of a broad class of employers, or

''(B) in the case of a loan made under part D of title IV of the Higher Education Act 1965 which has a repayment schedule establish under section 455(e)(4) of such Act (relating to income contingent repayments), such discharge is after the maximum repayment period under such loan (as prescribed under such part).''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges of indebtedness after the date of the enactment of this Act.

Mr. DODD. Mr. President, I rise today to offer a modest amendment that will make a major difference to thousands of young men and women who chose careers in community service.

As is well-known, the rewards of a community service job are not the salaries. Few choose teaching in Head Start, working for the Jesuit Volunteer Corps, or a career in nursing with the expectation of riches, big houses or luxurious vacations. In fact, for too many in these fields the salaries are substandard and pension and other benefits are questionable. The rewards come from knowing at the end of the day that they have made a difference in the lives of children and others in their communities.

Many of these careers require post-secondary education, and today, higher education means debt. In 1995–96, total federal student loan debt rose to over $24 billion dollars; $264 million in my home state of connecticut. Nearly 7 million students borrowed to meet the costs of college.

Mr. President, I believe we must do more about this problem of rising student debt. Not only are students deterred from pursuing rewarding, community-related work, but they and their families are also being scared off from pursuing the dream of higher education at all. This undermines our economy and nation as a whole; it is clear we will not be able to meet the challenges of the next century without harnessing and nurturing the talents of all Americans.

For nearly 40 years, this is what federal higher education policy has been about—from the GI bill to Pell grants, the federal government has provided the means for millions of Americans to attend college. Rising costs, and the increasing reliance on loans to finance them, is beginning to undermine our central federal commitment.

There are some good things, but many missed opportunities, In the bill before us today. The modified HOPE Scholarship should be improved and I support amendments to do so. The tax deduction for student loan interest, and some of the family savings provisions will also assist families in meeting the costs of higher education.

But there is a great deal missing. Most notably, the President's proposal to support lifelong learning through a $10,000 tax deduction for tuition. This tax relief is critical to America's families and others pursuing higher education beyond the first two years. Continuing education is vitally important for nurses, teachers, technical workers and others. Yet this package does little for them to assist in these efforts. The Democratic alternative rightly restored this critical benefit.

In addition, few of these tax advantages go to the neediest students and their families, despite the fact that this is the group with the most limited access to higher education. I hope that we can make progress on these fronts during today's consideration of this bill.

Mr. President, this amendment also helps fill in the gaps in this bill. With rising student indebtedness, students literally cannot afford to take jobs as Head Start teachers, nurses or police officers. As a result, we and all our communities lose the talents and energies of these trained and motivated young people.

The DODD amendment supports the work of students who chose a career in community service by ensuring that they are not disadvantaged in the treatment of loan forgiveness associated with their work.

It is not uncommon that public and private non-profit student loan programs provide for the forgiveness of a student's loans should that student chose to go into certain community service fields. For instance, the Federal Perkins Loan programs provides forgiveness for Head Start teachers, teachers in certain urban and rural areas, police officers, nurses, members of the Armed Forces and certain others.

However, the Tax Code currently disadvantages those students who receive loan forgiveness from the private sector. The amount forgiven by nonpublic entities is currently treated as income, which can result in much higher tax liability for the student, undermining the effect of this important benefit.

Specifically, this amendment would expand section 108(f) of the Internal Revenue Code so that an individual's gross income does not include forgiveness of loans made by tax-exempt charitable organizations, such as universities or private foundations, if the proceeds of such loans are used to pay costs of attendance at an educational institution or to refinance outstanding student loans and the student is not employed by the lender organization. As under present law, the Section 108 (f) exclusion would apply only if the forgiveness is contingent on the student's working for a certain period of time in certain professions for any of a broad class of employers, so long as a public service requirement is met.

The exclusion also corrects an oversight in the enactment of the income

contingent repayment option under the current student loan program, which provides low-income, high-debt students with the option of stretching out their payments over 25 years. This program allows students to pursue interests in lower paying fields while continuing to meet their obligations to the tax payers to repay their student loans. If the student makes payments for 25 years and still has a remaining balance, the Government forgives their loan. Unfortunately, when we enacted this vital program, we neglected to clarify that this forgiveness should not be taxable. This amendment would make this correction and fulfill the Government's promise to needy students.

This initiative has been scored by the Joint Tax Committee to have a minimal impact on revenue and therefore this amendment does not require offsetting revenues. The administration supports this initiative and it is also included in Chairman ARCHER's house bill.

Mr. President, I believe this is a simple step we can take to assist thousands of young people who chose careers in community service, and I urge my colleagues to support it.

AMENDMENT NO. 559

(Purpose: To exclude from unrelated business taxable income for certain charitable gambling)

''(j) QUALIFIED GAMES OF CHANCE.—

(1) IN GENERAL.—The term ''unrelated trade or business'' does not include the activity of qualified games of chance.

(2) QUALIFIED GAMES OF CHANCE.—For purposes of this subsection, the term ''qualified games of chance means any game of chance, other than provided in subsection (f), conducted by an organization if—

''(A) such organization is licensed pursuant to State law to conduct such game,

''(B) only organizations which are organized as nonprofit corporations or are exempt from tax under section 501(a) may be so licensed to conduct such game within the State, and

''(C) the conduct of such game does not violate State or local law.''

On page 211, between lines 5 and 6, insert the following:

SEC. 724. DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS MAY BE USED WITHOUT PENALTY TO REPLACE OR REPAIR PROPERTY DAMAGED IN PRESIDENTIALLY DECLARED DISASTER AREAS.

(a) IN GENERAL.—Section 72(t)(2) (relating to exceptions to 10-percent additional tax on early distributions), as amended by sections 203 and 303, is amended by adding at the end the following new subparagraph:

''(G) DISTRIBUTIONS FOR DISASTER-RELATED EXPENSES.—Distributions from an individual retirement plan which are qualified disaster-related distributions.''

(b) QUALIFIED DISASTER-RELATED DISTRIBUTIONS.—Section 72(t), as amended by sections 203 and 303, is amended by adding at the end the following new paragraph:

''(9) QUALIFIED DISASTER-RELATED DISTRIBUTIONS.—For purposes of paragraph (2)(E)—

''(A) IN GENERAL.—The term 'qualified disaster-related distribution' means any payment or distribution received by an individual to the extent that the payment or distribution is used by such individual within 60 days of the payment or distribution to pay for the repair or replacement of tangible property which is disaster-damaged property.

''(B) LIMITATIONS.—

''(i) ONLY DISTRIBUTIONS WITHIN 2 YEARS.—The term 'qualified disaster-related distribution' shall only include any payment or distribution which is made during the 2-year period beginning on the date of the determination referred to in subparagraph (D).

''(ii) DOLLAR LIMITATION.—Such term shall not include distributions to the extent the amount of such distributions exceeds $10,000 during the 2-year period described in clause (i).

''(C) DISASTER-DAMAGED PROPERTY.—The term 'disaster-damaged property' means property—

''(i) which was located in a disaster area on the date of the determination referred to in subparagraph (C), and

''(ii) which was destroyed or substantially damaged as a result of the disaster occurring in such area.

''(D) DISASTER AREA.—The term 'disaster area' means an area determined by the President during 1997 to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1996, with respect to disasters occurring after such date.

SEC. 725. ELIMINATION OF 10 PERCENT FLOOR FOR DISASTER LOSSES.

(a) GENERAL RULE.—Section 165(h)(2)(A) (relating to net casualty loss allowed only to the extent it exceeds 10 percent of adjusted gross income) is amended by striking clauses (i) and (ii) and inserting the following new clauses:

''(i) the amount of the personal casualty gains for the taxable year,

''(ii) the amount of the federally declared disaster losses for the taxable year (or, if lesser, the net casualty loss), plus

''(iii) the portion of the net casualty loss which is not deductible under clause (ii) but only to the extent such portion exceeds 10 percent of the adjusted gross income of the individual.

For purposes of the preceding sentence, the term 'net casualty loss' means the excess of personal casualty losses for the taxable year over personal casualty gains.''

(b) FEDERALLY DECLARED DISASTER LOSS DEFINED.—Section 165(h)(3) (relating to treatment of casualty gains and losses) is amended by adding at the end the following new subparagraph:

''(C) FEDERALLY DECLARED DISASTER LOSS.—

''(i) IN GENERAL.—The term 'federally declared disaster loss' means any personal casualty loss attributable to a disaster occurring during 1997 in an area subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

''(ii) DOLLAR LIMITATION.—Such term shall not include personal casualty losses to the extent such losses exceed $10,000 for the taxable year.''

(c) CONFORMING AMENDMENT.—The heading for section 165(h)(2) is amended by striking ''NET CASUALTY LOSS'' and inserting ''NET NONDISASTER CASUALTY LOSS''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to losses attributable to disasters occurring after December 31, 1996, including for purposes of determining the portion of such losses allowable in taxable years ending before such date pursuant to an election under section 165(i) of the Internal Revenue Code of 1986.

AMENDMENT NO. 561

(Purpose: To authorize the Secretary of the Treasury to abate the accrual of interest on income tax underpaymnets by taxpayers located in Presidentially declared disaster areas if the Secretary extends the time for filing returns and payment of tax (and waives any penalties relating to the failure to so file or so pay) for such taxpayers)

Ordered to lie on the table and to be printed.

Amendment intended to be proposed by Mr. DORGAN.

Viz:

On page 211, between lines 5 and 6, insert the following:

SEC. 724. ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.

(a) IN GENERAL.—Section 6404 (relating to abatements) is amended by adding at the end the following:

''(h) ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.—

''(1) IN GENERAL.—If the Secretary extends for any period of time for filing income tax returns under section 6081 and the time for paying income tax with respect to such returns under section 6161 (and waives any penalties relating to the failure to so file or so pay) for any individual located in a Presidentially declared disaster area, the Secretary shall abate for such period the assessment of any interest prescribed under section 6601 on such income tax.

''(2) PRESIDENTIALLY DECLARED DISASTER AREA.—For purposes of paragraph (1), the term 'Presidentially declared disaster area' means, with respect to any individual, any area which the President has determined during 1997 warrants assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

''(3) INDIVIDUAL.—For purposes of this subsection, the term 'individual' shall not include any estate or trust.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disasters declared after December 31, 1996.

AMENDMENT NO. 562

At the appropriate place, insert the following:

SEC. SURVIVOR BENEFITS FOR PUBLIC SAFETY OFFICERS KILLED IN THE LINE OF DUTY.

IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 138 as section 139 and by inserting after section 137 the following new section:

''SEC. 138. SURVIVOR BENEFITS ATTRIBUTABLE TO SERVICE BY A PUBLIC SAFETY OFFICER WHO IS KILLED IN THE LINE OF DUTY.

''(A) IN GENERAL.—Gross income shall not include any amount paid as a survivor annuity on account of the death of a public safety officer (as such term is defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968) killed in the line of duty—

''(1) if such annuity is provided under a governmental plan which meets the requirements of section 401(1) to the spouse (or a former spouse) of the public safety officer or to a child of such officer; and

''(2) to the extent such annuity is attributable to such officer's service as a public safety officer.

''(b) EXCEPTIONS.—

''(1) IN GENERAL.—Subsection (a) shall not apply with respect to the death of any public safety officer if—

''(A) the death was caused by the intentional misconduct of the officer or by such officer's intention to bring about such officer's death;

''(B) the officer was voluntarily intoxicated (as defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968) at the time of death; or

''(C) the officer was performing such officer's duties in grossly negligent manner at the time of death.

''(2) EXCEPTION FOR BENEFITS PAID TO CERTAIN INDIVIDUALS.—Subsection (a) shall not apply to any payment to an individual whose actions were a substantial contributing factor to the death of the officer.

(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received in taxable years beginning after December 31, 1996, with respect to individuals dying after such date.

AMENDMENT NO. 563

(Purpose: To clarify the tax treatment of certain disability benefits received by former police officers or firefighters)

On page 267, between lines 15 and 16, insert the following:

SEC. . TREATMENT OF CERTAIN DISABILITY BENEFITS RECEIVED BY FORMER POLICE OFFICERS OR FIREFIGHTERS.

(a) GENERAL RULE.—For purposes of determining whether any amount to which this section applies is excludable from gross income under section 104(a)(1) of the Internal Revenue Code of 1986, the following conditions shall be treated as personal injuries or sickness in the course of employment:

(1) Heart disease.

(2) Hypertension.

(b) AMOUNTS TO WHICH SECTION APPLIES.—This section shall apply to any amount—

(1) which is payable—

(A) to an individual (or to the survivors of an individual) who was a full-time employee of any police department or fire department which is organized and operated by a State, by any political subdivision thereof, or by any agency or instrumentality of a State or political subdivision thereof, and

(B) under a State law (as in existence on July 1, 1992) which irrebuttably presumed that heart disease and hypertension are work-related illnesses but only for employees separating from service before such date; and

(2) which is received in calendar year 1989, 1990, or 1991.

For purposes of the preceding sentence, the term ''State'' includes the District of Columbia.

(c) WAIVER OF STATUTE OF LIMITATIONS.—If, on the date of the enactment of this Act (or at any time within the 1-year period beginning on such date of enactment) credit or refund of any overpayment of tax resulting from the provisions of this section is barred by any law or rule of law, credit or refund of such overpayment shall, nevertheless, be allowed or made if claim therefore is filed before the date 1 year after such date of enactment.

SEC. . REMOVAL OF DOLLAR LIMITATION ON BENEFIT PAYMENTS FROM A DEFINED BENEFIT PLAN MAINTAINED FOR CERTAIN POLICE AND FIRE EMPLOYEES.

(a) IN GENERAL.—Subparagraph (G) of section 415(b)(2) of the Internal Revenue Code of 1986 is amended by striking ''participant—'' and all that follows and inserting ''participant, subparagraphs (C) and (D) of this paragraph and subparagraph (B) of paragraph (1) shall not apply.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1996.

AMENDMENT NO. 564

(Purpose: To provide for diversification in section 401(k) plan investments)

On page 208, between lines 16 and 17, insert the following:

SEC. . DIVERSIFICATION IN SECTION 401(k) PLAN INVESTMENTS.

(a) LIMITATIONS ON INVESTMENT IN EMPLOYER SECURITIES AND EMPLOYER REAL PROPERTY BY CASH OR DEFERRED ARRANGEMENTS.—Section 407(d)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1107(d)(3)) is amended by adding at the end the following:

''(D)(i) the term 'eligible individual account plan' does not include that portion of an individual account plan that consists of elective deferrals (as defined in section 402(g)(3) of the Internal Revenue Code of 1986) pursuant to a qualified cash or deferred arrangement as defined in section 401(k) of the Internal Revenue Code of 1986 (and earnings allocable thereto), if such elective deferrals (or earnings allocable thereto) are required to be invested in qualifying employer securities or qualifying employer real property or both pursuant to the documents and instruments governing the plan or at the direction of a person other than the participant on whose behalf such elective deferrals are made to the plan (or the participant's beneficiary).

''(ii) For purposes of subsection (a), such portion shall be treated as a separate plan.

''(iii) This subparagraph shall not apply to an individual account plan if the fair market value of the assets of all individual account plans maintained by the employer equals not more than 10 percent of the fair market value of the assets of all pension plans maintained by the employer.

''(iv) This subparagraph shall not apply to an individual account plan that is an employee stock ownership plan as defined in section 409(a) or 4975(e)(7) of the Internal Revenue Code.''.

(v) This subparagraph shall not apply to an individual account plan if not more than 1 percent of an employees eligible compensation deposited to the plan as an elective deferral (as so defined) is required to be invested in the qualifying employer securities.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to employer securities and employer real property acquired after the beginning of the first plan year beginning after the 90th day after the date of enactment of this Act.

(2) SPECIAL RULE FOR CERTAIN ACQUISITIONS.—Employer securities and employer real property acquired pursuant to a binding written contract to acquire such securities and real property in effect on the date of enactment of this Act and at all times thereafter, shall be treated as acquired immediately before such date.

AMENDMENT NO. 565

(Purpose: To expand non-Amtrak States' use of the Intercity Passenger Rail Funds)

Beginning on page 189, line 24, strike ''and'' and all that follows through page 190, line 1, and insert the following:

''(III) capital expenditures related to rail operations for Class II or Class III rail carriers in the State,

''(IV) any project that is eligible to receive funding under section 5309, 5310, or 5311 of title 49, United States Code.

''(V) any project that is eligible to receive funding under section 130 of title 23, United States Code, and

''(VI) the payment of interest.

AMENDMENT NO. 553

The PRESIDING OFFICER. And amendment No. 553 as a part of that agreement is agreed to.

The amendment (No. 553) was agreed to, as follows:

AMENDMENT NO. 553

(Purpose: To express the sense of the Senate that the Internal Revenue Code of 1986 needs reform)

At the end of page 11, insert the following:

SEC. . SENSE OF THE SENATE REGARDING REFORM OF THE INTERNAL REVENUE CODE OF 1986.

(a) FINDINGS.—The Senate finds that—

(1) the Internal Revenue Code of 1986 (''tax code'') is unnecessarily complex, having grown from 14 pages at its inception to 3,458 pages by 1995;

(2) this complexity resulted in taxpayers spending about 5,300,000,000 hours and $225,000,000,000 trying to comply with the tax code in 1996;

(3) the current congressional budgetary process is weighted too heavily toward tax increases, as evidenced by the fact that since 1954 there have been 27 major bills enacted that increased Federal income taxes and only 9 bills that decreased Federal income taxes, 3 of which were de minimis decreases;

(4) the tax burden on working families has reached an unsustainable level, as evidenced by the fact that in 1948 the average American family with children paid only 4.3 percent of its income to the Federal Government in direct taxes and today the average family pays about 25 percent;

(5) the tax code unfairly penalizes saving and investment by double taxing these activities while only taxing income used for consumption once, and as a result the United States has one of the lowest saving rates, at 4.7 percent, in the industrialized world;

(6) the tax code stifles economic growth by discouraging work and capital formation through excessively high tax rates;

(7) Congress and the President have found it necessary, on 2 separate occasions, to enact laws to protect taxpayers from the abuses of the Internal Revenue Service and a third bill has been introduced in the 105th Congress; and

(8) the complexity of the tax code has increased the number of Internal Revenue Service employees responsible for administering the tax laws to 110,000 and this costs the taxpayers $9,800,000,000 each year.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Internal Revenue Code of 1986 needs broad-based reform; and

(2) the President should submit to Congress a comprehensive proposal to reform the Internal Revenue Code of 1986.

The PRESIDING OFFICER. Who seeks the floor?

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. May I inquire now what the time situation is?

MORNING BUSINESS

The PRESIDING OFFICER. We are now in a period of morning business with Senators being recognized for up to 10 minutes.

Mr. COATS. Mr. President, I would ask to speak as if in morning business.

The PRESIDING OFFICER. The Senator has that right.

QUALITY CHILD CARE

Mr. COATS. Mr. President, in responding to the amendment of the Senator from Vermont, as also addressed by the Senator from Connecticut, let me state that I share the goal of seeking ways to provide quality child care. This is something that I have supported, have worked on with the Senators. Clearly, as we are looking particularly at welfare reform, we are going to have increasing need for child care. We all want that to be quality child care.

The goal that I had when we worked on the ABC bill several years ago was to make sure that the options available to parents for child care were not limited in any particular way. I was concerned about certification requirements. I was concerned about quality standard requirements because, clearly, at that time, and it is still the case today, the choice of the majority of parents relative to child care for their children is not a child care center but taking care of that child in the home, often by a neighbor, by a friend, by a relative, placing their child in a family child care situation, whether it is a church or a home or some other entity.

Several Senators on this floor have talked in the welfare debate about training welfare mothers in projects or allowing them to be child care providers as other people under welfare will be seeking work. All that makes a great deal of sense. My concern with the Jeffords amendment is that it gives preferential treatment to just one choice, and therefore places those other forms of child care at a disadvantage. It doesn't take away options, I concede that, but it does place them at a disadvantage because you are biasing the choice.

Now, it is a worthy goal to attempt to encourage a better quality care. But, of course, every time we get into this debate and discussion, it is always the State that defines what the quality care is, and the concern is that what is quality care to a State agency or a State bureaucracy is not the same standards of quality care that a parent might choose for their child.

In a sense we are getting back to the same argument as we had before, and that is who is in a better position to determine what is best for the child in the interest of the child. Is it the parent who is in a better position to determine what their child needs in terms of child care and what the quality of that care is, or is a Government entity in a better position, or a piece of legislation able to describe what a better quality child care would be?

So in this provision we are giving a preferential treatment to only one kind of child care, and that is child care selected by less than a majority of parents who place their children in child care. The latest figures I have are that 32.9 percent of parents place their children with relatives for child care, and those parents will not qualify, necessarily qualify for a bonus. They may not have the education, meet the educational criteria. They might not meet what the State determines as the quality criteria for their child, but as a parent I can tell you I would much rather place my child with a relative than I would with a child care center.

Mr. DODD. Will my colleague yield for a second?

Mr. COATS. I would be happy to yield.

Mr. DODD. We are very sensitive to these concerns, as my colleague has raised these issue on numerous occasions. I should have stated at the outset that the Senator from Indiana chairs the Subcommittee on Children and Families, on which I have been proud to serve as ranking member. He has been instrumental for so many years in helping children and families. I hold him in high regard on this issue.

If I can read this briefly from the amendment for my colleague from Indiana—the terms credentialing and accreditation are used to refer to formal credentialing and accreditation processes by a private nonprofit or public entity that is State recognized (minimum requirements: age-appropriate health and safety standards, age-appropriate developmental and educational activities as an integral part of the program, outside monitoring of the program/individual accreditation/credentialing instruments based on peer-validated research programs/facilities meet any applicable state and local licensing requirements, and ongoing staff development/training which includes related skills testing). There are several organizations and a few states that currently provide accreditation and/or credentialing for early childhood development programs, child care and child care providers.

That language was drafted with help by religious and non-profit groups. We specifically provide that they may create standards. We have really gotten away from the notion that standards must be set at the Federal level. Centers and providers certified and accreditated by private nonprofits would qualify for the tax credit.

Mr. COATS. But the Senator would agree, would he not, that it does provide a preference that is not available to many providers of child care that might be perfectly acceptable providers of child care for the children of those parents?

Mr. DODD. I do not disagree. There is an incentive. You still get the credit for using a non-accredited provider, but you simply get a larger one if you use one that has been accredited or certified. Our goal here is to try and get standards up for all child care setting, whether a home-based care program, a church-based care program, or a public setting.

I am not arguing that a parent or a grandparent can't provide terrific child care. But, we just want to make sure that at least we are encouraging quality standards, whether State established or private nonprofit standards, to increase the opportunity for that child to get the proper kind of care.

Mr. COATS. I understand the motivation. My concern is that there will be a large number of child care providers who will not meet those standards, will be put in a position that is less preferential than those who do meet the standards, and yet the standards might not necessarily be what the parent determines to be the best care and the best nurturing for that particular child.

For instance, let us say a child care provider does not read, cannot read. Would that person ever be able to qualify for the standards? Probably not, because we are talking about a developing child. Yet, if the Senator had the privilege, as I and many of us did, of attending the national prayer breakfast this year, Dr. Ben Carson, head of neurosurgery at Johns Hopkins University, one of the world's foremost neurosurgeons, was raised by a mother who could not read. After I saw what product came out of that child rearing, I would want my child raised by his mother. Yet, obviously, the Senator's bill would not take away that choice, but clearly that individual would not qualify, with those standards, for the preference given under the Jeffords amendment.

You used the words ''nurturing'' and ''caring.'' Nurturing and caring, as we learned in our hearing on development of the brain and other hearings on child care, is the most important aspect of early child care. It is not flash cards, it is not introducing kids to computers, it is the one-on-one bonds that are formed. Yet, we are putting those people at a different level. We are saying they really don't qualify for the higher accountability standards because they have not had the training, they have not had the education, they have not met the standards of whatever group sets those standards.

I am simply saying I think the parents ought to set the standards. I think the parents ought to determine what is in the best interests of the child without a bias against someone who they deem is best in favor of someone who happens to meet the standard set by a particular group.

It is a dilemma. I understand what the Senators are trying to do because that is a goal I think we ought to work toward. But I think it does so by sending a message that this level of child care that meets the standards is better for your child than the determination that you might make in terms of having a relative, of having a neighbor, of having someone down the street who doesn't necessarily qualify. That is my concern.

Mr. JEFFORDS. Will the Senator yield?

Mr. COATS. I will be happy to yield to the Senator.

Mr. JEFFORDS. There is nothing the Senator says that we disagree with. But if you take a look at the studies that give you an idea of children who

are being placed in situations which do not have that kind of care, the question is whether you should reward them the same as you do others that do have good health care. In this study, 40 percent of the health care provided infants in child care centers was potentially injurious. Fifteen percent of center-based child care for all preschoolers was so bad that the child's health and safety were threatened; 70 percent were mediocre. This is the study.

If you are faced with those, and you understand the dramatic problems that can cause in a child, then you ought to have some way to give the parents of children a means of determining that they can be assured they are not going to have their child damaged. Granted, family situations or whatever else is some of the best care, obviously, and loving and nurturing. A parent is probably better than most child care things you can do. But at least people ought to know that there is someone who is saying your child is not going to be injured in that care. That is all we are trying to do.

Mr. COATS. We can all quote studies. I could also pull out the study that shows that children are at a much higher risk of infection and illness and even accidents in child care centers than they are in the arms of a next-door neighbor.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DODD. Mr. President, I ask unanimous consent for time just to make one quick point to my colleague here.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Just a quick point. I want to point out this amendment of ours is phased in over 5 years, so there will be plenty of notice and time here for providers to try to get themselves ready to met quality standards. We do not rush this in; we allow time for providers and families to learn about and to prepare for higher quality care.

My second point is that accredited or certified settings cost a bit more. If parents want to place their children in those situations, given the fact it costs more, our providing a tax incentive with a bit more of a break makes sense. I thank my colleague for allowing me to make those points to my colleague.

Mr. JEFFORDS. If I may follow on that just very briefly, again, studies say—

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. COATS. Mr. President, I ask unanimous consent for 1 additional minute so the Senator can finish his point and I can.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. I would like to point out that one-quarter of all parents contacted in a nationwide survey said they would like to change their present child care arrangements, but they cannot find or afford better quality care. This is big reason for this amendment. We are trying to help people with limited resources by shifting the money where it will do best, provide access to best child care.

Mr. COATS. Mr. President, just in response, I would say I think it sends a signal. It sends a signal if you have a State stamp of approval or certified group stamp of approval that your child is going to get better quality care there than if you do not have that. Yet, we know parents' preferences are, for a majority of parents, to place their children in situations where they don't have any State or certifying agency stamp of approval, but they are going to be looked at potentially as secondary care when it is not secondary care. It is in many cases superior care. Because they trust a relative, they trust a neighbor, they trust a family home care, even though it doesn't necessarily qualify for the certification standards. That is my concern with the amendment.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CHAFEE. Mr. President, before he starts, I wonder if I might just make a point. As I understand it, each Senator has 8 minutes, is that correct?

The PRESIDING OFFICER. Ten minutes.

Mr. CHAFEE. The hour is late. I hope everybody will stick by their assigned 10 minutes.

The PRESIDING OFFICER. The Senator from New Jersey.

TAXING SEVERANCE PAY

Mr. TORRICELLI. Mr. President, throughout the course of this day, Members of the Senate have offered amendments which on occasion were of considerable benefit to people of great wealth, to encourage them to make investments for the benefit of our economy. As we have just witnessed, on occasion during the day, Members of the Senate have offered amendments for people of modest incomes, to encourage their savings, help them with the high cost of living and raising children. Indeed, many segments of society will find in this tax legislation various forms of benefits—to help with retirement and health and the rearing of children.

Tomorrow, I will offer an amendment to the bill, not designed for those of high income and not specifically for those of moderate income. More particularly, it is designed for those of no income.

The leading cause of unemployment in America for the last decade remains large-scale corporate downsizing. Even in a healthy economy, because of the introductions of new technologies, requirements of new skills, changes in trading patterns, acquisitions, mergers, people who are competitive, people who get up every day and work hard and are devoted to their communities, their families and their professions, their jobs, through no fault of their own, can find themselves in a situation without employment.

Indeed, in the last decade 20 million Americans have been excused from their employment because of a large-scale corporate downsizing. But, in a considerable and rising tide of corporate responsibility, many of these companies have adopted the modern practice of giving severance pay to their employees. It is a chance, by the corporation, to give to the employee modest amounts of money upon their departure to reorganize their lives, seek new skills, move to a new location, start a business or go into retirement.

Indeed, in a recent experience in my own State of New Jersey, one of the largest corporations in America, AT&T, only a year ago laid off 40,000 employees in a single announcement. A third of those employees decided to start their own businesses. A third went into retirement. Indeed, only a minority ever found employment in the short term under similar circumstances, and they were all offered severance pay.

The problem, and it is the subject of my amendment tomorrow, is that while corporate America is offering this severance pay for people to continue and reorganize their lives in this competitive economic environment, the Government responds by taxing the severance pay up to a third, as if it were income. Imagine the circumstances. You have worked in a company all of your life and because of a merger or acquisition, a skill you may no longer possess, a change in the economy, even in good times you are excused from your employment, given $5,000 or $10,000, which you think goes best to continuing your education or opening a small business. Yet, when it is time to pay your Federal taxes, the Government takes a third of it from you, money that can make the difference in whether or not you can reorganize your life, move to a different place in the country to seek new employment, pay a tuition, or start your business.

The amendment I offer tomorrow is as simple as it is important. The first $3,000 of any severance package offered to any employee in America whose severance package is less than $150,000, if that person does not get reemployment in 6 months, up to 95 percent of their previous compensation, that $3,000 is tax-free. The person should use it for what is best for themselves, their own families and their own future.

I know at a time when our economy is growing, unemployment is low, a time of relative economic prosperity, few people are thinking about those who are without employment. In which State in this country, in what community have we not witnessed, through these extraordinary economic changes that indeed are the signature of our time, the dislocations of the marketplace? The times when many Americans would gain employment at the age of 18 or 22 or 25 or 30 and remain with a corporation most of their lives, those

times have passed. The times when you gain skills in high school or college, and sought and obtained and retained employment all of your life with those skills, those times have passed. Even in good economic times, the length of employment with a single employer is shrinking. The consistency of employment with any employer is being reduced.

What I offer is a response, a chance to make this tax bill relevant to those 20 million Americans who may in the next decade find themselves in similar circumstances. There is not a Member of this Senate who faces this amendment tomorrow who does not have a chance to address the people of their own State in a critical way, not just the 40,000 people of AT&T in my native State of New Jersey, but the 2,000 employees of IBM in New York State who are suing at this moment, trying to establish by law that their severance package is not income.

In the State of Alaska, 1,200 people in the fourth quarter of 1996 were laid off; 88,000 people in the State of California; 22,000 people in the State of Illinois; 5,700 people in the State of Minnesota; 2,800 people in the State of Montana; 27,000 in Pennsylvania; 11,000 in West Virginia. In every State, in thousands of communities across this Nation, these dislocations have become a part of American life.

I am very proud that tomorrow this Senate will adopt a tax bill, one that I am proud to vote for, that addresses so many different economic concerns of this country. It has a reduction in capital gains taxes for middle- and high-income people that is needed to encourage investment. I am for it. I am going to vote for it. It has a change in the inheritance tax to allow families to retain family businesses in higher incomes, upper-middle-class families; IRA's to encourage families to save for education for their children's welfare. Each and every one a legitimate response to a real problem.

Mr. President, this is a problem, too. What is it we say to these people who want only to keep the money given them to reorganize their lives but are forced to share it with the Federal Government?

Tomorrow I will offer this amendment and ask for the support of my colleagues. Thank you for the time, Mr. President, and I yield the floor.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

BALANCED BUDGET ENFORCEMENT AMENDMENT

Mr. FRIST. Mr. President, I rise to discuss an important balanced budget enforcement amendment that I will offer on behalf of myself, Senators CONRAD, ABRAHAM, and SESSIONS, tomorrow morning.

This amendment evolves from a very simple principle, and that is, once we get a balanced budget, that it stays balanced well into the future.

This amendment, based on existing enforcement mechanisms, has two key provisions:

First, it establishes a 60-vote point of order in the Senate against any bill that provides or would cause a deficit in the year 2002 or in any year thereafter.

Second, it requires that the President submit a balanced budget in the year 2002 and every year thereafter. To retain appropriate flexibility, this amendment suspends this point of order in times of war or in times of recession. This exact same exception is provided for in the existing enforcement mechanisms under the current law.

This amendment is also—I should add, because I think this is important as we bring forth amendments tomorrow—consistent with the bipartisan budget agreement.

The text of the bipartisan budget agreement specifically states that ''agreed upon budget levels are shown on the tables included in this agreement.'' Under the long-range summary table in the agreement, the agreement shows a budget surplus of $1 billion in the year 2002 and $34 billion in the year 2007. This means that we are projecting a balanced budget in 5 years and in 10 years. My amendment will strengthen our ability to abide by this agreement and keep spending under control in the future.

In the bipartisan budget agreement, the Congress, the President, Republicans and Democrats, joined together to balance the budget in the year 2002. But I believe that everyone would agree that we don't just want to balance the budget in just that 1 year, 2002, but we want to maintain balance every year thereafter. That includes the years 2003, 2005, 2010, 2020.

We must keep focusing on our long-term budget picture for one very important reason: to prepare for the baby boomers' retirement which is just over a decade away. We know that the budget agreement does not go far enough in addressing this long-term challenge.

In fairness, the authors of the agreement never claimed that it does. But as we approach this new demographic era that all of us know is sitting out there just about a decade away, we must be acutely aware of the situation. In fact, we know that right now, 200,000 Americans will turn 65 this year. But in 15 years, in 14 years, in fact, by the year 2011, 1.5 million Americans will turn 65 just that year and that trend will continue over the next two decades.

Simultaneously, as the elderly population is increasing, the number of younger workers who are working to support that elderly population is decreasing. In fact, today, there are 4.9 workers supporting every single retiree's benefits, that is today, that includes Social Security and Medicare. But in the year 2030, there will only be 2.8 workers supporting the benefits of a single retiree.

This dramatic demographic shift will bring significant economic, political, social and cultural changes that will transform our society. If we continued on our current spending course, entitlements—that is our automatic spending programs—coupled with interest on the debt would consume all revenues in just 15 years, leaving not a single dollar left over for roads, for infrastructure, for medical science, for the national parks, for medical research and for defense of the country. I believe our balanced budget agreement will help ease this demographic pressure, but much more work lies ahead. We must begin sooner, rather than later, to deal with these problems fairly and effectively. This amendment addresses that problem.

It will keep pressure on Congress and the President to confront these inevitable challenges, this inevitable demographic shift. To those not familiar with the Federal budget process, this amendment will create a procedural hurdle, called a point of order, to prevent the Senate from considering bills that will increase the deficit. If a Senator raises this point of order, it will take a three-fifths vote of the Senate, that is 60 votes, to waive the point of order and pass the legislation, rather than the normal 51-vote majority.

After we have all worked so hard and so long to rein in spending, we should not allow the deficit to balloon out of control once again after that year, 2002. It is imperative that we preserve this achievement and restrict Congress' ability to overspend taxpayer dollars. We will offer this amendment tomorrow morning and, at that time, I will urge all of my colleagues to support this important amendment which addresses the inevitable demographic changes. I yield the floor.

Mr. CONRAD. Mr. President, I am pleased to be a cosponsor of Senator FRIST's budget process amendment.

The Frist amendment seeks to establish a more stringent enforcement mechanism for the bipartisan budget agreement. I think it's important for Congress and the President to continue working after enactment of this year's two reconciliation bills to ensure that at least the unified budget is balanced in 2002 and years thereafter. The amendment would also require the President to submit budgets each year which do not cause a unified deficit in fiscal year 2002 or any year thereafter.

Specifically, the Frist amendment would establish a 60-vote point of order against any resolution or bill—including the budget resolution—that provides or would cause a deficit in fiscal year 2002 or any year thereafter. I think such a point of order will help Congress and the President remain vigilant about the deficit, particularly in years after 2002.

Frankly, I would have supported much more ambitious deficit reduction efforts this year. I would like to see the federal budget moving towards true balance—that is without counting the Social Security surpluses. I believe that is the real way to balance the

budget. But I also must acknowledge that the President and the bipartisan congressional leadership did not seek to balance the budget without counting Social Security. The bipartisan budget agreement balances only the unified budget. I don't believe we've truly balanced the budget with enactment of this year's reconciliation bills. But perhaps at least we have taken a modest step in the right direction.

One of the reasons I support the Frist amendment is that I am concerned about whether this bipartisan budget deal will accomplish its intended goal—balance of the unified deficit within five years. When I first became aware of the details of the 1997 budget agreement, I viewed it largely as a missed opportunity.

In my view, the budget was not truly balanced. It only claimed balance by using Social Security trust fund surpluses. In fact, in the year 2002 the real deficit will probably still be over $100 billion.

In addition, under this bipartisan budget deal the deficit is larger for the next three years than it is this year. This year's deficit is currently projected to be about $67 billion. The deficits for 1998–2000 will range from $80 billion to $100 billion.

Of most concern to me, budget negotiators failed to correct the upward bias that currently exists in the Consumer Price Index. There is overwhelming evidence that the Consumer Price Index, currently used to adjust tax brackets and various spending programs for inflation, overstates the actual change in the cost-of-living in the United States. The budget deal should have corrected this mistake which will add nearly $1 trillion to our national debt over the next 12 years.

Some of the economic assumptions underlying the budget deal are highly suspect. CBO's last minute revenue adjustment of $45 billion per year may be credible for the years 1997 and 1998. Its credibility for the period 1999–2007 is unclear. In addition, the balanced budget fiscal dividend assumed in the budget agreement is based on the theory that lower interest rates will result from balancing the budget with a credible deficit reduction plan and path. The real debate with regard to the Federal Reserve's interest rate policy right now is whether the Fed will raise, not lower, interest rates in the next few months, particularly since this proposal contains dramatically less savings—only $200 billion—than other proposals offered this year.

Finally, I am concerned that enactment of the tax package before the Senate will blow the progress we have made on reducing the deficit. Over the longer term, I am concerned that since many of the tax cuts are back-end loaded, they will explode in the outyears. The individual alternative minimum tax relief provisions are a perfect example. These provisions don't take effect until 2001. The cost over 1998–2002 is $350 million. The cost over 10 years is $15 billion, a 4000-percent increase. By 2007, the AMT provisions will cost the Treasury $6 billion per year.

Another example involves the Individual Retirement Account provisions in the Senate's tax bill. I know there is strong support for providing incentives for people to save. But the various IRA provisions in the Senate tax bill, particularly the new back loaded IRAs, have serious deficit implications. The IRA proposals lose about $9 billion over 1998 to 2002. Over the second five years the revenue loss is $36 billion. These types of back-end loaded tax cuts may prevent our nation from achieving long-term fiscal balance.

For all these reasons, I support careful monitoring of the federal budget deficit in 2002 and years thereafter. I believe a 60-vote point of order will force Congress and the President to immediately get back on track if our fiscal situation changes dramatically and the unified budget deficit begins to rise in 2002 and years thereafter.

If we can at least maintain unified balance of the budget, then perhaps Congress and the President will have the courage to move toward truly balancing the budget. We can perhaps then achieve the kinds of structural changes in entitlements that will put our nation on a sustainable fiscal course over the long term, as we prepare our nation and our economy for the retirement of the baby boom generation around the year 2012.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan.

Mr. LEVIN. Mr. President, I thank the Chair and I thank my good friend from Rhode Island for his understanding at this late hour.

STOCK OPTIONS

Mr. LEVIN. Mr. President, a few minutes ago, we passed by voice vote amendment No. 556. It was an amendment which Senator MCCAIN and I authored, and I want to spend a moment describing what that amendment does.

The amendment provides that it is the sense of the Senate, based on findings that, ''(1) currently businesses can deduct the value of stock options as business expense on their income tax returns, even though the stock options are not treated as an expense on the books of those same businesses; and (2) stock options are the only form of compensation that is treated that way. It is the sense of the Senate that the Committee on Finance of the Senate should hold hearings on the tax treatment of stock options.''

Mr. President, for the past several years, the Wall Street Journal has published a special pull-out section of the newspaper with an annual analysis of the compensation of top corporate executives. Last year's section had this headline: ''The Great Divide: CEO Pay Keeps Soaring—Leaving Everybody Else Further and Further Behind.''

Business Week featured this cover story on its 47th annual pay survey: ''Executive Pay: It's Out of Control.''

Both publications analyze the pay of top executives at approximately 350 major American corporations, and their analysis shows that the pay of chief executive officers continues to outpace inflation, others workers' pay and the pay of CEO's in other countries, as well as company profits. According to Business Week, CEO's total average compensation rose 54 percent last year to over $5.5 million, which came on top of 1995 CEO pay increases averaging 30 percent.

Meanwhile, the average 1996 raise for the average worker, both blue collar and white collar, was about 3 percent. In 1996 the average pay of the top executive was 209 times the pay of a factory worker. Little known corporate tax loopholes are fueling these increases in executive pay with taxpayer dollars. This loophole allows companies to deduct from their taxes multimillion-dollar pay expenses that never show up on the company books as an expense. Every other form of compensation is shown as an expense on company books. There is only one exception, and that is stock options.

There is a link of all this to taxpayer dollars. Suppose a corporate executive exercises stock options to purchase company stocks and makes a profit of $10 million. Right now, the company employing the executive can claim the full $10 million as a compensation expense and deduct it on the company's income tax return.

Someone might say, so what? All companies deduct pay expenses from their taxes. That's true. But there is an important difference here. Every other type of employee pay shows up on the company books as an expense and reduces company earnings. Stock option pay is the only kind of compensation that companies can claim as an expense for tax purposes without ever showing it as an expense on their books. That's because current accounting rules encourage, but do not require, companies to treat stock option pay as a company expense, so companies can continue to game the system.

A single corporate executive exercising stock options can provide a company with a $10 million, $50 million, or even a $100 million expense which the company can deduct when reporting company earnings to Uncle Sam, but omit it when reporting company earnings to stockholders and the public. That is not right. Either stock option pay is a company expense or it isn't. Either this expense lowers a company's earnings or it doesn't. Something is clearly out of whack in a tax law when a company can say one thing at tax time and something else to investors and the public, and it is a double standard which should end.

Senator MCCAIN and I introduced legislation in April to put an end to the double standard. It simply says that a company can claim stock option pay as

an expense for tax purposes to the same extent that the company treats that stock option pay as an expense on its books. Companies would no longer be able to claim that stock options cost them large amounts of money when claiming a tax benefit, but then turn around and claim that it cost them nothing when reporting them to stockholders and the public.

Opponents of the legislation claim that it would tax stock options. That is simply not true. Companies will continue to get a tax deduction, not a tax increase, on the options they claim as an expense on their books. For the options that they don't count on their books, they couldn't continue to receive a tax benefit in the form of a deduction. The choice is theirs.

Others argue that this amendment will hurt the average employees who receive stock options from the company's stock option plan. Right now, stock option pay is overwhelmingly executive pay. In 1994, in the most extensive stock option review to date which covered 6,000 publicly traded U.S. companies, Institutional Shareholders Services found that only 1 percent of the companies issued stock options to anyone other than management and 97 percent of the stock options issued went to 15 or fewer individuals per company.

Nevertheless, there are a few companies that issue stock options to all employees and do not disproportionately favor top executives. Our bill would allow those companies that provide broad-based stock option plans to continue to claim existing stock option tax benefits, even if they exclude stock option pay expenses from their books. By making this limited exception, we would ensure that average worker pay would not be affected by closing the stock option loophole. We might even encourage a few more companies to share stock option benefits with average workers.

Still others argue that there is no way to estimate what the cost of stock options plans are and that we're basing a tax deduction on estimates. But there are a number of places in the tax code that use estimates to determine the amount of a deduction.

The bottom line is that the bill that Senate MCCAIN and I introduced is not intended to stop the use of stock options. It is not aimed at capping stock options or limiting them in any way. It would not limit the level of executive pay. That is an issue between the executives and shareholders of the company. Our bill is aimed only at those companies that are trying to have it both ways—claiming stock option pay as an expense at tax time, but not when reporting company earnings to shareholders and the public. It is aimed at ending a stealth tax benefit that is fueling the wage gap, favoring one group of companies over another, and feeding public cynicism about the fairness of the federal tax code.

According to the Joint Committee on Taxation, closing this tax loophole generates $181 million over 5 years and $1.57 billion over 10 years all of which will be dedicated to reducing the deficit.

Mr. President, I ask unanimous consent that a letter from Warren Buffett, Chairman of Berkshire Hathaway, to Senator DODD dated October 18, 1993, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BERKSHIRE HATHAWAY INC.,
Omaha, NE, October 18, 1993.

Hon. CHRISTOPHER DODD,
Chairman, Securities Subcommittee, Committee on Banking,Housing, and Urban Affairs, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I regret that I will not be able to attend your subcommittee meeting on October 21.

Could I have appeared there, I would have wished to make certain points, which I will distill here. First among these is the fact that I do not object to the intelligent use of stock options. I have often voted for their issuance, both as a director and as a substantial owner of the issuing corporations making use of them.

I do, however, object to the improper stock-option accounting now practiced. I summarized my views on that subject in the 1992 Annual Report of Berkshire Hathaway and I would like to repeat those comments here:

''Managers thinking about accounting issues should never forget one of Abraham Lincoln's favorite riddles: How many legs does a dog have if you call his tail a leg? the answer: Four, because calling a tail a leg does not make it a leg. It behooves manager to remember that Abe's right even if an auditor is willing to certify that the tail is a leg.

''The most egregious case of let's-not-face-up-to-reality behavior by executives and accountants has occurred in the world of stock options. The lack of logic is not accidental: For decades much of the business world has waged war against accounting rulemakers, trying to keep the costs of stock options from being reflected in the profits of the corporations that issue them.

''Typically, executives have argued that options are hard to value and therefore their costs should be ignored. At other times managers have said that assigning a cost to options would injure small start-up businesses. Sometimes they have even solemnly declared that 'out-of-the-money' options (those with an exercise price equal to or above the current market price) have no value when they are issued.

''Oddly, the Council of Institutional Investors has chimed in with a variation on that theme, opining that options should not be viewed as a cost because they 'aren't dollars out of a company's coffers.' I see this line of reasoning as offering exciting possibilities to American corporations for instantly improving their reported profits. For example, they could eliminate the cost of insurance by paying for it with options. So if you're a CEO and subscribe to this 'no cash-no cost' theory of accounting, I'll make you an offer you can't refuse: Give us a call at Berkshire and we will happily sell you insurance in exchange for a bundle of long-term options on your company's stock.

''Shareholders should understand that companies incur costs when they deliver something of value to another party and not just when cash changes hands. Moreover, it is both silly and cynical to say that an important item of cost should not be recognized simply because it can't be quantified with pinpoint precision. Right now, accounting abounds with imprecision. After all, no manager or auditor knows how long a 747 is going to last, which means he also does not know what the yearly depreciation charge for the plane should be. No one knows with any certainty what a bank's annual loan loss charge ought to be. And the estimates of losses that property-casualty companies make are notoriously inaccurate.

''Does this mean that these important items of cost should be ignored simply because they can't be quantified with absolute accuracy? Of course not. Rather, these costs should be estimated by honest and experienced people and then recorded. When you get right down to it, what other item of major but hard-to-precisely-calculate cost—other, that is, than stock options—does the accounting profession say should be ignored in the calculation of earnings?

''Moreover, options are just not that difficult to value. Admittedly, the difficulty is increased by the fact that the options given to executives are restricted in various ways. These restrictions affect value. They do not, however, eliminate it. In fact, since I'm in the mood for offers, I'll make one to any executive who is granted a restricted option, even though it may be out of the money: On the day of issue, Berkshire will pay him or her a substantial sum for the right to any future gains he or she realizes on the option. So if you find a CEO who says his newly-issued options have little or no value, tell him to try us out. In truth, we have far more confidence in our ability to determine an appropriate price to pay for an option than we have in our ability to determine the proper depreciation rate for our corporate jet.

''It seems to me that the realities of stock options can be summarized quite simply: If options aren't a form of compensation, what are they? If compensation isn't an expense, what is it? And, if expenses shouldn't go into the calculation of earnings, where in the world should they go?''

With over six months having passed since those questions were posed, I have had no one heap answers upon me.

Instead, as the debate about option accounting has gone forward, ''sweep-the-costs-under-the-rug'' proponents have argued fervently for disclosure—for the presentation of all relevant information about options in the footnotes to the financial statements, rather than in the statements themselves. In that manner, they say, investors can be informed about the costs of options without these costs actually hurting net income and earnings per share.

This approach, so the argument proceeds, is especially needed for young companies: They will find new capital too expensive if they must charge against earnings the full compensation costs implicit in the value of the options they issue. In effect, the people making this argument want managers at those companies to tell their employees that the options given them are immensely valuable while they simultaneously tell the owners of the corporation that the options are cost-free. This financial schizophrenia, so it is argued, fosters the national interest, in that it aids entrepreneurs and the start-up companies we need to reinvigorate the economy.

Let me point out the absurdities to which that line of thought leads. For example, it is also in the national interest that American industry spend significant sums on research and development. To encourage business to increase such spending, we might allow these costs, too, to be recorded only in the footnotes so that they do not reduce reported earnings. In other words, once you adopt the idea of pursuing social goals by mandating

bizarre accounting, the possibilities are endless.

Indeed, I would argue that the ''national-interest'' theory is not only misguided, but wrong. True international competitiveness is achieved by reducing costs, not ignoring them. Over time, capital markets will also function more rationally when logical and even-handed accounting standards, rather than the ''feel-good'' variety, are followed.

Back in 1937, Benjamin Graham, the father of Security Analysis and, in my opinion, the best thinker the investment profession has ever had, wrote a satire on accounting. In it, he described the gimmicks that companies could employ to inflate reported earnings, even though economic reality changed not at all. Among Graham's most hilarious suggestions—because the thought seemed so far fetched—was a proposition that all employees of a company be paid in options. He pointed out that this arrangement would eliminate all labor costs (or, more precisely, eliminate the need to record them) and do wonders for the bottom line.

Today, in the world of stock options, we have life imitating satire. So far, of course, companies have largely substituted option compensation for cash compensation only when paying managers. But there is no reason that this substitution can't spread, as corporate executives catch on to the possibility of inflating earnings without actually improving the economics of their businesses.

One close-to-home example, involving Berkshire Hathaway and its 20,000 employees: I would have no problem inducing each of them to accept an annual grant of out-of-the-money options worth $3,000 at issuance in exchange for a $2,000 reduction in annual cash compensation. Were we to effect such an exchange, our pre-tax earnings would improve by $40 million—but our shareholders would be $20 million poorer. Would someone care to argue that would be in the national interest?

Many years ago, I heard a story—undoubtedly apocryphal—about a state legislator who introduced a bill to change the value of pi from 3.14159 to an even 3.0 so that mathematics could be made less difficult for the children of his constituents. If a well-intentioned Congress tries to pursue social goals by mandating unsound accounting principles, it will be following in the footsteps of that well-intentioned legislator.

Sincerely,

WARREN E. BUFFETT,
Chairman.

Mr. LEVIN. Finally, Mr. President, I just want to make sure that the clerk has the amendment in the same form that I do. I will simply read this amendment, and if there is any problem, the clerk can correct me. It has already been adopted, but I want to double check to make sure, and make a parliamentary inquiry, that the amendment reads as follows:

That it is the sense of the Senate the Committee on Finance of the Senate should hold hearings on the tax treatment of stock options.

The PRESIDING OFFICER. That is subsection (b) of the amendment?

Mr. LEVIN. That is correct.

The Senator is correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEVIN. I thank the Chair.

Again, I thank my good friend from Rhode Island for his patience.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

REVENUE RECONCILIATION ACT OF 1997

AMENDMENT NO. 551, AS MODIFIED

Mr. CHAFEE. On behalf of Senator NICKLES, I send a modification of his amendment No. 551 to the desk and ask unanimous consent that it be so modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modification is as follows:

On page 212, between lines 11 and 12, insert:

SEC. . INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—The table contained in section 162(l)(1)(B) is amended to read as folllows:

''For taxable years beginning in calendar year—	The applicable percentage is—
1997	50
1998	50
1999 through 2001	60
2002	60
2003	70
2004	80
2005	85
2006	90
2007	100

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

On page 159, line 15, strike ''December 31, 1999'' and insert ''May 31, 1999''.

On page 159, line 18, strike ''42-month'' and insert ''35-month''.

On page 159, line 19, strike ''42 months'' and insert ''35 months''.

On page 160, lines 10 and 11, strike ''December 31, 1999'' and insert ''May 31, 1999''.

On page 160, lines 19 and 20, strike ''December 31, 1999'' and insert ''May 31, 1999''.

HEART AND HYPERTENSION BENEFITS

Mr. DODD. Mr. President, I wish to speak briefly about an amendment that I have submitted with my colleague from New York, Senator D'AMATO, to benefit firefighters and law enforcement officers in our respective states of Connecticut and New York.

For the firefighters and police officers of Connecticut, this amendment seeks simply to correct a wrong that, while unintentional, has cost these committed public servants a great deal of money and anguish. It has always been the intention of the state of Connecticut to provide its police officers and firefighters heart and hypertension benefits tax-free by considering them workmen's compensation for tax purposes. Based on that intention, these individuals accepted benefits with the understanding that they were not taxable.

However, the original version of Connecticut's Heart and Hypertension law contained language which made the benefits from the statute taxable under a ruling by the IRS in 1991. As a result of the problem with the state law, and through no fault of their own, these citizens have been charged with millions of dollars in back taxes, interest, and penalties by the IRS.

Connecticut has since amended its law, but that change does not help those police officers and firefighters who received benefits prior to the amendment. This legislation would remove their tax liability for heart and hypertension benefits for the years prior to the IRS ruling (1989, 1990, and 1991). The bill is narrowly drafted to accomplish that limited purpose, and would not affect the tax treatment of benefits awarded after January 1, 1992.

Mr. President, the police officers and firefighters of Connecticut serve our state's citizens with courage and compassion. The least we can do is provide them with this small measure in recognition of their bravery and commitment. I urge my colleagues to support this amendment.

The measure has been scored to cost $11 million for FY98 only.

LOUISIANA CONTESTED ELECTION

Mr. WARNER. Mr. President, on April 17 the Committee on Rules and Administration voted, along party lines, to conduct an investigation into allegations that fraud, irregularities, and other errors affected the outcome of the 1996 election for United States Senator from Louisiana. The vote was taken after a very thorough discussion. Periodically I have reported to the Senate with floor statements; today is my third.

On May 8, I reported that the committee was about to embark on a bipartisan investigation, as a result of efforts by both the majority and minority to agree to a ''Investigative Protocol'' regarding the joint conduct of the investigation. From the inception, I have believed a joint investigation could better serve the Senate.

On May 23, I provided a second status report to the Senate on the following: on efforts to secure the detail of FBI agents to the Committee, on assurances of cooperation by Louisiana officials, and on my agreement with Senator FORD, the ranking member on the Committee, on the issuance of over 130 subpoenas.

Last evening, Senator FORD announced that the ''Rules Committee Democrats will withdraw from the investigation of illegal election activities in the contested Louisiana Senate election''. Further, he asserted that the ''investigation was over budget, it's exceed the time frame agreed to, and none of Mr. Jenkin's (sic) claims have been substantiated by any credible witness.''

Since last Friday, Senator FORD and I had been working to resolve differences and develop a written outline of the work we jointly could agree on to complete our investigation. I had good reason to believe we had made progress, but I learned at approximately 6 p.m. yesterday that the minority had decided to terminate their participation.

A BRIEF HISTORY OF THE INVESTIGATION TO DATE

On April 17, 1997, when the Committee on Rules and Administration authorized me, ''in consultation with the ranking member'', to conduct an investigation into the 1996 Senate election in Louisiana (exhibit 1), I stated that I believed that a preliminary inquiry could be completed in approximately 45 days. Today is June 26, some 70 days later. This passage of time included: 20 days to first develop the Investigative Protocol required by the minority before we proceeded to finalizing contracts with our respective outside counsel; 53 days to secure from the Department of Justice the detail of FBI agents to the Committee.

As I stated at the April 17 hearing, it was my hope that this investigation could be conducted in a bipartisan manner, with the use of experienced investigative attorneys to direct the investigation, and with the assistance of experienced agents from the Federal Bureau of Investigation.

The majority proposed to retain the law firm of McGuire, Woods, Battle & Boothe as their outside counsel. Senator FORD proposed to retain the law firm of Perkins Coie. Under federal law, such consultants can only be hired pursuant to a joint agreement between the Chairman and Ranking Member of the Committee.

Senator FORD further conditioned the contracting of these firms on first reaching a joint Investigative Protocol. Among other matters this document had to detail the rights of the minority, the direction of the investigation, and the confidentiality of all aspects of the investigation. On April 21, our respective designated outside counsel began a long series of negotiations leading up to this Protocol, which counsel signed on May 1. The Protocol was approved not only by Senator FORD and his counsel, but also by the minority members of the Rules Committee. The contracts retaining the two law firms were signed on May 7. This process in total consumed 20 days, during which no investigation could take place. Copies of my letter to Senator FORD on this issue, the Investigative Protocol, and the letters of retainer are attached (exhibits 2–5).

We also agreed upon retaining the services of the General Accounting Office to assist in review of election documents. Two specialists, one a Certified Public Accountant, were detailed to the Committee on May 30, and are reviewing and assessing many of the thousands of election documents that were subpoenaed to assess the allegations of ''phantom votes''. That work is on going.

As the Investigative Protocol was being developed, committee staff had begun discussions with the Federal Bureau of Investigation and the Department of Justice to detail experienced FBI agents to the Committee. Initially, Senator FORD indicated that members of the minority had some concern in using FBI investigators. Accordingly, on my own initiative, I wrote the Attorney General on May 9 requesting the detailees (exhibit 6). After additional conversations with Senator FORD, on May 14 he then joined me in formalizing a Committee request for the use of FBI agents (exhibit 7).

Thereafter, more negotiations ensued with the Department and Bureau, including my personal consultation with Director Freeh, to have the request approved by Attorney General Reno. Her final approval, given by her Deputy, occurred on May. But, the Department and Bureau stated that they could only provide two agents rather than the four we requested.

These two agents were not actually detailed to the Committee until June 9. By this time, 53 days had passed since the Committee hearing on April 17.

In addition, the Department still has not formally approved a Memorandum of Understanding between the Bureau, Department, and the majority and minority sides of the committee. Our staffs submitted a draft several weeks ago to the Department of Justice. This document, which is required under normal Committee procedures, has not been formally approved by the Department. A copy of the draft memorandum is attached (exhibit 8).

As regards timing, the central fact is that not until June 9 could the Committee get in place, in Louisiana, the agents to begin the field investigation. Petitioner Jenkins delivered files and tapes in response to a Committee subpoena and the FBI agents promptly began their review. Since this field investigation began in Louisiana only 17 days ago, we have had inadequate time to complete a preliminary investigation for the Committee. Indeed, we have not even begun the investigation into fraudulent registration which was one of the three areas that the Democratic counsel specifically recommended should be investigated. But progress is being made in collecting evidence and assessing Petitioner's allegations.

Speaking for myself, I am of the opinion this joint investigation should continue until the full Committee, not just the minority members, have had the opportunity to evaluate the work done to date. The Committee, I believe, has this obligation to the Senate.

THE INVESTIGATIVE EXPENDITURES

At the time the investigation was authorized by the Committee, I believed that outside counsel could complete this preliminary investigation with an expenditure for outside counsel capped at $100,000 for the majority and an equal amount for the minority. This estimate assumed that the FBI and GAO would provide the Committee a sufficient number of detailees in a timely manner.

At this point the majority outside counsel is working within the limit authorized by contract, and the full expenditure limit of $100,000 for services has not been reached. In addition to lawyers, when the Bureau concluded it could only provide two FBI detailees, the Committee had to hire two retired FBI agents. This was an additional expense, but their costs are being met within the majority's share of the Committee's resources.

A large percentage of our legal expenses to date were incurred to keep this as a joint investigation. For example, these expenses included prolonged negotiations developing the protocol, extensive negotiation and meetings to agree on the issuance of over 100 subpoenas, the acquisition and briefing of FBI agents, and the designation of investigative priorities, and other related matters. To provide for a joint investigation, the majority has tried in an every way to meet minority requests (exhibit 9).

STATUS OF INVESTIGATION

Until the full Committee meets, I will defer any comment on the evidence collected to date from witness interviews involving allegations of fraud.

With regards to the work done by our GAO detailed auditors have been assessing a portion of the Petitioner's categories of ''phantom votes''. While this work is not complete, the auditors have provided the Committee with interim data indicating that there were very few ''phantom votes'' in the categories and precincts examined to date.

Now I turn to issues relating to the compliance, or non-compliance of the laws providing safeguards to ensure the integrity of the Louisiana election process. The investigation, thus far, has clearly revealed that the safeguards required under Louisiana law—designed to ensure an election free from fraud—were breached, broken, in many instances during the 1996 election. Crucial election records were never sealed and remained exposed to possible tampering in violation of state law. Other election records were destroyed. Documents were commingled within a single office instead of being forwarded to separate offices on election night as required by law, completely frustrating a safeguard designed to prevent fraudulent alteration of the records. In addition, voting machines were opened after the election, ahead of schedule and outside the presence of witnesses, again clearly in violation of state law. A detailed memorandum prepared by outside counsel is attached as exhibit 10.

In conclusion, this investigation, thus far, has established that in many instances election officials, entrusted with following the law, did not do so. Documents, statements of admission, and testimony taken by the Committee's field investigators establish these facts.

This non-compliance with these legal safeguards, particularly in Orleans Parish, provided the opportunity for persons to commit fraud. It is the responsibility of the Committee to determine from the evidence whether such fraud existed and whether it affected the outcome of the 1996 election.

Given the importance of this matter to the United States Senate, it is my intent to work with Senator FORD to schedule a full Committee meeting as promptly as possible upon the return of the Senate after recess.

I ask unanimous consent that the exhibits to which I referred be printed in the RECORD.

There being no objection, the exhibits were ordered to be printed in the RECORD, as follows:

EXHIBIT 1 AS PASSED BY THE COMMITTEE.

COMMITTEE ON RULES AND ADMINISTRATION

COMMITTEE MOTION

Wheras, the United States Constitution, Article I, Section 5 provides that the Senate is ''the Judge of the Elections, Returns, and Qualifications of its own Members . . .'';

Whereas, the United States Supreme Court has reviewed this Constitutional provision on several occasions and has held: ''[The Senate] is the judge of elections, returns and qualifications of its members. . . . It is fully empowered, and may determine such matters without the aid of the House of Representatives or the Executive or Judicial Department.'' [Reed et al. v. The County Comm'rs of Delaware County, Penn., 277 U.S. 376, 388 (1928)]; and

Whereas, in the course of Senate debate, it has been stated: ''The Constitution vested in this body not only the power but the duty to judge, when there is a challenged election result involving the office of U.S. Senator.'' [Congressional Record Vol. 121, Part 1, p. 440].

Therefore, the Committee on Rules and Administration, having been given jurisdiction over ''contested elections'' under Rule 25 of the Standing Rules of the Senate, authorized the Chairman, in consultation with the ranking minority member, to direct and conduct an Investigation of such scope as deemed necessary by the Chairman, into illegal or improper activities to determine the existence or absence of a body of fact that would justify the Senate in making the determination that fraud, irregularities or other errors, in the aggregate, affected the outcome of the election for United States Senator in the state of Louisiana in 1996.

This Committee Motion will operate in conjunction with and concurrent to the Standing Rules of the Senate. In addition, the following Rules of Procedure are applicable, as a supplement to the Committee Rules of Procedure:

A. Full Committee subpoenas: The chairman, with the approval of the ranking minority member of the Committee, is authorized to subpoena the attendance of witnesses or the production of memoranda, documents, records, or any other materials at a hearing or deposition, provided that the chairman may subpoena attendance or production without the approval of the ranking minority member where the chairman or a staff officer designated by him has not received notification from the ranking minority member or a staff officer designated by him of disapproval of the subpoena within 72 hours, excluding Saturdays and Sundays, of being notified of the subpoena. If a subpoena is disapproved by the ranking minority member as provided in this section, the subpoena may be authorized by vote of the members of the Committee. When the Committee or chairman authorizes subpoenas, subpoenas may be issued upon the signature of the chairman or any other member of the Committee designated by the chairman.

B. Quorum: One member of the Committee shall constitute a quorum for taking sworn or unsworn testimony.

C. Swearing Witnesses: All witnesses at public or executive hearings who testify to matters of fact shall be sworn. Any Member of the Committee is authorized to administer an oath.

D. Witness Counsel: Counsel retained by any witness and accompanying such witness shall be permitted to be present during the testimony of such witness at any public or executive hearing or deposition, and to advise such witness while he is testifying, of his legal rights. Provided, however, that in the case of any witness who is an officer or employee of the government, or of a corporation or association, the Committee chairman may rule that representation by counsel from the government, corporation, or association, or by counsel representing other witnesses, creates a conflict of interest, and that the witness may only be represented during deposition by Committee staff or consultant or during testimony before the Committee by personal counsel not from the government, corporation, or association, or by personal counsel not representing other witnesses. This rule shall not be construed to excuse a witness from testifying in the event his counsel is ejected for conducting himself in such a manner so as to prevent, impede, disrupt, obstruct, or interfere with the orderly administration of the hearings; nor shall this rule be construed as authorizing counsel to coach the witness or answer for the witness. The failure of any witness to secure counsel shall not excuse such witness from complying with a subpoena or deposition notice.

E. Full Committee depositions: Depositions may be taken prior to or after a hearing as provided in this section.

(1) Notices for the taking of depositions shall be authorized and issued by the chairman, with the approval of the ranking minority member of the Committee, provided that the chairman may initiate depositions without the approval of the ranking minority member where the chairman or a staff officer designated by him has not received notification from the ranking minority member or a staff officer designated by him of disapproval of the deposition within 72 hours, excluding Saturdays and Sundays, of being notified of the deposition notice. If a deposition notice is disapproved by the ranking minority member as provided in this subsection, the deposition notice may be authorized by a vote of the members of the Committee. Committee deposition notices shall specify a time and place for examination, and the name of the Committee members(s) or Committee staff member(s) or consultant(s) who will take the deposition. Unless otherwise specified, the deposition shall be in private. The Committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness' failure to appear or produce unless the deposition notice was accompanied by a Committee subpoena.

(2) Witnesses may be accompanied at a deposition by counsel to advise them of their legal rights, subject to the provisions of Section D.

(3) Oaths at depositions may be administered by an individual authorized by local law to administer oaths. Questions shall be propounded orally by Committee members(s) or Committee staff or consultant(s). If a witness objects to a question and refuses to testify, the objection shall be noted for the record and the Committee member(s) or Committee staff or consultant(s) may proceed with the remainder of the deposition.

(4) The Committee shall see that the testimony is transcribed or electronically recorded (which may include audio or audio/video recordings). If it is transcribed, the transcript shall be made available for inspection by the witness or his or her counsel under Committee supervision. The witness shall sign a copy of the transcript and may request changes to it. If the witness fails to sign a copy, the staff shall note that fact on the transcript. The individual administering the oath shall certify on the transcript that the witness was duly sworn in his presence, the transcriber shall certify that the transcript is a true record of the testimony, and the transcript shall then be filed with the chief clerk of the Committee. The chairman or a staff officer designated by him may stipulate with the witness to changes in the procedure; deviations from this procedure which do not substantially impair the reliability of the record shall not relieve the witness from his or her obligation to testify truthfully.

(5) The Chairman and the ranking minority member, acting jointly, or the Committee may authorize Committee staff or consultants to take testimony orally, by sworn statement, or by deposition. In the case of depositions, both the Chairman and ranking minority member shall have the right to designate Committee staff or consultants to ask questions at the deposition. This section shall only be applicable subsequent to approval by the Senate or authority for the Committee to take depositions by Committee staff or consultants.

F. Interviews and General Inquiry: Committee staff or consultants hired by or detailed to the Committee may conduct interviews of potential witnesses and otherwise obtain information related to this Investigation. The Chairman and the ranking minority member, acting jointly, or the Committee shall determine whether information obtained during this Investigation shall be considered secret or confidential under Rule 29.5 of the Standing Rules of the Senate and not released to any person or entity other than Committee Members, staff or consultants.

G. Federal, State, and Local authorities:

1. Referral: When it is determined by the chairman and ranking minority member, or by a majority of the Committee, that there is reasonable cause to believe that a violation of law may have occurred, the chairman and ranking minority member by letter, or the Committee by resolution, are authorized to report such violation to the proper Federal, State, and/or local authorities. Such letter or report may recite the basis for the determination of reasonable cause. This rule is not authority for release of documents or testimony.

2. Coordination: The Chairman is encouraged to seek the cooperation and coordination of appropriate federal, state, and local authorities, including law enforcement authorities in the conduct of this Investigation.

H. Conflict of Rules: To the extent there is conflict between the Rules of Procedure contained herein and the Rules of Procedure of the Committee, the Rules of Procedure contained herein apply, as it relates to the conduct of this Investigation authorized herein.

U.S. SENATE, COMMITTEE ON RULES AND ADMINISTRATION, WASHINGTON, DC, APRIL 29, 1997.

Hon. WENDELL H. FORD,

Ranking Member, Committee on Rules and Administration, U.S. Senate, Washington, DC.

DEAR WENDELL: As I announced at our Committee meeting on April 17, I would like to retain the law firm of McGuire Woods Battle & Boothe with Mr. Richard Cullen and Mr. George J. Terwilliger, III, serving as lead counsel, to conduct the initial investigation into the alleged fraudulent and improper activities that may have affected the outcome of the 1996 election for United States Senator from Louisiana. It was my intent then, and remains so today, that this investigation be

conducted in as fair a manner as possible, with the objective of determining the existence, or absence, of a body of fact that would justify the Senate in making a determination that fraud, irregularities or other errors, in the aggregate, affected the outcome of the election.

Accordingly, McGuire Woods will designate attorneys with long-term affiliations with both political parties, including Mr. William G. Broaddus, a former Attorney General of Virginia under Governor Chuck Robb, Mr. James W. Dyke, Jr., a former Secretary of Education under Governor Doug Wilder, and Mr. Frank B. Atkinson, former counsel to Governor George Allen. It is my hope that this investigation will be conducted in coordination with a like team of counsel selected by the minority.

It is now my understanding that, after many hours of meetings over four days, an ''Investigative Protocol'' has been agreed to by both sets of outside counsel as well as by Committee counsel, and that you are to be briefed on this protocol today. I am hopeful that you will agree with me that his protocol will permit a full and fair investigation of the allegations and facts, with complete participation by counsel for the minority.

This investigation must begin as soon as possible. It does no service to either party to this contest, nor the Senate, to prolong this matter. I reiterate my statement at the hearing that I will agree to your contracting for counsel. Any counsel you deem appropriate will be agree to by me pursuant to 2 U.S.C. Sec. 72a(i)(3). Further, I will honor any reasonable requests for subpoenas that you might wish to issue.

I look forward to your acceptance of the Investigative Protocol and a joint investigation that will collect the facts upon which our Committee may make an informed decision concerning this matter.

With kind regards, I am

Sincerely,

JOHN WARNER,
Chairman.

EXHIBIT 3

INVESTIGATIVE PROTOCOL

I. Process for Consultation and Review

Counsel will agree to consult on an ongoing, regularly-scheduled basis on the progress of the investigation, including consultation before significant investigative decisions are made; the majority and minority counsel will participate in regular staff meetings with investigators regarding the agenda and results of the investigation.

Consultation will include timely evaluation of the evidence, consideration of new lines—or extension of existing lines—of investigation, review of the schedule for interviewing witnesses and taking depositions, and discussion, where necessary, of other issues or investigative leads which promote a more efficient and cooperative investigative effort.

The majority and minority will work together to achieve agreement on investigative issues and decisions. When agreement cannot be reached after reasonable, good faith efforts, the necessary decision will be made in accordance with the majority view. It is understood, however, that the majority and minority will endeavor in good faith to avoid majority rather than consensus decision-making and that the minority reserves the right to withdraw from further participation under this protocol.

II. The Scope of the Investigation

Committee counsel will prepare and conduct an investigation pursuant to Committee resolution as follows:

Allegations of fraud, in particular vote buying, multiple voting and fraudulent voter registration. These allegations will be investigated as appropriate with attention to areas such as ''mismatched signatures'' and ''phantom voting,'' taking into account also evidence of failure of safeguards against fraud in the administration of the election.

The initial investigation plan will require that the investigation proceed in the first instance with the collection of all affidavits, notes, memoranda, audiotapes, transcripts and other materials in the possession of the Contestant which were submitted to the Committee on a redated basis but which shall be submitted in their original form to majority and minority counsel on an equal basis, without redaction, deletion or other editing, including the scheduling and conduct of interviews with the investigators hired or used by Contestant and the witnesses whom they interviewed and, as jointly determined pursuant to III (Investigative Plan), other allegations or evidence of error or irregularity.

The Committee investigation into any and all allegations will be guided and conducted as follows as evidence and testimony is collected or received, or evaluated.

The objective of the investigative effort will be competent, credible evidence, which evidence tends to show that but for the fraud, error or irregularity, the outcome of the election would have been different or the result of the election cannot be reliably determined.

The use of standard and generally accepted investigative techniques.

Careful consideration of Senate precedent and other analogous legal principles established by the law of Louisiana and other states reflected in the Senate precedent.

III. Investigative Plan

Counsel will reasonably endeavor to adhere to the 45-day timetable for completing the investigation; the 45-day timetable shall commence after agreement on the terms of the protocol. Counsel will advise the Chairman and Ranking Member if, due to new leads and areas of investigation, additional time is necessary.

An investigative plan will be proposed by majority counsel, subject to consultation with minority counsel, for the purpose of establishing priorities with respect to witness interviews, obtaining documents, issuing subpoenas, and other investigative requirements.

Every effort will be made to agree on an initial investigative plan. As part of the initial investigation, majority and minority counsel agree that interviews may proceed with the parties to the contest and/or their agents, employees and volunteers, and witnesses with whom they had contact in preparing the Petition and response, within 10 days of the commencement of the investigation. In the event of any unresolved differences on other aspects of the conduct of the investigation, the necessary decision will be made in accordance with the majority view.

The majority counsel will promptly provide a draft of recommendations at the conclusion of the investigation. The minority counsel will promptly provide suggested amendments, corrections or deletions. If respective counsel cannot agree on one final report, minority counsel may submit a supplement or separate report.

A written recommendation will be provided to the Chairman and Ranking Member within 5 days after the conclusion of the investigative period.

IV. Investigative Teams

Different areas of investigation will be assigned to teams which include representatives from the majority and minority counsel.

As part of the consultation process, the investigative teams will regularly advise the majority and minority counsel as a whole on the progress of their investigations.

Investigators will identify themselves as committee investigators only. A standard introductory statement to be used by investigators when approaching witnesses for the first time will be developed and agreed upon by majority and minority counsel.

Majority and minority counsel will jointly develop and participate in a briefing of investigators as to the purpose, scope, planning, and conduct of the investigation.

Majority and minority counsel will consult as to what instructions are to be given to investigators before conducting witness interviews. Majority and minority counsel will both participate in the briefing of investigators in advance of a particular witness interview, though either side may decline participation at its option.

V. Investigative Procedures

1. Subpoenas

Counsel shall seek to avoid unreasonable objection on the issuance of subpoenas.

The request of a witness for confidential treatment of his or her identity under Section V(3) is not a reasonable basis for objection to any subpoena requests.

Majority and minority counsel will consult on the drafting and issuance of all subpoenas consistent with the need to protect the identities of confidential sources of information as described below.

2. Depositions

The same considerations of comity and cooperation which apply to the issuance of subpoenas, as described immediately above, will apply to the noticing of depositions.

Majority and minority counsel will consult on the issuances of notices of depositions; in any event, at least one member of the majority and one member of the minority counsel staff will attend and participate in each deposition. In the event that the Senate grants counsel staff deposition authority, such depositions will be conducted on the same terms.

3. Witness Interviews

Investigators may be requested by the majority or minority counsel to conduct interviews, and the assignments will be considered and made on a consultative basis to assure the avoidance of conflicts and undue burden in the use of available resources. At the request of the majority or minority counsel, counsel may assist in the conduct of the interview or be present, or the majority or minority may request to conduct the interviews through counsel, but it is understood that occasions may arise where one side or the other may wish to conduct the interview without the other in attendance. Majority counsel has the responsibility to reasonably resolve any conflicting requests. Agents will be properly instructed as set out below.

Subject to the provisions of Section VI, witnesses may request an interview to be conducted with only the majority or minority counsel present, but in this instance and in any other instance where a witness requests that his or her identity be withheld from either the majority or minority, the counsel from whom the identity may be withheld may request the identity and the opportunity to interview the witness where the credibility of the witness is relevant to the evidentiary weight of the testimony.

No follow-up interviews of previously interviewed witnesses, except by investigators, shall be conducted without consultation between majority and minority counsel about the appropriate timing for such follow-up.

Investigators will be instructed to make all reasonable efforts to provide written reports of all witness interviews to majority and minority counsel within 24 hours of the interview. Any oral communications regarding investigative findings or significant investigative issues shall be promptly reported and transmitted to counsel to both the majority and minority.

VI. Policy Regarding Confidential Sources of Information

Although a witness seeking confidentiality will be encouraged not to place any restrictions on the disclosure of his or her identity, the decision to keep the witness' identity confidential will be left to the witness; however, the witness will be informed that his or her identity will be revealed to the Chairman or Ranking Member of the Committee upon request. There shall be a presumption that no confidentiality shall be extended to a party to the contest or to any agent, employee or volunteer of a party to the contest; exceptions may be granted by agreement of majority and minority counsel for good cause shown or upon agreement of the Chairman and Ranking Member or at the direction of the Committee.

Information obtained from a confidential source will be provided to the other counsel through the prompt exchange of written reports; these reports will describe the source's information, and provide the basis for and an assessment of the reliability of the source and his or her information. Where the substance of the information provided reveals the identity of the source, the content of the written reports will be redacted to protect the confidentiality of the source's identity.

In the event that there are interviews of confidential sources, each counsel will maintain a list of those sources; where disclosure of a confidential source is necessary, the identity of the confidential source will only be disclosed to the Chairman and Ranking Member.

VII. Evidence Integrity

The parties, their agents or other persons with an interest in the investigation shall be advised against any contact or communication with witnesses on the substance, timing or on other material matters relating to the provision of testimony or interviews, or to the collection of evidence. This advice will include a request that the parties in particular commit to cooperation with this investigation and encourage those in their employ, their counsel and supporters to extend this same cooperation. The purpose of this advisory and request for commitment shall be to protect the integrity of the testimony and evidence and the majority and minority shall consider and implement as appropriate other means to assure the fulfillment of this purpose as the investigation proceeds.

VII. Hearings/Quorum

Hearings at which sworn testimony is taken will be conducted with proper notice under Committee rules with a view toward and expectation of both majority and minority member attendance. Such notice will normally be three days. All hearings shall be scheduled in good faith to accommodate reasonable opportunities of majority and minority member attendance.

IX. Document Repository

The originals of all subpoenaed documents or other documents received in connection with the investigation will be kept and maintained under safeguarded conditions on the premises of the Senate Rules Committee as required by the rules of the Senate. Majority and minority counsel will have access to all original documents.

Majority and minority counsel will jointly maintain copies of all subpoenaed documents in a central document repository; a documents custodian will be appointed to maintain and catalog all documents obtained during the course of the investigation; the documents room will be kept under lock and key at all times but will be available to all counsel on an equal basis.

Minority counsel may create and maintain a separate document storage facility for the keeping of duplicate documents.

X. Press Policy

Majority and minority counsel will decline comment to the press, except as agreed in extraordinary circumstances to address errors in public reporting that may compromise the integrity of the investigation or perceptions of its integrity of course. Otherwise, all press inquiries will be referred to the Senate Rules Committee.

The majority and minority counsel and staff will treat the investigative plan, all consultations, the development and recommendations, the identity of interviewees and deponent, and all evidence obtained through the investigation on a confidential basis.

XI. Confidentiality of Investigation

Majority and minority counsel agree that all information gathered in the course of this investigation, as well as any reports drafted by counsel, shall be treated as strictly confidential. Pursuant to this understanding, counsel agree that each consultant law firm will take reasonable measures to ensure that information gathered in the course of, or pertaining to, this investigation is treated confidentially, is not disclosed to individuals within the firm who do not have a direct need to know the information, and is not disseminated outside the firm except to the Members of the Senate Rules and Administration Committee and its staff, unless otherwise directed to do so by the Chairman or Ranking Member. Counsel further agree that the information gathered during this investigation will be used solely in connection with this matter and use for any other purpose is expressly forbidden. In order to ensure strict confidentiality in this matter, each firm will implement reasonable security measures for all documents and other materials related to this investigation and shall inform all individuals working on this matter of the requirements of this section.

RICHARD CULLEN,
McGuire, Woods, Battle & Boothe, L.L.P.
ROBERT F. BAUER,
Perkins Coie.
RICHARD CULLEN.
GEORGE J. TERWILLIGER, III,
Counsel for the Majority, United States Senate Committee on Rules and Administration.

EXHIBIT 4

U.S. SENATE,
Washington, DC, May 16, 1997.

RICHARD CULLEN, Esq.,
McGuire Woods Battle & Boothe, Richmond, VA.
GEORGE J. TERWILLIGER III, Esq.
McGuire Woods Battle & Boothe, Washington, DC.

DEAR RICHARD AND GEORGE: On behalf of the Senate Committee on Rules and Administration, this letter confirms our retention of your services to assist the committee in its Constitutional responsibility, pursuant to a petition filed by United States Senate candidate Louis ''Woody'' Jenkins, to review questions raised about the 1996 U.S. Senate race in Louisiana. This retainer letter also covers the retention of services of other McGuire Woods partners and associations.

In accordance with Senate procedures, this petition was filed with the Vice President of the United States, in his capacity as President of the Senate, and referred to this committee for consideration as we have jurisdiction over this matter. On April 17, 1997, the Committee authorized an ''Investigation of such scope as deemed necessary by the Chairman, into illegal or improper activities to determine the existence or absence of a body of fact that would justify the Senate in making the determination that fraud, irregularities or other errors, in the aggregate, affected the outcome of the election for United States Senator in the State of Louisiana in 1996.''

This investigation shall be conducted in conjunction with counsel for the minority, and an identical retainer has been extended to Robert F. Bauer and John Hume of Perkins Cole.

Pursuant to your discussions with Committee counsel, please sign the original enclosed contract and return it for our records.

Sincerely,

JOHN WARNER.
WENDELL H. FORD.

EXHIBIT 5

U.S. SENATE,
Washington, DC, May 16, 1997.

ROBERT F. BAUER, Esq.,
JOHN P. HUME, Esq.,
Perkins Coie, Washington, DC.

DEAR BOB AND JOHN: On behalf of the Senate Committee on Rules and Administration, this letter confirms our retention of your services to assist the committee in its Constitutional responsibility, pursuant to a petition filed by United States Senate candidate Louis ''Woody'' Jenkins, to review questions raised about the 1996 U.S. Senate race in Louisiana. This retainer letter also covers the retention of services of other Perkins Coie partners and associates.

In accordance with Senate procedures, this petition was filed with the Vice President of the United States, in his capacity as President of the Senate, and referred to this committee for consideration as we have jurisdiction over this matter. On April 17, 1997, the Committee authorized an ''Investigation of such scope as deemed necessary by the Chairman, into illegal or improper activities to determine the existence or absence of a body of fact that would justify the Senate in making the determination that fraud, irregularities or other errors, in the aggregate, affected the outcome of the election for United States Senator in the State of Louisiana in 1996.''

This investigation shall be conducted in conjunction with counsel for the majority, and an identical retainer has been extended to Richard Cullen and George Terwilliger of McGuire Woods Battle & Boothe.

Pursuant to your discussions with Committee counsel, please sign the original enclosed contract and return it for our records.

Sincerely,

JOHN WARNER.
WENDELL H. FORD.

EXHIBIT 6

U.S. SENATE,
Washington, DC, May 9, 1997.

Hon. JANET RENO,
The Attorney General of the United States, Washington, DC.
Hon. LOUIS J. FREEH,
The Director of the Federal Bureau of Investigation, Washington, DC.

DEAR MADAM ATTORNEY GENERAL AND DIRECTOR FREEH: As you know, the 1996 Senate race in Louisiana is being contested. Under Article I, section 5, of the U.S. Constitution,

the Senate has exclusive responsibility to judge the final results of this election.

The Committee on Rules and Administration has initial jurisdiction over this matter for the Senate, and I am privileged to serve as its Chairman. The Committee met three times in open session to discuss the election contest and has authorized me by Committee Motion to conduct an investigation, in consultation with the Ranking Member, Senator Wendell Ford. Senator Ford and I have each retained counsel from outside law firms to assist the Committee, and we executed contracts with these attorneys on May 7.

In my opinion, there is no more serious responsibility of the Senate than to determine the validity or non-validity of an election for United States Senator. The freedom that we enjoy is predicated on the American people having confidence in our election laws and believing that they have been complied with in elections for the Congress.

I make no prejudgment as to the few facts that are before the Senate at this time. But there is a clear duty to conduct such investigation as we deem necessary so that the full Senate can make an informed decision as to the election contest.

Given the importance of this matter to our federal system, I call on the Department of Justice to provide the United States Senate with the assistance of several investigators to work with our designated counsel and other persons engaged by the Committee to conduct this investigation. I believe that the credibility and experience of agents detailed from the Federal Bureau of Investigation will help to establish a like credibility in the outcome of the Senate's investigation.

I request that at your earliest opportunity we meet concerning this matter, hopefully to be joined by Senator Ford, to ascertain your willingness for the Department to assist the United States Senate.

Enclosed is copy of the authorizing Committee Motion, along with a recent floor statement I made concerning the contest and other relevant documents, which should allow your advisors to quickly understand the Committee's responsibilities and the specifics regarding the content.

The Committee point of contact is Bruce Kasold at (202) 224–3448. Thank you for your assistance in this matter.

Sincerely,

JOHN WARNER
Chairman.

EXHIBIT 7

U.S. SENATE,
Washington, DC, May 14, 1997.

Hon. JANET RENO,
The Attorney General, Department of Justice, Washington, DC.

Hon. LOUIS J. FREEH,
Director, Federal Bureau of Investigation, Washington, DC.

DEAR MADAM ATTORNEY GENERAL AND DIRECTOR FREEH: As you are aware, the Committee on Rules and Administration is conducting preliminary investigation into allegations of fraud and other irregularities which reportedly occurred in the 1996 U.S. Senate race in Louisiana. The Committee anticipates that this investigation will last approximately 45 days.

The Committee has hired outside counsel to advise the Committee and direct this investigation. It is their strong recommendation that the Committee augment our resources with professional investigators. In order to expedite and facilitate this investigation, and ensure the level of investigative professionalism required in such a case, the Committee respectfully requests the assistance of detailees from the Federal Bureau of Investigation.

The Committee has identified an immediate need for two detailees, preferably with a familiarity with Louisiana, and the New Orleans area specifically. As the investigation progresses, the Committee anticipates a need for at least two additional detailees. We ask that these detailees be provided to the Committee on a non-reimbursable basis, with the Committee bearing the associated travel expenses for these detailees, pursuant to Senate rules.

The Committee has secured space in the Hale Boggs Federal Building in New Orleans for the duration of this investigation with the exception that attorneys for the Committee will begin occupying that space by early next week. Due to the timeliness of this investigation, we would hope that two detailees could be made available to the Committee at the same time so that the Committee investigation could begin promptly.

It is important to the Committee that this investigation be conducted with the utmost professionalism and respect for the individuals involved, in particular, the elected officials and citizenry of Louisiana. The reputation and integrity of the Bureau make it the most appropriate source for such assistance. We anticipate that a memorandum of understanding regarding the deployment of these detailees will need to be signed between your office(s) and the Committee. We are prepared to execute that document immediately.

We greatly appreciate your assistance in this regard.

Sincerely,

WENDELL H. FORD,
Ranking Member.
JOHN WARNER,
Chairman.

EXHIBIT 8

MEMORANDUM OF UNDERSTANDING BETWEEN THE UNITED STATES SENATE COMMITTEE ON RULES AND ADMINISTRATION AND THE U.S. DEPARTMENT OF JUSTICE

I. This document is a Memorandum of Understanding (''MOU'') between the United States Senate Committee on Rules and Administration (''Committee'') and the U.S. Department of Justice regarding certain terms and procedures relating to the detail assignment of Special Agents of the Federal Bureau of Investigation (''FBI'') to the Committee for the purpose of assisting the Committee in its investigation (''Special Investigation'').

II. *Relation of FBI Special Agents detailed to the Committee to the FBI and other components of the Department of Justice.*

(A) FBI Special Agents to be detailed to the Committee (''Committee Investigators'') shall be selected by the FBI after consultation with the Criminal Division of the Department of Justice.

(B) Committee Investigators shall not report to or receive direction from the FBI or any other component of the Department of Justice regarding the investigative activities of the Committee, except as expressly authorized by the Chief Counsel for the Committee. The activities of the Committee Investigators shall be directed by the Chief Counsel and Minority Chief Counsel of the Committee acting directly or through designated lead counsel for the Special Investigations, as provided in Part III of this MOU.

(C) Committee Investigators shall not provide any oral or written account of information obtained as a result of the Agents' assignment to the Committee either to the FBI or to the personnel of any other Executive Branch agency without the express authorization of the Chief Counsel and the Minority Chief Counsel for the Committee. Approved communication of such information to the FBI or other components of the Department of Justice shall be through a designated point of contact, as provided in paragraph (F).

(D) Committee Special Agents shall not exercise any law enforcement authority granted them by law while executing the duties and responsibilities for which they have been detailed to the Committee.

(E) Committee Special Agents shall not be entitled, by virtue of their status as federal law enforcement officers, to have access to information developed through criminal investigation, including grand jury information.

(F) All communications [relating directly or indirectly to investigative matters] between Committee Special Agents and the FBI or any other component of the Department of Justice, shall be through a point of contact established by the Department of Justice. The Department of Justice will notify the Chief Counsel of the Committee of the name of that point of contact.

III. *Duties and Responsibilities of the Chief Counsel and Minority Chief Counsel to the Committee.*

(A) FBI Special Agents detailed to the Committee shall be a joint resource to both the Majority and Minority staffs of the Committee and outside counsel retained by the Committee.

(B) The Committee shall reimburse the FBI for all costs associated with the detail assignment of FBI Special Agents to the Subcommittee, including official travel expenses.

(C) The Chief Counsel and/or the Minority Chief Counsel shall furnish written or oral responses, if requested by the FBI, regarding the performance appraisal of FBI Special Agents detailed to the Committee.

(D) All assignments to the Committee Investigators shall be made by the lead attorney and the minority lead attorney, acting jointly, or by either attorney after consultation with the other. All assignments shall, for administrative purposes, be made either by or through the lead attorney for the Special Investigation, to the supervisory Committee Investigator designated by the FBI. The lead attorney for the Special Investigation shall provide timely notice to the minority lead attorney for the Special Investigation of all assignments to the agents.

(E) Unless directed otherwise by the lead counsel for the Special Investigation, the Committee Investigators may conduct interviews personally or by the telephone.

IV. *Duties and Responsibilities of the Committee Investigators.*

(A) The Committee Investigators shall assist the Committee in all tasks related to the objectives of the Committee in its investigation.

(B) Except as otherwise provided in this MOU, the Committee Investigators will remain subject to the personnel rules, regulations, laws and policies applicable to FBI employees. The Committee Investigators will also adhere to Committee rules and regulations which are applicable to the performance of their assigned duties at the Committee, so long as those rules do not conflict with FBI rules and regulations.

(C) Except in extraordinary circumstances, Committee Investigators shall provide the lead attorney for the Special Investigation, who shall in turn notify the minority lead attorney for the Special Investigation, sufficient advance notice of any pending appointments for interviews, so that either attorney for the Special Investigation can determine whether to assign an attorney to join the interview.

(D) With regard to all investigative activities performed for the Committee, Committee Investigators

(1) shall identify themselves as staff investigators of the Committee, and not as federal law enforcement agents;

(2) shall not possess a firearm nor display FBI credentials or badge during the conduct of any personal interviews or other investigative activity;

(3) shall inquire whether a witness to be interviewed is represented by counsel, and if so, inform the lead attorney for the Special Investigation accordingly, prior to scheduling the interview;

(4) shall take notes during all interviews and keep the originals of the same as a record of the Committee;

(5) shall reduce to writing, in memorandum form, the substance of all witness interviews within five working days, unless circumstances prevent that schedule and the lead attorney for the Special Investigations approves the delay;

(6) shall provide both the lead attorney and the minority lead attorney for Special Investigation a copy of the interview memorandum; and

(7) shall insure that any documents, records, exhibits, or other evidence obtained from the interviewed witness are turned over immediately to both the lead attorney and the minority lead attorney for the Special Investigation pursuant to the procedures relating to the same.

V. Termination

This agreement may be terminated by any of the undersigned upon written notice to the others.

Approved by the Committee on Rules and Administration of the United States Senate.

Chairman John Warner.

Ranking Member Wendell H. Ford.

Howard M. Shapiro, General Counsel, FBI.

Mark M. Richard, Acting Assistant Attorney General, Criminal Division, U.S. Department of Justice.

EXHIBIT 9

U.S. SENATE, COMMITTEE ON RULES AND ADMINISTRATION,
Washington, DC, May 1, 1997.

Hon. WENDELL H. FORD,
Ranking Member, Committee on Rules and Administration, U.S. Senate, Washington, DC.

DEAR WENDELL: Per our conversation, let me state my intent with regard to the rights of the Committee minority as they apply to the preliminary investigation into the contest of the 1996 Senate election in Louisiana.

First, as I understand to be reflected in the investigative protocol provision regarding the issuance of subpoenas, I agree that the subpoena power delegated to the Chairman, with the approval of the ranking minority member of the Committee, pursuant to Rule A of the Committee's supplemental rules of procedure adopted on April 17, 1997, shall be used reasonably and equitably to compel the attendance of any witness or the production of any documents requested by a majority of the minority members of the Committee.

Second, I agree that when majority and minority counsel cannot agree on investigative issues, decisions, or aspects of the conduct of the investigation, then they shall, at the request of either counsel, bring their disagreement to the immediate attention of the Chairman and ranking minority member. If the Chairman and ranking member cannot agree, then the full Committee will be asked to resolve the issue after an opportunity for discussion and comment.

Third, I agree that at any hearing held for the purpose of taking recorded, sworn, or unsworn testimony, at least three days' notice shall be given and any member or members of the Committee may attend and participate.

I hope this clarifies my position.

Sincerely yours,

JOHN WARNER,
Chairman.

EXHIBIT 10

MCGUIRE WOODS BATTLE & BOOTHE

MEMORANDUM

To: Senate Rules Committee
From: George J. Terwilliger and Frank Atkinson
Date: June 23, 1997
Re: Jenkins-Landrieu—Voting Procedures and Election Safeguards

BACKGROUND INFORMATION—VOTING PROCEDURES AND ELECTION SAFEGUARDS

Louisiana has been plagued by a history of election fraud, and the state therefore has enacted elaborate voting procedures and safeguards designed to guard the integrity of elections. The state legislature has expressly recognized the state's ''longstanding history of election problems, such as multiple voting, votes being recorded for persons who did not vote, votes being recorded for deceased persons, voting by non-residents, vote buying, and voter intimidation.'' La. R.S. 18:1463.

Secretary of State McKeithen is the ''chief election officer of the state.'' La R.S. 18:421.A. He has publicly sated: ''Our [election] law, if strictly followed, is probably the tightest law in the country. The problem was it wasn't followed [in the November 1996 election].''[1]*

Even where modern voting machines are used and post-election tampering with the machines is made generally impracticable by a combination of machine security features and procedural safeguards, the possibility of fraud still exists whenever one person (or several acting in concert) can gain access to precinct registers, poll lists, absentee voter lists, and other documentary materials used on or before election day.

Voting machines are devices for recording and tallying the number of votes, the accuracy of the tally is vitally important, but it is only one component of an honest election.

The integrity of the election also turns upon the validity of the votes cast, and this central facet of election administration is addressed in detail in Louisiana statutes that prescribe the preparation, use and post-election disposition and custody of various written election records. These written records provide an indispensable check that guards against improper manipulation of voting machines before, on, or after election day.[2]

SUMMARY : KEY PROCEDURAL PROVISIONS AND BREACHES OF SAFEGUARDS

4. Key procedural provisions

State law provides that a precinct register (together with a supplemental list of absentee voters) is to be used at each polling place.

The precinct register contains an alphabetical listing of all registered voters in the precinct. Voters must sign the precinct register when they vote, and an election commissioner also must sign (initial) opposite each voter's signature.

Election commissioners in each precinct are also required to prepare two (duplicate) poll lists.

The poll lists contain the names of actual voters recorded in the order that they vote. Election commissioners record the names of voters on sheets with consecutively numbered spaces.

Voters and election commissioners must execute certain other documents in prescribed circumstances, including Address Confirmation at Polls (ACP) forms, Affidavit of Voters (AV–33) forms, and Challenge of Voter (CV–56) forms.

When the polls close, election commissioners are required to follow specific procedures. With regard to the disposition of the written election records, each of the following must be accomplished by midnight on the day of the election and in the presence of commissioned poll watchers:

Election commissioners are required [a] to place certain specified records in a Registrar of Voters (ROV) envelope, [b] to then place the ROV envelope inside the precinct register and seal the precinct register,[3] [c] to then seal one copy of the poll list and certain other specified records inside the Put in Voting Machine (P–16) envelope, [d] to then place the sealed P–16 envelope and the precinct register inside the voting machine, and, finally, [e] to lock the voting machine and seal the key inside the Return Key Envelope (C–03).

Election commissioners are required to place certain other specified records, including the other copy of the poll list, in the Secretary of State (S–19) envelope and to mail the S–19 envelope to the Secretary of State.

Election commissioners are required to deliver the sealed Return Key Envelope and certain other specified records to the parish clerk of court.

Other provisions specifically govern the counting of absentee votes and the disposition of absentee vote records.

B. Identified breaches of election safeguards

Secretary of State Mckeithen and several staff members were interviewed by Senate Rules Committee outside co-counsel on May 13 and May 30, 1997. They identified and/or confirmed the following breaches of election safeguards:

Election commissioners were required by law to mail one set of election records to the Secretary of State on election night. Commissioners in Orleans Parish and several other parishes were instructed by the parish clerk of court's office to—and did—deliver this set of records to the parish clerk of court instead of the Secretary of State, in violation of the state law.

Instructional materials prepared by the Commissioner of Elections, Jerry Fowler, and his office directed the parish election commissioners to deliver the Secretary of State's set of election records to the parish clerk of court instead of mailing them to the Secretary of State, as required by state law. These instructions were prepared unilaterally by Commissioner Fowler's office in violation of another state law which requires that such instructional materials be prepared jointly by the Commissioner of Elections and the Secretary of State and be approved by the Attorney General before distribution to election commissioners.

Voting machines in Orleans Parish were unsealed and opened before the appointed time and outside the presence of candidate representatives, in violation of state law.

Secretary of State McKeithen also made the general observation—not specific to any particular parish—that election commissioners routinely failed to require voters to prove their identity in accordance with state law.

District Attorney Doug Moreau of East Baton Rouge Parish and his assistant were interviewed by Senate Rules Committee outside co-counsel on May 13 and May 30, 1997. From his office's review of election records obtained from Orleans Parish pursuant to subpoena, he has found the following:

Besides mailing one set of original precinct election records to the Secretary of State on election night (the ''S–19 envelope''), parish election commissioners are required by law to seal the other set of original records in an envelope (''the P–16 envelope''), seal the precinct register, and lock the sealed P–16 envelope and sealed precinct register in the precinct voting machine. Moreau subpoenaed

*Footnotes at end of article.

the P–16 envelopes and contents from Orleans Parish. After reviewing approximately half of these records, he found that none had ever been sealed in accordance with state law.

According to Moreau and his assistant, Sandra Ribes, the Orleans Parish P–16 envelopes appear to have many missing items and discrepancies, including irregularities in record-keeping for absentee voters. Rather than relying upon Moreau's review, however, we have requested these records so that we can conduct our own audit. Our request is pending, so Moreau still has these records.

In response to Moreau's subpoena, it was disclosed by the Clerk of Court in Baton Rouge that many original election records for East Baton Rouge Parish have been discarded, in apparent violation of state law.

Commissioner of Elections Jerry Fowler and staff members were interviewed by Senate Rules Committee outside co-counsel on May 13 and May 30, 1997. They confirmed the following:

Although Fowler's office prepared videotapes and instructional materials properly directing election commissioners to mail the S–19 envelopes and contents to the Secretary of State's office, they did also prepare certain ''customized'' videotapes and instructional materials—at the request of several parish clerks of court, including the Orleans clerk's office—directing the election commissioners in those parishes to send the S–19 records to the parish clerk of court instead of the Secretary of State.

Staff working for the Orleans Parish clerk's office did unlock and open voting machines and remove records outside the presence of designated candidate representatives a short time before the appointed hour for the opening of the machines three days after the election.

State employees reporting to Fowler were in control of the warehouse in which the locked voting machines in Orleans Parish were stored prior to the opening of them three days after the election. The clerk of court of Orleans Parish had ''legal custody'' of the voting machines during this period. It is unclear whether the clerk's staff had actual access to the voting machines during this time. They may have had access to an office within the warehouse, and the portion of the warehouse where the machines were stored was accessible from that office. There was no regular inspection of the storage area nor security check by any of Fowler's employees.

The rear of the AVC voting machines used in Orleans Parish contains a door that can be locked but has no ready means of sealing. This is the area where the election records (P–16 envelopes and precinct registers) were stored. Since the machines were locked but not sealed, a person with a key to the machines could gain access to these election records without it being physically evident that access was gained.

Also relevant to the investigation of breached election safeguards are the admissions by several Orleans Parish election commissioners that they accepted payments from gaming organizations interested in the outcome of questions on the November 1996 ballot. At least one election commissioner has admitted receiving such a payment for electioneering activity performed on election day.

PARTICULAR ISSUES

Separation of election records; delivery to Secretary of State

Legal Requirement: State law requires election commissioners to mail the Secretary of State (S–19) envelope containing one of the poll lists and other records directly to the Secretary of State's office before midnight. La. R.S. 18:572.A(2) and B.

Secretary of State McKeithen explained that this safeguard is designed to prevent tampering with the written election records by separating the poll lists and other important documents immediately upon their leaving the polling places. State law requires that one of the poll lists be mailed to the Secretary of State while the other is to be sealed in an envelope and locked in the voting machine. Mr. McKeithen stated that this is an important safeguard against election fraud, and he noted that it also is a means by which clerks of court can avoid vulnerability to fraud allegations by ensuring they do not have access to all copies of key election records.

Mr. McKeithen stated that, until the recent disclosure that a contrary practice existed in certain parishes, he was unaware of these election law violations. He further stated that, if he had been aware of the existence of this contrary practice, he would have acted decisively to prevent the violations.

Violations: Secretary of State McKeithen, Commission of Elections Fowler, and members of their respective staffs confirmed published reports that election commissioners in at least Orleans, Jefferson, and East Baton Rouge Parishes failed to comply with the legal requirement that they mail the S–19 envelopes and contents to the Secretary of State on election night. Instead, the commissioners delivered the envelopes and contents to their respective parish clerks of court. This placed the second copy of each precinct's poll list and other original records in the custody of the single local election official with access to the remainder of the original records.

Because the Secretary of State does not log in the envelopes upon receipt in his office, we do not know how long the S–19 envelopes and contents remained in the possession of the respective parish clerks of court before they were sent to the Secretary of State.[4]

We do not have authoritative information as to the other parishes in which this violation of state law occurred, when and where such violations have occurred in the past, or the reason or reasons given by the election commissioners-in-charge who took that action. We do know, however, that in the three parishes identified above, and apparently in others, the respective parish clerks of court instructed election commissioners to deliver the S–19 envelopes and contents to them rather than to mail them to the Secretary of State as required by state law.

Commissioner Fowler and his staff confirmed that instructional materials, including both written guidelines and video tapes, were used by the clerks of court to prepare election commissioners in their parishes. In Orleans and apparently other parishes, these materials expressly instructed election commissioners to send the S–19 envelopes and contents to the clerks of the court.

The proper procedure for disposition of the S–19 envelopes should have been clear to the clerks of court and the election commissioners. The Informational Pamphlet prepared jointly by the Secretary of State and the Commissioner of Elections, approved by the Attorney General, and distributed to election commissioners and clerks of court expressly instructs the commissioners to mail these envelopes, with the prescribed contents, to the Secretary of State by midnight on election night. The front of the S–19 envelope itself lists in bold print the items that must be enclosed and specifies that the envelope must be mailed to the Secretary of State.

Importantly, the S–19 envelopes were not sealed by activating adhesive on the envelop flaps or by any other method that would prevent undetectable access. Instead, when ultimately received in the Secretary of State's office, the S–19 envelopes generally were clasped using the metal clasp that is standard on manila-type envelopes.

Although there is no statutory requirement that the S–19 envelopes be ''sealed,'' the requirement that they be ''mail[ed]'' would seem to imply a more secure closing of the envelopes than that accomplished through use of the metal clasp alone. However, Secretary KcKeithen and his staff advised us that the S–19 envelopes have routinely been received by his office in a clasped but unsealed condition.

Regardless of the propriety of the practice of not sealing the S–19 envelopes, the significant point is that those envelopes were—while unlawfully in the possession of the clerks of court (and any others to whom they granted access)—in a condition that permitted easy and undetectable access to their contents.[5]

The significance of the unsealed condition of the S–19 envelopes and the accessibility of their contents is reflected in a published comment made by Alan Elkins, principal assistant to Commissioner of Elections Jerry Fowler. As described below, Elkins was one of the persons involved in preparing instructional materials that directed election commissioners in some parishes to send the S–19 envelopes to the parish clerks of court in violation of state law. Speaking shortly after the disclosure of these violations last month, Elkins was quoted as saying: ''What difference does it make? Those envelopes are sealed anyway. You can't open them without the appearance of them being opened.''[6] In our interview, Elkins acknowledged that the S–19 envelopes actually were not sealed; he now expresses the opinion that fastening the envelopes by clasp was sufficient.

2. Instructions to election commissioners regarding voting procedures and disposition of records.

Legal Requirement: State law assigns various responsibilities for election administration among the Secretary of State and the Commissioner of Elections. While the Commissioner of Elections has statutory authority over the voting machines, the Secretary of State is the chief election officer of the state. Accordingly, state law requires that written instructions to election commissioners regarding voting procedures be prepared jointly by the Secretary of State and the Commissioner of Elections, and that these instructions be approved by the Attorney General La. R.S. 18:421.C.

Secretary of State McKeithen described this provision to us as an important check and balance that is necessary in light of Louisiana's checkered election history.

Violation: The Commissioner of Elections and members of his staff acknowledged to us that, within the last four or five years, they have prepared written and videotape instructional materials that direct election commissioners to deliver the S–19 envelopes and the election records contained therein to the parish clerk of court, rather than by mail to the Secretary of State, as required under state law. The Commissioner's staff advised us that they produced a standard instructional videotape that directed precinct election commissioners to mail the S–19 envelopes and contents to the Secretary of State, but that, at the request of various parish clerks of court, they also ''customized'' some of the videotapes to direct that the S–19 envelopes and contents instead be delivered to the clerks of court. Corresponding written instructions also directed the delivery of the S–19 envelopes and contents to the clerks of court in those parishes.

Commissioner Fowler and his staff were unable to tell us with specificity which parishes requested and received instructional

tapes and written materials ''customized'' in this manner. He did indicate a general belief that the preparation of these instructional materials corresponded with the introduction and initial use of the new ''AVC'' (Sequoia) voting machines in Orleans and several of the other larger parishes. These tapes and written materials primarily were concerned with instructing commissioners in the use of these new and unfamiliar voting machines, but, for reasons Commissioner Fowler did not explain, they also included instructions on the disposition of the S–19 envelopes, which have nothing to do with the voting machines.

Secretary of State McKeithen expressed strong objections to the Commissioner's unilateral preparation of these instructional materials, of which the Secretary of State only became aware last month. McKeithen acknowledged that the Commissioner of Elections is responsible for instructing precinct commissioners in the use of voting machines and therefore could properly prepare those instructions unilaterally, but he stated that the inclusion of instructions regarding disposition of election records was clearly outside of the Commissioner's lawful authority. Secretary McKeithen called attention to the stark conflict between the Informational Pamphlet, which was jointly prepared by McKeithen and Fowler and approved by the Attorney General, and the videotape and accompanying written materials that were unilaterally prepared by Fowler's office in collaboration with local clerks of court. The Informational Pamphlet properly advises precinct commissioners to mail the S–19 envelopes to the Secretary of State; the other materials direct the local commissioners to send the S–19 envelopes to the clerk of court in violation of state law.

3. Sealing of envelopes containing original records; locking of percent registers and envelopes in voting machines

Legal Requirement: As noted above, state law requires that, in the presence of poll watchers and before midnight on election day, election commissioners must seal one copy of the poll list and certain other specified records inside the P–16 envelope, which is marked ''Put in Voting Machine.'' La R.S. 18:571(12). The election commissioner then must place the sealed P–16 envelope and the sealed precinct register in the voting machine, lock the machine, and seal the key in the Return of Key envelope. La. R.S. 18:571(11), (12), (13), (14).

Violation: We have been advised by District Attorney Moreau and his staff that they have examined approximately half of the P–16 envelopes from Orleans Parish, and that none of the envelopes are, or appear to ever have been, sealed in accordance with state law. The P–16 envelopes contained one of the two poll lists, and the failure to seal these envelopes as expressly mandated by state law represents another significant breach of the statutory safeguards relating to election records. We do not yet know whether the precinct registers were sealed.

Importantly, election commissioners in Orleans Parish placed the unsealed P–16 envelopes and the precinct registers in AVC voting machines that were themselves unsealed. State law required the commissioners to lock the door to the rear area of the machines where the records were placed, but, unlike other types of voting machines, the entire AVC machine is not sealed. On the AVC voting machines, the computer cartridge alone is sealed, and the rear area containing the precinct register and P–16 envelopes is merely locked. This circumstance aggravates the concern about the failure of Orleans Parish commissioners to seal the P–16 envelopes (and possibly the precinct registers). Since these crucial records were placed unsealed in a portion of the voting machines that was locked but not sealed, anyone with access to a machine key could have gained direct access to the election records without detection.

4. Unlocking and unsealing of voting machines in the presence of candidates or their representatives

Legal Requirement: State law provides that the voting machines are to be transferred from the precinct polling place to the custody of the parish clerk of court and are to be opened, in the presence of representatives of the candidates, three days after the election. La. R.S. 18:573.A, 18:573.B.

Violation: Secretary of State McKeithen, Commissioner of Elections Fowler, and members of their respective staffs confirmed to us that some significant number of voting machines in Orleans Parish were unlocked and unsealed outside the presence of candidate representatives and before the announced time for the supervised opening of the machines. Neither had direct knowledge of the particulars, but both indicated that Orleans Parish officials had acknowledged the improper action occurred.

McKeithen cited this improper action as a serious breach that, in tandem with other known violations such as the Clerk's receipt of the S–19 envelopes, rendered the Clerk of Court of Orleans Parish, Mr. Edwin Lombard, vulnerable to allegations of election irregularity.

In contrast, Fowler stated to us his understanding that this unlawful action was inconsequential since, according to the information relayed to him, the machines were opened at most fifteen minutes or so before they should have been. Commissioner Fowler further stated his understanding that Mr. Lombard had not personally authorized the improper action; he identified the Deputy Clerk, Mr. Broussard, as the senior official with the clerk of court's office who was present when the machines were opened. Both McKeithen and Fowler stated that the ceremonial opening of voting machines in the presence of witnesses three days after the election had traditionally been regarded as an important event and election safeguard. However, Fowler nevertheless ventured the opinion that the action of clerk's office personnel in opening the machines early, outside the presence of candidate representatives, and notwithstanding the close and contested nature of this particular election, was an incidental action taken for the innocent purpose of expediting the machine opening process.

While Louisiana law was violated by the opening of some or all Orleans Parish voting machines in the manner described above, the significance of this violation in terms of the opportunity for election fraud will not be clear until further investigation has been completed, with regard to access to the election records locked in the voting machines, the following facts are noteworthy:

The voting machines were in the legal custody of the clerk of court from the time they left the polling place until the unlocking and unsealing of the machines on the third day after the election.

The keys to the voting machines were in the possession of the clerk of court during this same period. They should have been contained in an envelope that remained sealed until the envelope was opened and the keys removed in the presence of witnesses three days after the election. However, because the clerk's employees began opening the machines early and outside the presence of witnesses, it is not known whether, and for how long, the key envelopes remained sealed while in the clerk's custody.

The precinct register, poll lists and other original election records were locked in the voting machines, but the rear area of the machines in which they were locked was not sealed; therefore, undetected access to the election records in the machines was possible for anyone possessing a key to the machines.

Prior to the opening of the machines, they were stored in a warehouse controlled by Commissioner Fowler and designated members of his staff. Clerk of Court Lombard had legal custody of the machines during this time, but the extent, if any, to which he and his staff had actual access to the machines is an issue for investigation. Clerk's office personnel may have had access at will to an office area within the warehouse where the machines were stored, and there was unobstructed access from the office area to the part of the warehouse containing the voting machines.

Taken together, the foregoing tends to confirm that the Clerk of Court of Orleans Parish, and presumably persons on his staff, may well have had the ready ability to gain access to the original election records in the voting machines if they so chose. This ability apparently existed for 2–3 days. In combination with the unlawful failure to seal the envelopes and election registers placed in the machines and the unlawful failure to send the other set of election records directly to the Secretary of State, the result in Orleans Parish appears to have been the very situation—a person or small group of persons enjoying access to all copies of crucial election records—that Louisiana law was designed to prevent.

Payments to election commissioners; related issues

Legal Requirement: State law prescribes the qualifications, powers, duties, compensation required training, and method of selection of the precinct election commissioner-in-charge and the other precinct election commissioners who administer the election at the polling places. See La. R.S. 18:424, 18:425, 18:426, 18:431, 18:431.1, 18:433, 18:434. Election commissioners are expressly prohibited from ''electioneer[ing], engag[ing] in political discussions, . . . or prepar[ing] a list of persons at the polling place'' (La. R.S. 18:425.C), and they may not ''in any manner attempt to influence any voter to vote for or against any candidate or election being held in that polling place'' (La. R.S. 18:1462. C). As a practical matter, these officials have virtually no opportunity to assist a candidate or ballot proposition at any other polling place on election day, since they are required to report to the polling place at which they serve no later than 5:30 a.m. on election day and to remain there for the duration of the voting and post-voting procedures; the clerk of court must approve the appointment of any replacement commissioner on election day. La. R.S. 18:433.E(2), 18:434.D, 18:434.E. The lawful compensation of election commissioners is prescribed by statute. La. R.S. 18:424.E. 425.E. State law specifically provides that no person shall ''[o]ffer money or anything of present or prospective value . . . to influence a commissioner . . . in the performance of his duties on election day.'' La. R.S. 18:1461.A(8). Election commissioners must be selected at random from a list of duly trained and certified persons. La. R.S. 18:433.B, 18:434.B.

Possible Violation: News media reports earlier this year disclosed that five election commissioners in Orleans Parish had been paid by gambling interests with issues on the November 5, 1996 ballot. They each received from $30 to $800 from Bally's Casino and Harrah's Jazz Co. for canvassing and distributing ballots. Three of the five were commissioners-in-charge. One of the commissioners-

in-charge was paid $120 for canvassing on election day. Harrah's and Bally's both denied any awareness that the recipients of these payments were election commissioners.[7]

Whether these, and any other, election commissioners received illegal payments or otherwise engaged in illegal activity, and the extent of any such activity, is unknown at this time. When viewed in the context of the opportunities for election fraud created by the breaches of election safeguards previously discussed, the prospect that the integrity and impartiality of election commissioners may have been compromised is obviously of significant concern. These published admissions by certain election commissioners in Orleans Parish suggest the need for close examination of the method of selection and conduct of other election commissioners, particularly in Orleans Parish where the above-described electoral irregularities occurred.

6. Designation of absentee voters; related issues

Legal Requirement: State law authorizes voters in certain circumstances to vote absentee by mail or absentee in person. Absentee in person voting is permitted from twelve days to six days prior to an election. Voters wishing to vote absentee in person must go to the parish registrar's office or other designated location during this time period, present proper identification, cast an absentee ballot, and sign the precinct register or other absentee voter list. Voters wishing to vote absentee by mail must submit a signed application letter and return their absentee ballots before election day. The registrar must enter the word ''absentee'' and the date of the election in the precinct register for each person who votes absentee in person or absentee by mail prior to the sixth day before the election. La. R.S. 18:1311.B After the sixth day, absentee by mail votes received in the registrar's office are recorded on a supplemental absentee voters list.

Possible Violation: Based on information provided to us by District Attorney Moreau and his staff, there reportedly are significant discrepancies in election records which suggest a failure to follow statutorily prescribed absentee voting procedures in at least some precincts in Orleans Parish.

Moreau reviewed some Orleans Parish precinct registers before they were produced in response to the Senate's subpoena, and his review found widespread instances where the registrar's office failed to note ''absentee'' on the precinct register by the names of persons who, according to records maintained by the Commissioner of Elections, did vote by absentee ballot. In the absence of some such identifying mark on the precinct register, it cannot be determined which signatures on the precinct register were supplied by voters on election day and which names were placed on the register before election day.

If our own review of the Orleans Parish election records reveals that election commissioners there did not receive precinct registers properly marked to identify absentee voters and/or did not receive supplemental lists of absentee voters, then a very important safeguard against multiple voting may have been compromised.

7. Retention of election records

Legal Requirement: All voting records and papers must be preserved for at least six months after a general election. La. R.S. 18:403. Certain registration records in federal elections must be preserved for twenty-two months after the election. La. R.S. 18:158.B. In addition, there are special record retention and handling provisions for certain voting records. For instance, the sealed envelope marked ''Put in Voting Machine'' (P–16) must be, after it is removed from the voting machine at the formal opening, preserved ''inviolate'' through the election challenge period. La. R.S. 18:573.D. Similarly, the election result cartridges from voting machines must not be disturbed until the election contest period has lapsed. If no contest is filed, the cartridges may be cleared. La. R.S. 18:1376.B(2).

Possible Violation: It is our understanding that local parish officials may have destroyed election records prior to the lapse of the six-month retention period, in violation of state law. East Baton Rouge Parish Clerk Doug Welborn has acknowledged that his office discarded 286 envelopes containing poll materials prior to the expiration of the six-month retention period. In addition, Allen Parish election records apparently were destroyed due to water damage in a leaky warehouse. We will have a clearer understanding of these and any other document retention/destruction issues after review of the documents and responses received recently from local parish registrars and clerks of court pursuant to the Senate's subpoenas.

8. Identification of voters at polls

Legal Requirement: State law requires that election commissioners identify each voter by requiring him or her to submit a current Louisiana driver's license, current registration certificate, other identification card, or by comparison with the descriptive information on the precinct register. La. R.S. 562.D.

Violation: In response to our query regarding the existence of any other known violations of state election laws in November 1996, Secretary of State McKeithen conveyed to us his general understanding that there were widespread violations of the voter identification requirement in the November 1996 election. Mr. McKeithen related that, in his experience, this provision is not vigorously enforced or complied with in many parishes throughout Louisiana.

FOOTNOTES

[1] ''Officials: Senate Investigators Told of Election Mistakes'', Associated Press, May 16, 1997.

[2] We have been supplied with a copy of the ''Informational Pamphlet for Commissioners-in-Charge and Commissioners on Election Day,'' a document prepared jointly by the Louisiana Secretary of State and Commissioner of Elections and approved by the Attorney General of Louisiana as required by state law. The document reflects that it was last revised in May 1996. This ''Informational Pamphlet'' is a useful reference for information about the requirements of state election law.

[3] There is an apparent discrepancy between the Louisiana election code, which expressly requires that the precinct registers be sealed (see La. R.S. 18:571(11); 18:573.E(1)), and the guidance given election commissioners in the Information Pamphlet, which nowhere instructs election commissioners to seal the precinct register (see pp. 14–16).

[4] The clerks of court in Orleans and Jefferson Parishes each wrote letters to the editor of the Times-Picayune that were published on May 21, 1997. Mr. Gegenheimer of Jefferson Parish assets in his letter that his practice conforms to state law because the envelopes are—and on November 5, 1996, were—mailed to the Secretary of State by the Jefferson Parish Clerk of Court before midnight on election day. Mr. Lombard of Orleans Parish apparently does not make the same assertion in his letter, though the wording is ambiguous. Mr. Lombard's letter does, however, respond to assertions by Jenkins workers that they found no Orleans Parish S–19 envelopes at the Secretary of State's office as late as November 12, 1997. Mr. Lombard states that ''the Post Office has assured [him] that delivery of all mail sacks was made to the secretary of state before Nov. 12, contrary to allegations by the Jenkins camp.''

[5] As noted in footnote 3, Clerks Lombard and Gegenheimer of Orleans and Jefferson Parishes, respectively, each wrote letters to the editor of the Times-Picayune that were published on May 21, 1997. Gegenheimer's letter asserted that the S–19 envelopes were ''sealed'' by the election commissioners at the precincts and that any tampering by the clerk of court ''would be readily discernible.'' Since we have been advised by Secretary of State McKeithen that none of the S–19 envelopes arrived in his office sealed (as opposed to clasped), we need to examine the S–19 envelopes from Jefferson Parish to test the accuracy of Mr. Gegenheimer's assertion. It is noteworthy that Mr. Lombard makes no similar assertion in his letter to the editor, though he does make the statement that ''the U.S. Postal Service provides mail sacks, and seals as well as pickup service for all secretary of state envelopes.'' Both members of Secretary McKeithen's staff and District Attorney Moreau's assistant advised us specifically that the Orleans Parish S–19 envelopes were not sealed.

[6] Walsh, Bill, ''Guide for Poll Workers Faulty, Parts of Policy Broke State Law,'' New Orleans Times-Picayune, May 17, 1997.

[7] Varney, James, ''Casinos Paid Poll Officials, Records Show Commissioner Got Money for Work on Election Day,'' New Orleans Times-Picayune, February 27, 1997.

Mr. FORD. Mr. President, I come to the floor to inform my colleagues that as ranking member on the Committee on Rules and Administration, committee Democrats can no longer participate in a joint investigation of allegations of election fraud in the 1996 Louisiana Senate race as alleged by Louis ''Woody'' Jenkins.

We reached this decision, because what we have learned to date suggests a possible fraud on the U.S. Senate and illegal tampering with witnesses by agents of Mr. Jenkins. This is nothing short of an embarrassment to the Senate and an affront to the people of Louisiana.

This investigation is over budget, it has exceeded the timeframe agreed to, and none of Mr. Jenkins' claims have been substantiated by any credible witnesses.

We come to this decision after waiting 7 months for Mr. Jenkins to provide the committee with credible evidence of multiple voting and of thousands phantom votes, which he has failed to do.

Not only have agents to the committee been unable to locate credible witnesses, but Government Accounting Office auditors have also been unable to substantiate Mr. Jenkins' claims of phantom votes.

Most disturbing, committee members have learned today that there has been continued interference with witnesses to the investigation in Louisiana by agents of Mr. Jenkins. I can't imagine any Member of the Senate, regardless of the party, who would not find this alarming, unacceptable, and certainly nothing the Senate should be party to.

On behalf of Democratic Rules Committee members, I have referred information to the U.S. Department of Justice and asked for an investigation into the incidents of witness tampering and interference with the U.S. Senate investigation.

The results to date have shown that the fraud on which Mr. Jenkins' allegations rest, were not only solicited by a convicted criminal, but involved payment for testimony and are otherwise not credible. There is no way that we, in good conscience, can or should proceed with this investigation.

Mr. President, the fraud has been committed against the U.S. Senate,

not against Mr. Jenkins, and the investigation should be terminated now and stop any waste of taxpayers dollars.

TRIBUTE TO JESSE BROWN

Mr. WELLSTONE. Mr. President, I rise today to pay tribute to a dynamic leader, very capable public servant, tenacious veteran's advocate, and a good friend—Veterans' Affairs Secretary Jesse Brown.

I am saddened by the news that Secretary Brown is leaving after four productive and hard working years at the helm of the U.S. Department of Veterans' Affairs. Under his leadership, the VA and veterans have made tremendous progress.

Jesse Brown fought battle after battle to protect, reform, and fully fund veterans' health care. Jesse Brown won most of those battles.

Jesse Brown fought to strengthen benefits for Vietnam veterans exposed to Agent Orange. He fought for their children suffering from Spina Bifida. Jesse Brown won those battles.

Jesse Brown fought to improve the veterans' benefits claims process. He better than anyone knew the importance of timely, accurate, and fair decisions.

Jesse Brown worked hard for veterans with post-traumatic stress disorder, Persian Gulf war veterans, women veterans, homeless veterans, and many others.

Most importantly, Jesse Brown cares about people. I've seen him on many occasions stop what he's doing to visit one-on-one with a veteran in need or a grieving loved one. In an airport, on the street, in a hospital, at VFW post, Jesse always took the time to listen to people and to try to help them. That is what leadership is all about. That is what being an effective public servant is all about. That is what being a veterans' advocate is all about.

Jesse was never afraid to speak his mind and fight for veterans and their families—no matter the strength of the opposition or political risk to him. He did what he thought was right. He was proud to be their advocate and it should come as no surprise when said that being Secretary had been the high point of his life. Jesse Brown, a former Marine wounded in Vietnam, can feel good about his accomplishments and he can feel proud that his place in history is secure. He will be known forever as the Secretary for Veterans' Affairs. He will be known as one of the best veterans' advocates the country has ever seen.

Here are some of the comments that veterans, their families, and veterans' advocates have shared with me since learning the news that Jesse is leaving the VA.

Jesse brought to the VA real experience, knowledge, and wisdom to prepare the VA for the 21st Century. We'll miss him.''—Bernie Melter, Commissioner, Minnesota Department of Veterans' Affairs.

Jesse Brown's commitment to veterans will never be questioned and his tenure as Secretary for Veterans Affairs will go down in history as the greatest advocate for veterans we'll ever see.—Duane Krueger, Vietnam veteran and Anoka County Veterans Service Officer.

Secretary Brown's departure is a major loss for all veterans. His advocacy for veterans was without regard to political affiliation and was based upon the fact that as a veteran you had earned your entitlement.—Wayne Sletten, Vietnam era veteran and Lake County Veterans' Service officer.

In my personal opinion Secretary Jesse Brown was the best leader of the VA we've ever had.—Chuck Milbrandt, Director, Minneapolis VA Medical Center.

At a time when my family was struggling to obtain my late husband's benefits for Agent Orange, Jesse took the time to personally review the case and ensure that we received all the benefits to which we were entitled. We owe a great debt of gratitude to Jesse Brown and his commitment to helping people.—Leesa Gilmore, widow of Vietnam Veteran Tim Gillmore.

Secretary Jesse Brown will be sorely missed by all of us at the St. Paul VA Regional Office and Insurance Center. He was a strong and fair leader and served as an excellent role model on how we ought to serve veterans and their dependents. We will miss his guidance, candor, and wit. We wish him the best of luck in future endeavors and know that he will continue to be a strong advocate for all veterans.—Ron Henke, Director, St. Paul VA Regional Office and Insurance Center.

These are some of the many people who have expressed their admiration and respect for Jesse Brown and who want to recognize his many achievements during his tenure in office.

For me, I will dearly miss working side-by-side with Jesse fighting for veterans and their families. Like veterans in Minnesota, he has been my teacher and today here in the U.S. Senate I am proud to honor him and thank him for his incredible service and wonderful friendship.

Mr. President, I ask my colleagues to join me in paying tribute to VA Secretary Brown and properly recognize him for his many years of service and commitment to the Nation and her veterans.

MEDICARE PROVISIONS VIOLATE BIPARTISAN BUDGET AGREEMENT

Mrs. MURRAY. Mr. President, as a Member of the Senate Budget Committee, I have spent the last four months in ongoing negotiations working towards the enactment of a real, balanced budget plan. I was part of the bipartisan negotiations that resulted in the historic balanced budget agreement. Getting to this agreement was not an easy task, but I realized that the need to get to balance was critical. I negotiated in good faith and believed that the final product was an equitable, fiscally sound agreement that did balance the budget without jeopardizing vital programs.

The agreement ensured the continued solvency of Medicare. It guaranteed that Medicare would remain an affordable health insurance program that provided quality health care for millions of senior citizens. The agreement also allowed for an expansion of health insurance for 10 million children that have no health insurance. It called for the largest investment in education in over 30 years and it would provide real tax relief for working families. While I still had some reservations about the agreement, I supported the package because I knew that in any good faith negotiation one can never expect to win on all points. It was not a perfect agreement and as I have said in the past, it is not the one that I would have produced. But, it was a bipartisan, fiscally sound balanced budget agreement.

The agreement called for $204 billion in net deficit reduction. This would be in addition to the over $200 billion in deficit reduction already accomplished as a result of the 1993 deficit reduction package. The agreement built on this successful deficit reduction package which resulted in 4 straight years of declining deficits. In 1993, the annual Federal deficit was close to $300 billion, for 1997 the Congressional Budget Office estimates that the deficit could fall to $70 billion. I was proud to be part of this deficit reduction effort and believed that we could get our fiscal house in order.

Following passage of S. Con. Res. 27, the FY98 Budget Resolution, which incorporated the balanced budget agreement, I was hopeful that a fair, equitable and fiscally sound balanced budget would be in place by the end of the year. I negotiated in good faith; I agreed to adhere to the agreement; and I was of the belief that my colleagues would do the same.

Unfortunately, the reconciliation spending measure adopted by the Senate, violates this bipartisan agreement. But, more importantly, it violates the commitment I made to my constituents when I was elected to the U.S. Senate.

One of the commitments I made to the people of Washington State was to work to expand affordable health care for all Americans. I am proud of the steps we have taken to improve access to health care for more Americans. Unfortunately, included in this reconciliation legislation is a provision that will deny affordable, quality health insurance for those Americans age 65 to 67. Increasing the Medicare eligibility age from 65 to 67 will deny affordable, quality health insurance for millions of Americans. I cannot in all good conscience support legislation that increases the number of uninsured Americans. We should be looking to reduce the numbers of Americans with no health security, not adding to it.

I did not come to this decision without a great deal of thought. I have listened to the debate on both sides of these issues. I cannot help but think about the impact that these provisions will have on senior citizens who have worked hard all of their lives and are now facing escalating health care costs and limited retirement income. I only need to think about my own parents to

truly understand what these changes mean to our senior citizens. When my father was diagnosed with M.S. my parents saw their insurance deductibles increase to $2,000 a piece overnight. Their premiums also increased dramatically every year. There was nothing that they could do as there were no other available health insurance plans that would cover my father. They were struggling to simply make their insurance payments and other basic life necessities. My father was desperate to turn 65 because he was not sure how much longer he could afford insurance or how much longer they would cover him. An additional two more years of skyrocketing premiums and deductibles would have financially devastated my parents. My father may have lost his insurance if he had to wait two additional years. He would have lost access to effective therapies for treating MS and slowing the progress of this crippling illness. As it was I know that there were times when my parents feared going to the doctors because of the impact on their deductible and premiums. Is this what we want for our parents?

My parents knew that once they reached 65 they would have some guarantee of affordable, quality health insurance. Prior to this, there simply was no guarantee. They knew that prior to 65 that were one illness away from financial disaster. If we act to increase the eligibility age to 67 there will be those seniors who face an even worse fate and will be at the mercy of insurance companies. They will see their retirement security jeopardized and their access to preventive health care gone. We should be encouraging greater access to preventive health care as it controls long term health care costs. Increasing the age to 67 will only make people sicker and poorer. I cannot support this type of outcome.

There is another troubling provision within the reconciliation package which, I might add was only introduced yesterday and was not part of the balanced budget agreement. With less than 24 hours to consider the implications, the Senate is ready to means test Part B premiums. Medicare premiums could climb to over $2,000 for senior citizens earning more than $50,000. The Social Security Administration would now have to know the exact income of every beneficiary for any given month.

The administrative burdens alone warrant further Congressional review. Additionally, adding to the cost of the administration of Social Security represents a direct attack on the Social Security Trust Fund. The means testing as proposed in the reconciliation package that the Senate adopted is unworkable.

There are simply too many questions regarding these provisions. We need more time and debate before we act to radically alter Medicare. Medicare remains one of the most successful antipoverty programs ever adopted by Congress. The popularity of this program speaks to the success of the program and the success of efforts to ensure health care security for our senior citizens. Enacting an increase in the eligibility age and means testing Part B premiums will do little to address the long term financial solvency issues. What it will do is undermine our commitment to senior citizens and jeopardize the success of the Medicare program.

We all know that real Medicare reforms are necessary. When the so-called baby boom generation begins to retire there will be a significant increase in Medicare enrollees. I am ready to face the challenge of enacting real comprehensive Medicare reforms. However, I am concerned that these two provisions including in the reconciliation package are being offered as some kind of panacea to real reform and will do little to address long term solvency concerns. Increasing the age for Medicare eligibility and the means testing proposal will do little to control Medicare costs, they will, however, devastate millions of senior citizens. This reconciliation bill is not the appropriate venue for significant Medicare changes. Reforming any program that serves over 33 million Americans requires a more cautious and thorough process.

I came to the debate hoping that at the very least we would remove these two provisions from the legislation. I supported amendment that would have conformed this reconciliation bill to the equitable provisions included in the balanced budget agreement. It now appears that this is unlikely and these two provisions will remain in the bill. I could not support any legislation that would jeopardize affordable, quality health care for millions of senior citizens.

It is truly unfortunate that we were not successful in eliminating these provisions as there are many aspects of this legislation that do adhere to the balanced budget agreement and could have positive fiscal, economic and social ramifications. But, I had to send the message that I could not support any legislation that jeopardizes Medicare.

It is difficult for me to vote no on this entire reconciliation package. This legislation will fix the devastating impact of welfare reform for disabled, low-income, legal immigrants. It provides an additional $16 billion for children's health care initiatives. It allows for an expansion of prevention benefits for Medicare beneficiaries. I am also pleased that the Managers accepted my amendment to clarify that States can waive victims of domestic violence from the punitive welfare reform requirements. I am grateful to the Chairman of the Budget Committee for accepting this important amendment and am disappointed that I cannot support the overall package.

I know that there is a very good chance that these problems could be addressed in Conference as they are not currently included in the reconciliation bill passed in the House. I will make every effort to ensure that these provisions do not survive Conference. I believe that if we can get back to the bipartisan agreement and good faith negotiations, we can still send to the President a balanced budget agreement that he can sign. If we have learned nothing else over the last two years, I sincerely hope that my Colleagues have learned that legislative accomplishments can only happen through honest, bipartisan efforts.

I reluctantly voted no on this reconciliation bill. I want my Colleagues to know that this bill is unacceptable and violates the bipartisan balanced budget agreement. If we can work in Conference to improve the bill and correct the unnecessary Medicare provisions I believe we would have a good balanced budget plan. I urge my Colleagues to put aside their philosophical differences and work to enact the historic balanced budget agreement.

THE COMMUNICATIONS DECENCY ACT

Mr. COATS. Mr. President, the Supreme Court decision against the Communications Decency Act marks a departure from precedent on indecency, and weakens the protection of children by our laws.

The Court, even in this decision, recognizes that Congress has a compelling interest in protecting the physical and psychological well-being of children. In the past, they took that standard to include indecency restrictions on every communications medium of our society—telephones, radio, television, bookstores, video shops.

But with today's decision, the Supreme Court has refused to apply that standard to protect a child on a computer in his or her own home. It argues, instead, that unrestricted access to indecency by adults on the Internet overrides any community interest in the protection of children.

In the Communications Decency Act, we gave a definition of indecency that was upheld by the Courts in case after case. Now the Supreme Court has apparently decided that this definition cannot be applied to the Internet. In other words, though an image displayed on a television screen would be indecent, an image displayed on a computer screen would not. It is difficult to understand how a child would understand the difference. It is the content, not the technology, that should concern us.

The Supreme Court did leave some room for Congress to redraft the CDA along less restrictive lines, but, in the process, creates a privileged place for computer indecency, safe from the laws we apply everywhere else in our society. So, under the Supreme Court's guidelines, it is permissible for an adult to send indecent material directly to a child by e-mail, but not to

speak the same indecency over the telephone. What an adult may not send a child through the U.S. mail, he may send a child via e-mail. This is inconsistent and incomprehensible. It is also now the official position of the U.S. Supreme Court.

What this Court is saying is that it recognizes indecency when it hears it on the radio, sees it on television, views it on a magazine rack, or overhears it on the telephone, but it does not recognize it on-line. Computer technology may be confusing to many of us, but it is not that confusing. The confusion lies with a Court that protects children from indecency everywhere but the one place most children want to be.

I expect that Congress will revisit this issue, within the restrictions provided by the Court. But parents must understand that the Internet has been declared an exception to every other American law on the provision of indecency to children. It is a place where the predators against your children's innocence have legal rights, announced by distinguished judges. Whatever its virtues, the Internet is not a safe place, without a parent's constant supervision.

The Supreme Court has actually suggested that the very industry which profits from the provision of this material be the guardians of your children's minds—that it regulate itself. It is nice to have the Supreme Court's extra-constitutional advice on these policy matters—though I don't know why it should be more binding than the will of the Congress. I expect that we will have to live with this advice. But I hope that parents will understand that the Supreme Court has not taken your side, or the side of your children, or the side of decency.

There are consequences of giving children free access to an adult culture with coarsened standards—consequences for their minds and souls and futures. Both the Congress and the President took those consequences seriously. The Supreme Court has not.

This Court, which chose yesterday to undermine religious liberty and influence, has now chosen to defend immediate, unrestricted access of children to indecency. This is part of a disturbing pattern.

The Supreme Court is actively disarming the Congress in the most important conflicts of our time—in defense of religious liberty and the character of children.

THE SUPREME COURT'S DECISION DECLARING UNCONSTITUTIONAL THE COMMUNICATIONS DECENCY ACT

Mr. LEAHY. Mr. President, The Supreme Court has made clear that we do not forfeit our First Amendment rights when we go on-line. This decision is a landmark in the history of the Internet and a firm foundation for its future growth. Altering the protections of the First Amendment for on-line communications would have crippled this new mode of communication.

The Communications Decency Act was misguided and unworkable. It reflected a fundamental misunderstanding of the nature of the Internet, and it would have unwisely offered the world a model of online censorship instead of a model of online freedom.

Vigilant defense of freedom of thought, opinion and speech will be crucially important as the Internet graduates from infancy into adolescence and maturity. Giving full-force to the First Amendment on-line is a victory for the First Amendment, for American technology and for democracy.

The Supreme Court posed the right question: ''Could a speaker confidently assume that a serious discussion about birth control practices, homosexuality . . . or the consequences of prison rape would not violate the CDA? This uncertainty undermines the likelihood that the CDA has been carefully tailored to the congressional goal of protecting minors from potentially harmful materials.''

Mixing government and politics with free speech issues often produces a corrosive concoction that erodes our constitutional freedoms. Congress should not be spooked by new technology into tampering with our old Constitution. Even well-intended laws for the protection of children deserve close examination to ensure that we are not stepping over constitutional lines. The Supreme Court observed:

> we have repeatedly recognized the governmental interest in protecting children from harmful materials. . . . But that interest does not justify an unnecessarily broad suppression of speech addressed to adults. As we have explained, the Government may not ''reduc[e] the adult population . . . to . . . only what is fit for children.' ''

As a recent editorial in Vermont's Times Argus succinctly noted: ''To obey this law, Internet users would have to avoid discussing matters routinely covered in books, magazines and newspapers. Who would want to drive on that kind of information superhighway?''

I sent child molesters to prison when I was a prosecutor, and I am a parent myself. I want no effort spared in finding and prosecuting those who exploit our children, and I want strong laws and strong enforcement to do that. But the CDA is the wrong answer, and I applaud the Court for its decision.

We can spend much time and energy in Congress trying to out-muscle each other to the most popular position on regulating the content of television programs or Internet offerings, and from all appearances, we probably will. We should take heed of the Supreme Court's decision today, however, and be wary of efforts to jump into regulating the content of any form of speech.

Congress did jump when confronted with the CDA. The Supreme Court takes pains in its decision to note at least three times in its opinion that this law was brought as an amendment on the floor of the Senate and passed as part of the Telecommunications Act, without the benefit of hearings, findings, or considered deliberation. As the Supreme Court noted in its decision, I cautioned against such speedy action at the time. Not surprisingly, the end result was passage of an unconstitutional law.

We should not be substituting the government's judgment for that of parents about what is appropriate for their children to access on-line. The Supreme Court pointed out excellent examples of how the CDA would have operated to do just that, noting:

> ''Under the CDA, a parent allowing her 17-year-old to use the family computer to obtain information on the Internet that she, in her parental judgment, deems appropriate could face a lengthy prison term . . . Similarly, a parent who sent his 17-year-old college freshman information on birth control via e-mail could be incarcerated even though neither he, his child, or anyone in their home community, found the material ''indecent'' or ''patently offensive,'' if the college town's community thought otherwise.''

I attended the Supreme Court's oral argument in this case and was concerned when several of the Justices asked about the ''severability'' clause in the CDA: They wanted to know how much of the statute could be stricken as unconstitutional and how much could be left standing. The majority of the Supreme Court resisted the temptation to do the job of Congress and judicially re-write the ''indecency'' and ''patently offensive'' provisions of the CDA to be constitutional. The Court said: ''This Court 'will not rewrite a . . . law to conform it to constitutional requirements.''

It is our job to write constitutional laws that address the needs and concerns of Americans. On this issue, our work is not done. There is no lack of criminal laws on the books to protect children on-line, including laws criminalizing the on-line distribution of child pornography and obscene materials and prohibiting the on-line harassment, luring and solicitation of children for illegal sexual activity. Protecting children, whether in cyberspace or physical space, depends on aggressively enforcing these existing laws and supervising children to ensure they do not venture where the environment is unsafe. This will do more—and more effectively—than passing feel-good, unconstitutional legislation.

But, as I said, our work is not done. The CDA became law because of the genuine concern of many Americans about the inappropriate material unquestionably accessible to computer-savvy children over the Internet. Parents, teachers, librarians, content providers, on-line service providers and policy-makers need to come together to find effective ways to address this concern. I have long believed that we need to put the emphasis where it would be most effective: on parental

and user empowerment tools to control the information that children may access on-line. I applaud the efforts already underway to bring concerned groups together to define steps we can take to make the on-line world a comfortable one for families.

Also, we should now remove the unconstitutional CDA provisions from our law books. At the beginning of this Congress, Senators FEINGOLD, JEFFORDS, KERRY and I introduced a bill, S. 213, to repeal the Internet censorship provisions of the CDA. We should move promptly to pass that measure.

One of the continuing challenges we will face in making the best use of our burgeoning information technologies is in adding value to all that they offer. Anyone who uses the Internet knows that there is a lot of junk out there. For example, student searching for background on the Holocaust may easily come across diatribes on the Internet claiming that the Holocaust never happened. In our classrooms, in our homes, in our libraries, we must teach our children to be discerning users of this powerful new tool.

We are blessed in the United States to enjoy the oldest and most effective constitutional protections of free speech anywhere. The struggle facing succeeding generations of Americans in preserving free speech liberties often is difficult, and it means standing firm in the face of sometimes fleeting but usually intense political pressures, and I am proud of the 15 Senators who joined with me to vote against the CDA. This is a vindication of that effort.

We have the technology and the temperament to show the world how the Internet can be used to its fullest. This decision has prevented us from succumbing to short-sighted political pressures by adopting a model of censorship instead.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, June 25, 1997, the federal debt stood at $5,339,644,139,769.58. (Five trillion, three hundred thirty-nine billion, six hundred forty-four million, one hundred thirty-nine thousand, seven hundred sixty-nine dollars and fifty-eight cents)

One year ago, June 25, 1996, the federal debt stood at $5,114,149,000,000. (Five trillion, one hundred fourteen billion, one hundred forty-nine million)

Five years ago, June 25, 1992, the federal debt stood at $3,944,282,000,000. (Three trillion, nine hundred forty-four billion, two hundred eighty-two million)

Ten years ago, June 25, 1987, the federal debt stood at $2,292,504,000,000. (Two trillion, two hundred ninety-two billion, five hundred four million)

Fifteen years ago, June 25, 1982, the federal debt stood at $1,070,485,000,000 (One trillion, seventy billion, four hundred eighty-five million) which reflects a debt increase of more than $4 trillion—$4,269,159,139,769.58 (Four trillion, two hundred sixty-nine billion, one hundred fifty-nine million, one hundred thirty-nine thousand, seven hundred sixty-nine dollars and fifty-eight cents) during the past 15 years.

DELAYING THE LOAN TO CROATIA

Mr. BIDEN. Mr. President, I rise today in support of delaying a World Bank loan to Croatia until that country fully meets the obligations it agreed to when it signed the Dayton Accords in November 1995.

Two days ago, the Clinton administration announced that it would attempt to block a $30 million World Bank loan to Croatia until Zagreb extradites Croats indicted on war crimes charges and allows Serbian refugees to return to their homes in Croatian territory.

It appears that we may have difficulty in persuading other countries on the World Bank's board to go along with this postponement, but I believe that the United States should stick to its principles.

Mr. President, the horrifying wars that took place in Bosnia and Croatia from 1991 to 1995 had many and complex causes. One of them was the thinly disguised desire of Serbian President Milosevic and Croatian President Tudjman to carve up Bosnia and Herzegovina. The revolt and temporary secession from Croatia by the Krajina Serbs—who themselves were led by extremely unsavory individuals who also carried out atrocities—interrupted the planned cooperation of the two rapacious strongmen in Belgrade and Zagreb.

There is also no doubt, Mr. President, that the Croatian army—trained by private Americans—played a valuable role in turning the tide in Bosnia and Herzegovina in the summer and fall of 1995 as part of its successful campaign to oust the Krajina Serbs from Croatia.

But, Mr. President, the behavior of President Tudjman since then has been deplorable. He has knowingly coddled indicted war criminals, despite his obligation under Dayton to turn them over to the International Tribunal at The Hague. On numerous other occasions, I have spoken out in this Chamber against the atrocities—murder, rape, and vile ''ethnic cleansing''—that were perpetrated against innocent civilians in Bosnia.

Most expert observers believe that Bosnian Serbs were responsible for the majority of these heinous acts. But several Bosnian Croats and some Croats from Croatia apparently were among the sadists, as were a few Muslims. That President Tudjman refuses to hand over the indicted who are living in Croatia is an affront to civilized people everywhere, and a direct slap in the face of the United States, which brokered the Dayton Accords.

Moreover, despite pretty rhetoric and laws on the books, Tudjman has thrown up practical roadblocks to the resettlement of ethnic Serb refugees, preferring instead to govern a Croatia that is now much more ethnically homogeneous. I should add, Mr. President, that ethnic Croats who were displaced by Serbs earlier in this decade should also be allowed to return to their homes. Our goal is a peaceful, multi-ethnic, democratic Croatia.

In Herzegovina, President Tudjman continues to rule through thuggish ethnic Croatian proxies headquartered in Mostar. These lawless types have refused all international attempts to integrate Mostar and have resorted to deadly violence against Muslims.

In addition, despite their Bosnian citizenship, the Croats of Herzegovina were allowed to vote in Croatia's national elections earlier this month, providing much of the support by which Tudjman was re-elected in a campaign distinguished by his nearly one-sided access to the media and violence against opposition candidates.

Mr. President, I firmly believe that Croatia will some day re-enter the Western European community to which it alleges it belongs. But Croatia cannot even think of becoming a member of Western institutions like the European Union or NATO until it lives up to its moral and legal commitments.

Postponing the World Bank loan to Croatia would serve as a useful warning to President Tudjman that he cannot escape the consequences of his authoritarian and duplicitous behavior.

I thank the Chair and yield the floor.

JUDICIAL VACANCIES

Mr. LEAHY. Mr. President, last week I spoke at some length about the crisis being created by our failure to move forward expeditiously to fill longstanding judicial vacancies. This week, we have the opportunity to double our confirmations by taking up and approving the five judicial nominees on the Senate Executive Calendar. As the Senate approaches its fifth extended recess, it have found time to confirm only five Federal judges of the 38 nominees the President has sent to us. That is less than one judge per month.

We continue to fall farther and farther behind the pace established by Senator Dole and Senator HATCH in the last Congress. By this time 2 years ago, Senator HATCH had held six confirmation hearings involving 26 judicial nominees and the Senate had proceeded to confirm 26 Federal judges by the end of June—during one of the busiest periods ever, during the first 100 days of the Republicans' Contract with America.

I have spoken often about the crisis being created by the 100 vacancies that are being perpetuated on the Federal courts around the country, as has the Chief Justice of the United States. At the rate that we are currently going more and more vacancies are continuing to mount over longer and longer times to the detriment of greater numbers of Americans and the national cause of prompt justice.

There are another five highly-qualified judicial nominees on the Senate calendar. They should not be held hostage to the resolution of other disputes. I urge the Republican leadership not to use the judiciary as a political pressure point or to involve the judiciary in disagreement over other matters. I would hope that the Senate would move to confirm these five additional judges this week before we adjourn for the 4th of July.

OCEAN SHIPPING REFORM ACT OF 1997

Mr. LOTT. Mr. President, the Ocean Shipping Reform Act of 1997 is a continuation and extension of work initiated in the last Congress by Representative BUD SHUSTER and former Senator Larry Pressler. Their goal was to build a fair and responsible balance in America's international container shipping maritime policy. The purpose was to better reflect the modern maritime marketplace. Unfortunately, it was not achieved because we ran out of time.

In the 105th Congress, a bipartisan group of Senators from the Commerce Committee introduced a modified version of the Ocean Shipping Reform bill. It addressed many of the concerns with last year's bill identified by affected stakeholders. Our plan to move this shipping reform legislation forward has been inclusive, simple, and direct. Under the leadership of Senator HUTCHISON, and working in a bipartisan way, we have developed a bill that reflects a broad consensus. Most stakeholders in this industry are comfortable with it. This doesn't mean they each got everything they wanted. It does mean that a balance was achieved between what they desired and what the other stakeholders would accept. A real compromise. In this Congress, we have worked hard to achieve a consensus, and we will work even harder to keep it.

This bill is not perfect. But the process has been excellent. The Commerce Committee held a hearing and a markup, and innumerable meetings with all affected parties. And throughout the process Senator MCCAIN's staff has made the various iterations of the legislation publicly available. This transparency was important to reaching the compromise.

Mr. President, I believe that it implements real change that will benefit America's ocean shipping industry. When passed and signed into law, S. 414 will help foster the many benefits of increased competition that this industry sorely needs and wants.

Mr. President, it will also merge the Federal Maritime Commission with the Surface Transportation Board to create the United States Transportation Board (USTB) which will ultimately provide an independent federal transportation regulatory board which thinks and acts on intermodal issues.

Mr. GORTON. Mr. President, I appreciate the Majority Leader's efforts to work with me on this important legislation. I also want to thank him for his efforts to address the concerns of all the interested parties involved in the ocean shipping industry. I identified three areas in the bill we passed in Committee that were of particular concern to me and that I wanted addressed before the bill was taken to the full Senate. The Leader has worked diligently to address my concerns. I too believe this reform is desperately needed. I am pleased that the committee took the extra time after the markup to complete the work on this bill. An agreement was reached that the majority of America's shipping stakeholders can accept: the ports, longshore labor, shippers, and carriers.

Mr. LOTT. The stakeholders wanted more. I wanted more. I know my colleagues wanted more. My friend Mr. GORTON was explicit in his desire for more reform.

Mr. GORTON. I agree with the Leader. This bill is not perfect and it does not accomplish every reform that I want to see for this industry. But I believe it is a significant improvement over the status quo. I do recognize that Mrs. HUTCHISON's approach was to make change incrementally and accept compromises to successfully move this bill forward and bring it to the floor.

Mr. LOTT. I appreciate Senator GORTON's candor and his support for both the process and the bill. And, I appreciated Senator GORTON's willingness to accept compromise in order to reach a consensus which enables this bill to move forward.

Mr. President, I know that during the markup, Senator GORTON expressed strong reservations about the bill. He made it clear that three issues needed to be addressed prior to a vote on the floor. And, a collaborative effort was used to try to accommodate these changes. Mr. President, two of the three issues were incorporated into the bill. The negotiations were tough, but all stakeholders worked together in an open and honest fashion to reach a consensus on this reform legislation.

Mr. GORTON. Let me take a moment to briefly review my concerns. First, I requested that certain discrimination prohibitions concerning service contracts be applied to carriers only when they are working together, not when they are operating as individual companies.

Second, I sought to amend the forest products definition to incorporate certain products, such as laminated beams or panels.

And third, I wanted shippers and carriers to be able to keep confidential the essential terms of their service contracts. Since the markup, there has been a sincere effort by all parties to work with me.

Mr. President, throughout this consensus building process, the Committee was dedicated to working through my concerns, and I believe that the Majority Leader did his best.

Common ground was found on the first two of my concerns. I appreciate the modification of the service contract discrimination provisions so that they apply only to carriers when they work collectively. This modification is particularly important to me and to my shippers in Washington state.

I also appreciate that the definition of forest products was modified as I requested.

Regrettably, we were unable to reach an agreement on the confidentiality for service contracts. We explored the idea of not requiring carriers to publish information regarding volume, but this, unfortunately, was rejected.

Mr. President, I would like to reserve the right to address the confidentiality issue in an amendment when the full Senate considers this bill.

Mr. LOTT. Mr. President, I appreciate Senator GORTON's kind words, and recognize his right to continue to advocate for the confidentiality provision. However, I am convinced that any further reduction in service contract reporting provisions would erode the broad consensus achieved by the Committee for this bill.

Mr. President, we must remember that when the Committee set out to develop this legislation, we agreed to move forward incrementally and work to keep a broad consensus.

And, I want more reform, but I also want a bill.

I look forward to a vigorous debate on the service contract reporting provision if Senator GORTON decides to bring an amendment to the floor. Let me be clear. I will not support such an amendment because I believe that in the end, it would erode support for final passage of this important maritime legislation.

Mr. President, I want all our colleagues to thank Senator GORTON for his fine work on this bill. He has challenged us to improve the bill, and in doing so, he has expanded the reforms it provides. This is good for America. This is good for America's container shipping industry. This is good for the great state of Washington.

Mr. President, I ask our colleagues to support our bill to accomplish meaningful reform in this important maritime industry.

Mr. President, one final comment, I pledge to bring this bill to the floor in this session of the 105th Congress. It is overdue. It is bipartisan. It is supported by all stakeholders of the maritime industry.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT CONCERNING THE NATIONAL EMERGENCY WITH RESPECT TO LIBYA—MESSAGE FROM THE PRESIDENT—PM 48

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

I hereby report to the Congress on the developments since my last report of January 10, 1997, concerning the national emergency with respect to Libya that was declared in Executive Order 12543 of January 7, 1986. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c); section 204(c) of the International Emergency Economic Powers Act (''IEEPA''), 50 U.S.C. 1703(c); and section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa–9(c).

1. As previously reported, on January 2, 1997, I renewed for another year the national emergency with respect to Libya pursuant to the IEEPA. This renewal extended the current comprehensive financial and trade embargo against Libya in effect since 1986. Under these sanctions, virtually all trade with Libya is prohibited, and all assets owned or controlled by the Libyan government in the United States or in the possession or control of U.S. persons are blocked.

2. There have been no amendments to the Libyan Sanctions Regulations, 31 C.F.R. Part 550 (the ''Regulations''), administered by the Office of Foreign Assets Control (OFAC) of the Department of the Treasury, since my last report on January 10, 1997.

3. During the last 6-month period, OFAC reviewed numerous applications for licenses to authorize transactions under the Regulations. Consistent with OFAC's ongoing scrutiny of banking transactions, the largest category of license approvals (68) concerned requests by non-Libyan persons or entities to unblock transfers interdicted because of what appeared to be Government of Libya interests. Two licenses authorized the provision of legal services to the Government of Libya in connection with actions in U.S. courts in which the Government of Libya was named as defendant. Licenses were also issued authorizing diplomatic and U.S. government transactions and to permit U.S. companies to engage in transactions with respect to intellectual property protection in Libya. A total of 75 licenses were issued during the reporting period.

4. During the current 6-month period, OFAC continued to emphasize to the international banking community in the United States the importance of identifying and blocking payments made by or on behalf of Libya. The office worked closely with the banks to assure the effectiveness in interdiction software systems used to identify such payments. During the reporting period, more than 100 transactions potentially involving Libya were interdicted.

5. Since my last report, OFAC collected 13 civil monetary penalties totaling nearly $90,000 for violations of the U.S. sanctions against Libya. Ten of the violations involved the failure of banks to block funds transferred to Libyan-controlled financial institutions or commercial entities in Libya. Three U.S. corporations paid the OFAC penalties for export violations as part of the global plea agreements with the Department of Justice. Sixty-seven other cases are in active penalty processing.

6. Various enforcement actions carried over from previous reporting periods have continued to be aggressively pursued. Numerous investigations are ongoing and new reports of violations are being scrutinized.

7. The expenses incurred by the Federal Government in the 6-month period from January 7 through July 6, 1997, that are directly attributable to the exercise of the powers and authorities conferred by the declaration of the Libyan national emergency are estimated at approximately $660,000,00. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the Office of the General Counsel, and the U.S. Customs Service), the Department of State, and the Department of Commerce.

8. The policies and the actions of the Government of Libya continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. In adopting United Nations Security Council Resolution 883 in November 1993, the Security Council determined that the continued failure of the Government of Libya to demonstrate by concrete actions its renunciation of terrorism, and in particular its continued failure to respond fully and effectively to the requests and decisions of the Security Council in Resolutions 731 and 748, concerning the bombing of the Pan Am 103 and UTA 772 flights, constituted a threat to international peace and security. The United States will continue to coordinate its comprehensive sanctions enforcement efforts with those of other U.N. member states. We remain determined to ensure that the perpetrators of the terrorist acts against Pan Am 103 and UTA 772 are brought to justice. The families of the victims in the murderous Lockerbie bombing and other acts of Libyan terrorism deserve nothing less. I shall continue to exercise the powers at my disposal to apply economic sanctions against Libya fully and effectively, so long as those measures are appropriate, and will continue to report periodically to the Congress on significant developments as required by law.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 26, 1997.*

REPORT CONCERNING THE CORPORATION FOR PUBLIC BROADCASTING—MESSAGE FROM THE PRESIDENT—PM 49

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation.

To the Congress of the United States:

In accordance with the Communications Act of 1934, as amended (47 U.S.C. 396(i)), I transmit herewith the Annual Report of the Corporation for Public Broadcasting for Fiscal Year 1996 and the Inventory of the Federal Funds Distributed to Public Telecommunications Entities by Federal Departments and Agencies: Fiscal Year 1996.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 26, 1997.*

MESSAGES FROM THE HOUSE

At 12:44 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 108. Concurrent resolution providing for an adjournment or recess of the two Houses.

At 6:59 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2014. An act to provide for reconciliation pursuant to subsections (b)(2) and (d) of section 105 of the concurrent resolution on the budget for fiscal year 1998.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 105. Concurrent resolution expressing the sense of the Congress relating to the elections in Albania scheduled for June 29, 1997.

ENROLLED BILL SIGNED

At 7:37 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 1553. An act to amend the President John F. Kennedy Assassination Records Collection Act of 1992 to extend the authorization of the Assassination Records Review Board until September 30, 1998.

ENROLLED BILL SIGNED

The following enrolled bills, previously signed by the Speaker of the House, were signed on June 26, 1997, by the President pro tempore (Mr. THURMOND):

H.R. 1306. An act to amend the Federal Deposit Insurance Act to clarify the applicability of host State laws to any branch in such State of an out-of-State bank.

H.R. 1902. An act to immunize donations made in the form of charitable gift annuities and charitable remainder trusts from the antitrust laws and State laws similar to the antitrust laws.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2336. A communication from the Congressional Review Coordinator of the Marketing and Regulatory Programs, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, a rule entitled ''Importation of Beef from Argentina'' (RIN0579-AA71) received on June 24, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2337. A communication from the Administrator, U.S. Agency for International Development, transmitting, pursuant to law, a report relative to the appropriated funds as of March 31, 1997; to the Committee on Foreign Relations.

EC–2338. A communication from the Assistant Secretary of Legislative Affairs, U.S. Department of State, transmitting, pursuant to law, a report for the period April 1, 1996 to September 30, 1996; to the Committee on Foreign Relations.

EC–2339. A communication from the Assistant Secretary of Legislative Affairs, U.S. Department of State, transmitting, pursuant to law, a notice of proposed issuance of an export license; to the Committee on Foreign Relations.

EC–2340. A communication from the Assistant Secretary of Legislative Affairs, U.S. Department of State, transmitting, pursuant to law, a proposed license for the export of defense articles; to the Committee on Foreign Relations.

EC–2341. A communication from the Assistant Secretary of Legislative Affairs, U.S. Department of State, transmitting, pursuant to law, a proposed Manufacturing License Agreement with the United Kingdom; to the Committee on Foreign Relations.

EC–2342. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report for H.R. 1871; to the Committee on the Budget.

EC–2343. A communication from the Chief of the Regulations Unit, Office of Chief Counsel, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, a report of Revenue Rule 97–28, received on June 25, 1997; to the Committee on Finance.

EC–2344. A communication from the U.S. Trade Representative, Executive Office of the President, transmitting, a draft of proposed legislation entitled ''United States-Caribbean Basin Trade Enhancement Act''; to the Committee on Finance.

EC–2345. A communication from the U.S Trade Representative, Executive Office of the President, transmitting, a draft of proposed legislation relative to the Generalized System of Preferences Reauthorization Act; to the Committee on Finance.

EC–2346. A communication from the U.S. Trade Representative, Executive Office of the President, transmitting, a draft of proposed legislation relative to the OECD Shipbuilding Trade Agreement Act; to the Committee on Finance.

EC–2347. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, a report of a rule relative to Announcement 97-61; to the Committee on Finance.

EC–2348. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, a report of a rule relative to Notice 97-35; to the Committee on Finance.

EC–2349. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, a report of a rule relative to Revenue Procedure 97-30, received on June 23, 1997; to the Committee on Finance.

EC–2350. A communication from the Secretary of Labor, transmitting, pursuant to law, a report relative to funds under the Trade Act of 1974; to the Committee on Finance.

EC–2351. A communication from the Director of Regulations Policy, Management Staff, Office of Policy, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, a rule entitled ''Thermally Processed Low-Acid Foods'' received on June 23, 1997; to the Committee on Labor and Human Resources.

EC–2352. A communication from the Administrator of the U.S. Environmental Protection Agency, transmitting, pursuant to law, a report on the implementation of the Waste Isolation Pilot Plant Land Withdrawal Act; to the Committee on Energy and Natural Resources.

EC–2353. A communication from the Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, the report of a study to evaluate the use of sick leave for family care or bereavement purposes; to the Committee on Governmental Affairs.

EC–2354. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a report relative to two violations of the Antideficiency Act; to the Committee on Appropriations.

EC–2355. A communication from the Secretary of Veterans Affairs, transmitting, a draft of proposed legislation relative to benefits for children of Vietnam Veterans born with spina bifida; to the Committee on Veterans' Affairs.

EC–2356. A communication from the Secretary of Veterans Affairs, transmitting, a draft of proposed legislation relative to the disability pension program; to the Committee on Veterans' Affairs.

EC–2357. A communication from the Office of the Secretary, U.S. Department of the Interior, transmitting, a draft of proposed legislation relative to reduce the fractioned ownership of Indian lands; to the Committee on Indian Affairs.

EC–2358. A communication from the Attorney for National Council of Radiation Protection and Measurements, transmitting, pursuant to law, the report of financial statements for calendar year 1996; to the Committee on the Judiciary.

EC–2359. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the rule entitled ''Regulation D'' received on June 24, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–2360. A communication from the Director of the Office of the Secretary of Defense, transmitting, pursuant to law, a rule entitled ''DoD Freedom of Information Act Program'' received on June 24, 1997; to the Committee on Armed Services.

EC–2361. A communication from the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–83 adopted by the Council on May 5, 1997; to the Commitee on Governmental Affairs.

EC–2362. A communication from the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–84 adopted by the Council on May 6, 1997; to the Commitee on Governmental Affairs.

EC–2363. A communication from the Inspector General, U.S. General Services Administration, transmitting, pursuant to law, a report under the Inspector General's Act for the period October 1, 1996 to March 31, 1997; to the Committee on Governmental Affairs.

EC–2364. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to the National Defense Stockpile Requirements for 1997; to the Committee on Armed Services.

EC–2365. A communication from the Secretary of Defense, transmitting, a notice relative to the retirement of Lieutenant General John E. Miller; to the Committee on Armed Services.

EC–2366. A communication from the Secretary of Defense, transmitting, pursuant to law, a report under the Cooperative Threat Reduction project; to the Committee on Armed Services.

EC–2367. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to the National Defense Authorization Act for Fiscal Year 1995; to the Committee on Armed Services.

EC–2368. A communication from the Senior Deputy Assistant Administrator, Bureau for Legislative and Public Affairs, U.S. Agency for International Development, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–2369. A communication from the Acting Administrator, Farm Service Agency, U.S. Department of Agriculture, transmitting, pursuant to law, a rule relative to the Livestock Indemnity Program (RIN0506–AF15), received on June 26, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2370. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, transmitting, pursuant to law, a rule relative to scallop harvest and crab limits (RIN0648-AF81), received on June 26, 1997; to the Committee on Commerce, Science, and Transportation.

EC–2371. A communication from the Assistant General Counsel for Regulations, U.S. Department of Education, transmitting, pursuant to law, a report relative to funding priority for the Office of Special Education and Rehabilitative Services; to the Committee on Labor and Human Resources.

EC–2372. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report under the Old Americans Act relative to the Aging Annual Report for Fiscal Year 1996; to the Committee on Labor and Human Resources.

EC–2373. A communication from the Assistant Secretary of Legislative Affairs, U.S. Department of State, transmitting, pursuant to law, a proposed license relative to the export of defense equipment under the Arms Export Control Act; to the Committee on Foreign Relations.

EC–2374. A communication from the Assistant Secretary of Legislative Affairs, U.S. Department of State, transmitting, pursuant to law, a proposed manufacturing license relative to Saudi Arabia's armored vehicles under the Arms Export Control Act; to the Committee on Foreign Relations.

EC–2375. A communication from the Assistant Secretary of Legislative Affairs, U.S. Department of State, transmitting, pursuant to law, a proposed license for export defense equipment under the Arms Export Control Act; to the Committee on Foreign Relations.

EC–2376. A communication from the Assistant Secretary of Legislative Affairs, U.S. Department of State, transmitting, pursuant to law, a proposed license for the export of defense articles under the Arms Export Control Act; to the Committee on Foreign Relations.

EC–2377. A communication from the Assistant Secretary of Legislative Affairs, U.S. Department of State, transmitting pursuant to law, a proposed approval for exports to the United Kingdom under the Arms Export Control Act; to the Committee on Foreign Relations.

EC–2378. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on the youth programs of the Family and Youth Services Bureau for fiscal year 1995; to the Committee on the Judiciary.

EC–2379. A communication from the Secretary of Veterans' Affairs, transmitting, pursuant to law, the report on the valuation of VA's portfolio of loans, notes, and guarantees, and other collateralized debts; to the Committee on Veterans' Affairs.

EC–2380. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on highway signs for the National Highway System; to the Committee on Environment and Public Works.

EC–2381. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, five rules including a rule entitled Tebuconazole (FRL–5849–2, 5838–7, 5718–7, 5720–4, 5725–7) received on June 24, 1997; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 231. A bill to establish the National Cave and Karst Research Institute in the State of New Mexico, and for other purposes (Rept. No. 105–37).

S. 423. A bill to extend the legislative authority for the Board of Regents of Gunston Hall to establish a memorial to honor George Mason (Rept. No. 105–38).

S. 669. A bill to provide for the acquisition of the Plains Railroad Depot at the Jimmy Carter National Historic Site (Rept. No. 105–39).

S. 731. A bill to extend the legislative authority for construction of the National Peace Garden memorial, and for other purposes (Rept. No. 105–40).

By Mr. THOMPSON, from the Committee on Governmental Affairs, without amendment:

H.R. 173. A bill to amend the Federal Property and Administrative Services Act of 1949 to authorize donation of surplus Federal law enforcement canines to their handlers.

H.R. 680. A bill to amend the Federal Property and Administrative Services Act of 1949 to authorize the transfer to States of surplus personal property for donation to nonprofit providers of necessaries to impoverished families and individuals.

S. 307. A bill to amend the Federal Property and Adminstrative Services Act of 1949 to authorize the transfer to States of surplus personal property for donation to nonprofit providers of assistance to impoverished families and individuals, and for other purposes.

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

S. 833. A bill to designate the Federal building courthouse at Public Square and Superior Avenue in Cleveland, Ohio, as the ''Howard M. Metzenbaum United States Courthouse.''

By Mr. THOMPSON, from the Committee on Governmental Affairs, without amendment:

S. 861. A bill to amend the Federal Property and Administrative Services Act of 1949 to authorize donation of Federal law enforcement canines that are no longer needed for official purposes to individuals with experience handling canines in the performance of law enforcement duties.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

IN THE ARMY

The following-named officer for appointment in the U.S. Army, to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. David J. Kelley, 0000

IN THE ARMY

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Randolph W. House, 0000

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MURKOWSKI:

S. 964. A bill to direct a property conveyance in the State of California; to the Committee on Energy and Natural Resources.

S. 965. A bill to amend title II of the Hydrogen Future Act of 1996 to extend an authorization contained therein, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BREAUX:

S. 966. A bill to provide legal standards and procedures for suppliers of raw materials and component parts for medical devices and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 967. A bill to amend the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act to benefit Alaska natives and rural residents, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MACK:

S. 968. A bill to provide for special immigrant status for certain aliens working as journalists in Hong Kong; to the Committee on the Judiciary.

By Mr. D'AMATO (for himself, Mr. CHAFEE, and Mr. TORRICELLI):

S. 969. A bill ordering the preparation of a Government report detailing injustices suffered by Italian Americans during World War II, and a formal acknowledgement of such injustices by the President; to the Committee on the Judiciary.

By Mr. CONRAD (for himself and Mr. BUMPERS):

S. 970. A bill to amend the Immigration and Nationality Act to exempt certain aliens who work for the Department of Veterans Affairs from the requirement that they work only in areas designated as having a shortage of health-care professionals; to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself and Mr. TORRICELLI):

S. 971. A bill to amend the Federal Water Pollution Control Act to improve the quality of coastal recreation waters, and for other purposes; to the Committee on Environment and Public Works.

By Mr. REED (for himself, Mr. CHAFEE, Mr. COATS, and Mr. INHOFE):

S. 972. A bill to amend the Internal Revenue Code of 1986 to prohibit any deduction for gambling losses; to the Committee on Finance.

By Mr. REED (for himself and Mr. CHAFEE):

S. 973. A bill to designate the United States Post Office building located at 551 Kingstown Road in Wakefield, Rhode Island, as the ''David B. Champagne Post Office Building''; to the Committee on Governmental Affairs.

By Mr. REED:

S. 974. A bill to amend the Immigration and Nationality Act to modify the qualifications for a country to be designated as a visa waiver pilot program country; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MURKOWSKI:

S. 964. A bill to direct a property conveyance in the State of California; to the Committee on Energy and Natural Resources.

THE WARD VALLEY LAND TRANSFER ACT

Mr. MURKOWSKI. Mr. President, today I rise to introduce legislation designed to end an impasse that we've endured for far too long—the stalemate over the Ward Valley low-level radioactive waste facility and efforts to implement an important Federal law—the low level radioactive waste policy amendments.

I am doing this today because of documents that have recently come to light under the Freedom of Information Act and due to the continuing differences between the words spoken under oath by a Presidential nominee before my committee and his actions to date.

For more than 10 years, the State of California acting in complete accordance with Federal law and in cooperation with responsible Federal agencies, has been attempting to open a low-level radioactive waste repository at a Mojave Desert site in Ward Valley.

The long, tortured process costing more that $40 million has included a statewide search resulting in the selection of a virtually unpopulated desert valley; two environmental impact statements under the National Environmental Policy Act; two biological opinions under the Endangered Species Act; and judicial review including the California Supreme Court.

From the outset, the State has been dogged by the lawsuits and protests of a small fringe group of activists.

But in the end, California has met every test.

Ward Valley was found to be safe, and the State issued a license containing more than 130 carefully developed safety and environmental stipulations.

Consistent with its own independent evaluations, the Department of the Interior agreed to sell the land to California for the Ward Valley site in January 1993.

But shortly thereafter, the Department of the Interior abruptly reversed itself, demanding a series of discretionary studies and reviews that, 4 years later, still have no end in sight.

Specifically, the Department of the Interior asked the National Academy of Sciences to review seven technical issues related to the site.

In May 1995, the Academy's report was released. The report was highly favorable to the site selection and each of the seven issues. As a consequence, Interior Secretary Babbitt indicated that he intended to transfer the site.

Two more months passed.

On July 27, 1995, the President's nominee to be the Deputy Secretary of the Interior, Mr. John Garamendi, appeared before the Energy and Natural Resources Committee and testified under oath, that the Ward Valley issue ''will be satisfactorily culminated shortly * * * and I believe it should be.''

With that testimony in mind, I recently reviewed documents made available under the Freedom of Information Act.

With the benefit of those documents and other evidence of the systematic delay fostered by the Department of the Interior to block Ward Valley, I have reached the sad conclusion that Congress must intervene to end this stalemate.

Before I go into the disturbing history of this issue and the content of the documents uncovered by the Freedom of Information Act request, some background is important.

There is a tremendous difference between low level radioactive waste and the spent fuel issue the Senate has been debating over the past 2 weeks.

Spent fuel, of course, is the high level waste from nuclear power reactors.

Low level radioactive waste, on the other hand, is composed of items such as medical gowns, biomedical wastes, filters, resins and similar wastes generated from cancer treatment, biomedical research, and other activities.

Low level radioactive waste is generated during cutting-edge research that may help us find a cure for AIDS.

Low level radioactive waste is generated from the development of new drugs and cancer therapies.

Low level radioactive waste is generated by the high tech and biotech industry in the quest for new products and services that will be at the foundation of our 21st century economy.

While it also includes waste from nuclear power production, Congress wisely placed specific limits on the levels which are a State responsibility.

When the Senate was debating the fate of high-level spent fuel, we clearly had a situation where the State of Nevada opposed a repository. The Governor of Nevada opposed it.

But the low level waste issue is vastly different. Governor Wilson of California supports Ward Valley.

The State of California has been working on plans open a low level waste repository in California for the past decade.

They have done so in complete accordance with Federal law, which assigns responsibility for disposal of a specified portion of low level radioactive waste to the States.

Governor Wilson understands that thousands of jobs in California, particularly among the high-tech and biotech industries, absolutely depend on having dependable access to a safe, secure facility for low level radioactive waste.

Governor Wilson understands that countless lives might be saved through the cancer breakthrough or AIDS cure that the use of radioactive materials might bring.

Governor Wilson also understands that low level radioactive waste is currently being stored at hundreds of urban locations all across California.

It's being stored in basements and in parking lot trailers.

It's being stored in warehouses and temporary shelters.

It's on college campuses, in residential neighborhoods, and in hospitals.

And as long as the waste is in these temporary locations in populated areas, it is subject to accidental radioactive releases from fire, earthquakes, and floods.

Governor Wilson is understandably concerned about the health and safety of Californians. He is frustrated by the delays California has faced in trying to get this facility open.

So am I.

I am frustrated by the fact that the President's nominee to be the Deputy Secretary of the Interior, Mr. John Garamendi, appeared before the Energy and Natural Resources Committee on July 27, 1995 and testified under oath, that the Ward Valley issue should and would be quickly resolved.

After that testimony, seven months passed.

Nothing happened.

On February 15, 1996, Deputy Secretary Garamendi indicated that ''new information'' related to a different low-level radioactive waste site at Beatty, Nevada, required further testing at the Ward Valley site and the preparation of yet another Supplemental Environmental Impact Statement (SEIS).

Literally one day before his announcement, the Director of the U.S. Geological Survey said that linkages between the Beatty site and Ward Valley were ''too tenuous to have much scientific value.''

But the Deputy Secretary ignored the Director's scientific advice. In a public news conference, Deputy Secretary Garimendi indicated that the additional testing would take about four months, and that the preparation of a Supplemental Environmental Impact Statement (SEIS) would take about a year.

On August 5, 1996, months after we expected the testing to be complete, an official of the lab Interior selected to perform the testing said, ''Interior Department officials have yet to submit a work plan . . . on the testing they want done.''

During this same time frame, Interior Department officials were distributing documents to the public containing factually incorrect information taken verbatim from Ward Valley opponents, even though accurate information was readily available from the Department of Energy.

It now appears that Interior made no effort to check the facts with DOE with respect to the veracity of the information it was providing to the public.

Recently, the Governor of California made me aware of documents he obtained through Freedom of Information Act (FOIA) requests. These documents reveal the following:

Despite the understandable lack of radiological expertise resident in the Department of the Interior, the Department has made no effort to communicate with the federal agency with primary expertise and jurisdiction in the matter—the Nuclear Regulatory Commission.

The professional, non-political, radiological experts of the Department of Energy have indicated that: ''Interior's concern that the [Ward Valley] facility lacks an environmental monitoring system has no basis in fact;'' the Department of the Interior is attempting to subvert the National Academy of Sciences recommendations with respect to the timing of the tests and nature of the tests to be performed; the Department of the Interior has understated the costs and the time required for the conduct of the tests; and the tests the Department of the Interior has outlined will result in additional litigation regardless of their outcome.

Mr. President, these documents are plain on their face.

But they are particularly troubling since they show the vast difference between the words spoken by Mr. Garamendi in his confirmation hearing, and the actions he has taken since his confirmation.

Let's again review the facts:

Deputy Secretary Garamendi testified under oath that the Ward Valley issue would be, and should be, quickly resolved.

He then called for additional testing that did not conform to the recommendations of the National Academy of Sciences, creating a false linkage in the public's mind between the

Beatty site and the Ward Valley site, despite the fact that his own USGS Director said that such a linkage could not be justified by the science.

Deputy Secretary Garamendi spread misinformation about the composition of the radioactive waste stream in Department press materials supplied by project opponents, making no effort to check their veracity with the Department of Energy, the Nuclear Regulatory Commission, or any other agency with expertise in such matters.

Deputy Secretary Garamendi persistently failed to get the testing underway, which he later blamed on the threats of a lawsuit that were not, in fact, made until long after the time he said the tests would be complete.

Indeed, the Department of the Interior has designed a process specifically intended to foster further delay.

Mr. President, over the past month or so there has been a new twist that is frankly the straw that breaks the camel's back.

The State of California, in its continuing efforts to achieve a compromise, has agreed to perform additional testing pursuant to the National Academy of Sciences guidelines prior to the federal land transfer.

Let me make this clear: California has always agreed to do the additional testing . . . the issue of dispute is that Interior insisted the testing be done prior to the land transfer, while California and the National Academy of Sciences said the testing would be best accomplished after the land transfer.

So California has now agreed to perform additional testing prior to the land transfer. They have clearly made efforts to compromise.

I received a letter from Deputy Secretary Garamendi, dated February 27, 1997, which exclaimed that the delays at Ward Valley have gone on long enough, and that welcomed the decision by the State of California to undertake additional testing.

When I saw that letter. I thought to myself: Finally, this issue will be resolved.

I was shocked by what happened next:

The BLM produced an administrative determination, allegedly two years old that nobody had ever seen, that will not permit California to undertake the testing that Interior insists must be undertaken prior to the land transfer! They have California in a ''Catch-22.''

BLM informed the California Department of Health Services that they could not proceed with the testing without a new permit from the BLM and yet another biological consultation with the U.S. Fish and Wildlife Service with respect to the Desert Tortoise.

The BLM based this requirement for a new permit on an ''administrative determination,'' allegedly issued two years ago, which limits surface disturbance associated with pre-construction testing. But further examination revealed several points about this document:

This old administrative determination was unknown to the California Department of Health Services, U.S. Ecology, and even the local BLM District Office until weeks ago.

The local BLM office is unable to provide any evidence that this ''administrative determination'' was provided to any of the parties whose actions it supposedly limits.

The administrative determination is absurd on its face. The U.S. Fish and Wildlife Service has determined that the 90 acres of surface disturbance associated with the construction and operation of the Ward Valley facility will not jeopardize the desert tortoise or its habitat. Moreover, under current BLM guidelines, ten acre mining operations on other BLM land would not trigger the need for a biological consultation if certain desert tortoise protection measures were incorporated into the plan submitted to BLM. Indeed, five acre mining operations would not even require the applicant to submit a tortoise protection plan for approval. Yet, it is BLM's sudden contention that less than 5 acres of surface disturbance associated with testing will require yet another full biological consultation by the U.S. Fish and Wildlife Service.

Clearly, Mr. President, this latest obstruction, and the reasons cited for it, make no sense in the context of the various other permits and administrative determinations that have been previously granted at the site.

The fact that this administrative decision suddenly surfaced in the midst of state planning to undertake the new tests is highly unusual—perhaps even worthy of investigation by the Inspector General.

Mr. President, earlier this year I asked the General Accounting Office to investigate this matter. That investigation is now underway. At this very moment, GAO auditors are reviewing documents in the District BLM office in California and at Department of Interior headquarters here in Washington.

The GAO report will not be complete until July 15, but let me simply say that their preliminary findings appear to agree with my understanding of the facts.

What we are seeing at the Department of the Interior is a blatant display of bad faith and obstructionism with regard to California's efforts to implement Federal law through development of the Ward Valley site.

I am particularly distressed by this, particularly in light of the words spoken by Mr. Garamendi at his confirmation hearing.

Mr. President, the legislation I am introducing today would convey the BLM land at Ward Valley to California as soon as a check for the fair market value of the land plus $100 is tendered to the Secretary of the Treasury, after the State of California formally tenders a promise to conduct the additional testing as outlined by the National Academy of Sciences.

It's a simple bill. California agrees to do the testing outlined by the National Academy of Sciences, California gets its site, and the taxpayer gets fair market value for the land.

I am willing to consider alternative approaches, but my bottom line is a quick and satisfactory resolution to this issue by qualified experts rather than political activists.

I am willing to entertain negotiated compromises.

I am willing to entertain alternative legislative approaches.

I am not willing to entertain further delay.

In closing, Mr. President, let me share a story that I find particularly rich in irony:

Interior Secretary Babbitt, while the Governor of Arizona, was deeply concerned about the difficulty of the Federal Government to provide for adequate low-level radioactive waste disposal sites. He was asked by the National Governors' Association to chair a task force to look into the problem.

The Babbitt task force recommended that the responsibility for low-level radioactive waste management be given to the States. In 1981, Governor Babbitt wrote that ''the siting of a low level nuclear waste facility involves primarily state and local issues that are best resolved at the government level closest to those affected.''

There was another Governor at the time who was active in the National Governor's Association and supported this approach: The Governor of Arkansas. His name was Bill Clinton.

Congress listened to these Governors, and passed the Low Level Radioactive Waste Policy Act which gave the States the responsibility for low level radioactive waste management.

California is the first State to license a facility under the Low Level Radioactive Waste Policy Act.

And who are the Federal authorities who are today frustrating California's attempt to follow the law and open its site?

None other than Mr. Babbitt and his Deputy at the Department of the Interior, himself a former California state official.

What an irony that former State officials would declare a State unworthy of trust in carrying out its congressionally assigned duties and responsibilities.

What a difference a few years in Washington can make.

By Mr. MURKOWSKI:

S. 965. A bill to amend title II of the Hydrogen Future Act of 1996 to extend an authorization contained therein, and for other purposes; to the Committee on Energy and Natural Resources.

AUTHORIZATION EXTENSION LEGISLATION

Mr. MURKOWSKI. Mr. President, today I offer a very simple bill with the hope that it can receive expedited consideration in the Senate and be sent over to the House of Representatives for further consideration.

Last year Congress authorized a program to explore the feasibility of integrating hydrogen fuel cells with systems to produce hydrogen from photovoltaic production or solid waste through gasification or steam reforming. This program is outlined in title II of Public Law 104–271, the Hydrogen Future Act of 1996.

The program was originally authorized through 1997 and 1998, with funds to remain available until 1999.

It has since become clear that the program will require a longer period of time to put into place. Accordingly, this bill simply extends the authorization through fiscal year 2001, with funds to remain available until September 30, 2002.

For those who are unfamiliar with the promise of hydrogen energy systems, let me simply add that hydrogen is widely regarded as an important potential energy carrier with the potential to join electricity as a key component of a future sustainable energy system. Unlike coal, oil, or gas, hydrogen cannot be directly mined or produced—it must be extracted from hydrogen-rich materials such as natural gas, biomass, or even water. While there are significant technical and economic barriers that prevent the near-term, widespread use of hydrogen as an energy carrier, the eventual promise of hydrogen is compelling. Thus, Congress and the Department of Energy has placed a high priority on hydrogen energy research and development.

I urge that my colleagues support the bill.

By Mr. BREAUX:

S. 966. A bill to provide legal standards and procedures for suppliers of raw materials and component parts for medical devices and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE BIOMATERIALS ACCESS ASSURANCE AND HEALTH SAFETY ACT OF 1997

Mr. BREAUX. Mr. President, today I rise to introduce the Biomaterials Access Assurance and Health Safety act of 1997. While other legislation has been introduced that is intended to protect suppliers of raw materials used in the construction of important medical implants from liability, I believe that my legislation strikes the proper balance between the legitimate concerns of these suppliers and the health insurance and legal rights of patients.

The legislation I am introducing today is similar to biomaterials legislation that has been introduced independently by Senator LIEBERMAN and as a part of S. 5, the Product Liability Fairness Act. It does, however, differ on several important points. First, this bill would not immunize negligent suppliers or supplies who fail to warn of the harmful effects of their products. Second, this bill would be limited to the protection of suppliers of raw materials. Other biomaterials bills, while speaking only of the need to protect suppliers of raw materials, use overly broad language that immunizes a whole host of product manufacturers. Third, unlike the legislation sent to the President last year, this bill would not cover suppliers of materials used in breast implants.

Mr. President, there are two other important differences between this legislation and other biomaterials liability legislation that has been introduced. I believe that this bill can be passed by Congress. I'm not sure that other biomaterials bills can. We know too well that the larger product liability bill will be controversial, and that its passage and enactment are uncertain at best. This biomaterials bill has been introduced as a stand-alone measure and can move independently of the product liability bill.

I also believe that this legislation can be signed into law by President Clinton, and I'm not too sure that other biomaterials liability legislation can. When the President vetoed the product liability bill sent to him by the 104th Congress, H.R. 965, which included biomaterials language similar to that in Senator LIEBERMAN's bill, he noted that he wanted to enact fair and balanced biomaterials liability legislation. However, he felt that the language before him went too far, particularly because it immunized negligent biomaterials suppliers. I believe the President will find the provisions of my bill acceptable.

Mr. President, I think that this bill is the best hope we have of passing fair and meaningful biomaterials legislation, and I urge my colleagues to join me in support of its passage. I ask unanimous consent that the entire text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 966

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This title may be cited as the ''Biomaterials Access Assurance Act of 1997.''

SEC. 2. FINDINGS.

Congress finds that—

(1) each year millions of citizens of the United States depend on the availability of lifesaving or life enhancing medical devices, many of which are permanently implantable within the human body;

(2) a continued supply of raw materials and component parts is necessary for the invention, development, improvement, and maintenance of the supply of the devices;

(3) most of the medical devices are made with raw materials and component parts that—

(A) are not designed or manufactured specifically for use in medical devices; and

(B) come in contact with internal human tissue;

(4) the raw materials and component parts also are used in a variety of nonmedical products;

(5) because small quantities of the raw materials and component parts are used for medical devices, sales of raw materials and component parts for medical devices constitute an extremely small portion of the overall market for the raw materials and medical devices;

(6) under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), manufacturers of medical devices are required to demonstrate that the medical devices are safe and effective, including demonstrating that the products are properly designed and have adequate warnings or instructions;

(7) notwithstanding the fact that raw materials and component parts suppliers do not design, produce, or test a final medical device, the suppliers have been the subject of actions alleging adequate—

(A) design and testing of medical devices manufactured with materials or parts supplied by the suppliers; or

(B) warnings related to the use of such medical devices;

(8) even though suppliers of raw materials and component parts have very rarely been held liable in such actions, such suppliers have ceased supplying certain raw materials and component parts for use in medical devices because the costs associated with litigation in order to ensure a favorable judgment for the suppliers far exceeds the total potential sales revenues from sales by such suppliers to the medical device industry;

(9) unless alternate sources of supply can be found, the unavailability of raw materials and component parts for medical devices will lead to unavailability of lifesaving and life-enhancing medical devices;

(10) because other suppliers of the raw materials and component parts in foreign nations are refusing to sell raw materials or component parts for use in manufacturing certain medical devices in the United States, the prospects for development of new sources of supply for the full range of threatened raw materials and component parts for medical devices are remote;

(11) it is unlikely that the small market for such raw materials and component parts in the United States could support the large investment needed to develop new suppliers of such raw materials and component parts;

(12) attempts to develop such new suppliers would raise the cost of medical devices;

(13) courts that have considered the duties of the suppliers of the raw materials and component parts have generally found that the suppliers do not have a duty—

(A) to evaluate the safety and efficacy of the use of a raw material or component part in a medical device; and

(B) to warn consumers concerning the safety and effectiveness of a medical device;

(14) attempts to impose the duties referred to in subparagraphs (A) and (B) of paragraph (13) on suppliers of the raw materials and component parts would cause more harm than good by driving the suppliers to cease supplying manufacturers of medical devices; and

(15) in order to safeguard the availability of a wide variety of lifesaving and life-enhancing medical devices, immediate action is needed—

(A) to clarify the permissible bases of liability for suppliers of raw materials and component parts for medical devices; and

(B) to provide expeditious procedures to dispose of unwarranted suits against the suppliers in such manner as to minimize litigation costs.

SEC. 3. DEFINITIONS.

As use in this Act:

(1) BIOMATERIALS SUPPLIER.—

(A) IN GENERAL.—The term ''biomaterials supplier'' means an entity that directly or indirectly supplies raw material for use in the manufacture of an implant.

(B) PERSONS INCLUDED.—Such term includes any person who—

(i) has submitted master files to the Secretary for purposes of premarket approval of a medical device; or

(ii) licenses a biomaterials supplier to produce raw materials.

(2) CLAIMANT.—

(A) IN GENERAL.—The term ''claimant'' means any person who brings a civil action, or on whose behalf a civil action is brought, arising from harm allegedly caused directly or indirectly by an implant, including a person other than the individual into whose body, or in contact with whose blood or tissue, the implant is placed, who claims to have suffered harm as a result of the implant.

(B) ACTION BROUGHT ON BEHALF OF AN ESTATE.—With respect to an action brought on behalf of or through the estate of an individual into whose body, or in contact with whose blood or tissue the implant is placed, such term includes the decedent that is the subject of the action.

(C) ACTION BROUGHT ON BEHALF OF A MINOR OR INCOMPETENT.—With respect to an action brought on behalf of or through a minor or incompetent, such term includes the parent or guardian of the minor or incompetent.

(D) EXCLUSIONS.—Such term does not include—

(i) a provider of professional health care services, in any case in which—

(I) the sale or use of an implant is incidental to the transaction; and

(II) the essence of the transaction is the furnishing of judgment, skill, or services;

(ii) a person acting in the capacity of a manufacturer, seller, or biomaterials supplier; or

(iii) a person alleging harm caused by a breast implant.

(3) HARM.—

(A) IN GENERAL.—The term ''harm'' means—

(i) any injury to or damage suffered by an individual;

(ii) any illness, disease, or death of that individual resulting from that injury or damage; and

(iii) any loss to that individual or any other individual resulting from that injury or damage;

(B) COMMERCIAL LOSS.—The term includes any commercial loss or loss of or damage to an implant.

(4) IMPLANT.—The term ''implant'' means—

(A) a medical device that is intended by the manufacturer of the device—

(i) to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days; or

(ii) to remain in contact with bodily fluids or internal human tissue through a surgically produced opening for a period of less than 30 days; and

(A) suture materials used in implant procedures.

(5) MANUFACTURER.—The term ''manufacturer'' means any person who, with respect to an implant—

(A) is engaged in the manufacture, preparation, propagation, compounding, or processing (as defined in section 510(a)(1)) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360)(a)(1)) of the implant; and

(B) is required—

(i) to register with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) to include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j) and the regulations issued under such section.

(6) MEDICAL DEVICE.—The term ''medical device'' means a device, as defined in section 1(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) and includes any device component of any combination product as that term is used in section 503(g) of such Act (21 U.S.C. 353(g))

(7) RAW MATERIAL.—The term ''raw material'' means a substance or product that—

(A) has a generic use; and

(B) may be used in an application other than an implant.

(8) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(9) SELLER.—

(A) IN GENERAL.—The term ''seller'' means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, packages, labels, or otherwise places an implant in the stream of commerce.

(B) EXCLUSIONS.—the term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services, in any case in which the sale or use of an implant is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who acts in only a financial capacity with respect to the sale of an implant.

sec. 4. general requirements: applicability; preemption.

(a) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—In any civil action covered by this Act, a biomaterials supplier may raise any defense set forth in section 5.

(A) PROCEDURES.—Notwithstanding any other provision of law, the Federal or State court in which a civil action covered by this Act is pending shall, in connection with a motion for dismissal or judgment based on a defense described in paragraph (1), use the procedures set forth in section 6.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of law, this Act applies to any civil action brought by a claimant, whether in a Federal or State court, against a manufacturer, seller, or biomaterials supplier, on the basis of any legal theory, for harm allegedly caused by an implant.

(2) EXCLUSION.—A civil action brought by a purchaser of a medical device for use in providing professional services against a manufacturer, seller, or biomaterials supplier for loss or damage to an implant or for commercial loss to the purchaser—

(A) shall not be considered an action that is subject to this Act; and

(B) shall be governed by applicable commercial or contract law.

(c) SCOPE OF PREEMPTION.—

(1) IN GENERAL.—This title supersedes any State law regarding recovery for harm caused by an implant and any rule of procedure applicable to a civil action to recover damages for such harm only to the extent that this Act establishes a rule of law applicable to the recovery of such damages.

(2) APPLICABILITY OF OTHER LAWS.—Any issue that arises under this Act and that is not governed by a rule of law applicable to the recovery of damages described in paragraph (1) shall be governed by applicable Federal or State law.

(d) STATUTORY CONSTRUCTION.—Nothing in this Act may be construed to create a cause of action or Federal court jurisdiction pursuant to section 1331 or 1337 of title 28, United States Code, that otherwise would not exist under applicable Federal or State law.

SEC. 5. LIABILITY OF BIOMATERIALS SUPPLIERS.

(a) IN GENERAL.—

(1) EXCLUSION FROM LIABILITY.—Except as provided in paragraph (2), a biomaterials supplier shall not be liable for harm to a claimant caused by an implant.

(2) LIABILITY.—A biomaterials suppler that—

(A) is a manufacturer may be liable for harm to a claimant described in subsection (b);

(B) is a seller may be liable for harm to a claimant described in subsection (c);

(C) furnishes raw materials that fail to meet applicable contractual requirements or specifications may be liable for a harm to a claimant described in subsection (d).

(D) knows, or through reasonable inquiry could have known:

(i) of the application to which the raw material is to be put;

(ii) of the risks attendant to such use; and

(iii) that the buyer or user of the raw material is ignorant of such risks, but failed to warn such buyer or user of such risks, may be liable for harm to a claimant described in subsection (e); and

(E) furnishes raw materials that are defective may be liable for harm to a claimant as described in subsection (f).

(b) LIABILITY MANUFACTURER.—

(1) IN GENERAL.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant if the biomaterials supplier is the manufacturer of the implant.

(2) GROUNDS FOR LIABILITY.—

(A) The biomaterials supplier may be considered the manufacturer of the implant that allegedly caused harm to a claimant only if the biomaterials supplier—

(i) has registered with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) included the implant on a list of devices filed with the Secretary pursuant to section 510(f) of such Act (21 U.S.C. 360(f)) and the regulations issued under such section;

(B) is the subject of a declaration issued by the Secretary pursuant to paragraph (3) that states that the supplier, with respect to the implant that allegedly caused harm to the claimant, was required to—

(i) register with the Secretary under section 510 of such Act (21 U.S.C. 360), and the regulations issued under such section, but failed to do so; or

(ii) include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section, but failed to do so; or

(C) is related by common ownership or control to a person meeting all the requirements described in subparagraph (A) or (B), if the court deciding a motion to dismiss in accordance with section 6(c)(3)(B)(i) finds, on the basis of affidavits submitted in accordance with section 6, that it is necessary to impose liability on the biomaterials supplier as a manufacturer because the related manufacturer meeting the requirements of a subparagraph (A) or (B) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(3) ADMINISTRATIVE PROCEDURES.—

(A) IN GENERAL.—The Secretary may issue a declaration described in paragraph (2)(B) on the motion of the Secretary or on petition by any person, after providing—

(i) notice to the affected persons; and

(ii) an opportunity for an informal hearing.

(B) DOCKETING AND FINAL DECISION.—Immediately upon receipt of a petition filed pursuant to this paragraph, the Secretary shall docket the petition. Not later than 180 days after the petition is filed, the Secretary shall issue a final decision on the petition.

(C) APPLICABILITY OF STATUTE OF LIMITATIONS.—Any applicable statute of limitations shall toll during the period during which a claimant has filed a petition with the Secretary under this paragraph.

(c) LIABILITY AS SELLER.—A biomaterials supplier may, to the extent required and permitted by any other applicable law be liable

as seller for harm to a claimant caused by an implant if—

(1) the biomaterials supplier—

(A) held little to the implant that allegedly caused harm to the claimant as a result of purchasing the implant after—

(i) the manufacture of the implant and

(ii) the entrance of the implant in the stream of commerce; and

(B) subsequently resold the implant; or

(2) the biomaterials supplier is related by common ownership or control to a person meeting all the requirements described in paragraph (1), if a court deciding a motion to dismiss in accordance with section 6(c)(3)(B)(ii) finds on the basis of affidavits submitted in accordance with section 6 that is necessary to impose liability on the biomaterials supplier as a seller because the related seller meeting the requirements of paragraph (1) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(d) LIABILITY FOR VIOLATING CONTRACTUAL REQUIREMENTS OR SPECIFICATIONS.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant, if the claimant in an action shows, by a preponderance of the evidence, that—

(1) the raw materials or component parts delivered by the biomaterials supplier either—

(A) did not constitute the product described in the contract between the biomaterials supplier and the person who contracted for delivery of the product; or

(B) failed to meet any specifications that were—

(i) provided to the biomaterials supplier and not expressly repudiated by the biomaterials supplier prior to acceptance of delivery of the raw materials or component parts;

(I) published by the biomaterials supplier;

(II) provided to the manufacturer by the biomaterials supplier; or

(III) contained in a master file that was submitted by the biomaterials supplier to the Secretary and that is currently maintained by the biomaterials supplier for purposes of premarket approval of medical devices; or

(ii) included in the submissions for purposes of premarket approval or review by the Secretary under section 510, 513, 515, or 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360, 360c, 360e, or 360j), and received clearance from the Secretary if such specifications were provided by the manufacturer to the biomaterials supplier and were not expressly repudiated by the biomaterials supplier prior to the acceptance by the manufacturer of delivery of the raw materials or component parts; and

(2) such conduct was an actual and proximate cause of the harm to the claimant.

(e) LIABILITY FOR FAILURE TO WARN.—A biomaterials supplier may, to the extent required or permitted by any other applicable law, be liable for harm caused by an implant if the biomaterials supplier—

(1) knew, or through reasonable inquiry could have known;

(A) of the application to which the raw material was to be put;

(B) of the risks attendant to such use;

(C) that the buyer or user of the raw material was ignorant of such risks; and

(2) failed to warn such buyer or user of such risks.

(f) LIABILITY FOR DEFECTIVE MATERIAL.—A biomaterials supplier may, to the extent permitted by any other applicable law, be liable for harm caused by an implant if the harm was in whole or in part caused by a defect in the raw material supplied by the biomaterials supplier.

SEC. 6. PROCEDURES FOR DISMISSAL OF CIVIL ACTIONS AGAINST BIOMATERIALS SUPPLIERS.

(a) MOTION TO DISMISS.—In any action that is subject to this Act, a biomaterials supplier who is a defendant in such action may, at any time during which a motion to dismiss may be filed under an applicable law, move to dismiss the action against it on the grounds that—

(1) the defendant is a biomaterials supplier; and

(2)(A) the defendant should not, for the purposes of—

(i) section 5(b), be considered to be a manufacturer of the implant that is subject to such section; or

(ii) section 5(c), be considered to be a seller of the implant that allegedly caused harm to the claimant;

(iii) section 5(e), be found to have failed to warn the buyer or user of the raw material of its known risks;

(iv) section 5(f), be found to have supplied defective material; or

(B)(i) the claimant has failed to establish pursuant to section 5(d), that the supplier furnished raw materials or component parts in violation of contractual requirements or specifications; or

(ii) the claimant has failed to comply with the procedural requirements of subsection (b).

(b) PROCEEDING ON MOTION TO DISMISS.—The following rules shall apply to any proceeding on a motion to dismiss filed under this section:

(1) AFFIDAVITS RELATING TO LISTING AND DECLARATIONS.—

(A) IN GENERAL.—The defendant in the action may submit an affidavit demonstrating that defendant has not included the implant on a list, if any, filed with Secretary pursuant to section 510(j) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 360(j)).

(B) RESPONSE TO MOTION TO DISMISS.—In response to the motion to dismiss, the claimant may submit an affidavit demonstrating that—

(i) the Secretary has, with respect to the defendant and the implant that allegedly caused harm to the claimant, issued a declaration pursuant to section 5(b)(2)(B); or

(ii) the defendant who filed the motion to dismiss is a seller of the implant who is liable under section 5(c).

(2) EFFECT OF MOTION TO DISMISS ON DISCOVERY.—

(A) IN GENERAL.—If a defendant files a motion to dismiss under paragraph (1) or (2) of subsection (a), no discovery shall be permitted connection to the action that is subject of the motion, other than discovery necessary to determine a motion to dismiss for lack of jurisdiction, until such time as the court rules on the motion to dismiss in accordance with the affidavits submitted the parties in accordance with section.

(B) DISCOVERY.—If a defendant files a motion to dismiss under subsection (a)(2)(B)(i) on the grounds that the biomaterials supplier did not furnish raw materials or component parts in violation of contractual requirements or specifications, the court may permit discovery, as ordered by the court. The discovery conducted pursuant to this subparagraph shall be limited to issues that are directly relevant to—

(i) the pending motion to dismiss; or

(ii) the jurisdiction of the court.

(3) AFFIDAVITS RELATING STATES OF DEFENDANT.—

(A) IN GENERAL.—Except as provided in clauses (i) and (ii) of subparagraph (B), the court shall consider a defendant to be a biomaterials supplier who is not subject to an action for harm to a claimant caused by an implant, other than an action relating to liability for a violation of contractual requirements or specifications described in subsection (d).

(B) RESPONSES TO MOTION TO DISMISS.—The court shall grant a motion to dismiss any action that asserts liability of the defendant under subsection (b) or (c) of section 5 on the grounds that the defendant is not a manufacturer subject to such section 5(b) or seller subject to section 5(c), unless the claimant submits a valid affidavit that demonstrates that—

(i) with respect to a motion to dismiss contending the defendant is not a manufacturer, the defendant meets the applicable requirements for liability as a manufacturer under section 5(b); or

(ii) with respect to a motion to dismiss contending that the defendant is not a seller, the defendant meets the applicable requirements for liability as a seller under section 5(c).

(4) BASIS OF RULING ON MOTION TO DISMISS.—

(A) IN GENERAL.—The court shall rule on a motion to dismiss filed under subsection (a) solely on the basis of the pleadings of the parties made pursuant to this section and any affidavits submitted by the parties pursuant to this section.

(B) MOTION FOR SUMMARY JUDGEMENT.—Notwithstanding any other provision of law, if the court determines that the pleadings and affidavits made by parties pursuant to this section raise genuine issues as concerning material facts with respect to a motion to dismiss to be a motion for summary judgment made pursuant to subsection (c).

(c) SUMMARY JUDGMENT.—

(1) IN GENERAL.—

(A) BASIS FOR ENTRY OF JUDGMENT.—A biomaterials supplier shall be entitled to entry of judgment without trial if the court finds there is a no genuine issue as concerning any material fact for each applicable element set forth in paragraphs (1) and (2) of section 5(d).

(B) ISSUES OF MATERIAL FACT.—With respect to a finding made under subparagraph (A), the court shall consider a genuine issue of material fact to exist only if the evidence submitted by claimant would be sufficient to allow a reasonable jury to reach a verdict for the claimant if the jury found the evidence to be credible.

(2) DISCOVERY MADE PRIOR TO A RULING ON A MOTION FOR SUMMARY JUDGMENT.—If, under applicable rules, the court permits discovery prior to a ruling on a motion for summary judgment made pursuant to this subsection, such discovery shall be limited solely to establishing whether a genuine issue of material fact exists as to the applicable elements set forth in paragraphs (1) and (92) of section 5(9)(d).

(3) DISCOVERY WITH RESPECT TO A BIOMATERIALS SUPPLIER.—A biomaterials supplier shall be subject to discovery in connection with a motion seeking dismissal or summary judgment on the basis of the inapplicability of section 5(d) or the failure to establish the applicable elements of section 5(d) solely to the extent permitted by the applicable Federal or State rules for discovery against nonparties.

(d) STAY PENDING PETITION FOR DECLARATION.—If a claimant has filed a petition for a declaration pursuant to section 5(b)(3)(A) with respect to a defendant, and the Secretary has not issued a final decision on the petition, the court shall stay all proceedings with respect to that defendant until such time as the Secretary has issued a final decision on the petition.

(a) ATTORNEY FEES.—The court shall require the claimant to compensate the biomaterials supplier for a manufacturer appearing in lieu of a supplier pursuant to subsection (f) for attorney fees and costs, if

(1) the claimant named or joined the biomaterials supplier; and

(2) the court found the claim against the biolmaterials supplier was clearly without merit and frivolous at the time the claim was brought.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 967. A bill to amend the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act to benefit Alaska Natives and rural residents, and for other purposes; to the Committee on Energy and Natural Resources.

TECHNICAL CHANGES TO ANCSA AND ANILCA

Mr. MURKOWSKI. Mr. President, today I rise to introduce legislation on behalf of Alaska Natives and residents of rural Alaska. This legislation makes technical changes to both the Alaska Native Claims Settlement Act [ANCSA] and the Alaska National Interest Lands Conservation Act [ANILCA]. Most of the provisions are similar to those contained in H.R. 2505 passed by the House last year. These changes are the direct result of more than three days of hearings consisting of 14 panels and more than 155 witnesses, the Senate Committee on Energy and Natural Resources held throughout Alaska during the last Congress.

ANCSA CHANGES

Mr. President, ANCSA is 25 years old. This legislation is a living, working document being used to improve the lives of Alaska's Native residents and the future generations of Alaska Natives. We have amended this document numerous times with technical changes in order to make it a more effective piece of legislation.

The changes I am offering to ANCSA today would:

1. Allow Native Regional Corporations the option of retaining mineral estates of native allotments surrounded by ANCSA 12(a) and 12(b) selections.

2. Amend section 22(c) of ANCSA to include the Haida Corporation in the transfer of the administration of certain mining claims.

3. Codify an agreement reached between ANCSA Native corporations regarding revenue sharing on sales of rock, sand and gravel.

4. Direct the Secretary of Interior to determine the value of certain Calista Corporation lands and to complete the exchange authorized by Congress in 1991.

5. Authorize five southeast Alaska Native villages to organize as Native corporations.

There are two provisions that I would like to single out here in my remarks today.

Mr. President, section 5 of this legislation implements a land exchange with the Calista Corporation, an Alaska Native regional corporation organized under the authority of the Alaska Native Claims Settlement Act. This exchange, originally authorized in 1991, by Public Law 102–172, would provide for the United States to acquire approximately 225,000 acres of Calista and village corporation lands and interests in lands within the Yukon Delta National Wildlife Refuge in southwestern Alaska.

The Refuge serves as important habitat and breeding and nesting grounds for a variety of fish and wildlife, including numerous species of migratory birds and waterfowl. As a result, the Calista exchange will enhance the conservation and protection of these vital habitats and thereby further the purpose of ANCSA and the Alaska National Interest Lands Conservation Act.

In addition to conservation benefits, this exchange will also render much needed economic benefits to the Yupik Eskimo people of southwestern Alaska. The Calista region is burdened by some of the harshest economic and social conditions in the Nation. As a result of this exchange, the Calista Corporation will be better able to make the kind of investments that will improve the region's economy and the lives of the Yupik people. In this regard, this provision furthers and carries out the underlying purposes of ANCSA.

This provision is, in part, the result of discussions by the various interested parties. As a result of those discussions, a number of modifications were made to the original package of lands offered for exchange. Chief among these were the addition of another 27,000 acres of surface estate (fee and conservation casements) of village corporation lands, as well as the Calista subsurface estate lying underneath those lands, and the removal of the Tuluksak mineralized parcel from the exchange.

In a last minute agreement to move the bill through the House last year, the total value of the exchange package was reduced by 25% to $30 million. Such a reduction was unwarranted and seriously undermined the utility and benefit of the provision for the public and for Calista and the twelve village corporations involved. This legislation I introduce today restores the value to the Calista exchange portion of this bill.

Mr. President, it is time to move forward with this exchange.

Section 8 of this legislation provides long-overdue authorization to the Southeast Alaska Villages of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell, Alaska that will permit them to establish Native Corporations under ANCSA. The history of these five villages clearly shows that the Alaska Natives who enrolled in them and their heirs have been inadvertently and wrongly denied the financial and cultural benefits of enrollment in a Village, Urban, or Group Corporation.

This section simply amends ANCSA to provide authorization for each of the five Unrecognized Communities to form a Native Corporation pursuant to ANCSA, and directs the Secretary of the Interior, in consultation with the Secretary of Agriculture, to submit to Congress a report regarding lands and other compensation that should be provided to the Corporations formed pursuant to this section. This section specifically requires further Congressional action to provide compensation for these communities.

ANILCA CHANGES

This legislation also addresses changes that need to be made to ANILCA to ensure that the Federal agencies are fairly implementing this legislation consistent with its written provisions and promises. These changes will ensure that its implementation is consistent with the intent of Congress. These are simple changes that among other things:

1. Require all public land managers in Alaska or in a region containing Alaska to take a training course in ANILCA.

2. Authorize continuation of traditional subsistence activities in Glacier Bay subject to reasonable regulations by NPS.

3. Protect traditional and inholder access in and across ANILCA lands.

4. Protect property owners from having to relinquish ownership interests in cabins and possessions within them on ANILCA lands.

Mr. President, seventeen years ago, Congress enacted the ANILCA. Despite the opposition of many Alaskans, over 100 million acres of land was set aside in a series of vast Parks, Wildlife Refuges, and Wilderness units. Much of the concern about the Act was the impact of these Federal units, and related management restrictions, on traditional activities and lifestyles.

To allay these concerns, ANILCA included a series of unique provisions designed to ensure that traditional activities and lifestyles would continue, that Alaskans would not be subjected to a ''permit lifestyle'', and that the agencies would be required to recognize the crucial distinction between managing small units surrounded by millions of people in the lower 48 and vast multi-million acre units encompassing a relative handful of individuals and communities in Alaska. The sponsors of ANILCA issued repeated assurances that the establishment of these units would in fact protect traditional activities and lifestyles and not place them in jeopardy.

Early implementation of the Act closely reflected these promises. However, as the years have passed, many of the Federal managers seem to have lost sight of these important representations to the people of Alaska. Agency personnel, trained primarily in lower 48 circumstances, have brought the mentality of restriction and regulation to Alaska. The critical distinctions between management of Parks, Refuges and Wilderness areas in the 49th State and the lower 48 have blurred. The result is the spread of restriction and regulation and the creation of the exact ''permit lifestyle'' which we were promised would never happen.

I have become increasingly aware of this disturbing trend. In my conversations with Alaskans, I hear many complaints about ever increasing restraints on traditional activities and requirements for more and more paperwork and permits. A whole new ''industry'' has sprung up to help Alaskans navigate the bureaucratic shoals that have built up during the past few years.

Let me cite a few of the incidents that have come to my attention. The U.S. Fish and Wildlife Service decides it wants to establish a ''wilderness management'' regime and eliminate motorboat use on a river. It proceeds with the plan until protests cause the Regional Solicitor to advise the Service that its plan violates Section 1110(a) of ANILCA. Owners of cabins built, occupied, and used long before ANILCA are told they must give up their interests in the cabins although Section 1303 expressly enables cabin owners to retain their possessory interests in their cabins. Visitor services contracts are awarded and then revoked because the agencies failed to adhere to the requirements of Section 1307. Small landowners of inholdings seek to secure access to their property and are informed that they must file for a right-of-way as a transportation and utility system and pay the U.S. hundreds of thousands of dollars to prepare a totally unnecessary environmental impact statement. An outfitter spends substantial time and money responding to a request for proposals, submits an apparently winning proposal, and has the agency arbitrarily change its mind and decide to withdraw its request—it does not offer to compensate the outfitter for his efforts.

Mr. President, the legislation I introduce today will ensure that agencies are fairly implementing ANILCA consistent with its written provisions and promises. These technical corrections to ANILCA will ensure that its implementation is consistent with the intent of Congress.

Mr. President, conditions have changed in the 17 years since the passage of ANILCA and we have all had a great deal of experience with the Act's implementation. It is time to make the law clearer and to make the federal manager's job easier.

Mr. President, I ask unanimous consent that a table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

REVISED CALISTA LANDS PACKAGE

Parcel name	Interest to be conveyed	Acreage	Per acre value	Total exchange value
Dall Lake	Fee—Surface	10,000	$325	$3,250,000
Hamilton	Fee—Surface	7,135	325	2,318,875
Section 14(h)(8) entitlement	Fee—Surface and Subsurface	10,000	704	7,040,000
Hooper Bay	Subsurface	27,034	90	2,433,060
Scammon Bay	Subsurface	87,052	90	7,834,680
Kusilvak	Subsurface	57,284	90	5,155,560
Calista subsurface on TKC surface	Subsurface	17,000	90	1,530,000
Calista subsurface on NIMA surface	Subsurface	10,000	90	900,000
TKC	Conservation easement	17,000	243	4,131,000
NIMA	Surface	10,000	325	3,250,000
Calista subsurface on Hamilton surface	Subsurface	7,135	90	642,150
Calista subsurface on Dall Lake surface	Subsurface	10,000	90	900,000
VALUATION SUMMARY				
NIMA lands	Surface	20,000		$6,500,000
Hamilton lands	Surface	7,135		2,318,875
TKC lands	Surface	17,000		4,131,000
Total village surface		44,135		12,949,875
Calista	Surface and subsurface, all parcels	225,505		26,435,450
Total exchange value				39,385,325

By Mr. MACK:

S. 968. A bill to provide for special immigrant status for certain aliens working as journalists in Hong Kong; to the Committee on the Judiciary.

THE HONG KONG PRESS FREEDOM ACT

Mr. MACK. Mr. President, I rise today to join my colleague, Senator LIEBERMAN, to introduce the Hong Kong Press Freedom Act.

Mr. President, as we consider China and Hong Kong in these final weeks before Hong Kong reversion, it is important for us to reflect on the facts, and what drives our behaviors toward China.

We fought the Cold War for freedom and democracy. The war is over, but we know of 1.2 billion people still wearing the yoke of communism—or at least nondemocratic oppression. On July 1, we might be forced to witness that number grow by 6 million as Hong Kong falls under control of the People's Republic of China. If the defining moment of the 1980s was the crumbling of the Berlin Wall and the spread of freedom and democracy, we should not allow this decade to be remembered most by the victory of totalitarianism over human dignity.

One essential element of freedom is press freedom. Until recently, Hong Kong enjoyed one of the freest presses in the world. But already, experts point to instances of self censorship occurring on the island. All indications are that this freedom will continue to deteriorate following Hong Kong's reversion.

Today, I am introducing a bill in the Senate to encourage press freedom in Hong Kong. A similar measure was introduced in the House by Representative Porter and 27 other members in February. The measure supports those Hong Kong journalists who chose to remain loyal to the standards of honest and open reporting. Specifically, this bill provides special immigration status to journalists and their families should they be threatened as a result of their reporting. When Senator LIEBERMAN and I visited Hong Kong earlier this year, we heard several stories of self-censorship occurring in the Hong Kong press. Many of the larger papers were losing circulation and the underground and small papers were growing. It is this free thought and competition which we seek to preserve.

Without press freedom, what other freedom can survive? While this is a small and specific measure, its impact can be profound. I urge immediate consideration and passage of this measure.

Mr. LIEBERMAN. Mr. President, I rise today to join my colleague, Senator MACK, in introducing the Hong Kong Press Freedom Act.

In a very few days, Hong Kong will revert to Chinese sovereignty. Already, there is evidence that China will not fully honor its commitment to preserve Hong Kong's democratic institutions and way of life under the rubric, one country, two systems. Beijing has announced it will eliminate Hong Kong's democratically elected legislative council and that it will reimpose several restrictive civil order statutes, including against certain types of political expression. Even more disturbing, there are indications that media self-censorship is replacing freedom of the press.

It is fitting and proper that we introduce this legislation now. Eight years ago, Chinese authorities, most of whom remain in power today, brutally massacred students and others who wanted assurances that their government would become more accountable to the will of the people. They were seeking democratic progress, not revolutionary license. Beijing answered them with tanks, and 8 years later, Tiananmen Square remains a vivid reminder of what autocrats can and will do even in full view of astonished world opinion.

This bill would not have prevented the evil of Tiananmen Square; and it is not intended as a warning to China. It is simply principle put into action. As Americans, we understand how important a free press is to preserving the rule of law and to protecting the rights and dignity of individuals against the

power of the state. Our action here will help assure that reporters in hong Kong will not be cowed by the memory of Tiananmen Square. This bill supports those who choose to put themselves at risk by reporting honestly and openly what they see and hear when the Chinese flag replaces the Union Jack. We owe them our gratitude and protection, and this bill will help us provide it.

Specifically, this measure offers special immigration status to journalists and their families if they are threatened with reprisal because of their work. A similar measure was introduced in the House by Representative PORTER and 27 other Members in February. I urge my Senate colleagues to join this effort and to pass the Hong Kong press freedom bill.

By Mr. D'AMATO (for himself, Mr. CHAFEE and Mr. TORRICELLI):

S. 969. A bill ordering the preparation of a Government report detailing injustices suffered by Italian Americans during World War II, and a formal acknowledgement of such injustices by the President; to the Committee on the Judiciary.

THE WARTIME VIOLATION OF ITALIAN AMERICAN CIVIL LIBERTIES ACT

Mr. D'AMATO. Mr. President, thousands of Italian-Americans became innocent victims of wartime fever—a panicked and a paranoid reaction that all people of foreign extraction linked to belligerent countries were spies, sabatours and un-American. Fear of fifth columnists and quisling-type activities led government officials to abridge the civil rights of Americans who came from warring countries. Patriotic propaganda villifying the treachery of sneak attacks, blitzkrieg and totalitarian domination had an effect on the homefront view of Italian, German and Japanese immigrants as well as naturalized citizens, inducing discrimination. Initial mistakes were magnified by protective zeal into wholesale judgements about aliens, which led to the detainment, internment and harassment of these people.

That is why, Mr. President, I rise today to join with my colleagues Senator CHAFEE and TORRICELLI to right a terrible wrong that happened in this country over 50 years ago. In a country that so cherishes its equality among men and women, and boasts its democratic process, the United States has a dark spot in its history. Most Americans are not aware of the tragedy experienced by so many fellow citizens over half a century ago, a tragedy committed by the American government against people of Italian descent.

In early 1942, 600,000 aliens of Italian descent were deemed to be ''enemy aliens'' and were forced to re-register and carry identification. Our government restricted their travel to their neighborhoods and classified normal household items, such as shortwave radios, cameras, flashlights and weapons as contraband material in their possession.

On February 19, 1942, an Executive Order was issued giving the Secretary of War the authority to exclude American citizens as well as alien enemies, from such areas as the Secretary should designate. Americans now realize that this provision began a dark period of American history, authorizing the internment of immigrants residing in the United States as well as American citizens. While most Americans are aware of the internment of Japanese Americans during World War II, few are aware that Italians and German legal residents of the United States were also restricted.

Italian immigrants, Italian-Americans and their families were viewed as a genuine threat to American security at the beginning of World War II. Fear and ethnic bias led to the relocation of nearly 10,000 members of the Italian community from their homes on the West Coast. Hundreds of people were taken from their homes and brought to guarded army camp in areas as far east as Minnesota.

And all this effort and anxiety for naught- even by war's end, not a single act of sabotage was attributable to Italian-Americans. On the contrary, Italians fought in America's victorious forces in the European and Asian theater and thousands made the ultimate sacrifice for our nation's survival.

As one could imagine, the effects on these families were disastrous. Four men committed suicide. These men (Martini Battistessa, Guiseppe Micheli, Giovanni Sanguenetti and Stefano Terranova) suffered at the hands of government officials. Italian American fisherman were grounded, their livelihood gone.

Several experts have taken a look at the treatment of Italian Americans during the early 1940's. Stephen Fox wrote a book called The Unknown Internment: An Oral History of the Relocation of Italian Americans during World War II. In the preface, Stephen Fox describes the horrific treatment of people whose only crime was being of Italian descent in America during World War II.

Salvatore J. LaGumina, Professor of History and Director of the Center for Italian American Studies at Nassau Community College wrote an article in the Italian American Review called ''Enemy Alien: Italian Americans During World War II''. In the article he states:

''A ban on Italian language radio programs affected stations in New York City and Boston. Various Italian American newspapers suspended publication at least during the war years and in some instances ceased publication permanently. Customary Italian religious feast celebrations were likewise deferred or significantly diminished . . . In Westbury, Long Island, most Italian American organizations suspended their traditional feast celebrations for the duration of the war except for the Dell'Assunta Society which insisted it be allowed to march on the village streets during its festival, on the grounds that it was a religious not an ethnic celebration.

Robert Masulla, writing for the Italic Way Newsletter, cited that Italian immigrant fishermen were denied their livelihood and some ''even had their boats impounded by the U.S. government and utilized for patrol and minesweeping duties''.

It was not until October 12, 1942 that Italian immigrants were removed from the enemy alien category. Mr. Fox's historical study indicated that the internment effort was abandoned because the alien relocation would overly tax the U.S. Army's already over-extended logistical network, threaten the defense industry and lower civilian morale.

In 1988, this body finally faced a terrible past that we could no longer ignore—the internment of immigrants from Japan or Japanese-Americans. Now it is time to provide recognition and remorsefulness for the treatment of Italian aliens and Italian Americans who had to endure the horrific actions of our own government—a government that has stood for freedom, not oppression.

That is why I have joined with my colleagues in the House of Representatives, particularly its lead sponsors, Congressmen Engel and Lazio, to introduce this bill, the ''Wartime Violation of Italian American Civil Liberties Act''. Its provisions are clear and straight-forward:

It recognizes the treatment of Italian Americans during World War II.

It calls on the President to formally acknowledge that the civil liberties of Italian Americans were violated in the United States in the early 1940's.

It encourages federal agencies to support projects which increase the public's awareness of the internment of Italians during the Second World War.

It states that the President and Congress provide direct funding in order to educate the American public through a film documentary, particularly to document the testimony of the survivors of the internment.

It recommends the formation of an advisory committee to assist in the compilation of historical data, to accurately reflect the incidents that transpired.

It calls on the Department of Justice to publish a report on the U.S. Government's role in the internment.

The facts need to be told in order to acknowledge that these events happened, to remember those who lived through the humiliation and to discourage any similar injustices from occurring in the future.

By LAUTENBERG (for himself and Mr. TORRICELLI):

S. 971. A bill to amend the Federal Water Pollution Control Act to improve the quality of coastal recreation waters, and for other purposes; to the

Committee on Environment and Public Works.

THE BEACHES ENVIRONMENTAL ASSESSMENT, CLOSURE, AND HEALTH ACT OF 1997

Mr. LAUTENBERG. Mr. President, on behalf of Senator TORRICELLI and myself, I rise to introduce the Beaches Environmental Assessment, Closure and Health (BEACH) Act.

Mr. President, coastal tourism generates billions of dollars every year for local communities nationwide. Moreover, our coastal areas provide immeasurable recreational benefits for millions of Americans who want to build sand castles, cool off in the water, take a walk with that special someone, or just relax. New Jersey's tourism sector is the second largest revenue-producing industry in the state. Without a doubt, the lure of my state's beaches generates most of this revenue—over $7 billion annually.

Mr. President, this heavily used natural resource can actually pose a threat to human health if it is not properly managed. Studies conducted during the past two decades show a definite and alarming relationship between the amount of indicator bacteria in coastal waters and the incidence of illnesses associated with swimming.

Water-borne viruses are the major cause of swimming-associated diseases—gastroenteritis and hepatitis are the most common ones worldwide. And because an individual afflicted with these diseases are contagious, the risk of sewage-borne illness does not end with the bather.

Nationwide, state and local governments reported almost 4,000 beach closings or warnings because of bacteria contamination.

New Jersey has been particularly aggressive in protecting public health at the beach. New Jersey is one of only a few states to have a mandatory beach protection program that includes a bacteria standard, a monitoring program, and mandatory beach closure requirements. The program is designed to address water quality from both a health and an environmental perspective. Beaches are closed when bacteria levels exceed the standard regardless of the pollution source.

Ironically, New Jersey is penalized because it does more to protect public health than most other states. In past years the annual losses from beach closures in New Jersey have ranged from $800 million to $1 billion while beaches remain open in competing states that do not publicize the questionable quality of their water.

I have introduced over this legislation several times over the past several years. The bill, the Beaches, Environmental Assessment, Closure and Health Act, is known by the acronym ''BEACH'' bill. The bill will address the uneven efforts to protect beach goers by establishing uniform testing and monitoring procedures for pathogens and floatables in marine recreation waters.

This bill requires the EPA to establish procedures to monitor coastal waters to detect short-term increases in pathogenicity and to set minimum standards to protect the public from pathogen contaminated beach waters. And it will assure that the public is notified when beach waters exceed the standards and public health may be at risk.

Going to the beach should be a healthy and rejuvenating experience. A day at the beach shouldn't be followed by a day at the doctor. Whether they go to the beach in the Carolinas or in California, in New Jersey or New York—Americans across the country have a right to know when the water is and is not safe for swimming. Beach goers should be able to wade or swim in the surf without the fear of getting sick.

I am very pleased that EPA has recognized the seriousness of this problem and the need for a federal solution. As a result of BEACH bills that I have introduced, the EPA announced its own Beaches Environmental Assessment, Closure and Health program. Under this program, EPA has begun to survey state and local health and environmental directors on the quality of coastal recreational waters for posting on the Internet next year. By next summer, the website will serve as a clearinghouse to provide the public access to health-related information available from states and other sources on the quality of recreational water. The goal is to expand the beach public's ''right to know'' on the quality of the nation's beaches. The aim is to encourage those beaches that keep their water quality from the public to make that information as readily available as is done in New Jersey.

However, without mandatory, uniform regulation these EPA programs will be ineffective. While some states use EPA guidelines, others have no programs for regularly monitoring their beach water for swimmer safety. The Natural Resources Defense Council (NRDC) found that only 7 states—New Jersey, Connecticut, Delaware, Illinois, New Hampshire, Ohio and Indiana —comprehensively monitor their beaches, and a mere 6 states consistently close beaches when bacteria water quality standards are violated. Additionally, NRDC found that while a high bacteria level cause beach closures in one state other sates may allow people to swim despite the identical health risks. This discrepancy threatens public health. That is why we need to pass this legislation as soon as possible.

Mr. President, I urge my colleagues to join me in recognizing the importance of protecting public health at our nation's beaches by cosponsoring this legislation.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 971

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Beaches Environmental Assessment, Closure, and Health Act of 1997''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Nation's beaches are a valuable public resource used for recreation by millions of people annually;

(2) the beaches of coastal States are hosts to many out-of-State and international visitors;

(3) tourism in the coastal zone generates billions of dollars annually;

(4) increased population has contributed to the decline in the environmental quality of coastal waters;

(5) pollution in coastal waters is not restricted by State and other political boundaries;

(6) coastal States have different methods of testing the quality of coastal recreation waters, providing varying degrees of protection to the public;

(7) the adoption of consistent criteria by coastal States for monitoring the quality of coastal recreation waters, and the posting of signs at beaches notifying the public during periods when the standards are exceeded, would enhance public health and safety; and

(8) while the adoption of such criteria will enhance public health and safety, exceedances of such criteria should be addressed, where feasible, as part of a watershed approach to effectively identify and eliminate sources of pollution.

(b) PURPOSE.—The purpose of this Act is to require uniform criteria and procedures for testing, monitoring, and posting of coastal recreation waters at beaches open for use by the public to protect public safety and improve environmental quality.

SEC. 3. ADOPTION OF COASTAL RECREATIONAL WATER QUALITY CRITERIA BY STATES.

(a) GENERAL RULE.—A State shall adopt water quality criteria for coastal recreation waters which, at a minimum, are consistent with the criteria published by the Administrator under section 304(a)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1314(a)(1)) not later than 3½ years following the date of the enactment of this Act. Such water quality criteria shall be developed and promulgated in accordance with the requirements of section 303(c) of the Federal Water Pollution Control Act (33 U.S.C. 1313(c)). A State shall incorporate such criteria into all appropriate programs into which such State would incorporate other water quality criteria adopted under such section 303(c) and revise such criteria not later than 3 years following the date of publication of revisions by the Administrator under section 4(b) of this Act.

(b) FAILURE OF STATES TO ADOPT.—If a State has not complied with subsection (a) by the last day of the 3½-year period beginning on the date of the enactment of this Act, the water quality criteria issued by the Administrator under section 304(a)(1) of the Federal Water Pollution Control Act shall become applicable as the water quality criteria for coastal recreational waters for the State, and shall be deemed to have been promulgated by the Administrator pursuant to section 303(c)(4).

SEC. 4. REVISIONS TO WATER QUALITY CRITERIA.

(a) STUDIES.—After consultation with appropriate Federal, State, and local officials, including local health officials, and other interested persons, but not later than the last day of the 3-year period beginning on the date of the enactment of this Act, the Administrator shall conduct, in cooperation with the Under Secretary of Commerce for Oceans and Atmosphere, studies to provide

additional information to the current base of knowledge for use in developing—

(1) a more complete list of potential health risks, including effects to the upper respiratory system;

(2) better indicators for directly detecting or predicting in coastal recreational waters the presence of pathogens which are harmful to human health; and

(3) more expeditious methods (including predictive models) for detecting in coastal recreation waters the presence of pathogens which are harmful to human health.

(b) REVISED CRITERIA.—Based on the results of the studies conducted under subsection (a), the Administrator, after consultation with appropriate Federal, State, and local officials, including local health officials, shall issue, within 5 years after the date of the enactment of this Act (and review and revise from time to time thereafter, but in no event less than once every 5 years) revised water quality criteria for pathogens in coastal recreation waters that are harmful to human health, including a revised list of indicators and testing methods.

SEC. 5. COASTAL BEACH WATER QUALITY MONITORING.

Title IV of the Federal Water Pollution Control Act (33 U.S.C. 1341–1345) is amended by adding at the end thereof the following new section:

"SEC. 406. COASTAL BEACH WATER QUALITY MONITORING.

''(a) MONITORING.—Within 18 months after the date of enactment of this section, the Administrator shall publish and revise regulations requiring monitoring of, and specifying available methods to be used by States to monitor, coastal recreation waters at beaches open for use by the public for compliance with applicable water quality criteria for those waters and protection of the public safety. Monitoring requirements established pursuant to this subsection shall, at a minimum—

''(1) specify the frequency of monitoring based on the periods of recreational use of such waters;

''(2) specify the frequency of monitoring based on the extent and degree of use during such periods;

''(3) specify the frequency and location of monitoring based on the proximity of coastal recreation waters to known or identified point and nonpoint sources of pollution and in relation to storm events;

''(4) specify methods for detecting levels of pathogens that are harmful to human health and for identifying short-term increases in pathogens that are harmful to human health in coastal recreation waters, including in relation to storm events; and

''(5) specify the conditions and procedures under which discrete areas of coastal recreation waters may be exempted by the Administrator from the monitoring requirements of this subsection, if the Administrator determines that an exemption will not impair—

''(A) compliance with the applicable water quality criteria for those waters; and

''(B) protection of the public safety.

''(b) NOTIFICATION REQUIREMENTS.—Regulations published pursuant to subsection (a) shall require States to provide prompt notification to local governments and the public of exceedance of applicable water quality criteria for State coastal recreation waters or the immediate likelihood of such an exceedance. Notification pursuant to this subsection shall include, at a minimum—

''(1) prompt communication of the occurrence, nature, and extent of such an exceedance, or the immediate likelihood of such an exceedance based on predictive models to a designated official of a local government having jurisdiction over land adjoining the coastal recreation waters for which an exceedance is identified; and

''(2) posting of signs for the period during which the exceedance continues, sufficient to give notice to the public of an exceedance of applicable water quality criteria for such waters and the potential risks associated with water contact activities in such waters.

''(c) FLOATABLE MATERIALS MONITORING PROCEDURES.—The Administrator shall—

''(1) issue guidance on uniform assessment and monitoring procedures for floatable materials in coastal recreation waters; and

''(2) specify the conditions under which the presence of floatable material shall constitute a threat to public health and safety.

''(d) STATE IMPLEMENTATION.—A State must implement a monitoring program that conforms to the regulations issued pursuant to subsection (a) not later than 3½ years after the date of the enactment of this section and revise such program not later than 2 years following the date of publication of revisions by the Administrator under subsection (f).

''(e) DELEGATION OF RESPONSIBILITY.—Not later than 18 months after the date of the enactment of this section, the Administrator shall issue guidance for the delegation of State testing, monitoring, and posting programs under this section to local government authorities. In the case that such responsibilities are delegated by a State to a local government authority, or have been delegated to a local government authority before such date of enactment, in a manner that, at a minimum, is consistent with the guidance issued by the Administrator, State resources shall be made available to the delegated authority for the purpose of program implementation.

''(f) REVIEW AND REVISION OF REGULATIONS.—The Administrator shall review and revise regulations published pursuant to this section periodically, but in no event less than once every 5 years.

''(g) DEFINITIONS.—In this section, the following definitions apply:

''(1) COASTAL RECREATION WATERS.—The term 'coastal recreation waters' means Great Lakes and marine coastal waters (including bays) used by the public for swimming, bathing, surfing, or other similar water contact activities.

''(2) FLOATABLE MATERIALS.—The term 'floatable materials' means any foreign matter that may float or remain suspended in the water column and includes plastic, aluminum cans, wood, bottles, and paper products.''.

SEC. 6. REPORT TO CONGRESS.

Not later than 4 years after the date of the enactment of this Act, and periodically thereafter, the Administrator shall submit to Congress a report including—

(1) recommendations concerning the need for additional water quality criteria and other actions needed to improve the quality of coastal recreation waters; and

(2) an evaluation of State efforts to implement this Act, including the amendments made by this Act.

SEC. 7. GRANTS TO STATES.

(a) GRANTS.—Subject to subsection (c), the Administrator may make grants to States for use in fulfilling requirements established pursuant to section 3 of this Act and section 406 of the Federal Water Pollution Control Act.

(b) COST SHARING.—The total amount of grants to a State under this section for a fiscal year shall not exceed 50 percent of the cost to the State of implementing requirements established pursuant to section 3 of this Act and section 406 of the Federal Water Pollution Control Act.

(c) ELIGIBLE STATE.—After the last day of the 3½-year period beginning on the date of the enactment of this Act, the Administrator may make a grant to a State under this section only if the State demonstrates to the satisfaction of the Administrator that it is implementing its monitoring and posting program under section 406 of the Federal Water Pollution Control Act.

SEC. 8. DEFINITIONS.

In this Act, the following definitions apply:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) COASTAL RECREATION WATERS.—The term ''coastal recreation waters'' means Great Lakes and marine coastal waters (including bays) used by the public for swimming, bathing, surfing, or other similar body contact purposes.

(3) FLOATABLE MATERIALS.—The term ''floatable materials'' means any foreign matter that may float or remain suspended in the water column and includes plastic, aluminum cans, wood, bottles, and paper products.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Administrator—

(1) for use in making grants to States under section 7 not more than $4,500,000 for each of the fiscal years 1998 through 2002; and

(2) for carrying out the other provisions of this Act not more than $1,500,000 for each of the fiscal years 1998 through 2002.

By Mr. REED (for himself, Mr. CHAFEE, Mr. COATS, and Mr. INHOFE):

S. 972. A bill to amend the Internal Revenue Code of 1986 to prohibit any deduction for gambling losses; to the Committee on Finance.

REPEAL THE GAMBLING LOSS TAX DEDUCTION

Mr. REED. Mr. President, this week the Senate has considered legislation to fundamentally change Medicare and other programs that are vital to millions of Americans. I realize that we must make difficult choices about these valuable initiatives as we move toward a balanced budget. However, as we seek to invest in our nation's future, we must also confront loopholes and subsidies that waste our limited resources.

The tax code contains many such loopholes, which fail to reflect our nation's true priorities. For example, the United States is subsidizing thousands of professional gamblers by allowing tax deductions for gambling losses to the extent of gambling winnings. The Joint Tax Committee reports that this deduction costs taxpayers $1.43 billion over five years.

The gambling loss tax deduction is an anomaly for individuals who frequent an industry that sells itself as providing entertainment. In general, the tax code does not allow deductions for discretionary spending on entertainment, and I believe that it is more than reasonable to hold gambling expenditures to this same standard. Repealing the gambling loss tax deduction merely increases the cost of one entertainment option, a factor that gamblers can consider in determining how to spend their discretionary income. Furthermore, while most business deductions are for investments—

and even losses—that could have created needed job opportunities for our nation's citizens, this is not the case for the losses claimed by professional gamblers on their personal income taxes.

Perhaps more importantly, the gambling loss tax deduction primarily benefits professional gamblers and wealthy individuals who spend large sums on gambling. In 1994 alone, $2.78 billion in gambling losses was deducted on some 427,000 tax returns. Individuals with adjusted gross incomes of at least $75,000 claimed nearly 55% of these gambling losses, and people with adjusted gross incomes of at least $100,000 claimed an astounding 40% of these deductions.

When Congress is cutting essential programs to balance the budget, it is simply unsound policy to subsidize gamblers. I urge my colleagues to join me, Senator Chafee, Senator Coats, and Senator Inhofe in supporting legislation to repeal the gambling loss tax deduction, and in taking a step to ensure that we balance the budget in a way that reflects our nation's priorities and invests in our nation's future.

Mr. President, I ask unanimous consent that a copy of this legislation to repeal the gambling loss tax deduction be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 972

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION ON ANY DEDUCTION FOR GAMBLING LOSSES.

(A) IN GENERAL.—Section 165(d) of the Internal Revenue Code of 1986 (relating to wagering losses) is amended to read as follows:

''(d) NO DEDUCTION FOR WAGERING LOSSES.—No deduction shall be allowed for losses from wagering transactions.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 21, 1997.

By Mr. REED (for himself and Mr. CHAFEE):

S. 973. A bill to designate the United States Post Office building located at 551 Kingstown Road in Wakefield, Rhode Island, as the ''David B. Champagne Post Office Building''; to the Committee on Governmental Affairs.

THE DAVID B. CHAMPAGNE POST OFFICE ACT

Mr. REED. Mr. President, I rise today to pay tribute to Corporal David B. Champagne, USMC, who was posthumously awarded the Medal of Honor for service in Korea. In honor of the sacrifice made by this heroic young man, I am introducing a bill to name the new post office at 551 Kingstown Road in Wakefield, RI the ''David B. Champagne Post Office'' with my Rhode Island colleague Senator Chafee.

The son of Mr. and Mrs. Bernard L. Champagne, Corporal Champagne served in the National Guard before graduating from South Kingstown High School and enlisting in the Marines in March 1951. He was the only Rhode Island resident to receive this nation's highest award for valor, the Medal of Honor, for service in Korea. The citation accompanying the Medal read:

For conspicuous gallantry and intrepidity at the risk of his life above and beyond the call of duty while serving as a fire team leader of Company A, First Battalion, Seventh Marines, First Marine Division (Reinforced), in action against enemy aggressor forces in Korea on 28 May 1952. Advancing with his platoon in the initial assault of the company against a strongly fortified and heavily defended hill position, Corporal Champagne skillfully led his fire team through a veritable hail of intense enemy machine-gun, small-arms and grenade fire, overrunning trenches and a series of almost impregnable bunker positions before reaching the crest of the hill and placing his men in defensive positions. Suffering a painful leg wound while assisting in repelling the ensuing hostile counterattack, which was launched under cover of a murderous hail of mortar and artillery fire, he steadfastly refused evacuation and fearlessly continued to control his fire team. When the enemy counterattack increased in intensity, and a hostile grenade landed in the midst of the fire team, Corporal Champagne unhesitating seized the deadly missile and hurled it in the direction of the approaching enemy. As the grenade left his hand, it exploded, blowing off his hand and throwing him out of the trench. Mortally wounded by the enemy mortar fire while in this exposed position, Corporal Champagne, by his valiant leadership, fortitude and gallant spirit of self-sacrifice in the face of almost certain death, undoubtedly saved the lives of several of his fellow Marines. His heroic actions served to inspire all who observed him and reflect the highest credit upon himself and the United States Naval Service. He gallantly gave his life for his country.

In addition to the Medal of Honor, Corporal Champagne received the Korean Medal of Honor, the Rhode Island Cross, the Purple Heart, the National Defense Service Medal, the Korean Service Medal with 3 Battle Stars, the Korean Presidential Unit Citation, and the United Nation's Service Medal.

Corporal Champagne is truly an American hero. In the best spirit of this country, he volunteered to go to a foreign land and fight for people he had never met, so that they would not be subjected to the rule of a totalitarian regime.

In my home state of Rhode Island a Korean War Memorial is under construction at the State Veterans' Cemetery. Carved on that memorial will be the same words that are inscribed on the Korean War Memorial dedicated in Washington, DC: ''Freedom Is Not Free.'' Corporal Champagne understood the meaning of those words. He unhesitatingly paid the ultimate price to preserve the freedom of South Korea and to save the lives of his men.

This legislation would pay proper tribute to this remarkable young man and commemorate his incredible valor for future generations. I ask my colleagues to join Senator Chafee and me in honoring Corporal David B. Champagne by supporting this bill.

Mr. President, I ask unanimous consent that a copy of this legislation to name the new Wakefield post office after Corporal Champagne be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 973

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF DAVID B. CHAMPAGNE POST OFFICE BUILDING.

The United States Post Office building located at 551 Kingstown Road in Wakefield, Rhode Island, shall be known and designated as the ''David B. Champagne Post Office Building''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office building referred to in section 1 shall be deemed to be a reference to the ''David B. Champagne Post Office Building''.

By Mr. REED:

S. 974. A bill to amend the Immigration and Nationality Act to modify the qualifications for a country to be designated as a visa waiver pilot program country; to the Committee on the Judiciary.

VISA WAIVER PROGRAM LEGISLATION

Mr. REED. Mr. President, for the past 9 years the visa waiver pilot program has been a resounding success. Today, citizens from twenty-five countries are able to travel to the United States without the burden of obtaining a visa from a U.S. embassy before leaving home. Because the program makes travel so much easier, business has boomed, tourism has soared, and family members have been able to be with each other on occasions when it mattered. Cutting the bureaucratic red tape has strengthened our economic and cultural ties with participating countries. In addition, streamlining this administrative process has enabled the State Department to use its resources more efficiently and effectively, saving the American taxpayers thousands of dollars.

Today, I am introducing a bill which will extend the privilege of the visa waiver program to additional countries with strong ties to our Nation. This legislation will slightly modify the criteria that a country must meet in order to participate in the program. Under these modifications, one country which will gain admittance to the visa waiver program is Portugal. Portugal is one of only two members of the European Union which is not included in the visa waiver program. It is time for that inequity to be corrected.

The Portuguese were some of the earliest explorers and settlers of the United States and they have been contributing to our country ever since. Over one million U.S. citizens claim Portuguese descent and there are thriving Portuguese communities from New England to Hawaii. We owe these members of our American community the opportunity to see family members who live in Portugal when they need them, without the worry and hassle of obtaining a visa.

Inclusion in the visa waiver program will promote the economic exchange

between Portugal and the United States. Portugal is a valued trading partner and if members of the business community are able to travel to the U.S. without delaying to obtain a business, their contributions to this country will only increase. At a time when the U.S. economy is the wonder of the world and our market is truly global, our country should seek out and facilitate additional economic opportunities.

In 1974, the citizens of Portugal overthrew a dictatorship and established a democracy. Their brave actions began a wave of democratization that spread across the world and is still reverberating today. No other country reflects the principles of the United States better than Portugal. We should do everything possible to lower the barriers and strengthen the exchange between our two countries. Including Portugal in the visa waiver program is an important first step in this process.

Mr. President, I ask unanimous consent that a copy of this legislation be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 974

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. QUALIFICATIONS FOR DESIGNATION AS PILOT PROGRAM COUNTRY.

Section 217(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1187(c)(2)) is amended to read as follows:

''(2) QUALIFICATIONS.—Except as provided in subsection (g), a country may not be designated as a pilot program country unless the following requirements are met:

''(A) LOW NONIMMIGRANT VISA REFUSAL RATE.—Either—

''(i) the average number of refusals of nonimmigrant visitor visas for nationals of that country during—

''(I) the two previous full fiscal years was less than 2.0 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years; and

''(II) either of such two previous full fiscal years was less than 2.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year; or

''(ii) such refusal rate for nationals of that country during—

''(I) the previous full fiscal year was less than 3.5 percent; and

''(II) the two previous full fiscal years was at least 50 percent less than such refusal rate during fiscal year 1994.

''(B) MACHINE READABLE PASSPORT PROGRAM.—The government of the country certifies that it has or is in the process of developing a program to issue machine-readable passports to its citizens.

''(C) LAW ENFORCEMENT INTERESTS.—The Attorney General determines that the United States law enforcement interests would not be compromised by the designation of the country.''.

ADDITIONAL COSPONSORS

S. 28

At the request of Mr. THURMOND, the name of the Senator from Oregon [Mr. SMITH] was added as a cosponsor of S. 28, a bill to amend title 17, United States Code, with respect to certain exemptions from copyright, and for other purposes.

S. 211

At the request of Mr. WELLSTONE, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 211, a bill to amend title 38, United States Code, to extend the period of time for the manifestation of chronic disabilities due to undiagnosed symptoms in veterans who served in the Persian Gulf War in order for those disabilities to be compensable by the Secretary of Veterans Affairs.

S. 422

At the request of Mr. DOMENICI, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 422, a bill to define the circumstances under which DNA samples may be collected, stored, and analyzed, and genetic information may be collected, stored, analyzed, and disclosed, to define the rights of individuals and persons with respect to genetic information, to define the responsibilities of persons with respect to genetic information, to protect individuals and families from genetic discrimination, to establish uniform rules that protect individual genetic privacy, and to establish effective mechanisms to enforce the rights and responsibilities established under this Act.

S. 497

At the request of Mr. COVERDELL, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 497, a bill to amend the National Labor Relations Act and the Railway Labor Act to repeal the provisions of the Acts that require employees to pay union dues or fees as a condition of employment.

S. 657

At the request of Mr. DASCHLE, the names of the Senator from Maine [Ms. SNOWE], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 657, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive military retired pay concurrently with veterans' disability compensation.

S. 728

At the request of Mrs. FEINSTEIN, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 728, a bill to amend title IV of the Public Health Service Act to establish a Cancer Research Trust Fund for the conduct of biomedical research.

S. 830

At the request of Mr. JEFFORDS, the names of the Senator from Connecticut [Mr. DODD], the Senator from Indiana [Mr. COATS], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Tennessee [Mr. FRIST] were added as cosponsors of S. 830, a bill to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, and for other purposes.

S. 852

At the request of Mr. LOTT, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

SENATE JOINT RESOLUTION 24

At the request of Mr. KENNEDY, the name of the Senator from Oregon [Mr. WYDEN] was added as a cosponsor of Senate Joint Resolution 24, a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men.

AMENDMENT NO. 423

At the request of Mr. INHOFE, the names of the Senator from Alabama [Mr. SESSIONS] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of amendment No. 423 proposed to S. 936, an original bill to authorize appropriations for fiscal year 1998 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 518

At the request of Mr. BUMPERS, the names of the Senator from Hawaii [Mr. AKAKA], and the Senator from Wisconsin [Mr. FEINGOLD] were added as cosponsors of amendment No. 518 proposed to S. 949, an original bill to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 519

At the request of Mr. DURBIN, the names of the Senator from Missouri [Mr. BOND], the Senator from California [Mrs. BOXER], the Senator from Maryland [Ms. MIKULSKI], and the Senator from South Dakota [Mr. JOHNSON] were added as cosponsors of amendment No. 519 proposed to S. 949, an original bill to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 520

At the request of Ms. LANDRIEU, her name was added as a cosponsor of amendment No. 520 proposed to S. 949, an original bill to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998.

AMENDMENTS SUBMITTED

THE TAX FAIRNESS ACT OF 1997

KOHL (AND OTHERS) AMENDMENT NO. 524

(Ordered to lie on the table.)

Mr. KOHL (for himself, Mr. HATCH, and Mr. DASCHLE) submitted an amendment intended to be proposed by them to the bill, S. 949, to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998; as follows:

On page 20, between lines 5 and 6, insert:

SEC. 103. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45D. EMPLOYER-PROVIDED CHILD CARE CREDIT.

''(a) IN GENERAL.—For purposes of section 38, the employer-provided child care credit determined under this section for the taxable year is an amount equal to 50 percent of the qualified child care expenditures of the taxpayer for such taxable year.

''(b) DOLLAR LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed $150,000.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED CHILD CARE EXPENDITURE.—The term 'qualified child care expenditure' means any amount paid or incurred—

''(A) to acquire, construct, rehabilitate, or expand property—

''(i) which is to be used as part of a qualified child care facility of the taxpayer,

''(ii) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and

''(iii) which does not constitute part of the principal residence (within the meaning of section 1034) of the taxpayer or any employee of the taxpayer,

''(B) for the operating costs of a qualified child care facility of the taxpayer, including costs related to the training of employees, to scholarship programs, and to the providing of increased compensation to employees with higher levels of child care training,

''(C) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer,

''(D) under a contract to provide child care resource and referral services to employees of the taxpayer, or

''(E) for the costs of seeking accreditation from a child care credentialing or accreditation entity.

''(2) QUALIFIED CHILD CARE FACILITY.—

''(A) IN GENERAL.—The term 'qualified child care facility' means a facility—

''(i) the principal use of which is to provide child care assistance, and

''(ii) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including, but not limited to, the licensing of the facility as a child care facility.

Clause (i) shall not apply to a facility which is the principal residence (within the meaning of section 1034) of the operator of the facility.

''(B) SPECIAL RULES WITH RESPECT TO A TAXPAYER.—A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless—

''(i) enrollment in the facility is open to employees of the taxpayer during the taxable year,

''(ii) the facility is not the principal trade or business of the taxpayer unless at least 30 percent of the enrollees of such facility are dependents of employees of the taxpayer, and

''(iii) the use of such facility (or the eligibility to use such facility) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).

''(d) RECAPTURE OF ACQUISITION AND CONSTRUCTION CREDIT.—

''(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care facility of the taxpayer, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

''(A) the applicable recapture percentage, and

''(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer described in subsection (c)(1)(A) with respect to such facility had been zero.

''(2) APPLICABLE RECAPTURE PERCENTAGE.—

''(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

"If the recapture event occurs in:	The applicable recapture percentage is:
Years 1–3	100
Year 4	85
Year 5	70
Year 6	55
Year 7	40
Year 8	25
Years 9 and 10	10
Years 11 and thereafter	0.

''(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care facility is placed in service by the taxpayer.

''(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

''(A) CESSATION OF OPERATION.—The cessation of the operation of the facility as a qualified child care facility.

''(B) CHANGE IN OWNERSHIP.—

''(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayer's interest in a qualified child care facility with respect to which the credit described in subsection (a) was allowable.

''(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

''(4) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

''(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified child care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

''(e) SPECIAL RULES.—For purposes of this section—

''(1) AGGREGATION RULES.—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

''(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

''(f) NO DOUBLE BENEFIT.—

''(1) REDUCTION IN BASIS.—For purposes of this subtitle—

''(A) IN GENERAL.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (c)(1)(A), the basis of such property shall be reduced by the amount of the credit so determined.

''(B) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any property the basis of which was reduced under subparagraph (A), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

''(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.

''(g) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 1999.''

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) is amended—

(A) by striking out ''plus'' at the end of paragraph (11),

(B) by striking out the period at the end of paragraph (12), and inserting a comma and ''plus'', and

(C) by adding at the end the following new paragraph:

''(13) the employer-provided child care credit determined under section 45D.''

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45D. Employer-provided child care credit.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 104. EXPANSION OF COORDINATED ENFORCEMENT EFFORTS OF INTERNAL REVENUE SERVICE AND HHS OFFICE OF CHILD SUPPORT ENFORCEMENT.

(a) STATE REPORTING OF CUSTODIAL DATA.—Section 454A(e)(4)(D) of the Social Security Act (42 U.S.C. 654(e)(4)(D)) is amended by striking ''the birth date of any child'' and inserting ''the birth date and custodial status of any child''.

(b) MATCHING PROGRAM BY IRS OF CUSTODIAL DATA AND TAX STATUS INFORMATION.—

(1) NATIONAL DIRECTORY OF NEW HIRES.—Section 453(i)(3) of the Social Security Act (42 U.S.C. 653(i)(3)) is amended by striking ''a claim with respect to employment in a tax return'' and inserting ''information which is required on a tax return''.

(2) FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS.—Section 453(h) of the such Act (42 U.S.C. 653(h)) is amended by adding at the end the following:

''(3) ADMINISTRATION OF FEDERAL TAX LAWS.—The Secretary of the Treasury shall

have access to the information described in paragraph (2), consisting of the names and social security numbers of the custodial parents linked with the children in the custody of such parents, for the purpose of administering those sections of the Internal Revenue Code of 1986 which grant tax benefits based on support and residence provided dependent children.''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1997.

BOND AMENDMENTS NOS. 525–526

(Ordered to lie on the table.)

Mr. BOND submitted two amendments intended to be proposed by him to the bill, S. 949, supra; as follows:

AMENDMENT NO. 525

On page 192, strike lines 13 through 18.

AMENDMENT NO. 526

On page 212, between lines 11 and 12, insert the following:

SEC. . CLARIFICATION OF DEFINITION OF PRINCIPAL PLACE OF BUSINESS.

(a) IN GENERAL.—Section 280A(f) (relating to definitions and special rules) is amended by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) PRINCIPAL PLACE OF BUSINESS.—For purposes of subsection (c), a home office shall in any case qualify as the principal place of business if—

''(A) the office is the location where the taxpayer's essential administrative or management activities are conducted on a regular and systematic (and not incidental) basis by the taxpayer, and

''(B) the office is necessary because the taxpayer has no other location for the performance of the essential administrative or management activities of the business.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

DASCHLE (AND OTHERS) AMENDMENT NO. 527

Mr DASCHLE (for himself, Mr. BINGAMAN, Mr. CONRAD, Ms. MIKULSKI, Ms. BOXER, Mr. DODD, Mr. KERRY, Ms. LANDRIEU, Mr. CLELAND, Mr. DURBIN, Mr. KENNEDY, Mr. FORD, Mr. LAUTENBERG, Mr. HARKIN, and Mr. JOHNSON) proposed an amendment to the bill, S. 949, supra; as follows:

Strike titles I through VII of the bill and insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Revenue Reconciliation Act of 1997''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—REFUNDABLE CHILD TAX CREDIT

Sec. 101. Refundable child tax credit.

TITLE II—TAX INCENTIVES FOR EDUCATION AND TRAINING

Subtitle A—Tax Benefits Relating to Education Expenses

Sec. 201. HOPE credit for higher education tuition and related expenses.

Sec. 202. Deduction for interest on education loans.

Subtitle B—Expanded Education Investment Savings Opportunities

PART I—QUALIFIED TUITION PROGRAMS

Sec. 211. Exclusion from gross income of education distributions from qualified tuition programs.

Sec. 212. Eligible educational institutions permitted to maintain qualified tuition programs; other modifications of qualified State tuition programs.

PART II—KIDSAVE ACCOUNTS

Sec. 213. KIDSAVE accounts.

Subtitle C—Other Education Initiatives

Sec. 221. Extension of exclusion for employer-provided educational assistance.

Sec. 222. Repeal of limitation on qualified 501(c)(3) bonds other than hospital bonds.

Sec. 223. Tax credit for public elementary and secondary school construction.

Sec. 224. Contributions of computer technology and equipment for elementary or secondary school purposes.

Sec. 225. Increase in arbitrage rebate exception for governmental bonds used to finance education facilities.

Sec. 226. 2-percent floor on miscellaneous itemized deductions not to apply to certain continuing education expenses of elementary and secondary school teachers.

TITLE III—TAX RELIEF FOR FAMILY SAVINGS AND BUSINESS CAPITAL FORMATION

Subtitle A—Tax Relief for Family Savings

Sec. 301. Capital gains deduction.

Sec. 302. Family dividend exclusion.

Sec. 303. Exemption from tax for gain on sale of principal residence.

Subtitle B—Business Capital Formation

Sec. 311. Rollover of capital gains on certain small business investments.

Sec. 312. Modifications to exclusion of gain on certain small business stock.

Sec. 313. Expansion of small business stock exclusion to family-owned businesses.

TITLE IV—ESTATE TAX RELIEF FOR FAMILY BUSINESSES AND FARMS

Sec. 401. Family-owned business exclusion.

Sec. 402. Portion of estate tax subject to 4-percent interest rate increased to $2,500,000.

Sec. 403. Certain cash rentals of farmland not to cause recapture of special estate tax valuation.

TITLE V—EXTENSIONS

Sec. 501. Research tax credit.

Sec. 502. Contributions of stock to private foundations.

Sec. 503. Work opportunity tax credit.

Sec. 504. Orphan drug tax credit.

TITLE VI—INCENTIVES FOR REVITALIZATION OF THE DISTRICT OF COLUMBIA

Sec. 601. Tax incentives for revitalization of the District of Columbia.

Sec. 602. Incentives conditioned on other DC reform.

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TITLE I—REFUNDABLE CHILD TAX CREDIT

SEC. 101. REFUNDABLE CHILD TAX CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

''SEC. 35. CHILD CREDIT.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year with respect to each qualifying child of the taxpayer an amount equal to the lesser of—

''(1) $350, or

''(2) $500, if such amount is contributed by the taxpayer for such taxable year for the benefit of such child to a KIDSAVE account (as defined in section 530).

''(b) LIMITATIONS.—

''(1) LIMITATION BASED ON ADJUSTED GROSS INCOME.—The dollar amounts in subsection

(a) shall be reduced (but not below zero) ratably for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds $70,000 but does not exceed $85,000. For purposes of the preceding sentence, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

''(2) LIMITATION BASED ON AMOUNT OF TAX.—The aggregate credit allowed by subsection (a) (determined after paragraph (1)) shall not exceed the sum of—

''(A) the excess (if any) of—

''(i) the taxpayer's regular tax liability for the taxable year reduced by the credits allowable against such tax under this subpart (other than this section), over

''(ii) the taxpayer's tentative minimum tax for such taxable year (determined without regard to the alternative minimum tax foreign tax credit), plus

''(B) the excess (if any) of—

''(i) the sum of—

''(I) the taxpayer's liability for the taxable year under sections 3101 and 3201,

''(II) the amount of tax paid on behalf of such taxpayer for the taxable year under sections 3111 and 3221, plus

''(III) the taxpayer's liability for such year under sections 1401 and 3211, over

''(ii) the credit allowed for the taxable year under section 32.

''(c) QUALIFYING CHILD.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying child' means any individual if—

''(A) the taxpayer is allowed a deduction under section 151 with respect to such individual for the taxable year,

''(B) such individual has not attained the age of 14 (age of 18 in the case of taxable years beginning after 2002) as of the close of the calendar year in which the taxable year of the taxpayer begins, and

''(C) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B).

''(2) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

''(d) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.

''(e) INFLATION ADJUSTMENTS.—

''(1) IN GENERAL.—In the case of a taxable year beginning after 2000, each dollar amount contained in subsection (a) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) ROUNDING.—If an amount contained in subsection (a) as adjusted under paragraph (1) is not a multiple of $50, such amount shall be rounded to the next lower multiple of $50.

''(f) PHASEIN OF CREDIT.—In the case of taxable years beginning in 1997 through 1999—

''(1) subsection (a)(1) shall be applied by substituting '$250' for '$350', and

''(2) subsection (a)(2) shall be applied by substituting '$350' for '$500'.''

(b) CONFORMING AMENDMENTS.—The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 35 and inserting the following new items:

''Sec. 35. Child credit.

''Sec. 36. Overpayments of tax.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

TITLE II—TAX INCENTIVES FOR EDUCATION AND TRAINING

Subtitle A—Tax Benefits Relating to Education Expenses

SEC. 201. HOPE CREDIT FOR HIGHER EDUCATION TUITION AND RELATED EXPENSES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25 the following new section:

''SEC. 25A. HIGHER EDUCATION TUITION AND RELATED EXPENSES.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the amount equal to the sum of—

''(A) the complete Hope Scholarship Credit, plus

''(B) the partial Hope Scholarship Credit.

''(2) COMPLETE CREDIT.—

''(A) IN GENERAL.—In the case of any individual to whom this paragraph applies for any taxable year, the complete Hope Scholarship Credit is an amount equal to the sum of—

''(i) 100 percent of so much of the qualified higher education expenses paid by the taxpayer during the taxable year (for education furnished to the individual during any academic period beginning in such taxable year) as does not exceed $1,000, plus

''(ii) 50 percent of such expenses so paid as exceeds $1,000 but does not exceed the applicable limit.

''(B) APPLICABLE LIMIT.—For purposes of subparagraph (A), the applicable limit is—

''(i) $1,100 for taxable years beginning in 1997, 1998, or 1999,

''(ii) $1,200 for taxable years beginning in 2000, or

''(iii) $1,500 for taxable years beginning in 2001 or thereafter.

''(3) PARTIAL HOPE SCHOLARSHIP CREDIT.—

''(A) IN GENERAL.—The partial Hope Scholarship Credit is 20 percent of the qualified higher education expenses paid by the taxpayer during the taxable year for education furnished to an individual during any academic period beginning in such taxable year. Education expenses with respect to an individual for whom a complete Hope Scholarship credit is determined for the taxable year shall not be taken into account under this paragraph.

''(B) DOLLAR LIMITATION.—The amount of qualified higher education expenses taken into account under subparagraph (A) for any taxable year shall not exceed—

''(i) $4,000 for taxable years beginning in 1997, 1998, or 1999,

''(ii) $7,500 for taxable years beginning in 2000, and

''(iii) $10,000 for taxable years beginning in 2001 or thereafter.

''(b) LIMITATIONS.—

''(1) ELECTION REQUIRED.—

''(A) IN GENERAL.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified tuition and related expenses of an individual unless the taxpayer elects to have this section apply with respect to such individual for such year.

''(B) COMPLETE CREDIT ALLOWED ONLY FOR 2 TAXABLE YEARS.—An election under this paragraph shall not take effect with respect to an individual for the complete Hope Scholarship Credit under subsection (a)(2) for any taxable year if such election under this paragraph (by the taxpayer or any other individual) is in effect with respect to such individual for any 2 prior taxable years.

''(C) COORDINATION WITH EXCLUSIONS.—An election under this paragraph shall not take effect with respect to an individual for any taxable year if there is in effect for such taxable year an election under section 529(c)(3)(B) or 530(c)(1) (by the taxpayer or any other individual) to exclude from gross income distributions from a qualified tuition program or KIDSAVE account used to pay qualified higher education expenses of the individual.

''(3) CREDIT ALLOWED FOR YEAR ONLY IF INDIVIDUAL IS AT LEAST ½ TIME STUDENT FOR PORTION OF YEAR.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified tuition and related expenses of an individual unless such individual is an eligible student for at least one academic period which begins during such year.

''(4) COMPLETE CREDIT ALLOWED ONLY FOR FIRST 2 YEARS OF POSTSECONDARY EDUCATION.—No credit shall be allowed under subsection (a)(2) for a taxable year with respect to the qualified tuition and related expenses of an individual if the individual has completed (before the beginning of such taxable year) the first 2 years of postsecondary education at an eligible educational institution.

''(c) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(1) IN GENERAL.—The amount which would (but for this subsection) be taken into account under subsection (a) for the taxable year shall be reduced (but not below zero) by the amount determined under paragraph (2).

''(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph is the amount which bears the same ratio to the amount which would be so taken into account as—

''(A) the excess of—

''(i) the taxpayer's modified adjusted gross income for such taxable year, over

''(ii) $50,000 ($80,000 in the case of a joint return), bears to

''(B) $20,000.

''(3) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED TUITION AND RELATED EXPENSES.—

''(A) IN GENERAL.—The term 'qualified tuition and related expenses' means tuition and fees required for the enrollment or attendance of—

''(i) the taxpayer,

''(ii) the taxpayer's spouse, or

''(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151,

at an eligible educational institution and books required for courses of instruction of such individual at such institution.

''(B) EXCEPTION FOR EDUCATION INVOLVING SPORTS, ETC.—Such term does not include expenses with respect to any course or other education involving sports, games, or hobbies, unless such course or other education is part of the individual's degree program.

''(C) EXCEPTION FOR NONACADEMIC FEES.—Such term does not include student activity fees, athletic fees, insurance expenses, or other expenses unrelated to an individual's academic course of instruction.

''(2) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means an institution—

''(A) which is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section, and

''(B) which is eligible to participate in a program under title IV of such Act.

''(3) ELIGIBLE STUDENT.—The term 'eligible student' means, with respect to any academic period, a student who—

''(A) meets the requirements of section 484(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1)), as in effect on the date of the enactment of this section, and

''(B) is carrying at least ½ the normal full-time work load for the course of study the student is pursuing.

''(e) TREATMENT OF EXPENSES PAID BY DEPENDENT.—If a deduction under section 151 with respect to an individual is allowed to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins—

''(1) no credit shall be allowed under subsection (a) to such individual for such individual's taxable year, and

''(2) qualified tuition and related expenses paid by such individual during such individual's taxable year shall be treated for purposes of this section as paid by such other taxpayer.

''(f) TREATMENT OF CERTAIN PREPAYMENTS.—If qualified tuition and related expenses are paid by the taxpayer during a taxable year for an academic period which begins during the first 3 months following such taxable year, such academic period shall be treated for purposes of this section as beginning during such taxable year.

''(g) SPECIAL RULES.—

''(1) IDENTIFICATION REQUIREMENT.—No credit shall be allowed under subsection (a) to a taxpayer with respect to the qualified tuition and related expenses of an individual unless the taxpayer includes the name and taxpayer identification number of such individual on the return of tax for the taxable year.

''(2) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS, ETC.—The amount of qualified tuition and related expenses otherwise taken into account under subsection (a) with respect to an individual for an academic period shall be reduced (before the application of subsections (b) and (c)) by the sum of any amounts paid for the benefit of such individual which are allocable to such period as—

''(A) a qualified scholarship which is excludable from gross income under section 117,

''(B) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or under chapter 1606 of title 10, United States Code, and

''(C) a payment (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for such individual's educational expenses, or attributable to such individual's enrollment at an eligible educational institution, which is excludable from gross income under any law of the United States.

''(3) DENIAL OF CREDIT IF STUDENT CONVICTED OF A FELONY DRUG OFFENSE.—No credit shall be allowed under subsection (a) for qualified tuition and related expenses for the enrollment or attendance of a student for any academic period if such student has been convicted of a Federal or State felony offense consisting of the possession or distribution of a controlled substance before the end of the taxable year with or within which such period ends.

''(4) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any expense for which a deduction is allowed under any other provision of this chapter.

''(5) NO CREDIT FOR MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

''(6) NONRESIDENT ALIENS.—If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

''(h) INFLATION ADJUSTMENTS.—

''(1) DOLLAR LIMITATION ON AMOUNT OF CREDIT.—

''(A) IN GENERAL.—In the case of a taxable year beginning after 2001, applicable dollar amounts under each of the subsection (a) (2) and (3) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

''(2) INCOME LIMITS.—

''(A) IN GENERAL.—In the case of a taxable year beginning after 2000, the $50,000 and $80,000 amounts in subsection (c)(2) shall each be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $5,000, such amount shall be rounded to the next lowest multiple of $5,000.

''(i) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations providing for a recapture of credit allowed under this section in cases where there is a refund in a subsequent taxable year of any amount which was taken into account in determining the amount of such credit.''

(b) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Paragraph (2) of section 6213(g) (relating to the definition of mathematical or clerical errors) is amended by striking ''and'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', and'', and by inserting after subparagraph (H) the following new subparagraph:

''(I) an omission of a correct TIN required under section 25A(g)(1) (relating to higher education tuition and related expenses) to be included on a return.''

(c) RETURNS RELATING TO TUITION AND RELATED EXPENSES.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6050R the following new section:

''SEC. 6050S. RETURNS RELATING TO HIGHER EDUCATION TUITION AND RELATED EXPENSES.

''(a) IN GENERAL.—Any person—

''(1) which is an eligible educational institution which receives payments for qualified tuition and related expenses with respect to any individual for any calendar year, or

''(2) which is engaged in a trade or business and which, in the course of such trade or business, makes payments during any calendar year to any individual which constitute reimbursements or refunds (or similar amounts) of qualified tuition and related expenses of such individual,

shall make the return described in subsection (b) with respect to the individual at such time as the Secretary may by regulations prescribe.

''(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

''(1) is in such form as the Secretary may prescribe,

''(2) contains—

''(A) the name, address, and TIN of the individual with respect to whom payments described in subsection (a) were received from (or were paid to),

''(B) the name, address, and TIN of any individual certified by the individual described in subparagraph (A) as the taxpayer who will claim the individual as a dependent for purposes of the deduction allowable under section 151 for any taxable year ending with or within the calendar year, and

''(C) the—

''(i) aggregate amount of payments for qualified tuition and related expenses received with respect to the individual described in subparagraph (A) during the calendar year, and

''(ii) aggregate amount of reimbursements or refunds (or similar amounts) paid to such individual during the calendar year, and

''(D) such other information as the Secretary may prescribe.

''(c) APPLICATION TO GOVERNMENTAL UNITS.—For purposes of this section—

''(1) a governmental unit or any agency or instrumentality thereof shall be treated as a person, and

''(2) any return required under subsection (a) by such governmental entity shall be made by the officer or employee appropriately designated for the purpose of making such return.

''(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return under subparagraph (A) or (B) of subsection (b)(2) a written statement showing—

''(1) the name, address, and phone number of the information contact of the person required to make such return, and

''(2) the aggregate amounts described in subparagraph (C) of subsection (b)(2).

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

''(e) DEFINITIONS.—For purposes of this section, the terms 'eligible educational institution' and 'qualified tuition and related expenses' have the meanings given such terms by section 25A.

''(f) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section. No penalties shall be imposed under section 6724 with respect to any return or statement required under this section until such time as such regulations are issued.''

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) (relating to definitions) is amended by redesignating clauses (ix) through (xiv) as clauses (x) through (xv), respectively, and by inserting after clause (viii) the following new clause:

''(ix) section 6050S (relating to returns relating to payments for qualified tuition and related expenses),''.

(B) Paragraph (2) of section 6724(d) is amended by striking ''or'' at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph and inserting '', or'', and by adding at the end the following new subparagraph:

''(Z) section 6050S(d) (relating to returns relating to qualified tuition and related expenses).''

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050R the following new item:

''Sec. 6050S. Returns relating to higher education tuition and related expenses.''

(d) COORDINATION WITH SECTION 135.—Subsection (d) of section 135 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) COORDINATION WITH HIGHER EDUCATION CREDIT.—The amount of the qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced (before the application of subsection (b)) by the amount of such expenses which are taken into account in determining the credit allowable to the taxpayer or any other person under section 25A with respect to such expenses.

(e) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25 the following new item:

''Sec. 25A. Higher education tuition and related expenses.''

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid after December 31, 1997 (in taxable years ending after such date), for education furnished in academic periods beginning after such date.

SEC. 202. DEDUCTION FOR INTEREST ON EDUCATION LOANS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

''SEC. 221. INTEREST ON EDUCATION LOANS.

''(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction for the taxable year an amount equal to the interest paid by the taxpayer during the taxable year on any qualified education loan.

''(b) MAXIMUM DEDUCTION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the deduction allowed by subsection (a) for the taxable year shall not exceed $2,500.

''(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(A) IN GENERAL.—The amount which would (but for this paragraph) be allowable as a deduction under this section shall be reduced (but not below zero) by the amount determined under paragraph (2).

''(B) AMOUNT OF REDUCTION.—The amount determined under this paragraph is the amount which bears the same ratio to the amount which would be so taken into account as—

''(i) the excess of—

''(I) the taxpayer's modified adjusted gross income for such taxable year, over

''(II) $40,000 ($80,000 in the case of a joint return), bears to

''(ii) $10,000 ($20,000 in the case of a joint return).

''(C) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income determined—

''(i) without regard to this section and sections 135, 911, 931, and 933, and

''(ii) after application of sections 86, 219, and 469.

For purposes of sections 86, 135, 219, and 469, adjusted gross income shall be determined without regard to the deduction allowed under this section.

''(c) DEPENDENTS NOT ELIGIBLE FOR DEDUCTION.—No deduction shall be allowed by this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year beginning in the calendar year in which such individual's taxable year begins.

''(d) LIMIT ON PERIOD DEDUCTION ALLOWED.—A deduction shall be allowed under this section only with respect to interest paid on any qualified education loan during the first 60 months (whether or not consecutive) in which interest payments are required. For purposes of this paragraph, any loan and all refinancing of such loan shall be treated as 1 loan.

''(e) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED EDUCATION LOAN.—The term 'qualified education loan' means any indebtedness incurred to pay qualified higher education expenses—

''(A) which are incurred on behalf of the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer as of the time the indebtedness was incurred,

''(B) which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred, and

''(C) which are attributable to education furnished during a period during which the recipient was an eligible student.

Such term includes indebtedness used to refinance indebtedness which qualifies as a qualified education loan. The term 'qualified education loan' shall not include any indebtedness owed to a person who is related (within the meaning of section 267(b) or 707(b)(1)) to the taxpayer.

''(2) QUALIFIED HIGHER EDUCATION EXPENSES.—The term 'qualified higher education expenses' means the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, 20 U.S.C. 1087ll, as in effect on the day before the date of the enactment of this Act) at an eligible educational institution, reduced by the sum of—

''(A) the amount excluded from gross income under section 135, 529, or 530 by reason of such expenses, and

''(B) the amount of any scholarship, allowance, or payment described in section 25A(g)(2).

For purposes of the preceding sentence, the term 'eligible educational institution' has the same meaning given such term by section 25A(d)(2), except that such term shall also include an institution conducting an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility which offers postgraduate training.

''(3) ELIGIBLE STUDENT.—The term 'eligible student' has the meaning given such term by section 25A(d)(3).

''(4) DEPENDENT.—The term 'dependent' has the meaning given such term by section 152.

''(f) SPECIAL RULES.—

''(1) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this section for any amount for which a deduction is allowable under any other provision of this chapter.

''(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the deduction shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

''(3) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703.

''(g) INFLATION ADJUSTMENTS.—

''(1) DOLLAR LIMITATION ON AMOUNT OF CREDIT.—

''(A) IN GENERAL.—In the case of a taxable year beginning after 1998, the $2,500 amount in subsection (b)(1) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

''(2) INCOME LIMITS.—In the case of a taxable year beginning in a calendar year after 2000, the $40,000 and $80,000 amounts in subsection (b)(2) shall each be increased in the same manner as amounts are increased under section 25A(h)(2) for taxable years beginning in such calendar year.''

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 is amended by inserting after paragraph (17) the following new paragraph:

''(18) INTEREST ON EDUCATION LOANS.—The deduction allowed by section 221.''

(c) REPORTING REQUIREMENT.—

(1) IN GENERAL.—Section 6050S(a)(2) (relating to returns relating to higher education tuition and related expenses) is amended to read as follows:

''(2) which is engaged in a trade or business and which, in the course of such trade or business—

''(A) makes payments during any calendar year to any individual which constitutes reimbursements or refunds (or similar amounts) of qualified tuition and related expenses of such individual, or

''(B) except as provided in regulations, receives from any individual interest aggregating $600 or more for any calendar year on 1 or more qualified education loans,''.

(2) INFORMATION.—Section 6050S(b)(2) is amended—

(A) by inserting ''or interest'' after ''payments'' in subparagraph (A), and

(B) in subparagraph (C), by striking ''and'' at the end of clause (i), by inserting ''and'' at the end of clause (ii), and by inserting after clause (ii) the following:

''(iii) aggregate amount of interest received for the calendar year from such individual,''.

(3) DEFINITION.—Section 6050S(e) is amended by inserting '', and except as provided in regulations, the term 'qualified education loan' has the meaning given such term by section 221(e)(1)'' after ''section 25A''.

(d) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following new items:

''Sec. 221. Interest on education loans.

''Sec. 222. Cross reference.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to any qualified education loan (as defined in section 221(e)(1) of the Internal Revenue Code of 1986, as added by this section) incurred on, before, or after the date of the enactment of this Act, but only with respect to—

(1) any loan interest payment due after December 31, 1996, and

(2) the portion of the 60-month period referred to in section 221(d) of the Internal Revenue Code of 1986 (as added by this section) after December 31, 1996.

Subtitle B—Expanded Education Investment Savings Opportunities

PART I—QUALIFIED TUITION PROGRAMS

SEC. 211. EXCLUSION FROM GROSS INCOME OF EDUCATION DISTRIBUTIONS FROM QUALIFIED TUITION PROGRAMS.

(a) IN GENERAL.—Subparagraph (B) of section 529(c)(3) (relating to distributions) is amended to read as follows:

''(B) DISTRIBUTIONS FOR QUALIFIED HIGHER EDUCATION EXPENSES.—If a distributee elects the application of this subparagraph for any taxable year—

''(i) no amount shall be includible in gross income by reason of a distribution which consists of providing a benefit to the distributee which, if paid for by the distributee, would constitute payment of a qualified higher education expense, and

''(ii) the amount which (but for the election) would be includible in gross income by reason of any other distribution shall not be so includible in an amount which bears the same ratio to the amount which would be so includible as the amount of the qualified higher education expenses of the distributee bears to the amount of the distribution.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1997, for education furnished in academic periods beginning after such date.

SEC. 212. ELIGIBLE EDUCATIONAL INSTITUTIONS PERMITTED TO MAINTAIN QUALIFIED TUITION PROGRAMS; OTHER MODIFICATIONS OF QUALIFIED STATE TUITION PROGRAMS.

(a) ELIGIBLE EDUCATIONAL INSTITUTIONS PERMITTED TO MAINTAIN QUALIFIED TUITION PROGRAMS.—Paragraph (1) of section 529(b) (defining qualified State tuition program) is amended by inserting ''or by one or more eligible educational institutions'' after ''maintained by a State or agency or instrumentality thereof''.

(b) QUALIFIED HIGHER EDUCATION EXPENSES TO INCLUDE ROOM AND BOARD.—Paragraph (3) of section 529(e) (defining qualified higher education expenses) is amended to read as follows:

''(3) QUALIFIED HIGHER EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of a designated beneficiary at an eligible education institution.

''(B) ROOM AND BOARD INCLUDED FOR STUDENTS WHO ARE AT LEAST HALF-TIME.—In the case of an individual who is an eligible student (as defined in section 25A(d)(3)) for any academic period, such term shall also include reasonable costs for such period (as determined under the qualified tuition program) incurred by the designated beneficiary for room and board while attending such institution. The amount treated as qualified higher education expenses by reason of the preceding sentence shall not exceed the minimum amount (applicable to the student) included for room and board for such period in the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, 20 U.S.C. 1087ll, as in effect on the date of the enactment of this paragraph) for the eligible educational institution for such period.''

(c) ADDITIONAL MODIFICATIONS.—

(1) MEMBER OF FAMILY.—Paragraph (2) of section 529(e) (relating to other definitions and special rules) is amended to read as follows:

''(2) MEMBER OF FAMILY.—The term 'member of the family' means—

''(A) an individual who bears a relationship to another individual which is a relationship described in paragraphs (1) through (8) of section 152(a), and

''(B) the spouse of any individual described in subparagraph (A).''

(2) ELIGIBLE EDUCATIONAL INSTITUTION.—Section 529(e) is amended by adding at the end the following:

''(5) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means an institution—

''(A) which is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this paragraph, and

''(B) which is eligible to participate in a program under title IV of such Act.''

(3) NO CONTRIBUTIONS AFTER BENEFICIARY ATTAINS AGE 18; DISTRIBUTIONS REQUIRED IN CERTAIN CASES.—

(A) IN GENERAL.—Subsection (b) of section 529 is amended by adding at the end the following new paragraph:

''(8) RESTRICTIONS RELATING TO AGE OF BENEFICIARY; COMPLETION OF EDUCATION.—

''(A) IN GENERAL.—A program shall be treated as a qualified tuition program only if—

''(i) no contribution is accepted on behalf of a designated beneficiary after the date on which such beneficiary attains age 18, and

''(ii) any balance to the credit of a designated beneficiary (if any) on the account termination date shall be distributed within 30 days after such date to such beneficiary (or in the case of death, the estate of the beneficiary).

''(B) ACCOUNT TERMINATION DATE.—For purposes of subparagraph (A), the term 'account termination date' means whichever of the following dates is the earliest:

''(i) The date on which the designated beneficiary attains age 30.

''(ii) The date on which the designated beneficiary dies.''

(B) ROLLOVERS.—Section 529(c)(3) is amended by adding at the end the following:

''(E) ROLLOVERS TO INDIVIDUAL RETIREMENT ACCOUNTS AT AGE 30.—Subparagraph (A) shall not apply to any distribution to the designated beneficiary required under subsection (b)(8) by reason of the beneficiary attaining age 30 to the extent the beneficiary, within 60 days of the distribution, transfers such distribution to an individual retirement account established on the individual's behalf.''

(C) CONFORMING AMENDMENTS.—

(i) Section 408(a)(1) is amended by striking ''or 403(b)(8)'' and inserting ''403(b)(8), or 529(c)(3)(E)''.

(ii) Subparagraph (A) of section 4973(b)(1) is amended by striking ''or 408(b)(3)'' and inserting ''408(b)(3), or 529(c)(3)(E)''.

(4) ESTATE AND GIFT TAX TREATMENT.—

(A) GIFT TAX TREATMENT.—

(i) Paragraph (2) of section 529(c) is amended to read as follows:

''(2) GIFT TAX TREATMENT OF CONTRIBUTIONS.—For purposes of chapters 12 and 13, any contribution to a qualified tuition program on behalf of any designated beneficiary shall—

''(A) be treated as a completed gift to such beneficiary which is not a future interest in property, and

''(B) shall not be treated as a qualified transfer under section 2503(e).''

(ii) Paragraph (5) of section 529(c) is amended to read as follows:

''(5) OTHER GIFT TAX RULES.—For purposes of chapters 12 and 13—

''(A) TREATMENT OF DISTRIBUTIONS.—In no event shall a distribution from a qualified tuition program be treated as a taxable gift.

''(B) TREATMENT OF DESIGNATION OF NEW BENEFICIARY.—The taxes imposed by chapters 12 and 13 shall apply to a transfer by reason of a change in the designated beneficiary under the program (or a rollover to the account of a new beneficiary) only if the new beneficiary is a generation below the generation of the old beneficiary (determined in accordance with section 2651).''

(B) ESTATE TAX TREATMENT.—Paragraph (4) of section 529(c) is amended to read as follows:

''(4) ESTATE TAX TREATMENT.—

''(A) IN GENERAL.—No amount shall be includible in the gross estate of any individual for purposes of chapter 11 by reason of an interest in a qualified tuition program.

''(B) AMOUNTS INCLUDIBLE IN ESTATE OF DESIGNATED BENEFICIARY IN CERTAIN CASES.—Subparagraph (A) shall not apply to amounts distributed on account of the death of a beneficiary.''

(5) LIMITATION ON CONTRIBUTIONS TO QUALIFIED TUITION PROGRAMS NOT MAINTAINED BY A STATE.—Subsection (b) of section 529 is amended by adding at the end the following new paragraph:

''(9) LIMITATION ON CONTRIBUTIONS TO QUALIFIED TUITION PROGRAMS NOT MAINTAINED BY A STATE.—In the case of a program not maintained by a State or agency or instrumentality thereof, such program shall not be treated as a qualified tuition program unless it limits the annual contribution to the program on behalf of a designated beneficiary to the sum of $2,000 plus the amount of the credit allowable under section 25A for 1 qualifying child.''

(d) ADDITIONAL TAX ON AMOUNTS NOT USED FOR HIGHER EDUCATION EXPENSES.—Section 529 is amended by adding at the end the following new subsection:

''(f) IMPOSITION OF ADDITIONAL TAX.—

''(1) IN GENERAL.—In the case of a qualified tuition program not maintained by a State or any agency or instrumentality thereof, the tax imposed by this chapter for any taxable year on any taxpayer who receives a payment or distribution from such program which is includible in gross income shall be increased by 10 percent of the amount which is so includible.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply if the payment or distribution is—

''(A) made to a beneficiary (or to the estate of the designated beneficiary) on or after the death of the designated beneficiary,

''(B) attributable to the designated beneficiary's being disabled (within the meaning of section 72(m)(7)), or

''(C) made on account of a scholarship, allowance, or payment described in section 25A(g)(2) received by the account holder to the extent the amount of the payment or distribution does not exceed the amount of the scholarship, allowance, or payment.

''(3) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—In the case of a qualified tuition program not maintained by a State or any agency or instrumentality thereof, paragraph (1) shall not apply to the distribution to a contributor of any contribution made during a taxable year on behalf of a designated beneficiary to the extent that such contribution exceeds the limitation in section 4973(e) if—

''(A) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such contributor's return for such taxable year, and

''(B) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (B) shall be included in the gross income of the contributor for the taxable year in which such excess contribution was made.''

(e) COORDINATION WITH EDUCATION SAVINGS BOND.—Section 135(c)(2) (defining qualified

higher education expenses) is amended by adding at the end the following:

''(C) CONTRIBUTIONS TO QUALIFIED TUITION PROGRAM.—Such term shall include any contribution to a qualified tuition program (as defined in section 529) on behalf of a designated beneficiary (as defined in such section) who is an individual described in subparagraph (A); but there shall be no increase in the investment in the contract for purposes of applying section 72 by reason of any portion of such contribution which is not includible in gross income by reason of this subparagraph.''

(f) TAX ON EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Subsection (a) of section 4973 is amended by striking ''or'' at the end of paragraph (2) and by inserting after paragraph (3) the following new paragraphs:

''(4) a qualified tuition program (as defined in section 529) not maintained by a State or any agency or instrumentality thereof, or

''(5) a KIDSAVE account (as defined in section 530),''.

(2) EXCESS CONTRIBUTIONS DEFINED.—Section 4973 is amended by adding at the end the following new subsection:

''(e) EXCESS CONTRIBUTIONS TO PRIVATE QUALIFIED TUITION PROGRAM AND KIDSAVE ACCOUNTS.—For purposes of this section—

''(1) IN GENERAL.—In the case of private education investment accounts maintained for the benefit of any 1 beneficiary, the term 'excess contributions' means the amount by which the amount contributed for the taxable year to such accounts exceeds the sum of $2,000 plus the amount of the credit allowed under section 25A for such beneficiary for such taxable year.

''(2) PRIVATE EDUCATION INVESTMENT ACCOUNT.—For purposes of paragraph (1), the term 'private education investment account' means—

''(A) a qualified tuition program (as defined in section 529) not maintained by a State or any agency or instrumentality thereof, and

''(B) a KIDSAVE account (as defined in section 530).

''(3) SPECIAL RULES.—For purposes of paragraph (1), the following contributions shall not be taken into account:

''(A) Any contribution which is distributed out of the KIDSAVE account in a distribution to which section 530(c)(3)(B) applies.

''(B) Any contribution to a qualified tuition program (as so defined) described in section 530(b)(2)(B) from any such account.

''(C) Any rollover contribution.''

(g) CLARIFICATION OF TAXATION OF DISTRIBUTIONS.—Subparagraph (A) of section 529(c)(3) is amended to read as follows:

''(A) IN GENERAL.—Any distribution from a qualified tuition program—

''(i) shall be includible in the gross income of the distributee to the extent allocable to income under the program, and

''(ii) shall not be includible in gross income to the extent allocable to the investment in the contract.

For purposes of the preceding sentence, rules similar to the rules of section 72(e)(3) shall apply.''

(h) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 26(b) is amended by redesignating subparagraphs (E) through (P) as subparagraphs (F) through (Q), respectively, and by inserting after subparagraph (D) the following new subparagraph:

''(E) section 529(f) (relating to additional tax on certain distributions from qualified tuition programs),''.

(2) The text of section 529 is amended by striking ''qualified State tuition program'' each place it appears and inserting ''qualified tuition program''.

(3)(A) The section heading of section 529 is amended to read as follows:

''SEC. 529. QUALIFIED TUITION PROGRAMS.''

(B) The item relating to section 529 in the table of sections for part VIII of subchapter F of chapter 1 is amended by striking ''State''.

(4)(A) The heading for part VIII of subchapter F of chapter 1 is amended to read as follows:

''PART VIII—HIGHER EDUCATION SAVINGS ENTITIES''.

(B) The table of parts for subchapter F of chapter 1 is amended by striking the item relating to part VIII and inserting:

''Part VIII. Higher education savings entities.''

(5)(A) Section 529(d) is amended to read as follows:

''(d) REPORTS.—Each officer or employee having control of the qualified tuition program or their designee shall make such reports regarding such program to the Secretary and to designated beneficiaries with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.''

(B) Paragraph (2) of section 6693(a) (relating to failure to provide reports on individual retirement accounts or annuities) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) Section 529(d) (relating to qualified tuition programs).''

(C) The section heading for section 6693 is amended by striking ''individual retirement'' and inserting ''certain tax-favored''.

(D) The item relating to section 6693 in the table of sections for part I of subchapter B of chapter 68 is amended by striking ''individual retirement'' and inserting ''certain tax-favored''.

(i) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on January 1, 1998.

(2) EXPENSES TO INCLUDE ROOM AND BOARD, ETC.—The amendments made by subsection (b) and (c)(2) shall apply to distributions after December 31, 1997, with respect to expenses paid after such date (in taxable years ending after such date), for education furnished in academic periods beginning after such date.

(3) COORDINATION WITH EDUCATION SAVINGS BONDS.—The amendment made by subsection (e) shall apply to taxable years beginning after December 31, 1997.

(4) ESTATE AND GIFT TAX CHANGES.—

(A) GIFT TAX CHANGES.—Paragraphs (2) and (5) of section 529(c) of the Internal Revenue Code of 1986, as amended by this section, shall apply to transfers (including designations of new beneficiaries) made after the date of the enactment of this Act.

(B) ESTATE TAX CHANGES.—Paragraph (4) of such section 529(c) shall apply to estates of decedents dying after June 8, 1997.

(5) REPORTING.—The amendments made by subsection (g) shall apply after June 16, 1997.

PART II—KIDSAVE ACCOUNTS

SEC. 213. KIDSAVE ACCOUNTS.

(a) IN GENERAL.—Part VIII of subchapter F of chapter 1 (relating to qualified State tuition programs) is amended by adding at the end the following new section:

''SEC. 530. KIDSAVE ACCOUNTS.

''(a) GENERAL RULE.—A KIDSAVE account shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, the KIDSAVE account shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

''(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) KIDSAVE ACCOUNT.—The term 'KIDSAVE account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified higher education expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

''(A) No contribution will be accepted—

''(i) unless it is in cash,

''(ii) after the date on which the account holder attains age 18, or

''(iii) except in the case of rollover contributions, if such contribution would result in aggregate contributions for the taxable year exceeding the amount of the credit allowable under section 35 for the taxable year for 1 qualifying child.

''(B) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section.

''(C) No part of the trust assets will be invested in life insurance contracts.

''(D) The assets of the trust shall not be commingled with other property except in a common trust fund or common investment fund.

''(E) Upon the death of the account holder, any balance in the account will be distributed as required under section 529(b)(8) (as if such account were a qualified tuition program).

''(2) QUALIFIED HIGHER EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified higher education expenses' has the same meaning given such term by section 529(e)(3).

''(B) QUALIFIED TUITION PROGRAMS.—Such term shall include amounts paid or incurred to purchase tuition credits or certificates, or to make contributions to an account, under a qualified tuition program (as defined in section 529(b)) for the benefit of the account holder.

''(3) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' has the meaning given such term by section 529(e)(5).

''(4) ACCOUNT HOLDER.—The term 'account holder' means the individual for whose benefit the KIDSAVE account is established.

''(c) TAX TREATMENT OF DISTRIBUTIONS.—

''(1) IN GENERAL.—Any amount paid or distributed out of a KIDSAVE account shall be includible in gross income to the extent required by section 529(c)(3) (determined as if the account were a qualified tuition program).

''(2) SPECIAL RULES FOR APPLYING ESTATE AND GIFT TAXES WITH RESPECT TO ACCOUNT.—Rules similar to the rules of paragraphs (2), (4), and (5) of section 529(c) shall apply for purposes of this section.

''(3) ADDITIONAL TAX FOR DISTRIBUTIONS NOT USED FOR EDUCATIONAL EXPENSES.—

''(A) IN GENERAL.—The tax imposed by section 529(f) shall apply to payments and distributions from a KIDSAVE account in the same manner as such tax applies to qualified tuition programs (as defined in section 529).

''(B) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Subparagraph (A) shall not apply to the distribution to a contributor of any contribution paid during a taxable year to a KIDSAVE account to the

extent that such contribution exceeds the limitation in section 4973(e) if such distribution (and the net income with respect to such excess contribution) meet requirements comparable to the requirements of section 529(f)(3).

''(4) ROLLOVER CONTRIBUTIONS—Paragraph (1) shall not apply to any amount paid or distributed from a KIDSAVE account to the extent that the amount received is paid into another KIDSAVE retirement account for the benefit of the account holder or a member of the family (within the meaning of section 529(e)(2)) of the account holder not later than the 60th day after the date of such payment or distribution. The preceding sentence shall not apply to any payment or distribution if it applied to any prior payment or distribution during the 12-month period ending on the date of the payment or distribution.

''(5) CHANGE IN ACCOUNT HOLDER.—Any change in the account holder of a KIDSAVE account shall not be treated as a distribution for purposes of paragraph (1) if the new account holder is a member of the family (as so defined) of the old account holder.

''(6) SPECIAL RULES FOR DEATH AND DIVORCE.—Rules similar to the rules of paragraphs (7) and (8) of section 220(f) shall apply.

''(d) TAX TREATMENT OF ACCOUNTS.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to any KIDSAVE account.

''(e) COMMUNITY PROPERTY LAWS.—This section shall be applied without regard to any community property laws.

''(f) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in section 408(n)) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute an account described in subsection (b)(1). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

''(g) REPORTS.—The trustee of a KIDSAVE account shall make such reports regarding such account to the Secretary and to the account holder with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.''

(b) TAX ON PROHIBITED TRANSACTIONS.—

(1) IN GENERAL.—Paragraph (1) of section 4975(e) (relating to prohibited transactions) is amended by striking ''or'' at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

''(E) A KIDSAVE account described in section 530, or''.

(2) SPECIAL RULE.—Subsection (c) of section 4975 is amended by adding at the end of subsection (c) the following new paragraph:

''(5) SPECIAL RULE FOR KIDSAVE ACCOUNTS.—An individual for whose benefit a KIDSAVE account is established and any contributor to such account shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if section 530(d) applies with respect to such transaction.''

(c) FAILURE TO PROVIDE REPORTS ON KIDSAVE ACCOUNTS.—Paragraph (2) of section 6693(a) (relating to failure to provide reports on individual retirement accounts or annuities) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) Section 530(g) (relating to KIDSAVE retirement accounts).''

(d) TECHNICAL AMENDMENTS.—

(1) Subparagraph (F) of section 26(b)(2), as added by the preceding section, is amended by inserting before the comma ''and section 530(c)(3) (relating to additional tax on certain distributions from KIDSAVE accounts)''.

(2) Subparagraph (C) of section 135(c)(2), as added by the preceding section, is amended by inserting '', or to a KIDSAVE account (as defined in section 530) on behalf of an account holder (as defined in such section),'' after ''(as defined in such section)''.

(3) The table of sections for part VIII of subchapter F of chapter 1 is amended by adding at the end the following new item:

''Sec. 530. KIDSAVE accounts.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

Subtitle C—Other Education Initiatives

SEC. 221. EXTENSION OF EXCLUSION FOR EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Section 127 (relating to educational assistance programs) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) REPEAL OF LIMITATION ON GRADUATE EDUCATION.—The last sentence of section 127(c)(1) is amended by striking '', and such term 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''.

(c) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1996.

(2) GRADUATE EDUCATION.—The amendment made by subsection (b) shall apply with respect to expenses relating to courses beginning after December 31, 1996.

SEC. 222. REPEAL OF LIMITATION ON QUALIFIED 501(c)(3) BONDS OTHER THAN HOSPITAL BONDS.

Section 145(b) (relating to qualified 501(c)(3) bond) is amended by adding at the end the following new paragraph:

''(5) TERMINATION OF LIMITATION.—This subsection shall not apply with respect to bonds issued after the date of the enactment of this paragraph to finance capital expenditures incurred after such date.''

SEC. 223. TAX CREDIT FOR PUBLIC ELEMENTARY AND SECONDARY SCHOOL CONSTRUCTION.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to general business credits) is amended by adding at the end the following new section:

''SEC. 45B. CREDIT FOR PUBLIC ELEMENTARY AND SECONDARY SCHOOL CONSTRUCTION.

''(a) IN GENERAL.—For purposes of section 38, the amount of the school construction credit determined under this section for an eligible taxpayer for any taxable year with respect to an eligible school construction project shall be an amount equal to the lesser of—

''(1) the applicable percentage of the qualified school construction costs, or

''(2) the excess (if any) of—

''(A) the taxpayer's allocable school construction amount with respect to such project under subsection (d), over

''(B) any portion of such allocable amount used under this section for preceding taxable years.

''(b) ELIGIBLE TAXPAYER; ELIGIBLE SCHOOL CONSTRUCTION PROJECT.—For purposes of this section—

''(1) ELIGIBLE TAXPAYER.—The term 'eligible taxpayer' means any person which—

''(A) has entered into a contract with a local educational agency for the performance of construction or related activities in connection with an eligible school construction project, and

''(B) has received an allocable school construction amount with respect to such contract under subsection (d).

''(2) ELIGIBLE SCHOOL CONSTRUCTION PROJECT.—

''(A) IN GENERAL.—The term 'eligible school construction project' means any project related to a public elementary school or secondary school that is conducted for 1 or more of the following purposes:

''(i) Construction of school facilities in order to ensure the health and safety of all students, which may include—

''(I) the removal of environmental hazards,

''(II) improvements in air quality, plumbing, lighting, heating and air conditioning, electrical systems, or basic school infrastructure, and

''(III) building improvements that increase school safety.

''(ii) Construction activities needed to meet the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) or of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

''(iii) Construction activities that increase the energy efficiency of school facilities.

''(iv) Construction that facilitates the use of modern educational technologies.

''(v) Construction of new school facilities that are needed to accommodate growth in school enrollments.

''(vi) Such other construction as the Secretary of Education determines appropriate.

''(B) SPECIAL RULES.—For purposes of this paragraph—

''(i) the term 'construction' includes reconstruction, renovation, or other substantial rehabilitation, and

''(ii) an eligible school construction project shall not include the costs of acquiring land (or any costs related to such acquisition).

''(c) QUALIFIED SCHOOL CONSTRUCTION COSTS; APPLICABLE PERCENTAGE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified school construction costs' means the aggregate amounts paid to an eligible taxpayer during the taxable year under the contract described in subsection (b)(1).

''(2) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means, in the case of an eligible school construction project related to a local educational agency, the higher of the following percentages:

''(A) If the local educational agency has a percentage or number of children described in clause (i)(I) or (ii)(I) of section 1125(c)(2)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6335(c)(2)(A)), the applicable percentage is 10 percent.

''(B) If the local educational agency has a percentage or number of children described in clause (i)(II) or (ii)(II) of such section, the applicable percentage is 15 percent.

''(C) If the local educational agency has a percentage or number of children described in clause (i)(III) or (ii)(III) of such section, the applicable percentage is 20 percent.

''(D) If the local educational agency has a percentage or number of children described in clause (i)(IV) or (ii)(IV) of such section, the applicable percentage is 25 percent.

''(E) If the local educational agency has a percentage or number of children described in clause (i)(V) or (ii)(V) of such section, the applicable percentage is 30 percent.

''(d) ALLOCABLE AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—Subject to paragraph (3), a local educational agency may allocate to any person a school construction amount with respect to any eligible school construction project.

''(2) TIME FOR MAKING ALLOCATION.—An allocation shall be taken into account under paragraph (1) only if the allocation is made at the time the contract described in subsection (b)(1) is entered into (or such later time as the Secretary may by regulation allow).

''(3) COORDINATION WITH STATE PROGRAM.—A local educational agency may not allocate school construction amounts for any calendar year—

''(A) which in the aggregate exceed the amount of the State school construction ceiling allocated to such agency for such calendar year under subsection (e), and

''(B) which is consistent with any specific allocation required by the State or this section.

''(e) STATE CEILINGS AND ALLOCATION.—

''(1) IN GENERAL.—A State educational agency shall allocate to local educational agencies within the State for any calendar year a portion of the State school construction ceiling for such year. Such allocations shall be consistent with the State application which has been approved under subsection (f) and with any requirement of this section.

''(2) STATE SCHOOL CONSTRUCTION CEILING.—

''(A) IN GENERAL.—The State school construction ceiling for any State for any calendar year shall be an amount equal to the State's allocable share of the national school construction amount.

''(B) STATE'S ALLOCABLE SHARE.—The State's allocable share of the national school construction amount for a fiscal year shall bear the same relation to the national school construction amount for the fiscal year as the amount the State received under section 1124 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333) for the preceding fiscal year bears to the total amount received by all States under such section for such preceding fiscal year.

''(C) NATIONAL SCHOOL CONSTRUCTION AMOUNT.—The national school construction amount is $750,000,000 for each of calendar years 1998, 1999, 2000, 2001, and 2002, reduced by any amount described in paragraph (3).

''(3) SPECIAL ALLOCATIONS FOR INDIAN TRIBES AND TERRITORIES.—

''(A) ALLOCATION TO INDIAN TRIBES.—The national school construction amount under paragraph (2)(C) shall be reduced by 1.5 percent for each calendar year and the Secretary of Interior shall allocate such amount among Indian tribes according to their respective need for assistance under this section.

''(B) ALLOCATION TO TERRITORIES.—The national school construction amount under paragraph (2)(C) shall be reduced by 0.5 percent for each calendar year and the Secretary of Education shall allocate such amount among the territories according to their respective need for assistance under this section.

''(4) REALLOCATION.—If the Secretary of Education determines that a State is not making satisfactory progress in carrying out the State's plan for the use of funds allocated to the State under this section, the Secretary may reallocate all or part of the State school construction ceiling to 1 or more other States that are making satisfactory progress.

''(e) STATE APPLICATION.—

''(1) IN GENERAL.—A State educational agency shall not be eligible to allocate any amount to a local educational agency for any calendar year unless the agency submits to the Secretary of Education (and the Secretary approves) an application containing such information as the Secretary may require, including—

''(A) an estimate of the overall condition of school facilities in the State, including the projected cost of upgrading schools to adequate condition;

''(B) an estimate of the capacity of the schools in the State to house projected student enrollments, including the projected cost of expanding school capacity to meet rising student enrollment;

''(C) the extent to which the schools in the State have the basic infrastructure elements necessary to incorporate modern technology into their classrooms, including the projected cost of upgrading school infrastructure to enable the use of modern technology in classrooms;

''(D) the extent to which the schools in the State offer the physical infrastructure needed to provide a high-quality education to all students; and

''(E) an identification of the State agency that will allocate credit amounts to local educational agencies within the State.

''(2) SPECIFIC ITEMS IN ALLOCATION.—The State shall include in the State's application the process by which the State will allocate the credits to local educational agencies within the State. The State shall consider in its allocation process the extent to which—

''(A) the school district served by the local educational agency has—

''(i) a high number or percentage of the total number of children aged 5 to 17, inclusive, in the State who are counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)); or

''(ii) a high percentage of the total number of low-income residents in the State;

''(B) the local educational agency lacks the fiscal capacity, including the ability to raise funds through the full use of such agency's bonding capacity and otherwise, to undertake the eligible school construction project without assistance;

''(C) the local area makes an unusually high local tax effort, or has a history of failed attempts to pass bond referenda;

''(D) the local area contains a significant percentage of federally owned land that is not subject to local taxation;

''(E) the threat the condition of the physical facility poses to the safety and well-being of students;

''(F) there is a demonstrated need for the construction, reconstruction, renovation, or rehabilitation based on the condition of the facility;

''(G) the extent to which the facility is overcrowded; and

''(H) the extent to which assistance provided will be used to support eligible school construction projects that would not otherwise be possible to undertake.

''(3) IDENTIFICATION OF AREAS.—The State shall include in the State's application the process by which the State will identify the areas of greatest needs (whether those areas are in large urban centers, pockets of rural poverty, fast-growing suburbs, or elsewhere) and how the State intends to meet the needs of those areas.

''(4) ALLOCATIONS ON BASIS OF APPLICATION.—The Secretary of Education shall evaluate applications submitted under this subsection and shall approve any such application which meets the requirements of this section.

''(g) REQUIRED ALLOCATIONS.—Notwithstanding any process for allocation under a State application under subsection (f), in the case of a State which contains 1 or more of the 100 school districts within the United States which contains the largest number of poor children (as determined by the Secretary of Education), the State shall allocate each calendar year to the local educational agency serving such districts that portion of the State school construction ceiling which bears the same ratio to such ceiling as the number of children in such district for the preceding calendar year who are counted for purposes of section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)) bears to the total number of children in such State who are so counted.

''(h) DEFINITIONS.—For purposes of this section—

''(1) ELEMENTARY SCHOOL; LOCAL EDUCATIONAL AGENCY; SECONDARY SCHOOL; STATE EDUCATIONAL AGENCY.—The terms 'elementary school', 'local educational agency', 'secondary school', and 'State educational agency' have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

''(2) TERRITORIES.—The term 'territories' means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''(3) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.''

(b) INCLUSION IN GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Section 38(b) is amended by striking ''plus'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', plus'', and by adding at the end the following new paragraph:

''(13) the school construction credit determined under section 45D(a).''

(2) TRANSITION RULE.—Section 39(d) is amended by adding at the end the following new paragraph:

''(8) NO CARRYBACK OF SECTION 45D CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the school construction credit determined under section 45D may be carried back to a taxable year ending before the date of the enactment of section 45D.''

(c) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45B. Credit for public elementary and secondary school construction.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 224. CONTRIBUTIONS OF COMPUTER TECHNOLOGY AND EQUIPMENT FOR ELEMENTARY OR SECONDARY SCHOOL PURPOSES.

(a) CONTRIBUTIONS OF COMPUTER TECHNOLOGY AND EQUIPMENT FOR ELEMENTARY OR SECONDARY SCHOOL PURPOSES.—Subsection (e) of section 170 is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULE FOR CONTRIBUTIONS OF COMPUTER TECHNOLOGY AND EQUIPMENT FOR ELEMENTARY OR SECONDARY SCHOOL PURPOSES.—

''(A) LIMIT ON REDUCTION.—In the case of a qualified elementary or secondary educational contribution, the reduction under paragraph (1)(A) shall be no greater than the amount determined under paragraph (3)(B).

''(B) QUALIFIED ELEMENTARY OR SECONDARY EDUCATIONAL CONTRIBUTION.—For purposes of

this paragraph, the term 'qualified elementary or secondary educational contribution' means a charitable contribution by a corporation of any computer technology or equipment, but only if—

''(i) the contribution is to—

''(I) an educational organization described in subsection (b)(1)(A)(ii), or

''(II) an entity described in section 501(c)(3) and exempt from tax under section 501(a) (other than an entity described in subclause (I)) that is organized primarily for purposes of supporting elementary and secondary education,

''(ii) the contribution is made not later than 2 years after the date the taxpayer acquired the property (or in the case of property constructed by the taxpayer, the date the construction of the property is substantially completed),

''(iii) substantially all of the use of the property by the donee is for use within the United States for educational purposes in any of the grades K–12 that are related to the purpose or function of the organization or entity,

''(iv) the property is not transferred by the donee in exchange for money, other property, or services, except for shipping, installation and transfer costs,

''(v) the property will fit productively into the entity's education plan, and

''(vi) the entity's use and disposition of the property will be in accordance with the provisions of clauses (iii) and (iv).

''(C) CONTRIBUTION TO PRIVATE FOUNDATION.—A contribution by a corporation of any computer technology or equipment to a private foundation (as defined in section 509) shall be treated as a qualified elementary or secondary educational contribution for purposes of this paragraph if—

''(i) the contribution to the private foundation satisfies the requirements of clauses (ii) and (iv) of subparagraph (B), and

''(ii) within 30 days after such contribution, the private foundation—

''(I) contributes the property to an entity described in clause (i) of subparagraph (B) that satisfies the requirements of clauses (iii) through (vi) of subparagraph (B), and

''(II) notifies the donor of such contribution.

''(D) SPECIAL RULE RELATING TO CONSTRUCTION OF PROPERTY.—For the purposes of this paragraph, the rules of paragraph (4)(C) shall apply.

''(E) DEFINITIONS.—For the purposes of this paragraph—

''(i) COMPUTER TECHNOLOGY OR EQUIPMENT.—The term 'computer technology or equipment' means computer software (as defined by section 197(e)(3)(B)), computer or peripheral equipment (as defined by section 168(i)(2)(B)), and fiber optic cable related to computer use.

''(ii) CORPORATION.—The term 'corporation' has the meaning given to such term by paragraph (4)(D).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the calendar year in which this Act is enacted.

SEC. 225. INCREASE IN ARBITRAGE REBATE EXCEPTION FOR GOVERNMENTAL BONDS USED TO FINANCE EDUCATION FACILITIES.

(a) IN GENERAL.—Section 148(f)(4)(D) (relating to exception for governmental units issuing $5,000,000 or less of bonds) is amended by adding at the end the following new clause:

''(vii) INCREASE IN EXCEPTION FOR BONDS FINANCING PUBLIC SCHOOL CAPITAL EXPENDITURES.—Each of the $5,000,000 amounts in the preceding provisions of this subparagraph shall be increased by the lesser of $5,000,000 or so much of the aggregate face amount of the bonds as are attributable to financing the construction (within the meaning of subparagraph (C)(iv)) of public school facilities.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 1997.

SEC. 226. 2-PERCENT FLOOR ON MISCELLANEOUS ITEMIZED DEDUCTIONS NOT TO APPLY TO CERTAIN CONTINUING EDUCATION EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Section 67(b) (defining miscellaneous itemized deductions) is amended by striking ''and'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', and'', and by adding at the end the following:

''(13) any deduction allowable for the qualified professional development expenses of an eligible teacher.''

(b) DEFINITIONS.—Section 67 is amended by adding at the end the following new subsection:

''(g) QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES OF ELIGIBLE TEACHERS.—For purposes of subsection (b)(13)—

''(1) QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES.—

''(A) IN GENERAL.—The term 'qualified professional development expenses' means expenses—

''(i) for tuition, fees, books, supplies, equipment, and transportation required for the enrollment or attendance of an individual in a qualified course of instruction, and

''(ii) with respect to which a deduction is allowable under section 162 (determined without regard to this section).

''(B) QUALIFIED COURSE OF INSTRUCTION.—The term 'qualified course of instruction' means a course of instruction which—

''(i) is at an institution of higher education (as defined in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this subsection), and

''(ii) is part of a program of professional development which is approved and certified by the appropriate local educational agency as directly related to the improvement of the individual's capacity to use learning technology in teaching.

''(C) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given such term by section 14101 of the Elementary and Secondary Education Act of 1965, as so in effect.

''(2) ELIGIBLE TEACHER.—

''(A) IN GENERAL.—The term 'eligible teacher' means an individual who—

''(i) is a kindergarten through grade 12 teacher in an elementary or secondary school, and

''(ii) has completed at least 2 academic years as a teacher described in subparagraph (A) before the qualified professional development expenses of the individual have been incurred.

''(B) ELEMENTARY OR SECONDARY SCHOOL.—The terms 'elementary school' and 'secondary school' have the meanings given such terms by section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801), as so in effect.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

TITLE III—TAX RELIEF FOR FAMILY SAVINGS AND BUSINESS CAPITAL FORMATION

Subtitle A—Tax Relief for Family Savings

SEC. 301. CAPITAL GAINS DEDUCTION.

(a) IN GENERAL.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by redesignating section 1202 as section 1203 and by inserting after section 1201 the following new section:

''SEC. 1202. CAPITAL GAINS DEDUCTION.

''(a) GENERAL RULE.—If for any taxable year a taxpayer other than a corporation has a net capital gain, there shall be allowed as a deduction an amount equal to 30 percent of the taxpayer's qualified 3-year gain for such taxable year.

''(b) QUALIFIED 3-YEAR GAIN.—For purposes of this section, the term 'qualified 3-year gain' means the lesser of—

''(1) net capital gain, or

''(2) the amount of gain from the sale or exchange of capital assets held more than 3 years.

''(c) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.

''(d) COORDINATION WITH TREATMENT OF CAPITAL GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—For purposes of this section, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

''(e) ADJUSTMENTS TO NET CAPITAL GAIN.—For purposes of this section—

''(1) COLLECTIBLES.—

''(A) IN GENERAL.—Net capital gain shall be computed without regard to collectibles gain.

''(B) COLLECTIBLES GAIN.—

''(i) IN GENERAL.—The term 'collectibles gain' means gain from the sale or exchange of a collectible (as defined in section 408(m) without regard to paragraph (3) thereof) which is a capital asset held for more than 1 year but only to the extent such gain is taken into account in computing gross income.

''(ii) PARTNERSHIPS, ETC.—For purposes of clause (i), any gain from the sale of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751 shall apply for purposes of the preceding sentence.

''(2) GAIN FROM SMALL BUSINESS STOCK.—Net capital gain shall be computed without regard to any gain from the sale or exchange of any qualified small business stock (within the meaning of section 1203(c)) held more than 5 years which is taken into account in computing gross income.

''(3) PRE-EFFECTIVE DATE GAIN.—

''(A) IN GENERAL.—In the case of a taxable year which includes May 7, 1997, net capital gain shall be computed without regard to pre-effective date gain.

''(B) PRE-EFFECTIVE DATE GAIN.—The term 'pre-effective date gain' means the amount which would be net capital gain under subsection (a) for a taxable year if such net capital gain were determined by taking into account only gain or loss properly taken into account for the portion of the taxable year before May 7, 1997.

''(C) SPECIAL RULES FOR PASS-THRU ENTITIES.—

''(i) IN GENERAL.—In applying subparagraph (A) with respect to any pass-thru entity, the determination of when gains and losses are properly taken into account shall be made at the entity level.

''(ii) PASS-THRU ENTITY DEFINED.—For purposes of clause (i), the term 'pass-thru entity' means—

''(I) a regulated investment company,

''(II) a real estate investment trust,

''(III) an S corporation,
''(IV) a partnership,
''(V) an estate or trust, and
''(VI) a common trust fund.
''(f) MAXIMUM RATE ON NONDEDUCTIBLE CAPITAL GAIN.—
''(1) IN GENERAL.—If a taxpayer other than a corporation has a nondeductible net capital gain for any taxable year, then the tax imposed by section 1 for the taxable year shall not exceed the sum of—
''(A) a tax computed on the taxable income reduced by the amount of the nondeductible net capital gain, at the same rates and in the same manner as if this subsection had not been enacted, plus
''(B) a tax of 28 percent of the nondeductible net capital gain.
''(2) NONDEDUCTIBLE NET CAPITAL GAIN.—For purposes of paragraph (1), the term 'nondeductible net capital gain' means an amount equal to net capital gain, reduced by the amount of gain to which subsection (a) applies.''
(b) DEDUCTION ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 is amended by inserting after paragraph (16) the following new paragraph:
''(17) LONG-TERM CAPITAL GAINS.—The deduction allowed by section 1202.''
(c) TECHNICAL AND CONFORMING CHANGES.—
(1)(A) Section 1 is amended by striking subsection (h).
(B) Section 641(d)(2)(A) is amended by striking ''Except as provided in section 1(h), the'' and inserting ''The''.
(2) Paragraph (1) of section 170(e) is amended by striking ''the amount of gain'' in the material following subparagraph (B)(ii) and inserting ''the amount of gain (70 percent of such gain in the case of property other than a collectible held more than 3 years)''.
(3) Subparagraph (B) of section 172(d)(2) is amended to read as follows:
''(B) the deduction under section 1202 shall not be allowed.''
(4) The last sentence of section 453A(c)(3) is amended by striking all that follows ''long-term capital gain,'' and inserting ''the maximum rate on net capital gain under section 1201 or the deduction, or maximum rate under section 1202 (whichever is appropriate) shall be taken into account.''
(5) Paragraph (4) of section 642(c) is amended to read as follows:
''(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 3 years, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to capital gains deduction). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income).''
(6) The last sentence of section 643(a)(3) is amended to read as follows: ''The deduction under section 1202 (relating to capital gains deduction) shall not be taken into account.''
(7) Subparagraph (C) of section 643(a)(6) is amended by inserting ''(i)'' before ''there shall'' and by inserting before the period '', and (ii) the deduction under section 1202 (relating to capital gains deduction) shall not be taken into account''.
(8)(A) Paragraph (2) of section 904(b) is amended by striking subparagraph (A), by redesignating subparagraph (B) as subparagraph (A), and by inserting after subparagraph (A) (as so redesignated) the following new subparagraph:
''(B) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, 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) Subparagraph (A) of section 904(b)(2), as so redesignated, is amended—
(i) by striking all that precedes clause (i) and inserting the following:
''(A) CORPORATIONS.—In the case of a corporation—'', and
(ii) by striking in clause (i) ''in lieu of applying subparagraph (A),''.
(C) Paragraph (3) of section 904(b) is amended by striking subparagraphs (D) and (E) and inserting the following new subparagraph:
''(D) RATE DIFFERENTIAL PORTION.—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 the excess of the highest rate of tax specified in section 11(b) over the alternative rate of tax under section 1201(a) bears to the highest rate of tax specified in section 11(b).''
(D) Clause (v) of section 593(b)(2)(D) is amended—
(i) by striking ''if there is a capital gain rate differential (as defined in section 904(b)(3)(D)) for the taxable year,'', and
(ii) by striking ''section 904(b)(3)(E)'' and inserting ''section 904(b)(3)(D)''.
(9) The last sentence of section 1044(d) is amended by striking ''1202'' and inserting ''1203''.
(10) Paragraph (1) of section 1402(i) is amended by inserting '', and the deduction provided by section 1202 shall not apply'' before the period at the end thereof.
(d) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by striking the item relating to section 1202 and by inserting after the item relating to section 1201 the following new items:

''Sec. 1202. Capital gains deduction.
''Sec. 1203. 50-percent exclusion for gain from certain small business stock.''

(e) EFFECTIVE DATE.—
(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after May 6, 1997.
(2) CONTRIBUTIONS.—The amendment made by subsection (c)(2) shall apply to contributions after May 6, 1997.

SEC. 302. FAMILY DIVIDEND EXCLUSION.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to amounts specifically excluded from gross income) is amended by inserting after section 115 the following new section:

''SEC. 116. PARTIAL EXCLUSION OF DIVIDENDS RECEIVED BY INDIVIDUALS.

''(a) EXCLUSION FROM GROSS INCOME.—In the case of taxable years beginning after December 31, 2002, gross income does not include 30 percent of the amount of eligible dividends received during the taxable year by an individual.
''(b) ELIGIBLE DIVIDENDS.—For purposes of this section—
''(1) IN GENERAL.—The term 'eligible dividends' means, for any taxable year, the portion of the dividends from domestic corporations not in excess of $250 ($500 in the case of a joint return).
''(2) CERTAIN DIVIDENDS EXCLUDED.—Such term shall not include any dividend from 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., organization) or section 521 (relating to farmers' cooperative associations).
''(c) SPECIAL RULES.—For purposes of this section—
''(1) DISTRIBUTIONS FROM REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—Subsection (a) shall apply with respect to distributions by—
''(A) regulated investment companies to the extent provided in section 854(c), and
''(B) real estate investment trusts to the extent provided in section 857(c).
''(2) DISTRIBUTIONS BY A TRUST.—For purposes of subsection (a), the amount of eligible dividends properly allocable to a beneficiary under section 652 or 662 shall be deemed to have been received by the beneficiary ratably on the same date that the dividends were received by the estate or trust.
''(3) CERTAIN NONRESIDENT ALIENS INELIGIBLE FOR EXCLUSION.—In the case of a nonresident alien individual, subsection (a) shall apply only—
''(A) in determining the tax imposed for the taxable year pursuant to section 871(b)(1) and only in respect of eligible dividends which are effectively connected with the conduct of a trade or business within the United States, or
''(B) in determining the tax imposed for the taxable year pursuant to section 877(b).''
(b) CLERICAL AND CONFORMING AMENDMENTS.—
(1) The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 115 the following new item:

''Sec. 116. Partial exclusion of dividends received by individuals.''

(2) Subsection (c) of section 584 is amended by adding at the end the following new flush sentence:
''The proportionate share of each participant in the amount of dividends received by the common trust fund and to which section 116 applies shall be considered for purposes of such section as having been received by such participant.''
(3) Subsection (a) of section 643 is amended by inserting after paragraph (6) the following new paragraph:
''(7) DIVIDENDS.—There shall be included the amount of any dividends excluded from gross income pursuant to section 116.''
(4) Section 854 is amended by adding at the end the following new subsection:
''(c) TREATMENT UNDER SECTION 116.—
''(1) IN GENERAL.—For purposes of section 116, in the case of any dividend (other than a dividend described in subsection (a)) received from a regulated investment company which meets the requirements of section 852 for the taxable year in which it paid the dividend—
''(A) the entire amount of such dividend shall be treated as a dividend if the aggregate dividends received by such company during the taxable year equal or exceed 75 percent of its gross income, or
''(B) if subparagraph (A) does not apply, a portion of such dividend shall be treated as a dividend (and a portion of such dividend shall be treated as interest) based on the portion of the company's gross income which consists of aggregate dividends.
''(2) NOTICE TO SHAREHOLDERS.—The amount of any distribution by a regulated investment company which may be taken into account as a dividend for purposes of the exclusion under section 116 shall not exceed the amount so designated by the company in a written notice to its shareholders mailed not later than 45 days after the close of its taxable year.
''(3) DEFINITIONS.—For purposes of this subsection—
''(A) the term 'gross income' does not include gain from the sale or other disposition of stock or securities, and

''(B) the term 'aggregate dividends received' includes only dividends received from domestic corporations other than dividends described in section 116(b)(2).

In determining the amount of any dividend for purposes of subparagraph (B), the rules provided in section 116(c)(1) (relating to certain distributions) shall apply.''

(5) Subsection (c) of section 857 is amended to read as follows:

''(c) LIMITATIONS APPLICABLE TO DIVIDENDS RECEIVED FROM REAL ESTATE INVESTMENT TRUSTS.—For purposes of section 116 (relating to an exclusion for dividends received by individuals) and section 243 (relating to deductions for dividends received by corporations), a dividend received from a real estate investment trust which meets the requirements of this part shall not be considered as a dividend.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to amounts received after December 31, 2002, in taxable years ending after such date.

SEC. 303. EXEMPTION FROM TAX FOR GAIN ON SALE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Section 121 (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended to read as follows:

''SEC. 121. EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

''(a) EXCLUSION.—Gross income shall not include gain from the sale or exchange of property if, during the 5-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence for periods aggregating 2 years or more.

''(b) LIMITATIONS.—

''(1) IN GENERAL.—The amount of gain excluded from gross income under subsection (a) with respect to any sale or exchange shall not exceed $250,000.

''(2) $500,000 LIMITATION FOR CERTAIN JOINT RETURNS.—Paragraph (1) shall be applied by substituting '$500,000' for '$250,000' if—

''(A) a husband and wife make a joint return for the taxable year of the sale or exchange of the property,

''(B) either spouse meets the ownership requirements of subsection (a) with respect to such property,

''(C) both spouses meet the use requirements of subsection (a) with respect to such property, and

''(D) neither spouse is ineligible for the benefits of subsection (a) with respect to such property by reason of paragraph (3).

''(3) APPLICATION TO ONLY 1 SALE OR EXCHANGE EVERY 2 YEARS.—

''(A) IN GENERAL.—Subsection (a) shall not apply to any sale or exchange by the taxpayer if, during the 2-year period ending on the date of such sale or exchange, there was any other sale or exchange by the taxpayer to which subsection (a) applied.

''(B) PRE-MAY 7, 1997, SALES NOT TAKEN INTO ACCOUNT.—Subparagraph (A) shall be applied without regard to any sale or exchange before May 7, 1997.

''(c) EXCLUSION FOR TAXPAYERS FAILING TO MEET CERTAIN REQUIREMENTS.—

''(1) IN GENERAL.—In the case of a sale or exchange to which this subsection applies, the ownership and use requirements of subsection (a) shall not apply and subsection (b)(3) shall not apply; but the amount of gain excluded from gross income under subsection (a) with respect to such sale or exchange shall not exceed—

''(A) the amount which bears the same ratio to the amount which would be so excluded if such requirements had been met, as

''(B) the shorter of—

''(i) the aggregate periods, during the 5-year period ending on the date of such sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence, or

''(ii) the period after the date of the most recent prior sale or exchange by the taxpayer to which subsection (a) applied and before the date of such sale or exchange,

bears to 2 years.

''(2) SALES AND EXCHANGES TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any sale or exchange if—

''(A) subsection (a) would not (but for this subsection) apply to such sale or exchange by reason of—

''(i) a failure to meet the ownership and use requirements of subsection (a), or

''(ii) subsection (b)(3), and

''(B) such sale or exchange is by reason of a change in place of employment, health, or, to the extent provided in regulations, unforeseen circumstances.

''(d) SPECIAL RULES.—

''(1) PROPERTY OF DECEASED SPOUSE.—For purposes of this section, in the case of an unmarried individual whose spouse is deceased on the date of the sale or exchange of property, the period such unmarried individual owned such property shall include the period such deceased spouse owned such property before death.

''(2) PROPERTY OWNED BY SPOUSE OR FORMER SPOUSE.—For purposes of this section—

''(A) PROPERTY TRANSFERRED TO INDIVIDUAL FROM SPOUSE OR FORMER SPOUSE.—In the case of an individual holding property transferred to such individual in a transaction described in section 1041(a), the period such individual owns such property shall include the period the transferor owned the property.

''(B) PROPERTY USED BY FORMER SPOUSE PURSUANT TO DIVORCE DECREE, ETC.—Solely for purposes of this section, an individual shall be treated as using property as such individual's principal residence during any period of ownership while such individual's spouse or former spouse is granted use of the property under a divorce or separation instrument (as defined in section 71(b)(2)).

''(3) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—For purposes of this section, if the taxpayer holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), then—

''(A) the holding requirements of subsection (a) shall be applied to the holding of such stock, and

''(B) the use requirements of subsection (a) shall be applied to the house or apartment which the taxpayer was entitled to occupy as such stockholder.

''(4) INVOLUNTARY CONVERSIONS.—

''(A) IN GENERAL.—For purposes of this section, the destruction, theft, seizure, requisition, or condemnation of property shall be treated as the sale of such property.

''(B) APPLICATION OF SECTION 1033.—In applying section 1033 (relating to involuntary conversions), the amount realized from the sale or exchange of property shall be treated as being the amount determined without regard to this section, reduced by the amount of gain not included in gross income pursuant to this section.

''(C) PROPERTY ACQUIRED AFTER INVOLUNTARY CONVERSION.—If the basis of the property sold or exchanged is determined (in whole or in part) under section 1033(b) (relating to basis of property acquired through involuntary conversion), then the holding and use by the taxpayer of the converted property shall be treated as holding and use by the taxpayer of the property sold or exchanged.

''(5) RECOGNITION OF GAIN ATTRIBUTABLE TO DEPRECIATION.—Subsection (a) shall not apply to so much of the gain from the sale of any property as does not exceed the portion of the depreciation adjustments (as defined in section 1250(b)(3)) attributable to periods after May 6, 1997, in respect of such property.

''(6) DETERMINATION OF USE DURING PERIODS OF OUT-OF-RESIDENCE CARE.—In the case of a taxpayer who—

''(A) becomes physically or mentally incapable of self-care, and

''(B) owns property and uses such property as the taxpayer's principal residence during the 5-year period described in subsection (a) for periods aggregating at least 1 year,

then the taxpayer shall be treated as using such property as the taxpayer's principal residence during any time during such 5-year period in which the taxpayer owns the property and resides in any facility (including a nursing home) licensed by a State or political subdivision to care for an individual in the taxpayer's condition.

''(7) DETERMINATION OF MARITAL STATUS.—In the case of any sale or exchange, for purposes of this section—

''(A) the determination of whether an individual is married shall be made as of the date of the sale or exchange, and

''(B) an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

''(8) SALES OF REMAINDER INTERESTS.—For purposes of this section—

''(A) IN GENERAL.—At the election of the taxpayer, this section shall not fail to apply to the sale or exchange of an interest in a principal residence by reason of such interest being a remainder interest in such residence, but this section shall not apply to any other interest in such residence which is sold or exchanged separately.

''(B) EXCEPTION FOR SALES TO RELATED PARTIES.—Subparagraph (A) shall not apply to any sale to, or exchange with, any person who bears a relationship to the taxpayer which is described in section 267(b) or 707(b).

''(e) DENIAL OF EXCLUSION FOR EXPATRIATES.—This section shall not apply to any sale or exchange by an individual if the treatment provided by section 877(a)(1) applies to such individual.

''(f) ELECTION TO HAVE SECTION NOT APPLY.—This section shall not apply to any sale or exchange with respect to which the taxpayer elects not to have this section apply.

''(g) RESIDENCES ACQUIRED IN ROLLOVERS UNDER SECTION 1034.—For purposes of this section, in the case of property the acquisition of which by the taxpayer resulted under section 1034 (as in effect on the day before the date of the enactment of this section) in the nonrecognition of any part of the gain realized on the sale or exchange of another residence, in determining the period for which the taxpayer has owned and used such property as the taxpayer's principal residence, there shall be included the aggregate periods for which such other residence (and each prior residence taken into account under section 1223(7) in determining the holding period of such property) had been so owned and used.''

(b) REPEAL OF NONRECOGNITION OF GAIN ON ROLLOVER OF PRINCIPAL RESIDENCE.—Section 1034 (relating to rollover of gain on sale of principal residence) is hereby repealed.

(c) EXCEPTION FROM REPORTING.—Subsection (e) of section 6045 (relating to return required in the case of real estate transactions) is amended by adding at the end the following new paragraph:

''(5) EXCEPTION FOR SALES OR EXCHANGES OF CERTAIN PRINCIPAL RESIDENCES.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to any sale or exchange of a residence for $250,000 or less if the person referred to in paragraph (2) receives written assurance in a form acceptable to the Secretary from the seller that—

''(i) such residence is the principal residence (within the meaning of section 121) of the seller,

''(ii) if the Secretary requires the inclusion on the return under subsection (a) of information as to whether there is federally subsidized mortgage financing assistance with respect to the mortgage on residences, that there is no such assistance with respect to the mortgage on such residence, and

''(iii) the full amount of the gain on such sale or exchange is excludable from gross income under section 121.

If such assurance includes an assurance that the seller is married, the preceding sentence shall be applied by substituting '$500,000' for '$250,000'.

''(B) SELLER.—For purposes of this paragraph, the term 'seller' includes the person relinquishing the residence in an exchange.''

(d) CONFORMING AMENDMENTS.—

(1) The following provisions of the Internal Revenue Code of 1986 are each amended by striking ''section 1034'' and inserting ''section 121'': sections 25(e)(7), 56(e)(1)(A), 56(e)(3)(B)(i), 143(i)(1)(C)(i)(I), 163(h)(4)(A)(i)(I), 280A(d)(4)(A), 464(f)(3)(B)(i), 1033(h)(4), 1274(c)(3)(B), 6334(a)(13), and 7872(f)(11)(A).

(2) Paragraph (4) of section 32(c) is amended by striking ''(as defined in section 1034(h)(3))'' and by adding at the end the following new sentence: ''For purposes of the preceding sentence, the term 'extended active duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.''

(3) Subparagraph (A) of 143(m)(6) is amended by inserting ''(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1997)'' after ''1034(e)''.

(4) Subsection (e) of section 216 is amended by striking ''such exchange qualifies for nonrecognition of gain under section 1034(f)'' and inserting ''such dwelling unit is used as his principal residence (within the meaning of section 121)''.

(5) Section 512(a)(3)(D) is amended by inserting ''(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1997)'' after ''1034''.

(6) Paragraph (7) of section 1016(a) is amended by inserting ''(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1997)'' after ''1034'' and by inserting ''(as so in effect)'' after ''1034(e)''.

(7) Paragraph (3) of section 1033(k) is amended to read as follows:

''(3) For exclusion from gross income of gain from involuntary conversion of principal residence, see section 121.''

(8) Subsection (e) of section 1038 is amended to read as follows:

''(e) PRINCIPAL RESIDENCES.—If—

''(1) subsection (a) applies to a reacquisition of real property with respect to the sale of which gain was not recognized under section 121 (relating to gain on sale of principal residence); and

''(2) within 1 year after the date of the reacquisition of such property by the seller, such property is resold by him,

then, under regulations prescribed by the Secretary, subsections (b), (c), and (d) of this section shall not apply to the reacquisition of such property and, for purposes of applying section 121, the resale of such property shall be treated as a part of the transaction constituting the original sale of such property.''

(9) Paragraph (7) of section 1223 is amended by inserting ''(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1997)'' after ''1034''.

(10)(A) Subsection (d) of section 1250 is amended by striking paragraph (7) and by redesignating paragraphs (9) and (10) as paragraphs (7) and (8), respectively.

(B) Subsection (e) of section 1250 is amended by striking paragraph (3).

(11) Subsection (c) of section 6012 is amended by striking ''(relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55)'' and inserting ''(relating to gain from sale of principal residence)''.

(12) Paragraph (2) of section 6212(c) is amended by striking subparagraph (C) and by redesignating the succeeding subparagraphs accordingly.

(13) Section 6504 is amended by striking paragraph (4) and by redesignating the succeeding paragraphs accordingly.

(14) The item relating to section 121 in the table of sections for part III of subchapter B of chapter 1 is amended to read as follows:

''Sec. 121. Exclusion of gain from sale of principal residence.''

(15) The table of sections for part III of subchapter O of chapter 1 of such Code is amended by striking the item relating to section 1034.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to sales and exchanges after May 6, 1997.

(2) SALES BEFORE DATE OF ENACTMENT.—At the election of the taxpayer, the amendments made by this section shall not apply to any sale or exchange before the date of the enactment of this Act.

(3) BINDING CONTRACTS.—At the election of the taxpayer, the amendments made by this section shall not apply to a sale or exchange after the date of the enactment of this Act, if—

(A) such sale or exchange is pursuant to a contract which was binding on such date, or

(B) without regard to such amendments, gain would not be recognized under section 1034 of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act) on such sale or exchange by reason of a new residence acquired on or before such date or with respect to the acquisition of which by the taxpayer a binding contract was in effect on such date.

This paragraph shall not apply to any sale or exchange by an individual if the treatment provided by section 877(a)(1) of the Internal Revenue Code of 1986 applies to such individual.

Subtitle B—Business Capital Formation

SEC. 311. ROLLOVER OF CAPITAL GAINS ON CERTAIN SMALL BUSINESS INVESTMENTS.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by adding at the end the following new section:

''SEC. 1045. ROLLOVER OF GAIN ON SMALL BUSINESS INVESTMENTS.

''(a) NONRECOGNITION OF GAIN.—In the case of the sale of any eligible small business investment with respect to which the taxpayer elects the application of this section, gain from such sale shall be recognized only to the extent that the amount realized on such sale exceeds—

''(1) the cost of any other eligible small business investment purchased by the taxpayer during the 6-month period beginning on the date of such sale, reduced by

''(2) any portion of such cost previously taken into account under this section.

This section shall not apply to any gain which is treated as ordinary income for purposes of this subtitle.

''(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) PURCHASE.—The term 'purchase' has the meaning given such term by section 1043(b)(4).

''(2) ELIGIBLE SMALL BUSINESS INVESTMENT.—Except as otherwise provided in this section, the term 'eligible small business investment' means any stock in a domestic corporation, and any partnership interest in a domestic partnership, which is originally issued after December 31, 1996, if—

''(A) as of the date of issuance, such corporation or partnership is a qualified small business entity,

''(B) such stock or partnership interest is acquired by the taxpayer at its original issue (directly or through an underwriter)—

''(i) in exchange for money or other property (not including stock), or

''(ii) as compensation for services (other than services performed as an underwriter of such stock or partnership interest), and

''(C) the taxpayer has held such stock or interest at least 6 months as of the time of the sale described in subsection (a).

A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this section.

''(3) ACTIVE BUSINESS REQUIREMENT.—Stock in a corporation, and a partnership interest in a partnership, shall not be treated as an eligible small business investment unless, during substantially all of the taxpayer's holding period for such stock or partnership interest, such corporation or partnership meets the active business requirements of subsection (c). A rule similar to the rule of section 1202(c)(2)(B) shall apply for purposes of this section.

''(4) QUALIFIED SMALL BUSINESS ENTITY.—

''(A) IN GENERAL.—The term 'qualified small business entity' means any domestic corporation or partnership if—

''(i) such entity (and any predecessor thereof) had aggregate gross assets (as defined in section 1202(d)(2)) of less than $25,000,000 at all times before the issuance of the interest described in paragraph (2), and

''(ii) the aggregate gross assets (as so defined) of the entity immediately after the issuance (determined by taking into account amounts received in the issuance) are less than $25,000,000.

''(B) AGGREGATION RULES.—Rules similar to the rules of section 1202(d)(3) shall apply for purposes of this paragraph.

''(c) ACTIVE BUSINESS REQUIREMENT.—

''(1) IN GENERAL.—For purposes of subsection (b)(3), the requirements of this subsection are met by a qualified small business entity for any period if—

''(A) the entity is engaged in the active conduct of a trade or business, and

''(B) at least 80 percent (by value) of the assets of such entity are used in the active conduct of a qualified trade or business (within the meaning of section 1202(e)(3)).

Such requirements shall not be treated as met for any period if during such period the entity is described in subparagraph (A), (B), (C), or (D) of section 1202(e)(4).

''(2) SPECIAL RULE FOR CERTAIN ACTIVITIES.—For purposes of paragraph (1), if, in connection with any future trade or business, an entity is engaged in—

''(A) startup activities described in section 195(c)(1)(A),

''(B) activities resulting in the payment or incurring of expenditures which may be treated as research and experimental expenditures under section 174, or

''(C) activities with respect to in-house research expenses described in section 41(b)(4),

such entity shall be treated with respect to such activities as engaged in (and assets used in such activities shall be treated as used in) the active conduct of a trade or business. Any determination under this paragraph shall be made without regard to whether the

entity has any gross income from such activities at the time of the determination.

''(3) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (5), (6), (7), and (8) of section 1202(e) shall apply for purposes of this subsection.

''(d) CERTAIN OTHER RULES TO APPLY.—Rules similar to the rules of subsections (f), (g), (h), and (j) of section 1202 shall apply for purposes of this section, except that a 6-month holding period shall be substituted for a 5-year holding period where applicable.

''(e) BASIS ADJUSTMENTS.—If gain from any sale is not recognized by reason of subsection (a), such gain shall be applied to reduce (in the order acquired) the basis for determining gain or loss of any eligible small business investment which is purchased by the taxpayer during the 6-month period described in subsection (a).

''(f) STATUTE OF LIMITATIONS.—If any gain is realized by the taxpayer on the sale or exchange of any eligible small business investment and there is in effect an election under subsection (a) with respect to such gain, then—

''(1) the statutory period for the assessment of any deficiency with respect to such gain shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of—

''(A) the taxpayer's cost of purchasing other eligible small business investments which the taxpayer claims results in nonrecognition of any part of such gain,

''(B) the taxpayer's intention not to purchase other eligible small business investments within the 6-month period described in subsection (a), or

''(C) a failure to make such purchase within such 6-month period, and

''(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations to prevent the avoidance of the purposes of this section through splitups, shell corporations, partnerships, or otherwise and regulations to modify the application of section 1202 to the extent necessary to apply such section to a partnership rather than a corporation.''

(b) CONFORMING AMENDMENT.—Paragraph (23) of section 1016(a) is amended—

(1) by striking ''or 1044'' and inserting '', 1044, or 1045'', and

(2) by striking ''or 1044(d)'' and inserting '', 1044(d), or 1045(e)''.

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end the following new item:

''Sec. 1045. Rollover of gain on small business investments.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1996.

SEC. 312. MODIFICATIONS TO EXCLUSION OF GAIN ON CERTAIN SMALL BUSINESS STOCK.

(a) EXCLUSION AVAILABLE TO CORPORATIONS.—

(1) IN GENERAL.—Subsection (a) of section 1203, as redesignated by section 301(a), is amended by striking ''other than a corporation''.

(2) TECHNICAL AMENDMENT.—Subsection (c) of section 1203, as so redesignated, is amended by adding at the end the following new paragraph:

''(4) STOCK HELD AMONG MEMBERS OF CONTROLLED GROUP NOT ELIGIBLE.—Stock shall not be treated as qualified small business stock if such stock was at any time held by any member of the parent-subsidiary controlled group (as defined in subsection (d)(3)) which includes the qualified small business.''

(b) REPEAL OF MINIMUM TAX PREFERENCE.—

(1) IN GENERAL.—Section 57(a) is amended by striking paragraph (7).

(2) TECHNICAL AMENDMENT.—Section 53(d)(1)(B)(ii)(II) is amended by striking '', (5), and (7)'' and inserting ''and (5)''.

(c) SIZE OF BUSINESSES ELIGIBLE FOR EXCLUSION.—

(1) Section 1203(d)(1), as so redesignated, is amended to read as follows:

''(1) IN GENERAL.—The term 'qualified small business' means any domestic corporation which is a C corporation—

''(A) if—

''(i) the aggregate gross assets of such corporation (or any predecessor thereof) at all times on or after the date of the enactment of the Revenue Reconciliation Act of 1997 and before the issuance did not exceed $100,000,000, and

''(ii) the aggregate gross assets of such corporation immediately after the issuance (determined by taking into account amounts received in the issuance) do not exceed $100,000,000, and

''(B) such corporation agrees to submit such reports to the Secretary and to shareholders as the Secretary may require to carry out the purposes of this section.''

(2) Section 1203(d), as so redesignated, is amended by adding at the end the following new paragraph:

''(4) INFLATION ADJUSTMENT.—

''(A) IN GENERAL.—In the case of stock issued in any calendar year after 1998, each dollar amount referred to in subsection (d)(1)(A) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING.—If any amount contained in subsection (d)(1)(A)(i) as adjusted under subparagraph (A) is not a multiple of $1,000,000, such amount shall be rounded to the next lower multiple of $1,000,000.''

(3) Section 1203(e)(3), as so redesignated, is amended by striking subparagraph (C) and redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(d) PER-ISSUER LIMITATION.—Section 1203(b)(1)(A), as so redesignated, is amended by striking ''$10,000,000'' and inserting ''$20,000,000''.

(e) OTHER MODIFICATIONS.—

(1) WORKING CAPITAL LIMITATION.—Section 1203(e)(6), as so redesignated, is amended by striking ''2 years'' each place it appears and inserting ''5 years''.

(2) REDEMPTION RULES.—Section 1203(c)(3), as so redesignated, is amended by adding at the end the following new subparagraph:

''(D) WAIVER WHERE BUSINESS PURPOSE.—A purchase of stock by the issuing corporation shall be disregarded for purposes of subparagraph (B) if the issuing corporation establishes that there was a business purpose for such purchase and one of the principal purposes of the purchase was not to avoid the limitation of this section.''

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to stock issued after the date of the enactment of this Act.

(2) SPECIAL RULE.—The amendments made by subsection (b), (d), and (e) shall apply to stock issued after August 10, 1993.

SEC. 313. EXPANSION OF SMALL BUSINESS STOCK EXCLUSION TO FAMILY-OWNED BUSINESSES.

(a) IN GENERAL.—Section 1203(a), as redesignated by section 301(a) and amended by section 312, is amended to read as follows:

''(a) 50-PERCENT EXCLUSION.—Gross income shall not include 50 percent of any gain from the sale or exchange of—

''(1) qualified small business stock held for more than 5 years, and

''(2) any qualified family-owned business interest held for more than 5 years.''

(b) QUALIFIED FAMILY-OWNED BUSINESS INTEREST.—Section 1203, as so redesignated, is amended by redesignating subsection (k) as subsection (*l*) and by inserting after subsection (j) the following new subsection:

''(k) QUALIFIED FAMILY-OWNED BUSINESS INTEREST.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified family-owned business interest' means any interest—

''(A) which consists of—

''(i) stock in an S corporation,

''(ii) an interest in a partnership or other pass-through entity, or

''(iii) an interest as a sole proprietor in a trade or business,

which, as of the time the interest was acquired, constitutes a qualified family-owned business,

''(B) which was acquired after the date of the enactment of this subsection (and in the case of stock, which was originally issued after such date)—

''(i) in exchange for money or other property (not including such an interest), or

''(ii) as compensation for services provided to the entity.

''(2) ACTIVE BUSINESS REQUIREMENT.—An interest shall not qualify under paragraph (1) unless, during substantially all of the taxpayer's holding period for such interest, the qualified family-owned business meets the active business requirements of subsection (e) (without regard to paragraph (3)(C) thereof).

''(3) QUALIFIED FAMILY-OWNED BUSINESS.—

''(A) IN GENERAL.—The term 'qualified family-owned business' means a trade or business which—

''(i) is described in section 2033A(e) (determined by substituting 'taxpayer' for 'decedent' each place it appears), and

''(ii) except as provided in subparagraph (B), meets the aggregate gross assets tests described in subsection (d)(1).

''(B) SPECIAL RULE FOR FARMS.—In the case of a trade or business of farming (within the meaning of section 2032A)—

''(i) subparagraph (A)(ii) shall not apply, and

''(ii) such trade or business shall not be treated as a qualified family-owned business unless the average gross receipts of the trade or business (or any predecessor) for the 3 taxable years preceding the taxable year in which the interest is acquired did not exceed $2,000,000.

''(4) SPECIAL RULES.—For purposes of this subsection.—

''(A) AGGREGATION.—In applying the $2,000,000 limit under paragraph (3) all persons treated as 1 person under section 52 (a) or (b) shall be treated as 1 person and all trades or businesses of such person shall be treated as 1 trade or business.

''(B) INDEXING.—The $2,000,000 amount under paragraph (3) shall be indexed at the same time and manner as under subsection (d)(4), except that subparagraph (B) thereof shall be applied by substituting '$50,000' for '$1,000,000'.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interests acquired after the date of enactment of this Act, in taxable years ending after such date.

TITLE IV—ESTATE TAX RELIEF FOR FAMILY BUSINESSES AND FARMS

SEC. 401. FAMILY-OWNED BUSINESS EXCLUSION.

(a) IN GENERAL.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2033 the following new section:

"SEC. 2033A. FAMILY-OWNED BUSINESS EXCLUSION.

''(a) IN GENERAL.—In the case of an estate of a decedent to which this section applies, the value of the gross estate shall not include the lesser of—

''(1) the adjusted value of the qualified family-owned business interests of the decedent otherwise includible in the estate, or

''(2) $900,000, reduced by the amount of any exclusion allowed under this section with respect to the estate of a previously deceased spouse of the decedent.

''(b) ESTATES TO WHICH SECTION APPLIES.—

''(1) IN GENERAL.—This section shall apply to an estate if—

''(A) the decedent was (at the date of the decedent's death) a citizen or resident of the United States,

''(B) the sum of—

''(i) the adjusted value of the qualified family-owned business interests described in paragraph (2), plus

''(ii) the amount of the gifts of such interests determined under paragraph (3),

exceeds 50 percent of the adjusted gross estate, and

''(C) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which—

''(i) such interests were owned by the decedent or a member of the decedent's family, and

''(ii) there was material participation (within the meaning of section 2032A(e)(6)) by the decedent or a member of the decedent's family in the operation of the business to which such interests relate.

''(2) INCLUDIBLE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—The qualified family-owned business interests described in this paragraph are the interests which—

''(A) are included in determining the value of the gross estate (without regard to this section), and

''(B) are acquired by any qualified heir from, or passed to any qualified heir from, the decedent (within the meaning of section 2032A(e)(9)).

''(3) INCLUDIBLE GIFTS OF INTERESTS.—The amount of the gifts of qualified family-owned business interests determined under this paragraph is the excess of—

''(A) the sum of—

''(i) the amount of such gifts from the decedent to members of the decedent's family taken into account under subsection 2001(b)(1)(B), plus

''(ii) the amount of such gifts otherwise excluded under section 2503(b),

to the extent such interests are continuously held by members of such family (other than the decedent's spouse) between the date of the gift and the date of the decedent's death, over

''(B) the amount of such gifts from the decedent to members of the decedent's family otherwise included in the gross estate.

''(c) ADJUSTED GROSS ESTATE.—For purposes of this section, the term 'adjusted gross estate' means the value of the gross estate (determined without regard to this section)—

''(1) reduced by any amount deductible under paragraph (3) or (4) of section 2053(a), and

''(2) increased by the excess of—

''(A) the sum of—

''(i) the amount of gifts determined under subsection (b)(3), plus

''(ii) the amount (if more than de minimis) of other transfers from the decedent to the decedent's spouse (at the time of the transfer) within 10 years of the date of the decedent's death, plus

''(iii) the amount of other gifts (not included under clause (i) or (ii)) from the decedent within 3 years of such date, other than gifts to members of the decedent's family otherwise excluded under section 2503(b), over

''(B) the sum of the amounts described in clauses (i), (ii), and (iii) of subparagraph (A) which are otherwise includible in the gross estate.

For purposes of the preceding sentence, the Secretary may provide that de minimis gifts to persons other than members of the decedent's family shall not be taken into account.

''(d) ADJUSTED VALUE OF THE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—For purposes of this section, the adjusted value of any qualified family-owned business interest is the value of such interest for purposes of this chapter (determined without regard to this section), reduced by the excess of—

''(1) any amount deductible under paragraph (3) or (4) of section 2053(a), over

''(2) the sum of—

''(A) any indebtedness on any qualified residence of the decedent the interest on which is deductible under section 163(h)(3), plus

''(B) any indebtedness to the extent the taxpayer establishes that the proceeds of such indebtedness were used for the payment of educational and medical expenses of the decedent, the decedent's spouse, or the decedent's dependents (within the meaning of section 152), plus

''(C) any indebtedness not described in clause (i) or (ii), to the extent such indebtedness does not exceed $10,000.

''(e) QUALIFIED FAMILY-OWNED BUSINESS INTEREST.—

''(1) IN GENERAL.—For purposes of this section, the term 'qualified family-owned business interest' means—

''(A) an interest as a proprietor in a trade or business carried on as a proprietorship, or

''(B) an interest in an entity carrying on a trade or business, if—

''(i) at least—

''(I) 50 percent of such entity is owned (directly or indirectly) by the decedent and members of the decedent's family,

''(II) 70 percent of such entity is so owned by members of 2 families, or

''(III) 90 percent of such entity is so owned by members of 3 families, and

''(ii) for purposes of subclause (II) or (III) of clause (i), at least 30 percent of such entity is so owned by the decedent and members of the decedent's family.

''(2) LIMITATION.—Such term shall not include—

''(A) any interest in a trade or business the principal place of business of which is not located in the United States,

''(B) any interest in an entity, if the stock or debt of such entity or a controlled group (as defined in section 267(f)(1)) of which such entity was a member was readily tradable on an established securities market or secondary market (as defined by the Secretary) at any time within 3 years of the date of the decedent's death,

''(C) any interest in a trade or business not described in section 542(c)(2), if more than 35 percent of the adjusted ordinary gross income of such trade or business for the taxable year which includes the date of the decedent's death would qualify as personal holding company income (as defined in section 543(a)),

''(D) that portion of an interest in a trade or business that is attributable to—

''(i) cash or marketable securities, or both, in excess of the reasonably expected day-to-day working capital needs of such trade or business, and

''(ii) any other assets of the trade or business (other than assets used in the active conduct of a trade or business described in section 542(c)(2)), the income of which is described in section 543(a) or in subparagraph (B), (C), (D), or (E) of section 954(c)(1) (determined by substituting 'trade or business' for 'controlled foreign corporation').

''(3) RULES REGARDING OWNERSHIP.—

''(A) OWNERSHIP OF ENTITIES.—For purposes of paragraph (1)(B)—

''(i) CORPORATIONS.—Ownership of a corporation shall be determined by the holding of stock possessing the appropriate percentage of the total combined voting power of all classes of stock entitled to vote and the appropriate percentage of the total value of shares of all classes of stock.

''(ii) PARTNERSHIPS.—Ownership of a partnership shall be determined by the owning of the appropriate percentage of the capital interest in such partnership.

''(B) OWNERSHIP OF TIERED ENTITIES.—For purposes of this section, if by reason of holding an interest in a trade or business, a decedent, any member of the decedent's family, any qualified heir, or any member of any qualified heir's family is treated as holding an interest in any other trade or business—

''(i) such ownership interest in the other trade or business shall be disregarded in determining if the ownership interest in the first trade or business is a qualified family-owned business interest, and

''(ii) this section shall be applied separately in determining if such interest in any other trade or business is a qualified family-owned business interest.

''(C) INDIVIDUAL OWNERSHIP RULES.—For purposes of this section, an interest owned, directly or indirectly, by or for an entity described in paragraph (1)(B) shall be considered as being owned proportionately by or for the entity's shareholders, partners, or beneficiaries. A person shall be treated as a beneficiary of any trust only if such person has a present interest in such trust.

''(f) TAX TREATMENT OF FAILURE TO MATERIALLY PARTICIPATE IN BUSINESS OR DISPOSITIONS OF INTERESTS.—

''(1) IN GENERAL.—There is imposed an additional estate tax if, within 10 years after the date of the decedent's death and before the date of the qualified heir's death—

''(A) the material participation requirements described in section 2032A(c)(6)(B) are not met with respect to the qualified family-owned business interest which was acquired (or passed) from the decedent,

''(B) the qualified heir disposes of any portion of a qualified family-owned business interest (other than by a disposition to a member of the qualified heir's family or through a qualified conservation contribution under section 170(h)),

''(C) the qualified heir loses United States citizenship (within the meaning of section 877) or with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) occurs, and such heir does not comply with the requirements of subsection (g), or

''(D) the principal place of business of a trade or business of the qualified family-owned business interest ceases to be located in the United States.

''(2) ADDITIONAL ESTATE TAX.—

''(A) IN GENERAL.—The amount of the additional estate tax imposed by paragraph (1) shall be equal to—

''(i) the applicable percentage of the adjusted tax difference attributable to the

qualified family-owned business interest (as determined under rules similar to the rules of section 2032A(c)(2)(B)), plus

''(ii) interest on the amount determined under clause (i) at the underpayment rate established under section 6621 for the period beginning on the date the estate tax liability was due under this chapter and ending on the date such additional estate tax is due.

''(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined under the following table:

''If the event described in paragraph (1) occurs in the following year of material participation:	**The applicable percentage is:**
1 through 6	100
7	80
8	60
9	40
10	20.

''(g) SECURITY REQUIREMENTS FOR NONCITIZEN QUALIFIED HEIRS.—

''(1) IN GENERAL.—Except upon the application of subparagraph (F) or (M) of subsection (h)(3), if a qualified heir is not a citizen of the United States, any interest under this section passing to or acquired by such heir (including any interest held by such heir at a time described in subsection (f)(1)(C)) shall be treated as a qualified family-owned business interest only if the interest passes or is acquired (or is held) in a qualified trust.

''(2) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

''(A) which is organized under, and governed by, the laws of the United States or a State, and

''(B) except as otherwise provided in regulations, with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

''(h) OTHER DEFINITIONS AND APPLICABLE RULES.—For purposes of this section—

''(1) QUALIFIED HEIR.—The term 'qualified heir'—

''(A) has the meaning given to such term by section 2032A(e)(1), and

''(B) includes any active employee of the trade or business to which the qualified family-owned business interest relates if such employee has been employed by such trade or business for a period of at least 10 years before the date of the decedent's death.

''(2) MEMBER OF THE FAMILY.—The term 'member of the family' has the meaning given to such term by section 2032A(e)(2).

''(3) APPLICABLE RULES.—Rules similar to the following rules shall apply:

''(A) Section 2032A(b)(4) (relating to decedents who are retired or disabled).

''(B) Section 2032A(b)(5) (relating to special rules for surviving spouses).

''(C) Section 2032A(c)(2)(D) (relating to partial dispositions).

''(D) Section 2032A(c)(3) (relating to only 1 additional tax imposed with respect to any 1 portion).

''(E) Section 2032A(c)(4) (relating to due date).

''(F) Section 2032A(c)(5) (relating to liability for tax; furnishing of bond).

''(G) Section 2032A(c)(7) (relating to no tax if use begins within 2 years; active management by eligible qualified heir treated as material participation).

''(H) Section 2032A(e)(10) (relating to community property).

''(I) Section 2032A(e)(14) (relating to treatment of replacement property acquired in section 1031 or 1033 transactions).

''(J) Section 2032A(f) (relating to statute of limitations).

''(K) Section 6166(b)(3) (relating to farmhouses and certain other structures taken into account).

''(L) Subparagraphs (B), (C), and (D) of section 6166(g)(1) (relating to acceleration of payment).

''(M) Section 6324B (relating to special lien for additional estate tax).''

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by inserting after the item relating to section 2033 the following new item:

''Sec. 2033A. Family-owned business exclusion.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1996.

SEC. 402. PORTION OF ESTATE TAX SUBJECT TO 4-PERCENT INTEREST RATE INCREASED TO $2,500,000.

(a) IN GENERAL.—Subparagraph (B) of section 6601(j)(2) (defining 4-percent portion) is amended by striking ''$345,800'' and inserting ''$1,025,800''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after December 31, 1996.

SEC. 403. CERTAIN CASH RENTALS OF FARMLAND NOT TO CAUSE RECAPTURE OF SPECIAL ESTATE TAX VALUATION.

(a) IN GENERAL.—Subsection (c) of section 2032A (relating to tax treatment of dispositions and failures to use for qualified use) is amended by adding at the end the following new paragraph:

''(8) CERTAIN CASH RENTAL NOT TO CAUSE RECAPTURE.—For purposes of this subsection, a qualified heir shall not be treated as failing to use property in a qualified use solely because such heir rents such property on a net cash basis to a member of the decedent's family, but only if, during the period of the lease, such member of the decedent's family uses such property in a qualified use.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to rentals occurring after December 31, 1976.

TITLE V—EXTENSIONS

SEC. 501. RESEARCH TAX CREDIT.

(a) IN GENERAL.—Paragraph (1) of section 41(h) (relating to termination) is amended—

(1) by striking ''May 31, 1997'' and inserting ''December 31, 1998'', and

(2) by striking in the last sentence ''during the first 11 months of such taxable year.'' and inserting ''during the 30-month period beginning with the first month of such year. The 30 months referred to in the preceding sentence shall be reduced by the number of full months after June 1996 (and before the first month of such first taxable year) during which the taxpayer paid or incurred any amount which is taken into account in determining the credit under this section.''

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (B) of section 41(c)(4) is amended to read as follows:

''(B) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary.''

(2) Paragraph (1) of section 45C(b) is amended by striking ''May 31, 1997'' and inserting ''December 31, 1998''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after May 31, 1997.

SEC. 502. CONTRIBUTIONS OF STOCK TO PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Clause (ii) of section 170(e)(5)(D) (relating to termination) is amended by striking ''May 31, 1997'' and inserting ''December 31, 1998''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contributions made after May 31, 1997.

SEC. 503. WORK OPPORTUNITY TAX CREDIT.

(a) EXTENSION.—Subparagraph (B) of section 51(c)(4) (relating to termination) is amended by striking ''September 30, 1997'' and inserting ''September 30, 1998''.

(b) MODIFICATION OF ELIGIBILITY REQUIREMENT BASED ON PERIOD ON WELFARE.—

(1) IN GENERAL.—Subparagraph (A) of section 51(d)(2) (defining qualified IV–A recipient) is amended by striking all that follows ''a IV–A program'' and inserting ''for any 9 months during the 18-month period ending on the hiring date.''

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 51(d)(3) is amended to read as follows:

''(A) IN GENERAL.—The term 'qualified veteran' means any veteran who is certified by the designated local agency as being a member of a family receiving assistance under a food stamp program under the Food Stamp Act of 1977 for at least a 3-month period ending during the 12-month period ending on the hiring date.''

(c) QUALIFIED SSI RECIPIENTS TREATED AS MEMBERS OF TARGETED GROUPS.—

(1) IN GENERAL.—Section 51(d)(1) (relating to members of targeted groups) is amended by striking ''or'' at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting '', or'', and by adding at the end the following new subparagraph:

''(H) a qualified SSI recipient.''

(2) QUALIFIED SSI RECIPIENTS.—Section 51(d) is amended by redesignating paragraphs (9), (10), and (11) as paragraphs (10), (11), and (12), respectively, and by inserting after paragraph (8) the following new paragraph:

''(9) QUALIFIED SSI RECIPIENT.—The term 'qualified SSI recipient' means any individual who is certified by the designated local agency as receiving supplemental security income benefits under title XVI of the Social Security Act (including supplemental security income benefits of the type described in section 1616 of such Act or section 212 of Public Law 93–66) for any month ending within the 60-day period ending on the hiring date.''

(d) PERCENTAGE OF WAGES ALLOWED AS CREDIT.—

(1) IN GENERAL.—Subsection (a) of section 51 (relating to determination of amount) is amended by striking ''35 percent'' and inserting ''40 percent''.

(2) APPLICATION OF CREDIT FOR INDIVIDUALS PERFORMING FEWER THAN 400 HOURS OF SERVICES.—Paragraph (3) of section 51(i) is amended to read as follows:

''(3) INDIVIDUALS NOT MEETING MINIMUM EMPLOYMENT PERIODS.—

''(A) REDUCTION OF CREDIT FOR INDIVIDUALS PERFORMING FEWER THAN 400 HOURS OF SERVICES.—In the case of an individual who has completed at least 120 hours, but less than 400 hours, of services performed for the employer, subsection (a) shall be applied by substituting '25 percent' for '40 percent'.

''(B) DENIAL OF CREDIT FOR INDIVIDUALS PERFORMING FEWER THAN 120 HOURS OF SERVICES.—No wages shall be taken into account under subsection (a) with respect to any individual unless such individual has completed at least 120 hours of services performed for the employer.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after September 30, 1997.

SEC. 504. ORPHAN DRUG TAX CREDIT.

(a) IN GENERAL.—Section 45C (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is amended by striking subsection (e).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts paid or incurred after May 31, 1997.

TITLE VI—INCENTIVES FOR REVITALIZATION OF THE DISTRICT OF COLUMBIA

SEC. 601. TAX INCENTIVES FOR REVITALIZATION OF THE DISTRICT OF COLUMBIA.

(a) IN GENERAL.—Chapter 1 is amended by adding at the end the following new subchapter:

"Subchapter W—Incentives for the Revitalization of the District of Columbia

''Sec. 1400. First-time homebuyer credit for District of Columbia.

''Sec. 1400A. Credit for equity investments in and loans to District of Columbia businesses.

''Sec. 1400B. Zero percent capital gains rate.

"SEC. 1400. FIRST-TIME HOMEBUYER CREDIT FOR DISTRICT OF COLUMBIA.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual who is a first-time homebuyer of a principal residence in the District of Columbia during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to so much of the purchase price of the residence as does not exceed $5,000.

''(b) FIRST-TIME HOMEBUYER.—For purposes of this section—

''(1) IN GENERAL.—The term 'first-time homebuyer' has the same meaning as when used in section 72(t)(8)(D)(i), except that 'principal residence in the District of Columbia during the 1-year period' shall be substituted for 'principal residence during the 2-year period' in subclause (I) thereof.

''(2) ONE-TIME ONLY.—If an individual is treated as a first-time homebuyer with respect to any principal residence, such individual may not be treated as a first-time homebuyer with respect to any other principal residence.

''(3) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 121.

''(4) DATE OF ACQUISITION.—The term 'date of acquisition' has the same meaning as when used in section 72t(8)(D)(iii).

''(c) CARRYOVER OF CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under subpart A of part IV of subchapter A (other than this section and section 25), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

''(d) SPECIAL RULES.—For purposes of this section—

''(1) ALLOCATION OF DOLLAR LIMITATION.—

''(A) MARRIED INDIVIDUALS FILING JOINTLY.—In the case of a husband and wife who file a joint return, the $5,000 limitation under subsection (a) shall apply to the joint return.

''(B) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of a married individual filing a separate return, subsection (a) shall be applied by substituting '$2,500' for '$5,000'.

''(C) OTHER TAXPAYERS.—If 2 or more individuals who are not married purchase a principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed $5,000.

''(2) PURCHASE.—The term 'purchase' means any acquisition, but only if—

''(A) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b) (but, in applying section 267 (b) and (c) for purposes of this section, paragraph (4) of section 267(c) shall be treated as providing that the family of an individual shall include only his spouse, ancestors, and lineal descendants), and

''(B) the basis of the property in the hands of the person acquiring it is not determined—

''(i) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

''(ii) under section 1014(a) (relating to property acquired from a decedent).

''(3) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the principal residence on the date of acquisition.

''(d) REPORTING.—If the Secretary requires information reporting under section 6045 to verify the eligibility of taxpayers for the credit allowable by this section, the exception provided by section 6045(e)(5) shall not apply.

''(e) CREDIT TREATED AS NONREFUNDABLE PERSONAL CREDIT.—For purposes of this title, the credit allowed by this section shall be treated as a credit allowable under subpart A of part IV of subchapter A of this chapter.

"SEC. 1400A. CREDIT FOR EQUITY INVESTMENTS IN AND LOANS TO DISTRICT OF COLUMBIA BUSINESSES.

''(a) GENERAL RULE.—For purposes of section 38, the DC investment credit determined under this section for any taxable year is—

''(1) the qualified lender credit for such year, and

''(2) the qualified equity investment credit for such year.

''(b) QUALIFIED LENDER CREDIT.—For purposes of this section—

''(1) IN GENERAL.—The qualified lender credit for any taxable year is the amount of credit specified for such year by the Economic Development Corporation with respect to qualified District loans made by the taxpayer.

''(2) LIMITATION.—In no event may the qualified lender credit with respect to any loan exceed 25 percent of the cost of the property purchased with the proceeds of the loan.

''(3) QUALIFIED DISTRICT LOAN.—For purposes of paragraph (1), the term 'qualified district loan' means any loan for the purchase (as defined in section 179(d)(2)) of property to which section 168 applies (or would apply but for section 179) (or land which is functionally related and subordinate to such property) and substantially all of the use of which is in the District of Columbia and is in the active conduct of a trade or business in the District of Columbia. A rule similar to the rule of section 1397C(a)(2) shall apply for purposes of the preceding sentence.

''(c) QUALIFIED EQUITY INVESTMENT CREDIT.—

''(1) IN GENERAL.—For purposes of this section, the qualified equity investment credit determined under this section for any taxable year is an amount equal to the percentage specified by the Economic Development Corporation (but not greater than 25 percent) of the aggregate amount paid in cash by the taxpayer during the taxable year for the purchase of District business investments.

''(2) DISTRICT BUSINESS INVESTMENT.—For purposes of this subsection, the term 'District business investment' means—

''(A) any District business stock, and

''(B) any District partnership interest.

''(3) DISTRICT BUSINESS STOCK.—For purposes of this subsection—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'District business stock' means any stock in a domestic corporation if—

''(i) such stock is acquired by the taxpayer at its original issue (directly or through an underwriter) solely in exchange for cash, and

''(ii) as of the time such stock was issued, such corporation was engaged in a trade or business in the District of Columbia (or, in the case of a new corporation, such corporation was being organized for purposes of engaging in such a trade or business).

''(B) REDEMPTIONS.—A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this paragraph.

''(4) QUALIFIED DISTRICT PARTNERSHIP INTEREST.—For purposes of this subsection, the term 'qualified District partnership interest' means any interest in a partnership if—

''(A) such interest is acquired by the taxpayer from the partnership solely in exchange for cash, and

''(B) as of the time such interest was acquired, such partnership was engaging in a trade or business in the District of Columbia (or, in the case of a new partnership, such partnership was being organized for purposes of engaging in such a trade or business).

A rule similar to the rule of paragraph (3)(B) shall apply for purposes of this paragraph.

''(5) RECAPTURE OF CREDIT UPON CERTAIN DISPOSITIONS OF DISTRICT BUSINESS INVESTMENTS.—

''(A) IN GENERAL.—If a taxpayer disposes of any District business investment (or any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such investment) before the end of the 5-year period beginning on the date such investment was acquired by the taxpayer, the taxpayer's tax imposed by this chapter for the taxable year in which such distribution occurs shall be increased by the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero any credit determined under this section with respect to such investment.

''(B) EXCEPTIONS.—Subparagraph (A) shall not apply to any gift, transfer, or transaction described in paragraph (1), (2), or (3) of section 1245(b).

''(C) SPECIAL RULE.—Any increase in tax under subparagraph (A) shall not be treated as a tax imposed by this chapter for purposes of—

''(i) determining the amount of any credit allowable under this chapter, and

''(ii) determining the amount of the tax imposed by section 55.

''(6) BASIS REDUCTION.—For purposes of this title, the basis of any District business investment shall be reduced by the amount of the credit determined under this section with respect to such investment.

''(d) LIMITATION ON AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the DC investment credit determined under this section with respect to any taxpayer for any taxable year shall not exceed the credit amount allocated to such taxpayer for such taxable year by the Economic Development Corporation.

''(2) OVERALL LIMITATION.—The aggregate credit amount which may be allocated by the Economic Development Corporation under this section shall not exceed $75,000,000.

''(3) CRITERIA FOR ALLOCATING CREDIT AMOUNTS.—The allocation of credit amounts under this section shall be made in accordance with criteria established by the Economic Development Corporation. In establishing such criteria, such Corporation shall take into account—

''(A) the degree to which the business receiving the loan or investment will provide job opportunities for low and moderate income residents of a targeted area, and

''(B) whether such business is within a targeted area.

''(4) TARGETED AREA.—For purposes of paragraph (3), the term 'targeted area' means—

''(A) any census tract located in the District of Columbia which is part of an enterprise community designated under subchapter U before the date of the enactment of this subchapter, and

''(B) any other census tract which is located in the District of Columbia and which has a poverty rate of not less than 35 percent.

''(e) ECONOMIC DEVELOPMENT CORPORATION.—For purposes of this section, the term 'Economic Development Corporation' means an entity which is created by Federal law in 1997 as part of the District of Columbia government.

''(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section.

''(g) APPLICATION OF SECTION.—This section shall apply to any credit amount allocated for taxable years beginning after December 31, 1997, and before January 1, 2003.

''SEC. 1400B. ZERO PERCENT CAPITAL GAINS RATE.

''(a) EXCLUSION.—Gross income shall not include qualified capital gain from the sale or exchange of any DC asset held for more than 5 years.

''(b) DC ASSET.—For purposes of this section—

''(1) IN GENERAL.—The term 'DC asset' means—

''(A) any DC business stock,

''(B) any DC partnership interest, and

''(C) any DC business property.

''(2) DC BUSINESS STOCK.—

''(A) IN GENERAL.—The term 'DC business stock' means any stock in a domestic corporation which is originally issued after December 31, 1997, if—

''(i) such stock is acquired by the taxpayer, before January 1, 2003, at its original issue (directly or through an underwriter) solely in exchange for cash,

''(ii) as of the time such stock was issued, such corporation was a DC business (or, in the case of a new corporation, such corporation was being organized for purposes of being a DC business), and

''(iii) during substantially all of the taxpayer's holding period for such stock, such corporation qualified as a DC business.

''(B) REDEMPTIONS.—A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this paragraph.

''(3) DC PARTNERSHIP INTEREST.—The term 'DC partnership interest' means any capital or profits interest in a domestic partnership which is originally issued after December 31, 1997, if—

''(A) such interest is acquired by the taxpayer, before January 1, 2003, from the partnership solely in exchange for cash,

''(B) as of the time such interest was acquired, such partnership was a DC business (or, in the case of a new partnership, such partnership was being organized for purposes of being a DC business), and

''(C) during substantially all of the taxpayer's holding period for such interest, such partnership qualified as a DC business.

A rule similar to the rule of paragraph (2)(B) shall apply for purposes of this paragraph.

''(4) DC BUSINESS PROPERTY.—

''(A) IN GENERAL.—The term 'DC business property' means tangible property if—

''(i) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after December 31, 1997, and before January 1, 2003,

''(ii) the original use of such property in the District of Columbia commences with the taxpayer, and

''(iii) during substantially all of the taxpayer's holding period for such property, substantially all of the use of such property was in a DC business of the taxpayer.

''(B) SPECIAL RULE FOR BUILDINGS WHICH ARE SUBSTANTIALLY IMPROVED.—

''(i) IN GENERAL.—The requirements of clauses (i) and (ii) of subparagraph (A) shall be treated as met with respect to—

''(I) property which is substantially improved by the taxpayer before January 1, 2003, and

''(II) any land on which such property is located.

''(ii) SUBSTANTIAL IMPROVEMENT.—For purposes of clause (i), property shall be treated as substantially improved by the taxpayer only if, during any 24-month period beginning after December 31, 1997, additions to basis with respect to such property in the hands of the taxpayer exceed the greater of—

''(I) an amount equal to the adjusted basis of such property at the beginning of such 24-month period in the hands of the taxpayer, or

''(II) $5,000.

''(6) TREATMENT OF SUBSEQUENT PURCHASERS, ETC.—The term 'DC asset' includes any property which would be a DC asset but for paragraph (2)(A)(i), (3)(A), or (4)(A)(ii) in the hands of the taxpayer if such property was a DC asset in the hands of a prior holder.

''(7) 5-YEAR SAFE HARBOR.—If any property ceases to be a DC asset by reason of paragraph (2)(A)(iii), (3)(C), or (4)(A)(iii) after the 5-year period beginning on the date the taxpayer acquired such property, such property shall continue to be treated as meeting the requirements of such paragraph; except that the amount of gain to which subsection (a) applies on any sale or exchange of such property shall not exceed the amount which would be qualified capital gain had such property been sold on the date of such cessation.

''(c) DC BUSINESS.—For purposes of this section, the term 'DC business' means any entity which is an enterprise zone business (as defined in section 1397B), determined—

''(1) by treating the District of Columbia as an empowerment zone and as if no other area is an empowerment zone or enterprise community, and

''(2) without regard to subsections (b)(6) and (c)(5) of section 1397B.

''(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) QUALIFIED CAPITAL GAIN.—Except as otherwise provided in this subsection, the term 'qualified capital gain' means any gain recognized on the sale or exchange of—

''(A) a capital asset, or

''(B) property used in the trade or business (as defined in section 1231(b)).

''(2) GAIN BEFORE 1998 NOT QUALIFIED.—The term 'qualified capital gain' shall not include any gain attributable to periods before January 1, 1998.

''(3) CERTAIN GAIN ON REAL PROPERTY NOT QUALIFIED.—The term 'qualified capital gain' shall not include any gain which would be treated as ordinary income under section 1250 if section 1250 applied to all depreciation rather than the additional depreciation.

''(4) INTANGIBLES AND LAND NOT INTEGRAL PART OF DC BUSINESS.—The term 'qualified capital gain' shall not include any gain attributable to real property, or an intangible asset, which is not an integral part of a DC business.

''(5) RELATED PARTY TRANSACTIONS.—The term 'qualified capital gain' shall not include any gain attributable, directly or indirectly, in whole or in part, to a transaction with a related person. For purposes of this paragraph, persons are related to each other if such persons are described in section 267(b) or 707(b)(1).

''(e) CERTAIN OTHER RULES TO APPLY.—Rules similar to the rules of subsections (g), (h), (i)(2), and (j) of section 1202 shall apply for purposes of this section.

''(f) SALES AND EXCHANGES OF INTERESTS IN PARTNERSHIPS AND S CORPORATIONS WHICH ARE DC BUSINESSES.—In the case of the sale or exchange of an interest in a partnership, or of stock in an S corporation, which was a DC business during substantially all of the period the taxpayer held such interest or stock, the amount of qualified capital gain shall be determined without regard to—

''(1) any gain which is attributable to real property, or an intangible asset, which is not an integral part of a DC business, and

''(2) any gain attributable to periods before January 1, 1998.''

(b) CREDITS MADE PART OF GENERAL BUSINESS CREDIT.—

(1) Subsection (b) of section 38 is amended by striking ''plus'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', plus'', and by adding at the end the following new paragraph:

''(13) the DC investment credit determined under section 1400A(a).''

(2) Subsection (d) of section 39 is amended by adding at the end the following new paragraph:

''(8) NO CARRYBACK OF DC CREDITS BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit under section 1400A may be carried back to a taxable year ending before the date of the enactment of such section.''

(3) Subsection (c) of section 196 is amended by striking ''and'' at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting '', and'', and by adding at the end the following new paragraph:

''(8) the DC investment credit determined under section 1400A(a).''

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by adding at the end the following new item:

''Subchapter W. Incentives for the Revitalization of the District of Columbia.''

(d) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 602. INCENTIVES CONDITIONED ON OTHER DC REFORM.

The amendments made by section 601 shall not take effect unless an entity known as the Economic Development Corporation is created by Federal law in 1997 as part of the District of Columbia government.

TITLE VII—MISCELLANEOUS PROVISIONS

Subtitle A—Distressed Communities and Brownfields

CHAPTER 1—ADDITIONAL EMPOWERMENT ZONES

SEC. 701. ADDITIONAL EMPOWERMENT ZONES.

(a) IN GENERAL.—Paragraph (2) of section 1391(b) (relating to designations of empowerment zones and enterprise communities) is amended—

(1) by striking ''9'' and inserting ''11'',

(2) by striking ''6'' and inserting ''8'', and

(3) by striking ''750,000'' and inserting ''1,000,000''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, except that designations of new empowerment zones made pursuant to such amendments shall be made during the 180-day period beginning on the date of the enactment of this Act.

CHAPTER 2—NEW EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

SEC. 711. DESIGNATION OF ADDITIONAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) IN GENERAL.—Section 1391 (relating to designation procedure for empowerment

zones and enterprise communities) is amended by adding at the end the following new subsection:

''(g) ADDITIONAL DESIGNATIONS PERMITTED.—

''(1) IN GENERAL.—In addition to the areas designated under subsection (a)—

''(A) ENTERPRISE COMMUNITIES.—The appropriate Secretaries may designate in the aggregate an additional 80 nominated areas as enterprise communities under this section, subject to the availability of eligible nominated areas. Of that number, not more than 50 may be designated in urban areas and not more than 30 may be designated in rural areas.

''(B) EMPOWERMENT ZONES.—The appropriate Secretaries may designate in the aggregate an additional 20 nominated areas as empowerment zones under this section, subject to the availability of eligible nominated areas. Of that number, not more than 15 may be designated in urban areas and not more than 5 may be designated in rural areas.

''(2) PERIOD DESIGNATIONS MAY BE MADE.—A designation may be made under this subsection after the date of the enactment of this subsection and before January 1, 1999.

''(3) MODIFICATIONS TO ELIGIBILITY CRITERIA, ETC.—

''(A) POVERTY RATE REQUIREMENT.—

''(i) IN GENERAL.—A nominated area shall be eligible for designation under this subsection only if the poverty rate for each population census tract within the nominated area is not less than 20 percent and the poverty rate for at least 90 percent of the population census tracts within the nominated area is not less than 25 percent.

''(ii) TREATMENT OF CENSUS TRACTS WITH SMALL POPULATIONS.—A population census tract with a population of less than 2,000 shall be treated as having a poverty rate of not less than 25 percent if—

''(I) more than 75 percent of such tract is zoned for commercial or industrial use, and

''(II) such tract is contiguous to 1 or more other population census tracts which have a poverty rate of not less than 25 percent (determined without regard to this clause).

''(iii) EXCEPTION FOR DEVELOPABLE SITES.—Clause (i) shall not apply to up to 3 noncontiguous parcels in a nominated area which may be developed for commercial or industrial purposes. The aggregate area of noncontiguous parcels to which the preceding sentence applies with respect to any nominated area shall not exceed 1,000 acres (2,000 acres in the case of an empowerment zone).

''(iv) CERTAIN PROVISIONS NOT TO APPLY.—Section 1392(a)(4) (and so much of paragraphs (1) and (2) of section 1392(b) as relate to section 1392(a)(4)) shall not apply to an area nominated for designation under this subsection.

''(v) SPECIAL RULE FOR RURAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.—The Secretary of Agriculture may designate not more than 1 empowerment zone, and not more than 5 enterprise communities, in rural areas without regard to clause (i) if such areas satisfy emigration criteria specified by the Secretary of Agriculture.

''(B) SIZE LIMITATION.—

''(i) IN GENERAL.—The parcels described in subparagraph (A)(iii) shall not be taken into account in determining whether the requirement of subparagraph (A) or (B) of section 1392(a)(3) is met.

''(ii) SPECIAL RULE FOR RURAL AREAS.—If a population census tract (or equivalent division under section 1392(b)(4)) in a rural area exceeds 1,000 square miles or includes a substantial amount of land owned by the Federal, State, or local government, the nominated area may exclude such excess square mileage or governmentally owned land and the exclusion of that area will not be treated as violating the continuous boundary requirement of section 1392(a)(3)(B).

''(C) AGGREGATE POPULATION LIMITATION.—The aggregate population limitation under the last sentence of subsection (b)(2) shall not apply to a designation under paragraph (1)(B).

''(D) PREVIOUSLY DESIGNATED ENTERPRISE COMMUNITIES MAY BE INCLUDED.—Subsection (e)(5) shall not apply to any enterprise community designated under subsection (a) that is also nominated for designation under this subsection.

''(E) INDIAN RESERVATIONS MAY BE NOMINATED.—

''(i) IN GENERAL.—Section 1393(a)(4) shall not apply to an area nominated for designation under this subsection.

''(ii) SPECIAL RULE.—An area in an Indian reservation shall be treated as nominated by a State and a local government if it is nominated by the reservation governing body (as determined by the Secretary of Interior).''

(b) EMPLOYMENT CREDIT NOT TO APPLY TO NEW EMPOWERMENT ZONES.—Section 1396 (relating to empowerment zone employment credit) is amended by adding at the end the following new subsection:

''(e) CREDIT NOT TO APPLY TO EMPOWERMENT ZONES DESIGNATED UNDER SECTION 1391(g).—This section shall be applied without regard to any empowerment zone designated under section 1391(g).''

(c) INCREASED EXPENSING UNDER SECTION 179 NOT TO APPLY IN DEVELOPABLE SITES.—Section 1397A (relating to increase in expensing under section 179) is amended by adding at the end the following new subsection:

''(c) LIMITATION.—For purposes of this section, qualified zone property shall not include any property substantially all of the use of which is in any parcel described in section 1391(g)(3)(A)(iii).''

(d) CONFORMING AMENDMENTS.—

(1) Subsections (e) and (f) of section 1391 are each amended by striking ''subsection (a)'' and inserting ''this section''.

(2) Section 1391(c) is amended by striking ''this section'' and inserting ''subsection (a)''.

SEC. 712. VOLUME CAP NOT TO APPLY TO ENTERPRISE ZONE FACILITY BONDS WITH RESPECT TO NEW EMPOWERMENT ZONES.

(a) IN GENERAL.—Section 1394 (relating to tax-exempt enterprise zone facility bonds) is amended by adding at the end the following new subsection:

''(f) BONDS FOR EMPOWERMENT ZONES DESIGNATED UNDER SECTION 1391(g).—

''(1) IN GENERAL.—In the case of a new empowerment zone facility bond—

''(A) such bond shall not be treated as a private activity bond for purposes of section 146, and

''(B) subsection (c) of this section shall not apply.

''(2) LIMITATION ON AMOUNT OF BONDS.—

''(A) IN GENERAL.—Paragraph (1) shall apply to a new empowerment zone facility bond only if such bond is designated for purposes of this subsection by the local government which nominated the area to which such bond relates.

''(B) LIMITATION ON BONDS DESIGNATED.—The aggregate face amount of bonds which may be designated under subparagraph (A) with respect to any empowerment zone shall not exceed—

''(i) $60,000,000 if such zone is in a rural area,

''(ii) $130,000,000 if such zone is in an urban area and the zone has a population of less than 100,000, and

''(iii) $230,000,000 if such zone is in an urban area and the zone has a population of at least 100,000.

''(C) SPECIAL RULES.—

''(i) COORDINATION WITH LIMITATION IN SUBSECTION (c).—Bonds to which paragraph (1) applies shall not be taken into account in applying the limitation of subsection (c) to other bonds.

''(ii) CURRENT REFUNDING NOT TAKEN INTO ACCOUNT.—In the case of a refunding (or series of refundings) of a bond designated under this paragraph, the refunding obligation shall be treated as designated under this paragraph (and shall not be taken into account in applying subparagraph (B)) if—

''(I) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

''(II) the refunded bond is redeemed not later than 90 days after the date of issuance of the refunding bond.

''(3) NEW EMPOWERMENT ZONE FACILITY BOND.—For purposes of this subsection, the term 'new empowerment zone facility bond' means any bond which would be described in subsection (a) if only empowerment zones designated under section 1391(g) were taken into account under sections 1397B and 1397C.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 713. MODIFICATIONS TO ENTERPRISE ZONE FACILITY BOND RULES FOR ALL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) MODIFICATIONS RELATING TO ENTERPRISE ZONE BUSINESS.—Paragraph (3) of section 1394(b) (defining enterprise zone business) is amended to read as follows:

''(3) ENTERPRISE ZONE BUSINESS.—

''(A) IN GENERAL.—Except as modified in this paragraph, the term 'enterprise zone business' has the meaning given such term by section 1397B.

''(B) MODIFICATIONS.—In applying section 1397B for purposes of this section—

''(i) BUSINESSES IN ENTERPRISE COMMUNITIES ELIGIBLE.—References in section 1397B to empowerment zones shall be treated as including references to enterprise communities.

''(ii) WAIVER OF REQUIREMENTS DURING STARTUP PERIOD.—A business shall not fail to be treated as an enterprise zone business during the startup period if—

''(I) as of the beginning of the startup period, it is reasonably expected that such business will be an enterprise zone business (as defined in section 1397B as modified by this paragraph) at the end of such period, and

''(II) such business makes bona fide efforts to be such a business.

''(iii) REDUCED REQUIREMENTS AFTER TESTING PERIOD.—A business shall not fail to be treated as an enterprise zone business for any taxable year beginning after the testing period by reason of failing to meet any requirement of subsection (b) or (c) of section 1397B if at least 35 percent of the employees of such business for such year are residents of an empowerment zone or an enterprise community. The preceding sentence shall not apply to any business which is not a qualified business by reason of paragraph (1), (4), or (5) of section 1397B(d).

''(C) DEFINITIONS RELATING TO SUBPARAGRAPH (B).—For purposes of subparagraph (B)—

''(i) STARTUP PERIOD.—The term 'startup period' means, with respect to any property being provided for any business, the period before the first taxable year beginning more than 2 years after the later of—

''(I) the date of issuance of the issue providing such property, or

''(II) the date such property is first placed in service after such issuance (or, if earlier, the date which is 3 years after the date described in subclause (I)).

''(ii) TESTING PERIOD.—The term 'testing period' means the first 3 taxable years beginning after the startup period.

''(D) PORTIONS OF BUSINESS MAY BE ENTERPRISE ZONE BUSINESS.—The term 'enterprise zone business' includes any trades or businesses which would qualify as an enterprise zone business (determined after the modifications of subparagraph (B)) if such trades or businesses were separately incorporated.''

(b) MODIFICATIONS RELATING TO QUALIFIED ZONE PROPERTY.—Paragraph (2) of section 1394(b) (defining qualified zone property) is amended to read as follows:

''(2) QUALIFIED ZONE PROPERTY.—The term 'qualified zone property' has the meaning given such term by section 1397C; except that—

''(A) the references to empowerment zones shall be treated as including references to enterprise communities, and

''(B) section 1397C(a)(2) shall be applied by substituting 'an amount equal to 15 percent of the adjusted basis' for 'an amount equal to the adjusted basis'.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 714. MODIFICATIONS TO ENTERPRISE ZONE BUSINESS DEFINITION FOR ALL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) IN GENERAL.—Section 1397B (defining enterprise zone business) is amended—

(1) by striking ''80 percent'' in subsections (b)(2) and (c)(1) and inserting ''50 percent'',

(2) by striking ''substantially all'' each place it appears in subsections (b) and (c) and inserting ''a substantial portion'',

(3) by striking '', and exclusively related to,'' in subsections (b)(4) and (c)(3),

(4) by adding at the end of subsection (d)(2) the following new flush sentence:

''For purposes of subparagraph (B), the lessor of the property may rely on a lessee's certification that such lessee is an enterprise zone business.'',

(5) by striking ''substantially all'' in subsection (d)(3) and inserting ''at least 50 percent'', and

(6) by adding at the end the following new subsection:

''(f) TREATMENT OF BUSINESSES STRADDLING CENSUS TRACT LINES.—For purposes of this section, if—

''(1) a business entity or proprietorship uses real property located within an empowerment zone,

''(2) the business entity or proprietorship also uses real property located outside the empowerment zone,

''(3) the amount of real property described in paragraph (1) is substantial compared to the amount of real property described in paragraph (2), and

''(4) the real property described in paragraph (2) is contiguous to part or all of the real property described in paragraph (1),

then all the services performed by employees, all business activities, all tangible property, and all intangible property of the business entity or proprietorship that occur in or is located on the real property described in paragraphs (1) and (2) shall be treated as occurring or situated in an empowerment zone.''

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning on or after the date of the enactment of this Act.

(2) SPECIAL RULE FOR ENTERPRISE ZONE FACILITY BONDS.—For purposes of section 1394(b) of the Internal Revenue Code of 1986, the amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

CHAPTER 3—EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS

SEC. 721. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by adding at the end the following new section:

''SEC. 198. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

''(a) IN GENERAL.—A taxpayer may elect to treat any qualified environmental remediation expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction for the taxable year in which it is paid or incurred.

''(b) QUALIFIED ENVIRONMENTAL REMEDIATION EXPENDITURE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified environmental remediation expenditure' means any expenditure—

''(A) which is otherwise chargeable to capital account, and

''(B) which is paid or incurred in connection with the abatement or control of hazardous substances at a qualified contaminated site.

''(2) SPECIAL RULE FOR EXPENDITURES FOR DEPRECIABLE PROPERTY.—Such term shall not include any expenditure for the acquisition of property of a character subject to the allowance for depreciation which is used in connection with the abatement or control of hazardous substances at a qualified contaminated site; except that the portion of the allowance under section 167 for such property which is otherwise allocated to such site shall be treated as a qualified environmental remediation expenditure.

''(c) QUALIFIED CONTAMINATED SITE.—For purposes of this section—

''(1) QUALIFIED CONTAMINATED SITE.—

''(A) IN GENERAL.—The term 'qualified contaminated site' means any area—

''(i) which is held by the taxpayer for use in a trade or business or for the production of income, or which is property described in section 1221(1) in the hands of the taxpayer,

''(ii) which is within a targeted area, and

''(iii) which contains (or potentially contains) any hazardous substance.

''(B) TAXPAYER MUST RECEIVE STATEMENT FROM STATE ENVIRONMENTAL AGENCY.—An area shall be treated as a qualified contaminated site with respect to expenditures paid or incurred during any taxable year only if the taxpayer receives a statement from the appropriate agency of the State in which such area is located that such area meets the requirements of clauses (ii) and (iii) of subparagraph (A).

''(C) APPROPRIATE STATE AGENCY.— For purposes of subparagraph (B), the appropriate agency of a State is the agency designated by the Administrator of the Environmental Protection Agency for purposes of this section. If no agency of a State is designated under the preceding sentence, the appropriate agency for such State shall be the Environmental Protection Agency.

''(2) TARGETED AREA.—

''(A) IN GENERAL.—The term 'targeted area' means—

''(i) any population census tract with a poverty rate of not less than 20 percent,

''(ii) a population census tract with a population of less than 2,000 if—

''(I) more than 75 percent of such tract is zoned for commercial or industrial use, and

''(II) such tract is contiguous to 1 or more other population census tracts which meet the requirement of clause (i) without regard to this clause,

''(iii) any empowerment zone or enterprise community (and any supplemental zone designated on December 21, 1994), and

''(iv) any site announced before February 1, 1997, as being included as a brownfields pilot project of the Environmental Protection Agency.

''(B) NATIONAL PRIORITIES LISTED SITES NOT INCLUDED.—Such term shall not include any site which is on the national priorities list under section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this section).

''(C) CERTAIN RULES TO APPLY.—For purposes of this paragraph, the rules of sections 1392(b)(4) and 1393(a)(9) shall apply.

''(D) TREATMENT OF CERTAIN SITES.—For purposes of this paragraph, a single contaminated site shall be treated as within a targeted area if—

''(i) a substantial portion of the site is located within a targeted area described in subparagraph (A) (determined without regard to this subparagraph), and

''(ii) the remaining portions are contiguous to, but outside, such targeted area.

''(d) HAZARDOUS SUBSTANCE.—For purposes of this section—

''(1) IN GENERAL.—The term 'hazardous substance' means—

''(A) any substance which is a hazardous substance as defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and

''(B) any substance which is designated as a hazardous substance under section 102 of such Act.

''(2) EXCEPTION.—Such term shall not include any substance with respect to which a removal or remedial action is not permitted under section 104 of such Act by reason of subsection (a)(3) thereof.

''(e) DEDUCTION RECAPTURED AS ORDINARY INCOME ON SALE, ETC.—Solely for purposes of section 1245, in the case of property to which a qualified environmental remediation expenditure would have been capitalized but for this section—

''(1) the deduction allowed by this section for such expenditure shall be treated as a deduction for depreciation, and

''(2) such property (if not otherwise section 1245 property) shall be treated as section 1245 property solely for purposes of applying section 1245 to such deduction.

''(f) COORDINATION WITH OTHER PROVISIONS.—Sections 280B and 468 shall not apply to amounts which are treated as expenses under this section.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''

(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 198. Expensing of environmental remediation costs.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

Subtitle B—Puerto Rico Economic Activity Credit Improvement

SEC. 731. MODIFICATIONS OF PUERTO RICO ECONOMIC ACTIVITY CREDIT.

(a) CORPORATIONS ELIGIBLE TO CLAIM CREDIT.—Section 30A(a)(2) (defining qualified domestic corporation) is amended to read as follows:

''(2) QUALIFIED DOMESTIC CORPORATION.—For purposes of paragraph (1)—

''(A) IN GENERAL.—A domestic corporation shall be treated as a qualified domestic corporation for a taxable year if it is actively conducting within Puerto Rico during the taxable year—

''(i) a line of business with respect to which the domestic corporation is an existing credit claimant under section 936(j)(9), or

''(ii) an eligible line of business not described in clause (i).

''(B) LIMITATION TO LINES OF BUSINESS.—A domestic corporation shall be treated as a qualified domestic corporation under subparagraph (A) only with respect to the lines of business described in subparagraph (A) which it is actively conducting in Puerto Rico during the taxable year.

''(C) EXCEPTION FOR CORPORATIONS ELECTING REDUCED CREDIT.—A domestic corporation shall not be treated as a qualified corporation if such corporation (or any predecessor) had an election in effect under section 936(a)(4)(B)(iii) for any taxable year beginning after December 31, 1996.''

(b) APPLICATION ON SEPARATE LINE OF BUSINESS BASIS; ELIGIBLE LINE OF BUSINESS.—Section 30A is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) APPLICATION ON LINE OF BUSINESS BASIS; ELIGIBLE LINES OF BUSINESS.—For purposes of this section—

''(1) APPLICATION TO SEPARATE LINE OF BUSINESS.—

''(A) IN GENERAL.—In determining the amount of the credit under subsection (a), this section shall be applied separately with respect to each substantial line of business of the qualified domestic corporation.

''(B) EXCEPTIONS FOR EXISTING CREDIT CLAIMANT.—This paragraph shall not apply to a substantial line of business with respect to which the qualified domestic corporation is an existing credit claimant under section 936(j)(9).

''(C) ALLOCATION.—The Secretary shall prescribe rules necessary to carry out the purposes of this paragraph, including rules—

''(i) for the allocation of items of income, gain, deduction, and loss for purposes of determining taxable income under subsection (a), and

''(ii) for the allocation of wages, fringe benefit expenses, and depreciation allowances for purposes of applying the limitations under subsection (d).

''(2) ELIGIBLE LINE OF BUSINESS.—The term 'eligible line of business' means a substantial line of business in any of the following trades or businesses:

''(A) Manufacturing.

''(B) Agriculture.

''(C) Forestry.

''(D) Fishing.

''(3) SUBSTANTIAL LINE OF BUSINESS.—For purposes of this subsection, the determination of whether a line of business is a substantial line of business shall be determined by reference to 2-digit codes under the North American Industry Classification System (62 Fed. Reg. 17288 et seq., formerly known as 'SIC codes').''

(c) REPEAL OF BASE PERIOD CAP.—

(1) IN GENERAL.—Section 30A(a)(1) (relating to allowance of credit) is amended by striking the last sentence.

(2) CONFORMING AMENDMENT.—Section 30A(e)(1) is amended by inserting ''but not including subsection (j)(3)(A)(ii) thereof'' after ''thereunder''.

(d) APPLICATION OF CREDIT.—Section 30A(h) (relating to applicability of section), as redesignated by subsection (b), is amended to read as follows:

''(h) APPLICATION OF SECTION.—

''(1) IN GENERAL.—This section shall apply to taxable years beginning after December 31, 1995, and before the termination date.

''(2) TERMINATION DATE.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The termination date is the first day of the 4th calendar year following the close of the first period for which a certification is issued by the Secretary under subparagraph (B).

''(B) CERTIFICATION.—

''(i) IN GENERAL.—The Secretary shall issue a certification under this subparagraph for the first 3-consecutive calendar year period beginning after December 31, 1997, for which the Secretary determines that Puerto Rico has met the requirements of clause (ii) for each calendar year within the period.

''(ii) REQUIREMENTS.—The requirements of this clause are met with respect to Puerto Rico for any calendar year if—

''(I) the average monthly rate of unemployment in Puerto Rico does not exceed 150 percent of the average monthly rate of unemployment for the United States for such year,

''(II) the per capita income of Puerto Rico is at least 66 percent of the per capita income of the United States, and

''(III) the poverty level within Puerto Rico does not exceed 30 percent.''

(e) CONFORMING AMENDMENTS.—

(1) Section 30A(b) is amended by striking ''within a possession'' each place it appears and inserting ''within Puerto Rico''.

(2) Section 30A(d) is amended by striking ''possession'' each place it appears.

(3) Section 30A(f) is amended to read as follows:

''(f) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED INCOME TAXES.—The qualified income taxes for any taxable year allocable to nonsheltered income shall be determined in the same manner as under section 936(i)(3).

''(2) QUALIFIED WAGES.—The qualified wages for any taxable year shall be determined in the same manner as under section 936(i)(1).

''(3) OTHER TERMS.—Any term used in this section which is also used in section 936 shall have the same meaning given such term by section 936.''

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 732. COMPARABLE TREATMENT FOR OTHER ECONOMIC ACTIVITY CREDIT.

(a) CORPORATIONS ELIGIBLE TO CLAIM CREDIT.—Section 936(j)(2)(A) (relating to economic activity credit) is amended to read as follows:

''(A) ECONOMIC ACTIVITY CREDIT.—

''(i) IN GENERAL.—In the case of a domestic corporation which, during the taxable year, is actively conducting within a possession other than Puerto Rico—

''(I) a line of business with respect to which the domestic corporation is an existing credit claimant under paragraph (9), or

''(II) an eligible line of business not described in subclause (I),

the credit determined under subsection (a)(1)(A) shall be allowed for taxable years beginning after December 31, 1995, and before January 1, 2002.

''(ii) LIMITATION TO LINES OF BUSINESS.—Clause (i) shall only apply with respect to the lines of business described in clause (i) which the domestic corporation is actively conducting in a possession other than Puerto Rico during the taxable year.

''(iii) EXCEPTION FOR CORPORATIONS ELECTING REDUCED CREDIT.—Clause (i) shall not apply to a domestic corporation if such corporation (or any predecessor) had an election in effect under subsection (a)(4)(B)(iii) for any taxable year beginning after December 31, 1996.''

(b) APPLICATION ON SEPARATE LINE OF BUSINESS BASIS; ELIGIBLE LINE OF BUSINESS.—

(1) IN GENERAL.—Section 936(j) is amended by adding at the end the following new paragraph:

''(11) APPLICATION ON LINE OF BUSINESS BASIS; ELIGIBLE LINES OF BUSINESS.—For purposes of this section—

''(A) APPLICATION TO SEPARATE LINE OF BUSINESS.—

''(i) IN GENERAL.—In determining the amount of the credit under subsection (a)(1)(A) for a corporation to which paragraph (2)(A) applies, this section shall be applied separately with respect to each substantial line of business of the corporation.

''(ii) EXCEPTIONS FOR EXISTING CREDIT CLAIMANT.—This paragraph shall not apply to a line of business with respect to which the qualified domestic corporation is an existing credit claimant under paragraph (9).

''(iii) ALLOCATION.—The Secretary shall prescribe rules necessary to carry out the purposes of this subparagraph, including rules—

''(I) for the allocation of items of income, gain, deduction, and loss for purposes of determining taxable income under subsection (a)(1)(A), and

''(II) for the allocation of wages, fringe benefit expenses, and depreciation allowances for purposes of applying the limitations under subsection (a)(4)(A).

''(B) ELIGIBLE LINE OF BUSINESS.—For purposes of this subsection, the term 'eligible line of business' means a substantial line of business in any of the following trades or businesses:

''(i) Manufacturing.

''(ii) Agriculture.

''(iii) Forestry.

''(iv) Fishing.''

(2) NEW LINES OF BUSINESS.—Section 936(j)(9)(B) is amended to read as follows:

''(B) NEW LINES OF BUSINESS.—A corporation shall not be treated as an existing credit claimant with respect to any substantial new line of business which is added after October 13, 1995, unless such addition is pursuant to an acquisition described in subparagraph (A)(ii).''

(3) SEPARATE LINES OF BUSINESS.—Section 936(j), as amended by paragraph (1), is amended by adding at the end the following new paragraph:

''(12) SUBSTANTIAL LINE OF BUSINESS.—For purposes of this subsection (other than paragraph (9)(B) thereof), the determination of whether a line of business is a substantial line of business shall be determined by reference to 2-digit codes under the North American Industry Classification System (62 Fed. Reg. 17288 et seq., formerly known as 'SIC codes').''

(c) REPEAL OF BASE PERIOD CAP FOR ECONOMIC ACTIVITY CREDIT.—

(1) IN GENERAL.—Section 936(j)(3) is amended to read as follows:

''(3) ADDITIONAL RESTRICTED REDUCED CREDIT.—

''(A) IN GENERAL.—In the case of an existing credit claimant to which paragraph (2)(B) applies, the credit determined under subsection (a)(1)(A) shall be allowed for any taxable year beginning after December 31, 1997, and before January 1, 2006, except that the aggregate amount of taxable income taken into account under subsection (a)(1)(A) for such taxable year shall not exceed the adjusted base period income of such claimant.

''(B) COORDINATION WITH SUBSECTION (a)(4)(B).—The amount of income described in subsection (a)(1)(A) which is taken into account in applying subsection (a)(4)(B) shall

be such income as reduced under this paragraph.''

(2) CONFORMING AMENDMENT.—Section 936(j)(2)(A), as amended by subsection (a), is amended by striking ''2002'' and inserting ''2006''.

(d) APPLICATION OF CREDIT.—

(1) IN GENERAL.—Section 936(j)(2)(A), as amended by this section, is amended by striking ''January 1, 2006'' and inserting ''the termination date''.

(2) SPECIAL RULES FOR APPLICABLE POSSESSIONS.—Section 936(j)(8)(A) is amended to read as follows:

''(A) IN GENERAL.—In the case of an applicable possession—

''(i) this section (other than the preceding paragraphs of this subsection) shall not apply for taxable years beginning after December 31, 1995, and before January 1, 2006, with respect to any substantial line of business actively conducted in such possession by a domestic corporation which is an existing credit claimant with respect to such line of business, and

''(ii) this section (including this subsection) shall apply—

''(I) with respect to any substantial line of business not described in clause (i) for taxable years beginning after December 31, 1997, and before the termination date, and

''(II) with respect to any substantial line of business described in clause (i) for taxable years beginning after December 31, 2006, and before the termination date.''

(3) TERMINATION DATE.—Section 936(j), as amended by subsection (b), is amended by adding at the end the following new paragraph.

''(13) TERMINATION DATE.—For purposes of this subsection—

''(A) IN GENERAL.—The termination date for any possession other than Puerto Rico is the first day of the 4th calendar year following the close of the first period for which a certification is issued by the Secretary under subparagraph (B).

''(B) CERTIFICATION.—

''(i) IN GENERAL.—The Secretary shall issue a certification for a possession under this subparagraph for the first 3-consecutive calendar year period beginning after December 31, 1997, for which the Secretary determines that the possession has met the requirements of clause (ii) for each calendar year within the period.

''(ii) REQUIREMENTS.—The requirements of this clause are met with respect to a possession for any calendar year if—

''(I) the average monthly rate of unemployment in the possession does not exceed 150 percent of the average monthly rate of unemployment for the United States for such year,

''(II) the per capita income of the possession is at least 66 percent of the per capita income of the United States, and

''(III) the poverty level within the possession does not exceed 30 percent.''

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

(2) NEW LINES OF BUSINESS.—The amendment made by subsection (b)(2) shall apply to taxable years beginning after December 31, 1995.

Subtitle C—Revisions Relating to Disasters

SEC. 741. TREATMENT OF LIVESTOCK SOLD ON ACCOUNT OF WEATHER-RELATED CONDITIONS.

(a) DEFERRAL OF INCOME INCLUSION.—Subsection (e) of section 451 (relating to special rules for proceeds from livestock sold on account of drought) is amended—

(1) by striking ''drought conditions, and that these drought conditions'' in paragraph (1) and inserting ''drought, flood, or other weather-related conditions, and that such conditions''; and

(2) by inserting '', FLOOD, OR OTHER WEATHER-RELATED CONDITIONS'' after ''DROUGHT'' in the subsection heading.

(b) INVOLUNTARY CONVERSIONS.—Subsection (e) of section 1033 (relating to livestock sold on account of drought) is amended—

(1) by inserting '', flood, or other weather-related conditions'' before the period at the end thereof; and

(2) by inserting '', FLOOD, OR OTHER WEATHER-RELATED CONDITIONS'' after ''DROUGHT'' in the subsection heading.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after December 31, 1996.

SEC. 742. GAIN OR LOSS FROM SALE OF LIVESTOCK DISREGARDED FOR PURPOSES OF EARNED INCOME CREDIT.

(a) IN GENERAL.—Section 32(i)(2)(D) (relating to disqualified income) is amended by inserting ''determined without regard to gain or loss from the sale of livestock described in section 1231(b)(3),'' after ''taxable year,''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 743. MORTGAGE FINANCING FOR RESIDENCES LOCATED IN DISASTER AREAS.

Subsection (k) of section 143 (relating to mortgage revenue bonds; qualified mortgage bond and qualified veteran's mortgage bond) is amended by adding at the end the following new paragraph:

''(11) SPECIAL RULES FOR RESIDENCES LOCATED IN DISASTER AREAS.—In the case of a residence located in an area determined by the President to warrant assistance from the Federal Government under the Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of the Revenue Reconciliation Act of 1997), this section shall be applied with the following modifications to financing provided with respect to such residence within 1 year after the date of the disaster declaration:

''(A) Subsection (d) (relating to 3-year requirement) shall not apply.

''(B) Subsections (e) and (f) (relating to purchase price requirement and income requirement) shall be applied as if such residence were a targeted area residence.

The preceding sentence shall apply only with respect to bonds issued after December 31, 1996, and before January 1, 1999.''

Subtitle D—Provisions Relating to Small Businesses

SEC. 751. WAIVER OF PENALTY THROUGH JUNE 30, 1998, ON SMALL BUSINESSES FAILING TO MAKE ELECTRONIC FUND TRANSFERS OF TAXES.

No penalty shall be imposed under the Internal Revenue Code of 1986 solely by reason of a failure by a person to use the electronic fund transfer system established under section 6302(h) of such Code if—

(1) such person is a member of a class of taxpayers first required to use such system on or after July 1, 1997, and

(2) such failure occurs before July 1, 1998.

SEC. 752. MINIMUM TAX NOT TO APPLY TO FARMERS' INSTALLMENT SALES.

(a) IN GENERAL.—Subsection (a) of section 56 is amended by striking paragraph (6) (relating to treatment of installment sales).

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to dispositions in taxable years beginning after December 31, 1987.

(2) SPECIAL RULE FOR 1987.—In the case of taxable years beginning in 1987, the last sentence of section 56(a)(6) of the Internal Revenue Code of 1986 (as in effect for such taxable years) shall be applied by inserting ''or in the case of a taxpayer using the cash receipts and disbursements method of accounting, any disposition described in section 453C(e)(1)(B)(ii)'' after ''section 453C(e)(4)''.

Subtitle E—Provisions Relating to Pensions and Fringe Benefits

SEC. 761. TREATMENT OF MULTIEMPLOYER PLANS UNDER SECTION 415.

(a) IN GENERAL.—Section 415(b)(11) is amended—

(1) by inserting ''or a multiemployer plan (as defined in section 414(f))'' after ''section 414(d))'', and

(2) by inserting ''AND MULTIEMPLOYER'' after ''GOVERNMENTAL'' in the heading thereof.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1997.

SEC. 762. SPOUSAL CONSENT REQUIRED FOR CERTAIN DISTRIBUTIONS AND LOANS UNDER QUALIFIED CASH OR DEFERRED ARRANGEMENT.

(a) IN GENERAL.—Section 401(k) is amended by adding at the end the following new paragraph:

''(13) SPOUSAL CONSENT REQUIRED.—

''(A) IN GENERAL.—An arrangement shall not be treated as a qualified cash or deferred arrangement unless—

''(i) a distribution under the plan of which such arrangement is a part, or

''(ii) a loan all or part of which is secured by the participant's interest in the plan of which such arrangement is a part,

may not be made without the written consent of the spouse.

''(B) EXCEPTIONS.—Subparagraph (A) shall not apply—

''(i) to distributions described in section 402(c)(4)(A) or 411(a)(11), or

''(ii) in any case described in section 417(a)(2) (relating to cases where spouse cannot be located).

''(C) OTHER RULES.—The Secretary shall prescribe rules similar to the rules under section 417 for the form and timing of any consent required by this paragraph.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to plan years beginning after December 31, 1998.

(2) PLAN AMENDMENTS.—A plan shall not be treated as failing to meet the requirements of section 411(d)(6) of the Internal Revenue Code of 1986 or section 204(g) of the Employee Retirement Income Security Act of 1974 merely because it is amended to meet the requirements of section 401(k)(4)(13) of such Code (as added by subsection (a)).

SEC. 763. SECTION 401(k) INVESTMENT PROTECTION.

(a) LIMITATIONS ON INVESTMENT IN EMPLOYER SECURITIES AND EMPLOYER REAL PROPERTY BY CASH OR DEFERRED ARRANGEMENTS.—Paragraph (3) of section 407(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1107(d)) is amended by adding at the end the following new subparagraph:

''(D) The term 'eligible individual account plan' does not include that portion of an individual account plan that consists of elective deferrals (as defined in section 402(g)(3) of the Internal Revenue Code of 1986) pursuant to a qualified cash or deferred arrangement as defined in section 401(k) of the Internal Revenue Code of 1986 (and earnings thereon), if such elective deferrals (or earnings thereon) are required to be invested in qualifying employer securities or qualifying employer real property or both pursuant to the documents and instruments governing the plan or at the direction of a person other than the participant (or the participant's beneficiary) on whose behalf such elective

deferrals are made to the plan. For the purposes of subsection (a), such portion shall be treated as a separate plan. This subparagraph shall not apply to an individual account plan if the fair market value of the assets of all individual account plans maintained by the employer equals not more than 10 percent of the fair market value of the assets of all pension plans maintained by the employer.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) TRANSITION RULE FOR PLANS HOLDING EXCESS SECURITIES OR PROPERTY.—

(A) IN GENERAL.—In the case of a plan which on the date of the enactment of this Act, has holdings of employer securities and employer real property (as defined in section 407(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1107(d)) in excess of the amount specified in such section 407, the amendment made by this section applies to any acquisition of such securities and property on or after such date, but does not apply to the specific holdings which constitute such excess during the period of such excess.

(B) SPECIAL RULE FOR CERTAIN ACQUISITIONS.—Employer securities and employer real property acquired pursuant to a binding written contract to acquire such securities and real property entered into and in effect on the date of the enactment of this Act, shall be treated as acquired immediately before such date.

Subtitle F—Other Provisions

SEC. 771. ADJUSTMENT OF MINIMUM TAX EXEMPTION AMOUNTS FOR TAXPAYERS OTHER THAN CORPORATIONS.

(a) IN GENERAL.—Subsection (d) of section 55 is amended by adding at the end the following new paragraph:

''(4) ADJUSTMENT OF EXEMPTION AMOUNTS FOR TAXPAYERS OTHER THAN CORPORATIONS.—

''(A) TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2000, AND BEFORE JANUARY 1, 2004.—In the case of any calendar year after 2000 and before 2004—

''(i) the dollar amount applicable under paragraph (1)(A) for such a calendar year shall be $600 greater than the dollar amount applicable under paragraph (1)(A) for the prior calendar year, and

''(ii) the dollar amount applicable under paragraph (1)(B) for such a calendar year shall be $400 greater than the dollar amount applicable under paragraph (1)(B) for the prior calendar year.

''(B) APPLICATION OF TAXABLE YEARS.—The dollar amount applicable under this paragraph to any calendar year shall apply to taxable years beginning in such calendar year.''

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 55(d)(1) is amended by striking ''$22,500'' and inserting ''the amount equal to ½ the dollar amount applicable under subparagraph (A) for the taxable year''.

(2) The last sentence of section 55(d)(3) is amended by striking ''$165,000 or (ii) $22,500'' and inserting ''the minimum amount of such income (as so determined) for which the exemption amount under paragraph (1)(C) is zero, or (ii) such exemption amount (determined without regard to this paragraph)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 772. TREATMENT OF COMPUTER SOFTWARE AS FSC EXPORT PROPERTY.

(a) IN GENERAL.—Subparagraph (B) of section 927(a)(2) (relating to property excluded from eligibility as FSC export property) is amended by inserting '', and other than computer software (whether or not patented)'' before '', for commercial or home use''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to gross receipts attributable to periods after December 31, 1997, in taxable years ending after such date.

SEC. 773. WELFARE-TO-WORK INCENTIVES.

(a) ADDITIONAL TEMPORARY INCENTIVES FOR EMPLOYING LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—Section 51 (relating to amount of work opportunity credit) is amended by inserting after subsection (d) the following new subsection:

''(e) ADDITIONAL TEMPORARY INCENTIVES FOR EMPLOYING LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—

''(1) TREATMENT AS MEMBER OF TARGETED GROUP.—A long-term family assistance recipient shall be treated for purposes of this section as a member of a targeted group.

''(2) MODIFICATION TO PERCENTAGE AND YEARS OF CREDIT.—In the case of a long-term family assistance recipient, the amount of the work opportunity credit determined under this section for the taxable year shall be equal to the sum of—

''(A) 50 percent of the qualified first-year wages, and

''(B) 50 percent of the qualified second-year wages.

''(3) MODIFICATION TO AMOUNT OF WAGES TAKEN INTO ACCOUNT.—In the case of a long-term family assistance recipient—

''(A) $10,000 OF WAGES MAY BE TAKEN INTO ACCOUNT.—In lieu of applying subsection (b)(3), the amount of the qualified first-year wages, and the amount of qualified second-year wages, which may be taken into account with respect to any individual shall not exceed $10,000 per year.

''(B) CERTAIN AMOUNTS TREATED AS WAGES.—The term 'wages' includes amounts paid or incurred by the employer which are excludable from such recipient's gross income under—

''(i) section 105 (relating to amounts received under accident and health plans),

''(ii) section 106 (relating to contributions by employer to accident and health plans),

''(iii) section 127 (relating to educational assistance programs) or would be so excludable but for section 127(d), but only to the extent paid or incurred to a person not related to the employer, or

''(iv) section 129 (relating to dependent care assistance programs).

The amount treated as wages by clause (i) or (ii) for any period shall be based on the reasonable cost of coverage for the period, but shall not exceed the applicable premium for the period under section 4980B(f)(4).

''(C) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—If such recipient is an employee to which subparagraph (A) or (B) of subsection (h)(1) applies—

''(i) such subparagraph (A) shall be applied by substituting '$10,000' for '$6,000' and

''(ii) such subparagraph (B) shall be applied by substituting '$825' for '$500'.

''(D) TERMINATION.—In lieu of applying subsection (c)(4), this subsection shall not apply to amounts paid or incurred with respect to an individual who begins work for the employer after September 30, 2000.

''(4) LONG-TERM FAMILY ASSISTANCE RECIPIENT.—For purposes of this subsection, the term 'long-term family assistance recipient' means any individual who is certified by the designated local agency—

''(A) as being a member of a family receiving assistance under a IV-A program (as defined in subsection (d)(2)(B)) for at least the 18-month period ending with the month preceding the month in which the hiring date occurs,

''(B)(i) as being a member of a family receiving such assistance for 18 months beginning after the date of the enactment of this subsection, and

''(ii) as having a hiring date which is not more than 2 years after the end of the earliest such 18-month period, or

''(C)(i) as being a member of a family which ceased to be eligible after the date of the enactment of this subsection for such assistance by reason of any limitation imposed by Federal or State law on the maximum period such assistance is payable to a family, and

''(ii) as having a hiring date which is not more than 2 years after the date of such cessation.

''(5) QUALIFIED SECOND-YEAR WAGES.—For purposes of this subsection, the term 'qualified second-year wages' means, with respect to any individual, the qualified wages attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such individual determined under subsection (b)(2).''

(b) CERTAIN OLDER FOOD STAMP RECIPIENTS TREATED AS MEMBERS OF TARGETED GROUP.—Paragraph (8) of section 51(d) (defining qualified food stamp recipient) is amended to read as follows:

''(8) QUALIFIED FOOD STAMP RECIPIENT.—

''(A) IN GENERAL.—The term 'qualified food stamp recipient' means any individual who is certified by the designated local agency—

''(i) as having attained age 18 but not age 25 on the hiring date, and

''(ii) as being a member of a family receiving assistance under a food stamp program under the Food Stamp Act of 1977 for the 6-month period ending on the hiring date.

''(B) CERTAIN OLDER RECIPIENTS.—The term 'qualified food stamp recipient' includes any individual who is certified by the designated local agency—

''(i) as having attained age 18 but not age 50 on the hiring date,

''(ii) as being a recipient of benefits under the food stamp program who is affected by section 6(o) of the Food Stamp Act of 1977 but who has not been made ineligible for refusing to work in accordance with section 6(o)(2)(A) of such Act, or failing to comply with the requirements of a work program under subparagraph (B), (C), or (D) of section 6(o)(2)(A) of such Act, and

''(iii) as having a hiring date which is not more than 1 year after the date of such cessation.

''(C) TERMINATION.—In lieu of applying subsection (c)(4), this subsection shall not apply to amounts paid or incurred with respect to an individual who begins work for the employer after September 30, 2000.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

MC CAIN AMENDMENTS NOS. 528–529

(Ordered to lie on the table.)

Mr. MCCAIN submitted two amendments intended to be proposed by him to the bill, S. 949, supra; as follows:

AMENDMENT NO. 528

On page 183, beginning with line 22, strike through line 18 on page 192.

AMENDMENT NO. 529

On page 192, line 18, after the period insert the following: ''This subsection shall not take effect until the first fiscal year beginning after the date on which an Act, enacted after the date of enactment of this Act, takes effect that provides for reform of Amtrak.''.

D'AMATO (AND DASCHLE) AMENDMENT NO. 530

(Ordered to lie on the table.)

Mr. D'AMATO (for himself and Mr. DASCHLE) submitted an amendment intended to be proposed by him to the bill, S. 949, supra; as follows:

In section 1045, rollover of gain from qualified small business stock to another qualified small business stock, on page 106, line 12, strike ''5 years'' and in lieu of, insert ''6 months''

THOMAS AMENDMENT NO. 531

(Ordered to lie on the table.)

Mr. THOMAS submitted an amendment intended to be proposed by him to the bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

SEC. . RESTORATION OF DEDUCTION FOR LOBBYING EXPENSES IN CONNECTION WITH STATE LEGISLATION.

(a) IN GENERAL.—Paragraph (2) of section 162(e) (relating to denial of deduction for certain lobbying and political activities) is amended—

(1) by inserting ''any State legislature or of'' before ''any local council'' in the material preceeding subparagraph (A), and

(2) in subparagraph (B)(i), by striking ''such council'' and inserting ''such legislature, council,''.

(b) CLERICAL AMENDMENT.—The paragraph heading of paragraph (2) of section 162(e) is amended by inserting ''STATE OR'' before ''LOCAL''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SEC. . INCREASED MILEAGE REQUIREMENT FOR MOVING EXPENSES DEDUCTION.

(a) IN GENERAL.—Paragraph (1) of section 217(c) (relating to moving expenses) is amended—

(1) in subparagraph (A), by striking ''50 miles'' and inserting ''55 miles''; and

(2) in subparagraph (B), by striking ''50 miles'' and inserting ''55 miles''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

LANDRIEU AMENDMENT NO. 532

(Ordered to lie on the table.)

Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill, S. 949, supra; as follows:

On page 13, beginning on line 9, strike all through page 17, line 23, and insert the following:

''(2) LIMITATION BASED ON ADJUSTED GROSS INCOME.—

''(A) IN GENERAL.—The $500 amount in subsection (a) shall be reduced (but not below zero) by $25 for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds the threshold amount. For purposes of the preceding sentence, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

''(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the term 'threshold amount' means—

''(i) $90,000 in the case of a joint return,

''(ii) $60,000 in the case of an individual who is not married, and

''(iii) $45,000 in the case of a married individual filing a separate return.

For purposes of this subparagraph, marital status shall be determined under section 7703.

''(c) QUALIFYING CHILD.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying child' means any individual if—

''(A) the taxpayer is allowed a deduction under section 151 with respect to such individual for the taxable year,

''(B) such individual has not attained the age of 17 (age of 18 in the case of taxable years beginning after 2002) as of the close of the calendar year in which the taxable year of the taxpayer begins, and

''(C) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B).

''(2) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

''(d) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.

''(e) RECAPTURE OF CREDIT.—

''(1) IN GENERAL.—If—

''(A) during any taxable year any amount is withdrawn from a qualified tuition program or an education individual retirement account maintained for the benefit of a beneficiary and such amount is subject to tax under section 529(f) or 530(c)(3), and

''(B) the amount of the credit allowed under this section for the prior taxable year was contingent on a contribution being made to such a program or account for the benefit of such beneficiary,

The taxpayer's tax imposed by this chapter for the taxable year shall be increased by the lesser of the amount described in subparagraph (A) or the credit described in subparagraph (B).

''(2) NO CREDITS AGAINST TAX, ETC.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining—

''(A) the amount of any credit under this subpart or subpart B or D of this part, and

''(B) the amount of the minimum tax imposed by section 55.

''(f) OTHER DEFINITIONS.—For purposes of this section, the term 'qualified tuition program' and 'education individual retirement account' have the meanings given such terms by section 529 and 530, respectively.

''(g) PHASEIN OF CREDIT.—In the case of taxable years beginning in 1997—

''(1) subsection (a)(1) shall be applied by substituting '$250' for '$500', and

''(2) subsection (c)(1)(B) shall be applied by substituting 'age of 13' for 'age of 17'.''

(b) CONFORMING AMENDMENT.—The table of sections for supbart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 23 the following new item:

''Sec. 24. Child tax credit.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

FAIRCLOTH AMENDMENT NO. 533

(Ordered to lie on the table.)

Mr. FAIRCLOTH submitted an amendment intended to be proposed by him to bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

SEC. . CURRENT REFUNDINGS OF CERTAIN TAX-EXEMPT BONDS.

(a) IN GENERAL.—Subsection (c) of section 10632 of the Revenue Act of 1987 (relating to bonds issued by Indian tribal governments) is amended by adding at the end the following new sentence: ''The amendments made by this section shall not apply to any obligation issued after such date if—

''(1) such obligation is issued (or is part of a series of obligations issued) to refund an obligation issued on or before such date,

''(2) 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,

''(3) the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligation, and

''(4) the net 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 paragraph (2), average maturity shall be determined in accordance with section 147(b)(2)(A) of the Internal Revenue Code of 1986.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to refunding obligations issued after the date of the enactment of this Act.

BROWNBACK (AND OTHERS) AMENDMENT NO. 534

(Ordered to lie on the table.)

Mr. BROWNBACK (for himself, Mr. KOHL, and Mr. MCCAIN) submitted an amendment intended to be proposed by them to the bill, S. 949; as follows:

At the end of the pending Amendment, add the following:

TITLE ____—BUDGET CONTROL

SEC. ____01. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This title may be cited as the ''Bipartisan Budget Enforcement Act of 1997''.

(b) PURPOSE.—The purpose of this title is—

(1) to ensure a balanced Federal budget by fiscal year 2002;

(2) to ensure that the Bipartisan Budget Agreement is implemented; and

(3) to create a mechanism to monitor total costs of direct spending programs, and, in the event that actual or projected costs exceed targeted levels, to require the President and Congress to address adjustments in direct spending.

SEC. ____02. ESTABLISHMENT OF DIRECT SPENDING TARGETS.

(a) IN GENERAL.—The initial direct spending targets for each of fiscal years 1998 through 2002 shall equal total outlays for all direct spending except net interest as determined by the Director of the Office of Management and Budget (hereinafter referred to in this title as the ''Director'') under subsection (b).

(b) INITIAL REPORT BY DIRECTOR.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this title, the Director shall submit a report to Congress setting forth projected direct spending targets for each of fiscal years 1998 through 2002.

(2) PROJECTIONS AND ASSUMPTIONS.—The Director's projections shall be based on legislation enacted as of 5 days before the report is submitted under paragraph (1). The Director shall use the same economic and technical assumptions used in preparing the concurrent resolution on the budget for fiscal year 1998 (H.Con.Res. 84).

SEC. ____03. ANNUAL REVIEW OF DIRECT SPENDING AND RECEIPTS BY PRESIDENT.

As part of each budget submitted under section 1105(a) of title 31, United States Code, the President shall provide an annual review of direct spending and receipts, which shall include—

(1) information on total outlays for programs covered by the direct spending targets, including actual outlays for the prior fiscal year and projected outlays for the current fiscal year and the 5 succeeding fiscal years; and

(2) information on the major categories of Federal receipts, including a comparison between the levels of those receipts and the levels projected as of the date of enactment of this title.

SEC. ___04. SPECIAL DIRECT SPENDING MESSAGE BY PRESIDENT.

(a) TRIGGER.—If the information submitted by the President under section ___03 indicates—

(1) that actual outlays for direct spending in the prior fiscal year exceeded the applicable direct spending target; or

(2) that outlays for direct spending for the current or budget year are projected to exceed the applicable direct spending targets,

the President shall include in his budget a special direct spending message meeting the requirements of subsection (b).

(b) CONTENTS.—

(1) INCLUSIONS.—The special direct spending message shall include—

(A) an analysis of the variance in direct spending over the direct spending targets; and

(B) the President's recommendations for addressing the direct spending overages, if any, in the prior, current, or budget year.

(2) ADDITIONAL MATTERS.—The President's recommendations may consist of any of the following:

(A) Proposed legislative changes to recoup or eliminate the overage for the prior, current, and budget years in the current year, the budget year, and the 4 outyears.

(B) Proposed legislative changes to recoup or eliminate part of the overage for the prior, current, and budget year in the current year, the budget year, and the 4 outyears, accompanied by a finding by the President that, because of economic conditions or for other specified reasons, only some of the overage should be recouped or eliminated by outlay reductions or revenue increases, or both.

(C) A proposal to make no legislative changes to recoup or eliminate any overage, accompanied by a finding by the President that, because of economic conditions or for other specified reasons, no legislative changes are warranted.

(c) PROPOSED SPECIAL DIRECT SPENDING RESOLUTION.—If the President recommends reductions consistent with subsection (b)(2)(A) or (B), the special direct spending message shall include the text of a special direct spending resolution implementing the President's recommendations through reconciliation directives instructing the appropriate committees of the House of Representatives and Senate to determine and recommend changes in laws within their jurisdictions. If the President recommends no reductions pursuant to (b)(2)(C), the special direct spending message shall include the text of a special resolution concurring in the President's recommendation of no legislative action.

SEC. ___05. REQUIRED RESPONSE BY CONGRESS.

(a) IN GENERAL.—It shall not be in order in the House of Representatives or the Senate to consider a concurrent resolution on the budget unless that conference report fully addresses the entirety of any overage contained in the applicable report of the President under section ___04 through reconciliation directives.

(b) WAIVER AND SUSPENSION.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn. This section shall be subject to the provisions of section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SEC. ___06. RELATIONSHIP TO BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT.

Reductions in outlays or increases in receipts resulting from legislation reported pursuant to section ___05 shall not be taken into account for purposes of any budget enforcement procedures under the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. ___07. ESTIMATING MARGIN.

For any fiscal year for which the overage is less than one-half of 1 percent of the direct spending target for that year, the procedures set forth in sections ___04 and ___05 shall not apply.

SEC. ___08. EFFECTIVE DATE.

This title shall apply to direct spending targets for fiscal years 1998 through 2002 and shall expire at the end of fiscal year 2002.

SANTORUM (AND OTHERS) AMENDMENT NO. 535

(Ordered to lie on the table.)

Mr. SANTORUM (for himself, Mr. ABRAHAM, Mr. COATS, Mr. COVERDELL, Mr. GRAMM, Mr. NICKLES, Mr. ENZI, Mr. HAGEL, Mr. ALLARD, and Mr. KYL) submitted an amendment intended to be proposed by them to the bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

SEC. —. SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) Congress has not provided a genuine tax cut for America's middle-class families since 1981;

(2) President Clinton promised middle-class tax cuts in 1992;

(3) President Clinton raised taxes by $240,000,000,000 in 1993;

(4) President Clinton vetoed middle-class tax cuts in 1995;

(5) the middle-class American worker had to work until May 9 in order to earn enough money to pay all Federal, State, and local taxes in 1997;

(6) the Joint Economic Committee reports that real total Government taxes per household in 1994 totaled $18,600;

(7) more than 70 percent of the tax cuts in both the House of Representatives and the Senate tax relief bills will go to Americans earning less than $75,000 annually;

(8) the Joint Economic Committee estimates that a family of 4 earning $30,000 will receive 53 percent of the tax relief under the reconciliation bill;

(9) the earned income tax credit was already expanded in President Clinton's 1993 tax bill;

(10) the fiscal year 1998 budget resolution does not make the $500-per-child tax credit refundable; and

(11) those who receive the earned income tax credit do not pay Federal income taxes but receive a substantial cash transfer from the Federal Government in the form of refund checks above and beyond income tax rebates.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that America's middle-class taxpayers shoulder the biggest tax burden and that only those who pay Federal income taxes should benefit from the tax cuts contained in the Revenue Reconciliation Act of 1997.

SANTORUM (AND OTHERS) AMENDMENT NO. 536

(Ordered to lie on the table.)

Mr. SANTORUM (for himself, Mr. ABRAHAM, and Mr. ENZI) submitted an amendment intended to be proposed by them to the bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

SEC. . SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) the Department of the Treasury relies upon the Family Economic Income broad-based income concept to estimate family incomes and the impact of Federal income tax relief;

(2) the Family Economic Income is constructed by adding to adjusted gross income unreported and underreported income; nontaxable transfer payments such as social security payments and TANF payments; employer-provided fringe benefits; inside build-up on pensions, IRAs, Keoghs, and life insurance; tax-exempt interest; and imputed rent on owner-occupied housing;

(3) neither individual families nor the Internal Revenue Service (IRS) rely on or use Family Economic Income as a calculation of income;

(4) the Treasury Department, using Family Economic Income, estimates that 65.5 percent of the tax relief under the Revenue Reconciliation Act of 1997 will go to the top 20 percent of taxpayers;

(5) the Treasury Department, using Family Economic Income, estimates that the top 10 percent of taxpayers would get 42.8 percent of the tax relief under the Revenue Reconciliation Act of 1997;

(6) the Joint Committee on Taxation, using conventional income calculations, estimates that 74 percent of the tax relief under the reconciliation bill will actually benefit those families with income under $75,000;

(7) the Joint Committee on Taxation, using conventional income calculations, estimates that 93 percent of the tax relief under the Revenue Reconciliation Act of 1997 will actually benefit those families with income under $100,000; and

(8) the Joint Economic Committee, using conventional income calculations, estimates that a family of 4 earning $30,000 will receive 53 percent of the tax relief under the Revenue Reconciliation Act of 1997.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Family Economic Income overstates and unfairly skews family incomes, making those with lower incomes appear to be rich.

DOMENICI (AND LAUTENBERG) AMENDMENT NO. 537

Mr. DOMENICI (for himself and Mr. LAUTENBERG) proposed an amendment to the bill. S. 949, supra; as follows:

At the end of the bill, add the following:

TITLE XV—BUDGET ENFORCEMENT

SEC. 1500. TABLE OF CONTENTS.

The table of contents for this title is as follows:

Sec. 1500. Table of contents.

Subtitle A—Amendments to the Congressional Budget and Impoundment Control Act of 1974

Sec. 1511. Amendments to section 201.
Sec. 1512. Amendments to section 202.
Sec. 1513. Amendment to section 300.
Sec. 1514. Amendments to section 301.
Sec. 1515. Amendments to section 302.
Sec. 1516. Amendments to section 303.
Sec. 1517. Amendment to section 305.

Sec. 1518. Amendment to section 308.
Sec. 1519. Amendments to section 311.
Sec. 1520. Amendment to section 312.
Sec. 1521. Adjustments.
Sec. 1522. Amendments to title V.
Sec. 1523. Repeal of title VI.
Sec. 1524. Amendments to section 904.
Sec. 1525. Repeal of sections 905 and 906.
Sec. 1526. Amendments to sections 1022 and 1024.
Sec. 1527. Amendment to section 1026.
Subtitle B—Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985
Sec. 1551. Purpose.
Sec. 1552. General statement and definitions.
Sec. 1553. Enforcing discretionary spending limits.
Sec. 1554. Violent Crime Reduction Trust Fund.
Sec. 1555. Enforcing pay-as-you-go.
Sec. 1556. Reports and orders.
Sec. 1557. Exempt programs and activities.
Sec. 1558. General and special sequestration rules.
Sec. 1559. The baseline.
Sec. 1560. Technical correction.
Sec. 1561. Judicial review.
Sec. 1562. Effective date.
Sec. 1563. Reduction of preexisting balances and exclusion of effects of this Act from paygo scorecard.

Subtitle A—Amendments to the Congressional Budget and Impoundment Control Act of 1974

SEC. 1511. AMENDMENTS TO SECTION 201.

Section 201 of the Congressional Budget Act of 1974 is amended by redesignating subsection (g) (relating to revenue estimates) as subsection (f).

SEC. 1512. AMENDMENTS TO SECTION 202.

(a) ASSISTANCE TO BUDGET COMMITTEES.—The first sentence of section 202(a) of the Congressional Budget Act of 1974 is amended by inserting ''primary'' before ''duty''.

(b) ELIMINATION OF EXECUTED PROVISION.—Section 202 of the Congressional Budget Act of 1974 is amended by striking subsection (e) and by redesignating subsections (f), (g), and (h) as subsections (e), (f), and (g), respectively.

SEC. 1513. AMENDMENT TO SECTION 300.

The item relating to February 25 in the timetable set forth in section 300 of the Congressional Budget Act of 1974 is amended by striking ''February 25'' and inserting ''Within 6 weeks after President submits budget''.

SEC. 1514. AMENDMENTS TO SECTION 301.

(a) TERMS OF BUDGET RESOLUTIONS.—Section 301(a) of the Congressional Budget Act of 1974 is amended by striking '', and planning levels for each of the two ensuing fiscal years,'' and inserting ''and for at least each of the 4 ensuing fiscal years''.

(b) CONTENTS OF BUDGET RESOLUTIONS.—Paragraphs (1) and (4) of section 301(a) of the Congressional Budget Act of 1974 are amended by striking '', budget outlays, direct loan obligations, and primary loan guarantee commitments'' each place it appears and inserting ''and budget outlays''.

(c) ADDITIONAL MATTERS.—Section 301(b) of the Congressional Budget Act of 1974 is amended by—

(1) amending paragraph (7) to read as follows—

''(7) set forth pay-as-you-go procedures in the Senate whereby committee allocations, aggregates, and other levels can be revised for legislation if such legislation would not increase the deficit or would not increase the deficit when taken with other legislation enacted after the adoption of the resolution for the first fiscal year or the total period of fiscal years covered by the resolution;'';

(2) in paragraph 8, striking the period and inserting ''; and''; and

(3) adding the following new paragraph:

''(9) set forth direct loan obligations and primary loan commitment guarantee levels.''.

(d) VIEWS AND ESTIMATES.—The first sentence of section 301(d) of the Congressional Budget Act of 1974 is amended by inserting ''or at such time as may be requested by the Committee on the Budget,'' after ''Code,''.

(e) HEARINGS AND REPORT.—Section 301(e) of the Congressional Budget Act of 1974 is amended—

(1) by striking ''In developing'' and inserting the following:

''(1) IN GENERAL.—In developing''; and

(2) by striking the sentence beginning with ''The report accompanying '' and all that follows through the end of the subsection and inserting the following:

''(2) REQUIRED CONTENTS OF REPORT.—The report accompanying such concurrent resolution shall include—

''(A) a comparison of the appropriate levels of total new budget authority, total budget outlays, and total revenues as set forth in such concurrent resolution with those requested in the budget submitted by the President;

''(B) with respect to each major functional category, an estimate of total new budget authority and total outlays with the estimates divided between permanent authority and funds provided in appropriations Acts;

''(C) the economic assumptions which underlie each of the matters set forth in such concurrent resolution and any alternative economic assumptions and objectives that the committee considered;

''(D) projections for the period of 5 fiscal years beginning with such fiscal year, of the estimated levels of total new budget authority, total outlays and total revenues and the surplus or deficit for each fiscal year;

''(E) information, data, and comparisons indicating the manner in which, and the basis on which, the committee determined each of the matters set forth in the concurrent resolutions;

''(F) the estimated levels of tax expenditures (the tax expenditures budget) by major items and functional categories for the President's budget and in the concurrent resolution; and

''(G) allocations described in section 302(a).

''(3) ADDITIONAL CONTENTS OF REPORT.—The report accompanying such concurrent resolution may include—

''(A) a statement of any significant changes in the proposed levels of Federal assistance to State and local governments;

''(B) an allocation of the level of Federal revenues recommended in the concurrent resolution among the major sources of such revenues;

''(C) information, data, and comparisons on the share of total Federal budget outlays and of gross domestic product devoted to investment in the budget submitted by the President and in the concurrent resolution; and

''(D) other matters, relating to the budget and fiscal policy, the committee deems appropriate.''.

(f) SOCIAL SECURITY CORRECTIONS.—Section 301(i) of the Congressional Budget Act of 1974 is amended by—

(1) inserting ''SOCIAL SECURITY POINT OF ORDER.—'' after ''(i)''; and

(2) striking ''as reported to the Senate'' and inserting ''(or amendment, motion, or conference report on such a resolution)''.

(g) REPEAL OF BUDGET RESOLUTION PROVISION.—Section 22 of House Concurrent Resolution 218 (103d Congress) is repealed.

SEC. 1515. AMENDMENTS TO SECTION 302.

(a) ALLOCATIONS AND SUBALLOCATIONS.—Subsections (a) and (b) of section 302 of the Congressional Budget Act of 1974 are amended to read as follows:

''(a) COMMITTEE SPENDING ALLOCATIONS.—

''(1) HOUSE OF REPRESENTATIVES.—

''(A) ALLOCATION AMONG COMMITTEES.—The joint explanatory statement accompanying a conference report on a budget resolution shall include allocations, consistent with the resolution recommended in the conference report, of the appropriate levels (for each fiscal year covered by that resolution and a total for all such years) of—

''(i) total new budget authority;

''(ii) total entitlement authority; and

''(iii) total outlays;

among each committee of the House of Representatives that has jurisdiction over legislation providing or creating such amounts.

''(B) NO DOUBLE COUNTING.—Any item allocated to one committee of the House of Representatives may not be allocated to another such committee.

''(C) FURTHER DIVISION OF AMOUNTS.—The amounts allocated to each committee for each fiscal year, other than the Committee on Appropriations, shall be further divided between amounts provided or required by law on the date of filing of that conference report and amounts not so provided or required. The amounts allocated to the Committee on Appropriations for each fiscal year shall be further divided between discretionary and mandatory amounts or programs, as appropriate.

''(2) SENATE ALLOCATION AMONG COMMITTEES.—The joint explanatory statement accompanying a conference report on a budget resolution shall include an allocation, consistent with the resolution recommended in the conference report, of the appropriate levels of—

''(A) total new budget authority; and

''(B) total outlays;

among each committee of the Senate that has jurisdiction over legislation providing or creating such amounts.

''(3) AMOUNTS NOT ALLOCATED.—

''(A) IN THE HOUSE.—In the House of Representatives, if a committee receives no allocation of new budget authority, entitlement authority, or outlays, that committee shall be deemed to have received an allocation equal to zero for new budget authority, entitlement authority, or outlays.

''(B) IN THE SENATE.—In the Senate, if a committee receives no allocation of new budget authority, outlays, or social security outlays, that committee shall be deemed to have received an allocation equal to zero for new budget authority, outlays, or social security outlays.

''(4) SCOPE OF ALLOCATIONS IN THE SENATE.—In the Senate, the allocations made pursuant to paragraph (2) shall be made for all committees for the first fiscal year covered by the resolution and for all committees other than the Committee on Appropriations for the period of fiscal years covered by such resolution.

''(b) SUBALLOCATIONS BY APPROPRIATION COMMITTEES.—As soon as practicable after a concurrent resolution on the budget is agreed to, the Committee on Appropriations of each House (after consulting with the Committee on Appropriations of the other House) shall suballocate each amount allocated to it for the budget year under subsection (a)(1)(A) or (a)(2) among its subcommittees. Each Committee on Appropriations shall promptly report to its House suballocations made or revised under this paragraph.''.

(b) POINT OF ORDER.—Section 302(c) of the Congressional Budget Act of 1974 is amended to read as follows:

''(c) POINT OF ORDER.—After the Committee on Appropriations has received an allocation pursuant to subsection (a) for a fiscal year, it shall not be in order in the House of

Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report providing new budget authority for that fiscal year within the jurisdiction of that committee, until such committee makes the suballocations required by subsection (b).''.

(c) ENFORCEMENT OF POINT OF ORDER.—Section 302(f)(2) of the Congressional Budget Act of 1974 is amended to read as follows:

''(2) ENFORCEMENT OF COMMITTEE ALLOCATIONS AND SUBALLOCATIONS.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause—

''(A) in the case of any committee except the Committee on Appropriations, the appropriate allocation of new budget authority or outlays under subsection (a) to be exceeded; or

''(B) in the case of the Committee on Appropriations, the appropriate suballocation of new budget authority or outlays under subsection (b) to be exceeded.''.

(d) SEPARATE ALLOCATIONS.—Section 302(g) is amended to read as follows:

''(g) SEPARATE ALLOCATIONS.—The Committees on Appropriations and the Budget shall make separate allocations under subsections (a) and (b) consistent with the categories in section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985.''

SEC. 1516. AMENDMENTS TO SECTION 303.

(a) IN GENERAL.—Section 303 of the Congressional Budget Act of 1974 is amended—

(1) by striking ''NEW CREDIT AUTHORITY,'' in the center heading;

(2) by striking paragraph (4) of subsection (a) and be redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively;

(3) in subsection (b)(1)(A), by inserting ''advanced, discretionary'' before ''new budget authority''; and

(4) by striking subsection (c).

(b) CONFORMING AMENDMENT.—The item relating to section 303 in the table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking ''new credit authority,''.

SEC. 1517. AMENDMENT TO SECTION 305.

Section 305(a)(1) of the Congressional Budget Act of 1974 is amended by inserting ''when the House is not in session'' after ''holidays'' each place it appears.

SEC. 1518. AMENDMENT TO SECTION 308.

(a) ELIMINATION OF REFERENCES TO CREDIT AUTHORITY.—Section 308 of the Congressional Budget Act of 1974 is amended—

(1) by striking the center heading and inserting the following:

''REPORTS ON SPENDING AND REVENUE LEGISLATION'';

(2) in paragraphs (1) and (2) of subsection (a), by striking ''or new credit authority,'' each place it appears and insert ''and'' before ''new spending'' each place it appears;

(3) in subsection (b)(1), by striking ''or new credit authority,'' and insert ''and'' before ''new spending''; and

(4) in subsection (c), by inserting ''and'' after the semicolon at the end of paragraph (3), strike ''; and'' at the end of paragraph (4) and insert a period; and strike paragraph (5).

(b) CONFORMING AMENDMENT.—The item relating to section 308 in the table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking ''or new credit authority'' and by inserting ''and'' after the first comma.

SEC. 1519. AMENDMENTS TO SECTION 311.

Section 311 of the Congressional Budget Act of 1974 is amended to read as follows:

''NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, AND REVENUE LEGISLATION MUST BE WITHIN APPROPRIATE LEVELS

''SEC. 311. (a) ENFORCEMENT OF BUDGET AGGREGATES.—

''(1) IN THE HOUSE OF REPRESENTATIVES.—Except as provided by subsection (c), after the Congress has completed action on a concurrent resolution on the budget for a fiscal year, it shall not be in order in the House of Representatives to consider any bill, joint resolution, amendment, motion, or conference report providing new budget authority for such fiscal year, providing new entitlement authority effective during such fiscal year, or reducing revenues for such fiscal year, if—

''(A) the enactment of such bill or resolution as reported;

''(B) the adoption and enactment of such amendment; or

''(C) the enactment of such bill or resolution in the form recommended in such conference report;

would cause the appropriate level of total new budget authority or total budget outlays set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year to be exceeded, or would cause revenues to be less than the appropriate level of total revenues set forth in such concurrent resolution except in the case that a declaration of war by the Congress is in effect.

''(2) IN THE SENATE.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, resolution, amendment, motion, or conference report that—

''(A) would cause the appropriate level of total new budget authority or total outlays set forth for the first fiscal year in such resolution to be exceeded; or

''(B) would cause revenues to be less than the appropriate level of total revenues set forth for the first fiscal year covered by such resolution or for the period including the first fiscal year plus the following 4 fiscal years in such resolution.

''(3) ENFORCEMENT OF SOCIAL SECURITY LEVELS IN THE SENATE.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, resolution, amendment, motion, or conference report that would cause a decrease in social security surpluses or an increase in social security deficits derived from the levels of social security revenues and social security outlays set forth for the first fiscal year covered by the resolution and for the period including the first fiscal year plus the following 4 fiscal years in such resolution.

''(b) SOCIAL SECURITY LEVELS.—

''(1) IN GENERAL.—For the purposes of subsection (a)(3), social security surpluses equal the excess of social security revenues over social security outlays in a fiscal year or years with such an excess and social security deficits equal the excess of social security outlays over social security revenues in a fiscal year or years with such an excess.

''(2) TAX TREATMENT.—For the purposes of this section, no provision of any legislation involving a change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of social security revenues or outlays unless such provision changes the income tax treatment of social security benefits.

''(c) EXCEPTION IN THE HOUSE OF REPRESENTATIVES.—Subsection (a)(1) shall not apply in the House of Representatives to any bill, resolution, or amendment which provides new budget authority or new entitlement authority effective during such fiscal year, or to any conference report on any such bill or resolution, if—

''(1) the enactment of such bill or resolution as reported;

''(2) the adoption and enactment of such amendment; or

''(3) the enactment of such bill or resolution in the form recommended in such conference report;

would not cause the appropriate allocation of new discretionary budget authority or new entitlement authority made pursuant to section 302(a) for such fiscal year, for the committee within whose jurisdiction such bill, resolution, or amendment falls, to be exceeded.''.

SEC. 1520. AMENDMENT TO SECTION 312.

(a) IN GENERAL.—Section 312 of the Congressional Budget Act of 1974 is amended to read as follows:

''POINTS OF ORDER

''SEC. 312. (a) DETERMINATIONS.—For purposes of this title and title IV, the levels of new budget authority, budget outlays, spending authority as described in section 401(c)(2), direct spending, new entitlement authority, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.

''(b) DISCRETIONARY SPENDING POINT OF ORDER IN THE SENATE.—

''(1) Except as otherwise provided in this subsection, it shall not be in order in the Senate to consider any concurrent resolution on the budget (or amendment, motion, or conference report on such a resolution) that would exceed any of the discretionary spending limits in section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985.

''(2) This subsection shall not apply if a declaration of war by the Congress is in effect or if a joint resolution pursuant to section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985 has been enacted.

''(c) MAXIMUM DEFICIT AMOUNT POINT OF ORDER IN THE SENATE.—It shall not be in order in the Senate to consider any concurrent resolution on the budget for a fiscal year under section 301, or to consider any amendment to that concurrent resolution, or to consider a conference report on that concurrent resolution—

''(1) if the level of total budget outlays for the first fiscal year that is set forth in that concurrent resolution or conference report exceeds the recommended level of Federal revenues set forth for that year by an amount that is greater than the maximum deficit amount, if any, specified in the Balanced Budget and Emergency Deficit Control Act of 1985 for such fiscal year; or

''(2) if the adoption of such amendment would result in a level of total budget outlays for that fiscal year which exceeds the recommended level of Federal revenues for that fiscal year, by an amount that is greater than the maximum deficit amount, if any, specified in the Balanced Budget and Emergency Deficit Control Act of 1985 for such fiscal year.

''(d) TIMING OF POINTS OF ORDER IN THE SENATE.—A point of order under this Act may not be raised against a bill, resolution, amendment, motion, or conference report while an amendment or motion, the adoption of which would remedy the violation of this Act, is pending before the Senate.

''(e) POINTS OF ORDER IN THE SENATE AGAINST AMENDMENTS BETWEEN THE HOUSES.—Each provision of this Act that establishes a point of order against an amendment also establishes a point of order in the Senate against an amendment between the Houses. If a point of order under this Act is raised in the Senate against an amendment

between the Houses, and the point of order is sustained, the effect shall be the same as if the Senate had disagreed to the amendment.

''(f) EFFECT OF A POINT OF ORDER ON A BILL IN THE SENATE.—In the Senate, if the Chair sustains a point of order under this Act against a bill, the Chair shall then send the bill to the committee of appropriate jurisdiction for further consideration.''.

(b) CONFORMING AMENDMENTS.—Sections 302(g), 311(c), and 313(e) of the Congressional Budget Act of 1974 are repealed.

SEC. 1521. ADJUSTMENTS.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following new sections:

''ADJUSTMENTS

''SEC. 314. (a) ADJUSTMENTS.—When—

''(1)(A) the Committee on Appropriations reports an appropriation measure for fiscal year 1998, 1999, 2000, 2001, or 2002 that specifies an amount for emergencies pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 or for continuing disability reviews pursuant to section 251(b)(2)(C) of that Act;

''(B) any other committee reports emergency legislation described in section 252(e) of that Act;

''(C) the Committee on Appropriations reports an appropriation measure for fiscal year 1998, 1999, 2000, 2001, or 2002 that includes an appropriation with respect to clause (i) or (ii), the adjustment shall be the amount of budget authority in the measure that is the dollar equivalent, in terms of Special Drawing Rights, of—

''(i) an increase in the United States quota as part of the International Monetary Fund Eleventh General Review of Quotas (United States Quota); or

''(ii) an increase in the maximum amount available to the Secretary of the Treasury pursuant to section 17 of the Bretton Woods Agreements Act, as amended from time to time (New Arrangements to Borrow); or

''(D) the Committee on Appropriations reports an appropriation measure for fiscal year 1998, 1999, or 2000 that includes an appropriation for arrearages for international organizations, international peacekeeping, and multilateral development banks during that fiscal year, and the sum of the appropriations for the period of fiscal years 1998 through 2000 does not exceed $1,884,000,000 in budget authority; or

''(2) a conference committee submits a conference report thereon;

the chairman of the Committee on the Budget of the Senate or House of Representatives (whichever is appropriate) shall make the adjustments referred to in subsection (c) to reflect the additional new budget authority for such matter provided in that measure or conference report and the additional outlays flowing from such amounts for such matter.

''(b) APPLICATION OF ADJUSTMENTS.—The adjustments and revisions to allocations, aggregates, and limits made by the Chairman of the Committee on the Budget pursuant to subsection (a) for legislation shall only apply while such legislation is under consideration shall only permanently take effect upon the enactment of that legislation.

''(c) CONTENT OF ADJUSTMENTS.—The adjustments referred to in subsection (a) shall consist of adjustments, as appropriate, to—

''(1) the discretionary spending limits as set forth in the most recently adopted concurrent resolution on the budget;

''(2) the allocations made pursuant to the most recently adopted concurrent resolution on the budget pursuant to section 302(a); and

''(3) the budgetary aggregates as set forth in the most recently adopted concurrent resolution on the budget.

''(d) REPORTING REVISED SUBALLOCATIONS.—Following the adjustments made under subsection (a), the Committees on Appropriations of the Senate and the House of Representatives shall report appropriately revised suballocations pursuant to section 302(b) to carry out this subsection.

''(e) DEFINITIONS.—As used in subsection (a)(1)(A), when referring to continuing disability reviews, the terms 'continuing disability reviews', 'additional new budget authority', and 'additional outlays' shall have the same meanings as provided in section 251(b)(2)(C)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985.''.

(b) TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by—

(1) striking the item for section 312 and inserting the following:

''Sec. 312. Points of order.''; and

(2) adding after the item relating to section 313 the following new item:

''Sec. 314. Adjustments.''.

SEC. 1522. AMENDMENTS TO TITLE V.

(a) SECTION 502.—Section 502 of the Federal Credit Reform Act of 1990 is amended as follows:

(1) In the second sentence of paragraph (1), insert ''and refinancing arrangements that defer payment for more than 90 days, including the sale of a government asset on credit terms'' before the period.

(2) In paragraph (5)(A), insert ''or modification thereof'' before the first comma.

(3) In paragraph (5)(B)(iii), strike ''and other recoveries'' and insert '', other recoveries, and routine workouts of troubled loans or loans in imminent default when those workouts are to maximize repayments to the Government or to minimize claims on the Government''.

(4) In paragraph (5)(C), strike '', and'' at the end of clause (i), strike ''the'' in clause (ii) and strike the period and insert '', and'' at the end of that clause, and at the end add the following new clause:

''(iii) routine workouts of troubled loans or loans in imminent default when those workouts are to maximize the repayments to the Government or to minimize claims on the Government.''.

(5) In paragraph (5), amend subparagraph (D) to read as follows:

''(D) The cost of a modification is the difference in cost that results from the modification of a direct loan or loan guarantee (or direct loan obligation or loan guarantee commitment). This difference in cost is the difference between the currently estimated net present value of the remaining cash flows under the terms of the direct loan or loan guarantee contract assumed in the most recent President's budget submitted to Congress, and the currently estimated net present value of the remaining cash flows under the terms of the contract, as modified. Except for interest rates, the estimates shall be consistent with the economic and technical assumptions underlying the most recent President's budget submitted to Congress.''.

(6) Redesignate paragraph (9) as paragraph (10) and after paragraph (8) add the following new paragraph:

''(9) The term 'modification' means any Government action that alters the estimated cost of an outstanding direct loan (or direct loan obligation) or an outstanding loan guarantee (or loan guarantee commitment) from the estimate based on the cash flows contained in the most recent President's budget submitted to Congress. This includes the sale of loan assets, with or without recourse, and the purchase of guaranteed loans. This also includes any action resulting from new legislation, or from the exercise of administrative discretion under existing law, that directly or indirectly alters the estimated cost of outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) such as a change in collection procedures. The term 'modification' does not include the routine administrative work-outs of troubled loans or loans in imminent default. Work-outs are actions undertaken to maximize the repayments to the Government under existing direct loans or to minimize claims under existing loan guarantees. The expected effects of such work-outs shall be included in the original estimate of the cash flows. Insofar as the effects on cash flows are more or less than originally estimated, the differences in cash flows shall be included in a reestimate of the cost. The term 'modification' does not include changes in loan or guarantee terms resulting from the exercise by the borrower of an option included in the loan or guarantee contract. The expected effects of such changes in terms shall be included in the original estimate of the cash flow. Insofar as the effects on cash flow are more or less than originally estimated, the differences in cash flow shall be included in a reestimate of the cost; and''.

(b) SECTION 504.—Section 504 of the Federal Credit Reform Act of 1990 is amended as follows:

(1) Amend subsection (b)(1) to read as follows:

''(1) new budget authority to cover their costs is provided in advance in appropriation Acts;''.

(2) In subsection (b)(2), strike ''enacted'' and insert ''provided in an appropriation Act''.

(3) In subsection (d)(1), strike ''directly or indirectly alter the costs of outstanding direct loans and loan guarantees'' and insert ''modify outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments)''.

(4) In subsection (e), strike ''A direct loan obligation or loan guarantee commitment'' and insert ''An outstanding direct loan (or direct loan obligation) or loan guarantee (or loan guarantee commitment)'', after ''unless'' insert ''new'', and strike ''or from other budgetary resources''.

(c) SECTION 505.—Section 505 of the Federal Credit Reform Act of 1990 is amended as follows:

(1) In subsection (c), by inserting before the period at the end of the second sentence the following: '', except that the rate of interest charged by the Secretary on lending to financing accounts (including amounts treated as lending to financing accounts by the Federal Financing Bank (hereinafter in this subsection referred to as the 'Bank') pursuant to section 406(b)) and the rate of interest paid to financing accounts on uninvested balances in financing accounts shall be the same as the rate determined pursuant to section 502(5)(E). For guaranteed loans financed by the Bank and treated as direct loans by a Federal agency pursuant to section 406(b), any fee or interest surcharge (the amount by which the interest rate charged exceeds the rate determined pursuant to section 502(5)(E)) that the Bank charges to a private borrower pursuant to section 6(c) of the Federal Financing Bank Act of 1973 shall be considered a cash flow to the Government for the purposes of determining the cost of the direct loan pursuant to section 502(5). All such amounts shall be credited to the appropriate financing account. The Bank is authorized to require reimbursement from a Federal agency to cover the administrative expenses of the Bank that are attributable to the direct loans financed for that agency. All such payments by an agency shall be considered administrative

expenses subject to section 504(g). This section shall apply to transactions related to direct loan obligations or loan guarantee commitments made on or after October 1, 1991.''.

(2) In subsection (c), by striking ''supercede'' and inserting ''supersede''.

(3) By amending subsection (d) to read as follows:

''(d) AUTHORIZATION FOR LIQUIDATING ACCOUNTS.—(1) Amounts in liquidating accounts shall be available only for payments resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991. These payments shall include—

''(A) interest payments and principal repayments to the Treasury or the Federal Financing Bank for amounts borrowed;

''(B) disbursements of loans;

''(C) default and other guarantee claim payments;

''(D) interest supplement payments;

''(E) payments for the costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from the proceeds of sales;

''(F) payments to financing accounts when required for modifications;

''(G) administrative expenses, if—

''(i) amounts credited to the liquidating account would have been available for administrative expenses under a provision of law in effect prior to October 1, 1991; and

''(ii) no direct loan obligation or loan guarantee commitment has been made, or any modification of a direct loan or loan guarantee has been made, since September 30, 1991; and

''(H) such other payments as are necessary for the liquidation of such direct loan obligations and loan guarantee commitments.

''(2) Amounts credited to liquidating accounts in any year shall be available only for payments required in that year. Any unobligated balances in liquidating accounts at the end of a fiscal year shall be transferred to miscellaneous receipts as soon as practicable after the end of the fiscal year.

''(3) If funds in liquidating accounts are insufficient to satisfy obligations and commitments of said accounts, there is hereby provided permanent, indefinite authority to make any payments required to be made on such obligations and commitments.''.

SEC. 1523. REPEAL OF TITLE VI.

(a) REPEALER.—Title VI of the Congressional Budget Act of 1974 is repealed.

(b) CONFORMING AMENDMENTS.—Title VI of the table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is repealed.

SEC. 1524. AMENDMENTS TO SECTION 904.

(a) WAIVERS.—Section 904(c) of the Congressional Budget Act of 1974 is amended to read as follows:

''(c) WAIVERS.—

''(1) Sections 305(b)(2), 305(c)(4), 306, 310(d)(2), 313, 904(c), and 904(d) of this Act may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

''(2) Sections 301(i), 302(c), 302(f), 310(g), 311(a), 312(b), and 312(c) of this Act and sections 258(a)(4)(C), 258A(b)(3)(C)(I), 258B(f)(1), 258B(h)(1), 258(h)(3), 258C(a)(5), and 258C(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.''.

(b) APPEALS.—Section 904(d) of the Congressional Budget Act of 1974 is amended to read as follows:

''(d) APPEALS.—

''(1) Appeals in the Senate from the decisions of the Chair relating to any provision of title III or IV or section 1017 shall, except as otherwise provided therein, be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, concurrent resolution, reconciliation bill, or rescission bill, as the case may be.

''(2) An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 305(b)(2), 305(c)(4), 306, 310(d)(2), 313, 904(c), and 904(d) of this Act.

''(3) An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 301(i), 302(c), 302(f), 310(g), 311(a), 312(b), and 312(c) of this Act and sections 258(a)(4)(C), 258A(b)(3)(C)(I), 258B(f)(1), 258B(h)(1), 258(h)(3), 258C(a)(5), and 258C(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985.''.

(c) EXPIRATION OF SUPERMAJORITY VOTING REQUIREMENTS.—Section 904 of the Congressional Budget Act of 1974 is amended by adding at the end the following:

''(e) EXPIRATION OF CERTAIN SUPERMAJORITY VOTING REQUIREMENTS.—Subsections (c)(2) and (d)(3) shall expire on September 30, 2002.''.

SEC. 1525. REPEAL OF SECTIONS 905 AND 906.

(a) REPEALER.—Sections 905 and 906 of the Congressional Budget and Impoundment Control Act of 1974 are repealed.

(b) CONFORMING AMENDMENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the items relating to sections 905 and 906.

SEC. 1526. AMENDMENTS TO SECTIONS 1022 AND 1024.

(a) SECTION 1022.—Section 1022(b)(1)(F) of Congressional Budget and Impoundment Control Act of 1974 is amended by striking ''section 601'' and inserting ''section 251(c) the Balanced Budget and Emergency Deficit Control Act of 1985''.

(b) SECTION 1024.—Section 1024(a)(1)(B) of Congressional Budget and Impoundment Control Act of 1974 is amended by striking ''section 601(a)(2)'' and inserting ''section 251(c) the Balanced Budget and Emergency Deficit Control Act of 1985''.

SEC. 1527. AMENDMENT TO SECTION 1026.

Section 1026(7)(A)(iv) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking ''and'' the second place it appears and inserting ''or''.

Subtitle B—Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985

SEC. 1551. PURPOSE.

This subtitle extends discretionary spending limits and pay-as-you-go requirements.

SEC. 1552. GENERAL STATEMENT AND DEFINITIONS.

(a) GENERAL STATEMENT.—Section 250(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking the first two sentences and inserting the following: ''This part provides for the enforcement of a balanced budget by fiscal year 2002 as called for in House Concurrent Resolution 84 (105th Congress, 1st session).''.

(b) DEFINITIONS.—Section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking paragraph (4) and inserting the following:

''(4) The term 'category' means defense, nondefense, and violent crime reduction discretionary appropriations as specified in the joint explanatory statement accompanying a conference report on the Balanced Budget Act of 1997. New accounts or activities shall be categorized only after consultation with the committees on Appropriations and the Budget of the House of Representatives and the Senate and such consultation shall include written communication to such committees that affords such committees the opportunity to comment before official action is taken with respect to new accounts or activities.'';

(2) by striking paragraph (6) and inserting the following:

''(6) The term 'budgetary resources' means new budget authority, unobligated balances, direct spending authority, and obligation limitations.'';

(3) in paragraph (9), by striking ''submission of the fiscal year 1992 budget that are not included with a budget submission'' and inserting ''that budget submission that are not included with that budget submission'';

(4) in paragraph (14), by inserting ''first 4'' before ''fiscal years'' and by striking ''1995'' and inserting ''2006''; and

(5) by striking paragraphs (17) and (20) and by redesignating paragraphs (18), (19), and (21) as paragraphs (17), (18), and (19), respectively.

SEC. 1553. ENFORCING DISCRETIONARY SPENDING LIMITS.

(a) EXTENSION THROUGH FISCAL YEAR 2002.—Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in the side heading of subsection (a), by striking ''1991–1998'' and inserting ''1997–2002'';

(2) in subsection (a)(7), by inserting ''(excluding Saturdays, Sundays, and legal holidays)'' after ''days'';

(3) in the first sentence of subsection (b)(1), by striking ''1992, 1993, 1994, 1995, 1996, 1997 or 1998'' and inserting ''1997 or any fiscal year thereafter through 2002'' and by striking ''through 1998'' and inserting ''through 2002'';

(4) in subsection (b)(1), by striking ''the following:'' and all that follows through ''in concepts and definitions'' the first place it appears and inserting ''the following: the adjustments'' and by striking subparagraphs (B) and (C);

(5) in subsection (b)(1), as amended, by striking the last sentence and inserting ''Changes in concepts and definitions may only be made after consultation with the committees on Appropriations and the Budget of the House of Representatives and the Senate and such consultation shall include written communication to such committees that affords such committees the opportunity to comment before official action is taken with respect to such changes.'';

(6) in subsection (b)(2), by striking ''1991, 1992, 1993, 1994, 1995, 1996, 1997, or 1998'' and inserting ''1997 or any fiscal year thereafter through 2002'', by striking ''through 1998'' and inserting ''through 2002'', and by striking subparagraphs (A), (B), (C), (E), and (G), and by redesignating subparagraphs (D), (F), and (H) as subparagraphs (A), (B), and (C), respectively;

(7) in subsection (b)(2)(A), as redesignated, by striking ''(i)'', by striking clause (ii), and by inserting ''fiscal'' before ''years'';

(8) in subsection (b)(2)(B), as redesignated, by striking everything after ''the adjustment in outlays'' and inserting ''for a fiscal year is the amount of the excess but not to exceed 0.5 percent of the adjusted discretionary spending limit on outlays for that fiscal year in fiscal year 1997 or any fiscal year thereafter through 2002;

(9) in subsection (b)(2)(C)(i), as redesignated—

(A) in subclause (III) by striking ''$245,000,000'' and inserting ''$290,000,000'';

(B) in subclause (IV), by striking ''$280,000,000'' and inserting ''$520,000,000'';

(C) in subclause (V), by striking ''$317,500,000'' and inserting ''$520,000,000'';

(D) in subclause (VI), by striking ''$317,500,000'' and inserting ''$520,000,000''; and

(E) in subclause (VII), by striking ''$317,000,000'' and inserting ''$520,000,000''; and

(10) by adding at the end of subsection (b)(2) the following:

''(D) ALLOWANCE FOR IMF.—If an appropriations bill or joint resolution is enacted for fiscal year 1998, 1999, 2000, 2001, or 2002 that includes an appropriation with respect to clause (i) or (ii), the adjustment shall be the amount of budget authority in the measure that is the dollar equivalent, in terms of Special Drawing Rights, of—

''(i) an increase in the United States quota as part of the International Monetary Fund Eleventh General Review of Quotas (United States Quota); or

''(ii) any increase in the maximum amount available to the Secretary of the Treasury pursuant to section 17 of the Bretton Woods Agreements Act, as amended from time to time (New Arrangements to Borrow).

''(E) ALLOWANCE FOR INTERNATIONAL ARREARAGES.—

''(i) ADJUSTMENTS.—If an appropriations bill or joint resolution is enacted for fiscal year 1998, 1999 or 2000 that includes an appropriation for arrearages for international organizations, international peacekeeping, and multilateral development banks for that fiscal year, the adjustment shall be the amount of budget authority in such measure and the outlays flowing in all fiscal years from such budget authority.

''(ii) LIMITATIONS.—The total amount of adjustments made pursuant to this subparagraph shall not exceed $1,884,000,000 in budget authority.

''(F) ALLOWANCES FOR TRANSPORTATION.—

''(i) IN GENERAL.—If during the 105th Congress, revenue increases or direct spending reductions creditable under section 252 are enacted for transportation reserve funds as provided in sections 207, 207A, 208, or 209 of House Concurrent Resolution 84 (105th Congress), OMB shall determine the amount of the budget authority adjustment for the applicable program for each fiscal year through 2002.

''(ii) ADJUSTMENTS.—If for fiscal years 1998 through 2002, discretionary appropriations are enacted for a fiscal year that designates funding for the applicable program, the adjustment is the amount of the discretionary budget authority appropriated for such program in such fiscal year and the outlays in all years flowing from such discretionary budget authority, but not to exceed the amount available for such program pursuant to this subparagraph.

''(iii) LIMITATIONS.—(I) Revenue increases and direct spending reductions credited under this subparagraph shall be so designated in statute and shall not be credited under section 252.

''(II) The amount of the budget authority adjustment determined for a fiscal year under clause (ii) shall not exceed the amount of the revenue increase or direct spending reduction credited for a fiscal year under clause (i) and shall meet the terms and conditions of sections 207, 207A, 208, or 209 of House Concurrent Resolution 84 (105th Congress), as applicable.

(b) SHIFTING OF DISCRETIONARY SPENDING LIMITS INTO GRAMM-RUDMAN.—

(1) IN GENERAL.—Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following:

''(c) DISCRETIONARY SPENDING LIMIT.—As used in this part, the term 'discretionary spending limit' means—

''(1) with respect to fiscal year 1997, for the discretionary category, the current adjusted amount of new budget authority and outlays;

''(2) with respect to fiscal year 1998—

''(A) for the defense category: $269,000,000,000 in new budget authority and $266,823,000,000 in outlays;

''(B) for the nondefense category: $252,357,000,000 in new budget authority and $282,853,000,000 in outlays; and

''(C) for the violent crime reduction category: $5,500,000,000 in new budget authority and $3,592,000,000 in outlays;

''(3) with respect to fiscal year 1999—

''(A) for the defense category: $271,500,000,000 in new budget authority and $266,518,000,000 in outlays;

''(B) for the nondefense category: $255,699,000,000 in new budget authority and $287,850,000,000 in outlays; and

''(C) for the violent crime reduction category: $5,800,000,000 in new budget authority and $4,953,000,000 in outlays;

''(4) with respect to fiscal year 2000—

''(A) for the discretionary category: $532,693,000,000 in new budget authority and $558,711,000,000 in outlays; and

''(B) for the violent crime reduction category: $4,500,000,000 in new budget authority and $5,554,000,000 in outlays;

''(5) with respect to fiscal year 2001, for the discretionary category: $542,032,000,000 in new budget authority and $564,396,000,000 in outlays; and

''(6) with respect to fiscal year 2002, for the discretionary category: $551,074,000,000 in new budget authority and $560,799,000,000 in outlays;

as adjusted in strict conformance with subsection (b).''.

(2) REPEAL OF DUPLICATIVE PROVISIONS.—Sections 201, 202, and 206 of House Concurrent Resolution 84 (105th Congress) are repealed.

SEC. 1554. VIOLENT CRIME REDUCTION TRUST FUND.

(a) SEQUESTRATION REGARDING VIOLENT CRIME REDUCTION TRUST FUND.—Section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985 is repealed.

(b) CONFORMING AMENDMENT.—Section 310002 of Public Law 103–322 (42 U.S.C. 14212) is repealed.

SEC. 1555. ENFORCING PAY-AS-YOU-GO.

(a) EXTENSION.—Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking subsections (a) and (b) and inserting the following:

''(a) PURPOSE.—The purpose of this section is to assure that any legislation enacted prior to September 30, 2002, affecting direct spending or receipts that increases the deficit will trigger an offsetting sequestration.

''(b) SEQUESTRATION.—

''(1) TIMING.—For fiscal years 1998 through 2002, within 15 calendar days after Congress adjourns to end a session and on the same day as a sequestration (if any) under sections 251 and 253, there shall be a sequestration to offset the amount of any net deficit increase in the budget year caused by all direct spending and receipts legislation (after adjusting for any prior sequestration as provided by paragraph (2)) plus any net deficit increase in the prior fiscal year caused by all direct spending and receipts legislation not reflected in the final OMB sequestration report for that year.

''(2) CALCULATION OF DEFICIT INCREASE.—OMB shall calculate the amount of deficit increase, if any, in the budget year by adding—

''(A) all applicable estimates of direct spending and receipts legislation transmitted under subsection (d) applicable to the budget year, other than any amounts included in such estimates resulting from—

''(i) full funding of, and continuation of, the deposit insurance guarantee commitment in effect under current law; and

''(ii) emergency provisions as designated under subsection (e);

''(B) the estimated amount of savings in direct spending programs applicable to the budget year resulting from the prior year's sequestration under this section or section 253, if any (except for any amounts sequestered as a result of any deficit increase in the fiscal year immediately preceding the prior fiscal year), as published in OMB's final sequestration report for that prior year; and

''(C) all applicable estimates of direct spending and receipts legislation transmitted under subsection (d) for the current year that are not reflected in the final OMB sequestration report for that year, other than any amounts included in such estimates resulting from—

''(i) full funding of, and continuation of, the deposit insurance guarantee commitment in effect under current law; and

''(ii) emergency provisions as designated under subsection (e).'';

(2) by amending subsection (d) to read as follows:

''(d) ESTIMATES.—

''(1) CBO ESTIMATES.—As soon as practicable after Congress completes action on any direct spending or receipts legislation, CBO shall provide an estimate to OMB of the legislation.

''(2) OMB ESTIMATES.—Not later than 5 calendar days (excluding Saturdays, Sundays, and legal holidays) after the enactment of any direct spending or receipts legislation, OMB shall transmit a report to the House of Representatives and to the Senate containing—

''(A) the CBO estimate of that legislation;

''(B) an OMB estimate of that legislation using current economic and technical assumptions; and

''(C) an explanation of any difference between the 2 estimates.

''(3) SCOPE OF ESTIMATES.—The estimates shall be prepared in conformance with scorekeeping guidelines and shall include the amount of change in outlays or receipts, as the case may be, for the current year (if applicable), the budget year, and each outyear.

''(4) CONSULTATION.—OMB and CBO, after consultation with each other and the Committees on the Budget of the House of Representatives and the Senate, shall—

''(A) determine scorekeeping guidelines; and

''(B) in conformance with such guidelines, prepare estimates under this subsection.''; and

(3) in subsection (e), by striking '', for any fiscal year from 1991 through 1998,'' and by striking ''through 1995''.

SEC. 1556. REPORTS AND ORDERS.

Section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking subsection (c) and redesignating subsections (d) through (k) as (c) through (j), respectively;

(2) in subsection (c)(2) (as redesignated), by striking ''1998'' and inserting ''2002'';

(3)(A) in subsection (f)(2)(A) (as redesignated), by striking ''1998'' and inserting ''2002''; and

(B) in subsection (f)(3) (as redesignated), by striking ''through 1998''; and

(4) by striking subsection (h), as redesignated, and redesignating subsection (i), as redesignated, as subsection (h).

SEC. 1557. EXEMPT PROGRAMS AND ACTIVITIES.

(a) VETERANS PROGRAMS.—Section 255(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) In the item relating to Veterans Insurance and Indemnity, strike ''Indemnity'' and insert ''Indemnities''.

(2) In the item relating to Veterans' Canteen Service Revolving Fund, strike ''Veterans'''.

(3) In the item relating to Benefits under chapter 21 of title 38, strike ''(36–0137–0–1–702)'' and insert ''(36–0120–0–1–701)''.

(4) In the item relating to Veterans' compensation, strike ''Veterans' compensation'' and insert ''Compensation''.

(5) In the item relating to Veterans' pensions, strike ''Veterans' pensions'' and insert ''Pensions''.

(6) After the last item, insert the following new items:

''Benefits under chapter 35 of title 38, United States Code, related to educational assistance for survivors and dependents of certain veterans with service-connected disabilities (36–0137–0–1–702);

''Assistance and services under chapter 31 of title 38, United States Code, relating to training and rehabilitation for certain veterans with service-connected disabilities (36–0137–0–1–702);

''Benefits under subchapters I, II, and III of chapter 37 of title 38, United States Code, relating to housing loans for certain veterans and for the spouses and surviving spouses of certain veterans Guaranty and Indemnity Program Account (36–1119–0–1–704);

''Loan Guaranty Program Account (36–1025–0–1–704); and

''Direct Loan Program Account (36–1024–0–1–704).''.

(b) CERTAIN PROGRAM BASES.—Section 255(f) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

''(f) OPTIONAL EXEMPTION OF MILITARY PERSONNEL.—

''(1) The President may, with respect to any military personnel account, exempt from sequestration or provide for a lower uniform percentage reduction than would otherwise apply.

''(2) The President may not use the authority provided by paragraph (1) unless he notifies the Congress of the manner in which such authority will be exercised on or before the date specified in section 254(d) for the budget year.''.

(c) OTHER PROGRAMS AND ACTIVITIES.—(1) Section 255(g)(1)(A) of the Balanced Budget Emergency Deficit Control Act of 1985 is amended as follows:

(A) After the first item, insert the following new item:

''Activities financed by voluntary payments to the Government for goods or services to be provided for such payments;''.

(B) Strike ''Thrift Savings Fund (26–8141–0–7–602);''.

(C) In the first item relating to the Bureau of Indian Affairs, insert ''Indian land and water claims settlements and'' after the comma.

(D) In the second item relating to the Bureau of Indian Affairs, strike ''miscellaneous'' and '', tribal trust funds'' and insert ''Miscellaneous'' before ''trust funds''.

(E) Strike ''Claims, defense (97–0102–0–1–051);''.

(F) In the item relating to Claims, judgments, and relief acts, strike ''806'' and insert ''808''.

(G) Strike ''Coinage profit fund (20–5811–0–2–803);''.

(H) Insert ''Compact of Free Association (14–0415–0–1–808);'' after the item relating to claims, judgments, and relief acts.

(I) Insert ''Conservation Reserve Program (12–2319–0–1–302);'' after the item relating to the Compensation of the President.

(J) In the item relating to the Customs Service, strike ''852'' and insert ''806''.

(K) In the item relating to the Comptroller of the Currency, insert '', Assessment funds (20–8413–0–8–373)'' before the semicolon.

(L) Strike ''Director of the Office of Thrift Supervision;''.

(M) Strike ''Eastern Indian land claims settlement fund (14–2202–0–1–806);''.

(N) After the item relating to the Exchange stabilization fund, insert the following new items:

''Farm Credit Administration, Limitation on Administrative Expenses (78–4131–0–3–351);

''Farm Credit System Financial Assistance Corporation, interest payment (20–1850–0–1–908);''.

(O) Strike ''Federal Deposit Insurance Corporation;''.

(P) In the first item relating to the Federal Deposit Insurance Corporation, insert ''(51–4064–0–3–373)'' before the semicolon.

(Q) In the second item relating to the Federal Deposit Insurance Corporation, insert ''(51–4065–0–3–373)'' before the semicolon.

(R) In the third item relating to the Federal Deposit Insurance Corporation, insert ''(51–4066–0–3–373)'' before the semicolon.

(S) In the item relating to the Federal Housing Finance Board, insert ''(95–4039–0–3–371)'' before the semicolon.

(T) In the item relating to the Federal payment to the railroad retirement account, strike ''account'' and insert ''accounts''.

(U) In the item relating to the health professions graduate student loan insurance fund, insert ''program account'' after ''fund'' and strike ''(Health Education Assistance Loan Program) (75–4305–0–3–553)'' and insert ''(75–0340–0–1–552)''.

(V) In the item relating to Higher education facilities, strike ''and insurance''.

(W) In the item relating to Internal revenue collections for Puerto Rico, strike ''852'' and insert ''806''.

(X) Amend the item relating to the Panama Canal Commission to read as follows:

''Panama Canal Commission, Panama Canal Revolving Fund (95–4061–0–3–403);''.

(Y) In the item relating to the Medical facilities guarantee and loan fund, strike ''(75–4430–0–3–551)'' and insert ''(75–9931–0–3–550)''.

(Z) In the first item relating to the National Credit Union Administration, insert ''operating fund (25–4056–0–3–373)'' before the semicolon.

(AA) In the second item relating to the National Credit Union Administration, strike ''central'' and insert ''Central'' and insert ''(25–4470–0–3–373)'' before the semicolon.

(BB) In the third item relating to the National Credit Union Administration, strike ''credit'' and insert ''Credit'' and insert ''(25–4468–0–3–373)'' before the semicolon.

(CC) After the third item relating to the National Credit Union Administration, insert the following new item:

''Office of Thrift Supervision (20–4108–0–3–373);''.

(DD) In the item relating to Payments to health care trust funds, strike ''572'' and insert ''571''.

(EE) Strike ''Compact of Free Association, economic assistance pursuant to Public Law 99–658 (14–0415–0–1–806);''.

(FF) In the item relating to Payments to social security trust funds, strike ''571'' and insert ''651''.

(GG) Strike ''Payments to state and local government fiscal assistance trust fund (20–2111–0–1–851);''.

(HH) In the item relating to Payments to the United States territories, strike ''852'' and insert ''806''.

(II) Strike ''Resolution Funding Corporation;''.

(JJ) In the item relating to the Resolution Trust Corporation, insert ''Revolving Fund (22–4055–0–3–373)'' before the semicolon.

(KK) After the item relating to the Tennessee Valley Authority funds, insert the following new items:

''Thrift Savings Fund;

''United States Enrichment Corporation (95–4054–0–3–271);

''Vaccine Injury Compensation (75–0320–0–1–551);

''Vaccine Injury Compensation Program Trust Fund (20–8175–0–7–551);''.

(2) Section 255(g)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(A) Strike ''The following budget'' and insert ''The following Federal retirement and disability''.

(B) In the item relating to Black lung benefits, strike ''lung benefits'' and insert ''Lung Disability Trust Fund''.

(C) In the item relating to the Court of Federal Claims Court Judges' Retirement Fund, strike ''Court of Federal''.

(D) In the item relating to Longshoremen's compensation benefits, insert ''Special workers compensation expenses,'' before ''Longshoremen's''.

(E) In the item relating to Railroad retirement tier II, insert ''Industry Pension Fund'' after ''tier II'', and strike ''retirement tier II''.

(3) Section 255(g)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(A) Strike the following items:

''Agency for International Development, Housing, and other credit guarantee programs (72–4340–0–3–151);

''Agricultural credit insurance fund (12–4140–0–1–351);''.

(B) In the item relating to Check forgery, strike ''Check'' and insert ''United States Treasury check''.

(C) Strike ''Community development grant loan guarantees (86–0162–0–1–451);''.

(D) After the item relating to the United States Treasury Check forgery insurance fund, insert the following new item:

''Credit liquidating accounts;''.

(E) Strike the following items:

''Credit union share insurance fund (25–4468–0–3–371);

''Economic development revolving fund (13–4406–0–3);

''Export-Import Bank of the United States, Limitation of program activity (83–4027–0–1–155);

''Federal deposit Insurance Corporation (51–8419–0–8–371);

''Federal Housing Administration fund (86–4070–0–3–371);

''Federal ship financing fund (69–4301–0–3–403);

''Federal ship financing fund, fishing vessels (13–4417–0–3–376);

''Government National Mortgage Association, Guarantees of mortgage-backed securities (86–4238–0–3–371);

''Health education loans (75–4307–0–3–553);

''Indian loan guarantee and insurance fund (14–4410–0–3–452);

''Railroad rehabilitation and improvement financing fund (69–4411–0–3–401);

''Rural development insurance fund (12–4155–0–3–452);

''Rural electric and telephone revolving fund (12–4230–8–3–271);

''Rural housing insurance fund (12–4141–0–3–371);

''Small Business Administration, Business loan and investment fund (73–4154–0–3–376);

''Small Business Administration, Lease guarantees revolving fund (73–4157–0–3–376);

''Small Business Administration, Pollution control equipment contract guarantee revolving fund (73–4147–0–3–376);

''Small Business Administration, Surety bond guarantees revolving fund (73–4156–0–3–376);

''Department of Veterans Affairs Loan guaranty revolving fund (36–4025–0–3–704);''.

(d) LOW-INCOME PROGRAMS.—Section 255(h) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) In the item relating to Aid to families with dependent children, strike ''0412'' and insert ''1501''.

(2) Amend the item relating to Child nutrition to read as follows:

''State child nutrition programs (with the exception of special milk programs) (12–3539–0–1–605);''.

(3) After the item relating to State child nutrition programs, insert the following new item:

''Commodity supplemental food program (12–3512–0–1–605);''.

(4) Amend the item relating to the Women, infants, and children program to read as follows:

''Special supplemental nutrition program for women, infants, and children (WIC) (12–3510–0–1–605).''.

(e) IDENTIFICATION OF PROGRAMS.—Section 255(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

''(i) IDENTIFICATION OF PROGRAMS.—For purposes of subsections (b), (g), and (h), each account is identified by the designated budget account identification code number set forth in the Budget of the United States Government 1998–Appendix, and an activity within an account is designated by the name of the activity and the identification code number of the account.''.

(f) OPTIONAL EXEMPTION OF MILITARY PERSONNEL.—Section 255(h) of the Balanced Budget and Emergency Deficit Control Act of 1985 is repealed.

SEC. 1558. GENERAL AND SPECIAL SEQUESTRATION RULES.

(a) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The section heading of section 256 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking ''exceptions, limitations, and special rules'' and inserting ''general and special sequestration rules''.

(2) TABLE OF CONTENTS.—The item relating to section 256 in the table contents set forth in section 250(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

''Sec. 256. General and special sequestration rules.''.

(b) AUTOMATIC SPENDING INCREASES.—Section 256(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(c) GUARANTEED STUDENT LOAN PROGRAM.—Section 256(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

''(b) STUDENT LOANS.—For all student loans under part B or D of title IV of the Higher Education Act of 1965 made during the period when a sequestration order under section 254 is in effect, origination fees under sections 438(c)(2) and 456(c) of that Act shall be increased by a uniform percentage sufficient to produce the dollar savings in student loan programs (as a result of that sequestration order) required by section 252 or 253, as applicable.''.

(d) HEALTH CENTERS.—Section 256(e)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking the dash and all that follows thereafter and inserting ''2 percent.''.

(e) TREATMENT OF FEDERAL ADMINISTRATIVE EXPENSES.—Section 256(h)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking subparagraphs (D) and (H), by redesignating subparagraphs (E), (F), (G), and (I), as subparagraphs (D), (E), (F), and (G), respectively, and by adding at the end the following new subparagraph:

''(H) Farm Credit Administration.''.

(f) COMMODITY CREDIT CORPORATION.—Section 256(j)(5) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

''(5) DAIRY PROGRAM.—Notwithstanding other provisions of this subsection, as the sole means of achieving any reduction in outlays under the milk price support program, the Secretary of Agriculture shall provide for a reduction to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use. That price reduction (measured in cents per hundred weight of milk marketed) shall occur under section 201(d)(2)(A) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)(A)), shall begin on the day any sequestration order is issued under section 254, and shall not exceed the aggregate amount of the reduction in outlays under the milk price support program that otherwise would have been achieved by reducing payments for the purchase of milk or the products of milk under this subsection during the applicable fiscal year.''.

(g) EFFECTS OF SEQUESTRATION.—Section 256(k) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) in paragraph (1), strike ''other than a trust or special fund account'' and insert '', except as provided in paragraph (5)'' before the period; and

(2) strike paragraph (4), redesignate paragraphs (5) and (6) as paragraphs (4) and (5), respectively, and amend paragraph (5) (as redesignated) to read as follows:

''(5) Budgetary resources sequestered in revolving, trust, and special fund accounts, and offsetting collections sequestered in appropriation accounts shall not be available for obligation during the fiscal year in which the sequestration occurs, but shall be available in subsequent years to the extent otherwise provided in law.''.

SEC. 1559. THE BASELINE.

(a) IN GENERAL.—Section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking subsection (b)(2)(A) and inserting the following:

''(A)(i) No program with estimated current year outlays greater than $50 million shall be assumed to expire in the budget year or the outyears except as provided in clause (ii).

''(ii) If legislation eliminates direct spending authority for a program for the budget year or any outyear and such legislation provides that the Federal Government has no legal authority or obligation to incur financial obligations for such program, clause (i) shall not apply and CBO and OMB, as appropriate, may score such legislation with the budget authority and outlay effects resulting from terminating such program as provided in such legislation and the baseline may assume the expiration of that program as provided in such legislation.'';

(2) by adding the end of subsection (b)(2) the following new subparagraph:

''(D) If any law expires before the budget year or any outyear, then any program with estimated current year outlays greater than $50 million which operates under that law shall be assumed to continue to operate under that law as in effect immediately before its expiration.'';

(3) in subsection (c)(5), in the second sentence, by striking ''national product fixed-weight price index'' and inserting ''domestic product chain-type price index''; and

(4) by striking subsection (e) and inserting the following:

''(e) ASSET SALES.—Amounts realized from the sale of an asset shall not be counted for purposes of sections 251, 252, and 253 against legislation if that sale would result in a financial cost to the Federal Government.''.

(b) BUDGETARY TREATMENT OF CERTAIN TRUST FUND OPERATIONS.—Section 710 of the Social Security Act (42 U.S.C. 911) is amended to read as follows:

''BUDGETARY TREATMENT OF TRUST FUND OPERATIONS

''SEC. 710. (a) The receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund and the taxes imposed under sections 1401 and 3101 of the Internal Revenue Code of 1986 shall not be included in the totals of the budget of the United States Government as submitted by the President or of the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

''(b) No provision of law enacted after the date of enactment of the Balanced Budget and Emergency Deficit Control Act of 1985 (other than a provision of an appropriation Act that appropriated funds authorized under the Social Security Act as in effect on the date of the enactment of the Balanced Budget and Emergency Deficit control Act of 1985) may provide for payments from the general fund of the Treasury to any Trust Fund specified in paragraph (1) or for payments from any such Trust Fund to the general fund of the Treasury.''.

SEC. 1560. TECHNICAL CORRECTION.

Section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985, entitled ''Modification of Presidential Order'', is repealed.

SEC. 1561. JUDICIAL REVIEW.

Section 274 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) Strike ''252'' or ''252(b)'' each place it appears and insert ''254''.

(2) In subsection (d)(1)(A), strike ''257(l) to the extent that'' and insert ''256(a) if'', strike the parenthetical phrase, and at the end insert ''or''.

(3) In subsection (d)(1)(B), strike ''new budget'' and all that follows through ''spending authority'' and insert ''budgetary resources'' and strike ''or'' after the comma.

(4) Strike subsection (d)(1)(C).

(5) Strike subsection (f) and redesignate subsections (g) and (h) as subsections (f) and (g), respectively.

(6) In subsection (g) (as redesignated), strike ''base levels of total revenues and total budget outlays, as'' and insert ''figures'', and ''251(a)(2)(B) or (c)(2),'' and insert ''254''.

SEC. 1562. EFFECTIVE DATE.

(a) EXPIRATION.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking ''Part C of this title, section'' and inserting ''Sections 251, 252, 253, 258B, and'';

(2) by striking ''1995'' and inserting ''2002''; and

(3) by adding at the end the following new sentence: ''The remaining sections of part C of this title shall expire September 30, 2006.''.

(b) EXPIRATION.—Section 14002(c)(3) of the Omnibus Budget Reconciliation Act of 1993 is repealed.

SEC. 1563. REDUCTION OF PREEXISTING BALANCES AND EXCLUSION OF EFFECTS OF THIS ACT FROM PAYGO SCORECARD.

Upon the enactment of this Act, the Director of the Office of Management and Budget shall—

(1) reduce any balances of direct spending and receipts legislation for any fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 to zero; and

(2) not make any estimates of changes in direct spending outlays and receipts under subsection (d) of such section 252 for any fiscal year resulting from the enactment of this Act or any Act enacted pursuant to section 104 or 105 of House Concurrent Resolution 84 (105th Congress).

ABRAHAM (AND OTHERS) AMENDMENT NO. 538

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself, Mr. BROWNBACK, Mr. KYL, Mr. SESSIONS, Mr. ENZI, Mr. INHOFE, and Mr. GRAMS) submitted an amendment intended to be proposed by them to the bill, S. 949, supra; as follows:

In the pending amendment, insert the following at the appropriate place:

SEC. . ECONOMIC GROWTH PROTECTION.

Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) is amended by adding at the end the following:

''(f) ECONOMIC GROWTH PROTECTION.—

''(1) ESTIMATE.—OMB shall, for any amount by which revenues for a budget year and any out-years through fiscal year 2002 exceed the revenue target absent growth, estimate the excess and include such estimate as a separate entry in the report prepared pursuant to subsection (d) at the same time as the OMB sequestration preview report is issued.

''(2) INCLUSION IN SCORECARD. OMB shall include the amount of any change in revenues determined pursuant to paragraph (1) as a deficit decrease under this part in the estimates and reports required by subsection (b) of section 254 unless such amount is offset by legislation enacted in compliance with paragraph (3).

''(3) USE OF ADJUSTMENT.—An amount not to exceed the amount of deficit decrease determined under paragraph (2) may be offset by legislation decreasing revenues.

''(4) REVENUE TARGET ABSENT GROWTH.—For purposes of this subsection, the revenue target absent growth is—

''(A) for fiscal year 1998, $1,601,800,000,000;

''(B) for fiscal year 1999, $1,664,200,000,000;

''(C) for fiscal year 2000, $1,728,100,000,000;

''(D) for fiscal year 2001, $1,805,100,000,000;

''(E) for fiscal year 2002, $1,890,400,000,000.''

SEC. . CONGRESSIONAL PAY-AS-YOU-GO

Legislation decreasing revenues in compliance with section 252(f)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985, as added by section , shall be considered to be in order for purposes of section 202 of House Concurrent Resolution 67 (104th Congress).

BIDEN (AND GRAMM) AMENDMENT NO. 539

Mr. BIDEN (for himself and Mr. GRAMM) proposed an amendment to amendment No. 537 proposed by Mr. DOMENICI to the bill, S. 949, supra; as follows:

On page 43 of the amendment, strike lines 14 through 21 and insert the following:

''(5) with respect to fiscal year 2001—

''(A) for the discretionary category: $537,677,000,000 in new budget authority and $558,460,000,000 in outlays; and

''(B) for the violent crime reduction category: $4,355,000,000 in new budget authority and $5,936,000,000 in outlays;

''(6) with respect to fiscal year 2002—

''(A) for the discretionary category: $546,619,000,000 in new budget authority and $556,314,000,000 in outlays; and

''(B) for the violent crime reduction category: $4,455,000,000 in new budget authority and $4,485,000,000 in outlays;

as adjusted in strict conformance with subsection (b).''.

(2) TRANSFERS INTO THE FUND.—On the first day of the following fiscal years, the following amounts shall be transferred from the general fund to the Violent Crime Reduction Trust Fund—

(A) for fiscal year 2001, $4,355,000,000; and

(A) for fiscal year 2002, $4,455,000,000.

BYRD AMENDMENT NO. 540

Mr. BYRD proposed an amendment to the bill, S. 949, supra; as follows:

At the end of the bill, add the following:

TITLE ____—ALCOHOL ADVERTISING RESPONSIBILITY ACT

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Alcohol Advertising Responsibility Act''.

SEC. ___02. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) alcohol is used by more Americans than any other drug;

(2) it is estimated that the costs to society from alcoholism and alcohol abuse were approximately $100,000,000,000 in 1990 alone;

(3) in 1995, the alcoholic beverage industry spent $1,040,300,000 on advertising, while the National Institute for Alcohol Abuse and Alcoholism was funded at only $181,445,000;

(4) more than 100,000 deaths each year in the United States result from alcohol-related causes;

(5) 41.3 percent of all traffic fatalities in 1995, or 17,274 deaths, were alcohol related;

(6) in addition to severe health consequences, alcohol misuse is involved in approximately 30 percent of all suicides, 50 percent of homicides, 68 percent of manslaughter cases, 52 percent of rapes and other sexual assaults, 48 percent of robberies, 62 percent of assaults, and 49 percent of all other violent crimes;

(7) approximately 30 percent of all accidental deaths are attributable to alcohol abuse;

(8) alcohol advertising may influence children's perceptions toward and inclinations to consume alcoholic beverages;

(9) 26 percent of eighth graders, 40 percent of tenth graders, and 51 percent of twelfth graders report having used alcohol in the past month; and

(10) college presidents nationwide view alcohol abuse as their paramount campus-life problem.

(b) PURPOSES.—The purposes of this title are—

(1) to repeal the existing tax subsidization for expenses incurred to promote the consumption of alcoholic beverages;

(2) to reduce the amount of alcohol advertising to which our Nation's youth are exposed; and

(3) to increase funding for those programs that educate and prevent the abuse of alcohol among our Nation's youth.

SEC. ___03. DISALLOWANCE OF DEDUCTION FOR ADVERTISING AND PROMOTION EXPENSES RELATING TO ALCOHOLIC BEVERAGES.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end the following:

''SEC. 280I. ADVERTISING AND PROMOTION EXPENDITURES RELATING TO ALCOHOLIC BEVERAGES.

''(a) IN GENERAL.—No deduction otherwise allowable under this chapter shall be allowed for any amount paid or incurred to advertise or promote by any means any alcoholic beverage.

''(b) ALCOHOLIC BEVERAGE.—For purposes of this section, the term 'alcoholic beverage' means any item which is subject to tax under subpart A, C, or D of part I of subchapter A of chapter 51 (relating to taxes on distilled spirits, wines, and beer).''.

(b) CONFORMING AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end the following:

''Sec. 280I. Advertising and promotion expenditures relating to alcoholic beverages.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31 of the year in which this Act is enacted.

SEC. ___04. ALCOHOL ABUSE EDUCATION AND PREVENTION AMONG YOUTH.

(a) IN GENERAL.—Subject to subsection (c), there shall be transferred, from funds in the Treasury not otherwise appropriated, to the entities described in subsection (b) amounts to the extent specified under subsection (b).

(b) EDUCATION AND PREVENTION PROGRAMS.—

(1) SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION.—The amounts specified in this subsection shall be:

(A) IN GENERAL.—With respect to the Substance Abuse and Mental Health Services Administration, $120,000,000 for fiscal year 1998, $180,000,000 for fiscal year 1999, $180,000,000 for fiscal year 2000, $210,000,000 for fiscal year 2001, and $210,000,000 for fiscal year 2002, to supplement substance abuse prevention activities authorized under section 501 of the Public Health Service Act (42 U.S.C. 290aa).

(B) USE OF FUNDS.—Amounts provided to the Substance Abuse and Mental Health Services Administration under subparagraph (A) shall be used directly or through grants and cooperative agreements to carry out activities to prevent the use of alcohol among youth, including the development and distribution of public service announcements.

(2) CENTERS FOR DISEASE CONTROL AND PREVENTION.—

(A) IN GENERAL.—With respect to the Centers for Disease Control and Prevention, $120,000,000 for fiscal year 1998, $180,000,000 for fiscal year 1999, $180,000,000 for fiscal year 2000, $210,000,000 for fiscal year 2001, and $210,000,000 for fiscal year 2002, to carry out a comprehensive strategy to prevent alcohol-related disease and disability.

(B) REQUIRED USES.—In carrying out the comprehensive strategy under subparagraph (A), the Centers for Disease Control and Prevention shall—

(i) enhance and expand State-based and national surveillance activities to monitor the scope of alcohol use among the youth of the United States;

(ii) enhance comprehensive school-based health programs that focus on alcohol use prevention strategies;

(iii) develop and distribute commercial advertising to prevent alcohol abuse among youth; and

(iv) enhance and expand Fetal Alcohol Syndrome prevention activities throughout the United States.

(3) NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION.—With respect to the National

Highway Traffic Safety Administration, and in addition to any funds authorized from the Highway Trust Fund, $120,000,000 for fiscal year 1998, $180,000,000 for fiscal year 1999, $180,000,000 for fiscal year 2000, $210,000,000 for fiscal year 2001, and $210,000,000 for fiscal year 2002, to carry out programs under sections 402, 403, and 410 of title 23, United States Code, and to develop and implement a paid media campaign targeting high-risk youth populations to improve the balance of media messages related to alcohol impaired driving.

(4) INDIAN HEALTH SERVICE.—With respect to the Indian Health Service, $40,000,000 for fiscal year 1998, $60,000,000 for fiscal year 1999, $60,000,000 for fiscal year 2000, $70,000,000 for fiscal year 2001, and $70,000,000 for fiscal year 2002, to supplement the programs that such Service is authorized to carry out pursuant to titles II and III of the Public Health Service Act (42 U.S.C. 202 et seq., 241 et seq.).

(c) AUTHORITY TO TRANSFER FUNDS.—The Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate, acting through appropriations Acts, may transfer the amounts specified under subsection (b) in each fiscal year among the entities referred to in such subsection.

BINGAMAN AMENDMENT NO. 541

(Ordered to lie on the table.)

Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill, S. 949, supra; as follows:

Beginning on page 79, line 4, strike all through page 88, line 7.

BIDEN AMENDMENT NO. 542

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to the bill, S. 949, supra; as follows:

At the appropriate place, insert the following:

SEC. . SURVIVOR BENEFITS FOR PUBLIC SAFETY OFFICERS KILLED IN THE LINE OF DUTY.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 138 as section 139 and by inserting after section 137 the following new section:

"SEC. 138. SURVIVOR BENEFITS ATTRIBUTABLE TO SERVICE BY A PUBLIC SAFETY OFFICER WHO IS KILLED IN THE LINE OF DUTY.

''(a) IN GENERAL.—Gross income shall not include any amount paid as a survivor annuity on account of the death of a public safety officer (as such term is defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968) killed in the line of duty—

''(1) if such annuity is provided under a governmental plan which meets the requirements of section 401(1) to the spouse (or a former spouse) of the public safety officer or to a child of such officer; and

''(2) to the extent such annuity is attributable to such officer's service as a public safety officer.

''(b) EXCEPTIONS.—

''(1) IN GENERAL.—Subsection (a) shall not apply with respect to the death of any public safety officer if—

''(A) the death was caused by the intentional misconduct of the officer or by such officer's intention to bring about such officer's death;

''(B) the officer was voluntarily intoxicated (as defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968) at the time of death; or

''(C) the officer was performing such officer's duties in a grossly negligent manner at the time of death.

''(2) EXEMPTION FOR BENEFITS PAID TO CERTAIN INDIVIDUALS.—Subsection (a) shall not apply to any payment to an individual whose actions were a substantial contributing factor to the death of the officer.

(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received in taxable years beginning after December 31, 1996, with respect to individuals dying after such date.

THOMAS (AND OTHERS) AMENDMENT NO. 543

(Ordered to lie on the table.)

Mr. THOMAS (for himself, Mr. ENZI, and Mr. CONRAD) submitted an amendment intended to be proposed by them to the bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

SEC. . EXTENSION OF BINDING CONTRACT DATE FOR BIOMASS AND COAL FACILITIES.

(a) IN GENERAL.—Subparagraph (A) of section 29(g)(1) (relating to the extension of certain facilities) is amended by striking ''July 1, 1998'' and inserting ''July 1, 1999''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act.

On page 400, between lines 14 and 15, insert the following:

SEC. . DETERMINATION OF ORIGINAL ISSUE DISCOUNT WHERE POOLED DEBT OBLIGATIONS SUBJECT TO ACCELERATION.

(a) IN GENERAL.—Subparagraph (C) of section 1272(a)(6) (relating to debt instruments to which the paragraph applies) is amended by striking ''or'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting '', or'', and by inserting after clause (i) the following:

''(iii) any pool of debt instruments the yield on which may be reduced by reason of prepayments (or to the extent provided in regulations, by reason of other events).

To the extent provided in regulations prescribed by the Secretary, in the case of a business engaged in the trade or business of selling tangible personal property at retail, clause (iii) shall not apply to debt instruments incurred in the ordinary course of such trade or business.''

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this subsection shall apply to taxable years beginning after the date of enactment of this Act.

(2) CHANGE OF METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for its first taxable year beginning after the date of enactment of this Act—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary; and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 4-taxable-year period beginning with such first taxable year.

SPECTER AMENDMENTS NOS. 544–546

(Ordered to lie on the table)

Mr. SPECTER submitted three amendments intended to be proposed by him to the bill, S. 949, supra; as follows:

AMENDMENT NO. 544

At the appropriate place in the bill, insert the following new section:

SEC. . SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) the Centers for Disease Control and Prevention has identified tobacco use as the leading preventable cause of death in the United States, causing more than 400,000 deaths each year, resulting in more than $50 billion in direct medical costs each year;

(2) funds appropriated to the National Institutes of Health comprise 30 percent of national expenditures on health research and development; and

(3) biomedical research has been shown to be effective in saving lives and reducing health care expenditures.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that if Congress considers legislation implementing the tobacco litigation settlement, such legislation should ensure that funds from the settlement are used for disease prevention research and medical treatment research for diseases linked to tobacco use.

AMENDMENT NO. 545

At the appropriate place in the bill, insert the following new section:

SEC. . SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) The current Internal Revenue Code, with its myriad deductions, credits and schedules, and over 12,000 pages of rules and regulations, is long overdue for a complete overhaul;

(2) It is an unacceptable waste of our nation's precious resources when Americans spend an estimated 5.4 billion hours every year compiling information and filling out Internal Revenue Code tax forms, and in addition, spend hundreds of billions of dollars every year in tax code compliance. America's resources could be dedicated to far more productive pursuits; and

(3) The primary goals of any tax reform must be fairness, simplicity, unleashing economic growth and removing the inefficiencies of the current tax code;

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should proceed expeditiously to consider fundamental tax reform legislation which would replace the current tax code with a fairer, simpler, progrowth and deficit neutral tax.

On page 20, between lines 5 and 6, insert the following:

SEC. 105. ADOPTION EXPENSES.

(a) DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PAY ADOPTION EXPENSES.—

(1) IN GENERAL.—Section 72(t)(2) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following:

''(E) DISTRIBUTIONS FROM CERTAIN PLANS FOR ADOPTION EXPENSES.—Distributions to an individual from an individual retirement plan of so much of the qualified adoption expenses (as defined in section 23(d)(1)) of the individual as does not exceed $2,000.''.

(2) CONFORMING AMENDMENT.—Section 72(t)(2)(B) is amended by striking ''or (D)'' and inserting '', (D) or (E)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments and distributions after December 31, 1996.

LEVIN (AND MCCAIN) AMENDMENT NO. 547

(Ordered to lie on the table.)

Mr. LEVIN (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

SEC. . SENSE OF THE SENATE REGARDING TAX TREATMENT OF STOCK OPTIONS.

(a) FINDINGS.—The Senate finds that—

(1) currently businesses can deduct the value of stock options as a business expense on their income tax returns, even though the stock options are not treated as an expense on the books of those same businesses; and

(2) stock options are the only form of compensation that is treated in this way.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Committee on Finance of the Senate should hold hearings on the tax treatment of stock options.

MCCAIN AMENDMENT NO. 548

(Ordered to lie on the table.)

Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill, S. 949, supra; as follows:

Strike section 707 of the bill.

D'AMATO AMENDMENTS NO. 549–550

(Ordered to lie on the table.)

Mr. D'AMATO submitted two amendments intended to be proposed by him to the bill, S. 949, supra; as follows:

AMENDMENT NO. 549

On page 106, beginning with line 10, strike all through page 107, line 18, and insert:

''(2) ELIGIBLE GAIN.—The term 'eligible gain' means any gain from the sale or exchange of qualified small business stock held for more than 6 months.

''(3) PURCHASE.—A taxpayer shall be treated as having purchased any property if, but for paragraph (4), the unadjusted basis of such property in the hands of the taxpayer would be its cost (within the meaning of section 1012).

''(4) BASIS ADJUSTMENTS.—If gain from any sale is not recognized by reason of subsection (a), such gain shall be applied to reduce (in the order acquired) the basis for determining gain or loss of any qualified small business stock which is purchased by the taxpayer during the 60-day period described in subsection (a).

''(c) SPECIAL RULES FOR TREATMENT OF REPLACEMENT STOCK.—

''(1) HOLDING PERIOD FOR ACCRUED GAIN.—For purposes of this chapter, gain from the disposition of any replacement qualified small business stock shall be treated as gain from the sale of exchange of qualified small business stock held more than 6 monhts to the extent that the amount of such gain does not exceed the amount of the reduction in the basis of such stock by reason of subsection (b)(4).

''(2) TACKING OF HOLDING PERIOD FOR PURPOSES OF DEFERRAL.—Solely for purposes of applying this section, if any replacement qualified small business stock is disposed of before the taxpayer has held such stock for more than 6 months, gain from such stock shall be treated eligible gain for purposes of subsection (a).

On page 400, between lines 14 and 15, insert:

SEC. . WITHHOLDING ON GUARANTEED PAYMENTS RECEIVED BY LIMITED PARTNERS OF PROFESSIONAL SERVICE PARTNERSHIPS.

(a) IN GENERAL.—Section 3401 (relating to withholding on wages) is amended by adding at the end the following new subsection:

''(i) SPECIAL RULE FOR GUARANTEED PAYMENTS OF CERTAIN LIMITED PARTNERS.—

''(1) IN GENERAL.—For purposes of this chapter, the term 'wages' shall include any guaranteed payments described in section 707 (a) or (c) to a limited partner of a professional service partnership for services actually rendered to or on behalf of the partnership to the extent that such payments are established to be in the nature of remuneration for such services.

''(2) PROFESSIONAL SERVICE PARTNERSHIP.—For purposes of paragraph (1), the term 'professional service partnership' means a partnership substantially all of the services of which are in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting.

''(3) TREATMENT AS EMPLOYER AND EMPLOYEE.—Solely for purposes of applying this chapter to payments described in paragraph (1)—

''(A) the professional service partnership shall be treated as an employer, and

''(B) the limited partner shall be treated as an employee.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments with respect to services performed after December 31, 1997.

AMENDMENT NO. 550

On page 267, between lines 15 and 16, insert the following:

SEC. . REMOVAL OF DOLLAR LIMITATION ON BENEFIT PAYMENTS FROM A DEFINED BENEFIT PLAN MAINTAINED FOR CERTAIN POLICE AND FIRE EMPLOYEES.

(a) IN GENERAL.—Subparagraph (G) of section 415(b)(2) is amended by striking ''participant—'' and all that follows and inserting ''participant, subparagraphs (C) and (D) of this paragraph and subparagraph (B) of paragraph (1) shall not apply.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1996.

NICKLES (AND OTHERS) AMENDMENT NO. 551

Mr. NICKLES (for himself, Mr. HAGEL, Mr. CLELAND, Mr. DOMENICI, and Mr. THURMOND) proposed an amendment to the bill, S. 949, supra; as follows:

On page 212, between lines 11 and 12, insert:

SEC. ___. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—The table contained in section 162(l)(1)(B) is amended to read as follows:

''For taxable years beginning in calendar year—	The applicable percentage is—
1997	50
1998	55
1999 through 2001	60
2002	65
2003 through 2005	80
2006	90
2007 or thereafter	100.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

On page 159, line 15, strike ''December 31, 1999'' and insert ''May 31, 1999''.

On page 159, line 18, strike ''42-month'' and insert ''35-month''.

On page 159, line 19, strike ''42 months'' and insert ''35 months''.

On page 160, lines 10 and 11, strike ''December 31, 1999'' and insert ''May 31, 1999''.

On page 160, lines 19 and 20, strike ''December 31, 1999'' and insert ''May 31, 1999''.

On page 400, between lines 14 and 15, insert:

SEC. ___. MODIFICATION OF RULES FOR ALLOCATING INTEREST EXPENSE TO TAX-EXEMPT INTEREST.

(a) PRO RATA ALLOCATION RULES APPLICABLE TO CORPORATIONS.—

(1) IN GENERAL.—Paragraph (1) of section 265(b) is amended by striking ''In the case of a financial institution'' and inserting ''In the case of a corporation''.

(2) ONLY OBLIGATIONS ACQUIRED AFTER JUNE 8, 1997, TAKEN INTO ACCOUNT.—Subparagraph (A) of section 265(b)(2) is amended by striking ''August 7, 1986'' and inserting ''June 8, 1997 (August 7, 1986, in the case of a financial institution)''.

(3) SMALL ISSUER EXCEPTION NOT TO APPLY.—Subparagraph (A) of section 265(b)(3) is amended by striking ''Any qualified'' and inserting ''In the case of a financial institution, any qualified''.

(4) EXCEPTION FOR CERTAIN BONDS ACQUIRED ON SALE OF GOODS OR SERVICES.—Subparagraph (B) of section 265(b)(4) is amended by adding at the end the following new sentence: ''In the case of a taxpayer other than a financial institution, such term shall not include a nonsalable obligation acquired by such taxpayer in the ordinary course of business as payment for goods or services provided by such taxpayer to any State or local government.''

(5) LOOK-THRU RULES FOR PARTNERSHIPS.—Paragraph (6) of section 265(b) is amended by adding at the end the following new subparagraph:

''(C) LOOK-THRU RULES FOR PARTNERSHIPS.—In the case of a corporation which is a partner in a partnership, such corporation shall be treated for purposes of this subsection as holding directly its allocable share of the assets of the partnership.''

(6) APPLICATION OF PRO RATA DISALLOWANCE ON AFFILIATED GROUP BASIS.—Subsection (b) of section 265 is amended by adding at the end the following new paragraph:

''(7) APPLICATION OF DISALLOWANCE ON AFFILIATED GROUP BASIS.—

''(A) IN GENERAL.—For purposes of this subsection, all members of an affiliated group filing a consolidated return under section 1501 shall be treated as 1 taxpayer.

''(B) TREATMENT OF INSURANCE COMPANIES.—This subsection shall not apply to an insurance company, and subparagraph (A) shall be applied without regard to any member of an affiliated group which is an insurance company.''

(6) DE MINIMIS EXCEPTION FOR NONFINANCIAL INSTITUTIONS.—Subsection (b) of section 265 is amended by adding at the end the following new paragraph:

''(8) DE MINIMIS EXCEPTION FOR NONFINANCIAL INSTITUTIONS.—In the case of a corporation, paragraph (1) shall not apply for any taxable year if the amount described in paragraph (2)(A) with respect to such corporation does not exceed the lesser of—

''(A) 2 percent of the amount described in paragraph (2)(B), or

''(B) $1,000,000.

The preceding sentence shall not apply to a financial institution or to a dealer in tax-exempt obligations.''

(7) CLERICAL AMENDMENT.—The subsection heading for section 265(b) is amended by striking ''FINANCIAL INSTITUTIONS'' and inserting ''CORPORATIONS''.

(b) APPLICATION OF SECTION 265(a)(2) WITH RESPECT TO CONTROLLED GROUPS.—Paragraph (2) of section 265(a) is amended after

''obligations'' by inserting ''held by the taxpayer (or any corporation which is a member of a controlled group (as defined in section 267(f)(1)) which includes the taxpayer)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

GRAMM (AND OTHERS) AMENDMENT NO. 552

Mr. GRAMM (for himself, Mr. COATS, Mr. NICKLES, Mr. HUTCHINSON, Mr. GRAMS, Mr. SMITH of New Hampshire, Mr. SESSIONS, Mr. ABRAHAM, and Mr. THURMOND) proposed an amendment to the bill, S. 949, supra; as follows:

At the appropriate place, insert:

SECTION 1. CHILD TAX CREDIT FLEXIBILITY.

On page 12, line 13, strike all through page 13, line 8, and on page 16, line 3, strike all through page 17, line 6.

SHELBY (AND OTHERS) AMENDMENT NO. 553

Mr. ROTH (for Mr. SHELBY, for himself, Mr. CRAIG, Mr. ABRAHAM, Mr. FAIRCLOTH, Mr. SANTORUM, Mr. COVERDELL, Mr. GRAMM, and Mr. SESSIONS) proposed an amendment to the bill, S. 949, supra; as follows:

At the end of page 11, insert the following:

SEC. . SENSE OF THE SENATE REGARDING REFORM OF THE INTERNAL REVENUE CODE OF 1986.

(a) FINDINGS.—The Senate find that—

(1) the Internal Revenue Code of 1986 (''tax code'') is unnecessarily complex, having grown from 14 pages at its inception to 3,458 pages by 1995;

(2) this complexity resulted in taxpayers spending about 5,300,000,000 hours and $225,000,000,000 trying to comply with the tax code in 1996;

(3) the current congressional budgetary process is weighted too heavily toward tax increase, as evidenced by the fact that since 1954 there have been 27 major bills enacted that increased Federal income taxes and only 9 bills that decreased Federal income taxes, 3 of which were de minimis decreases;

(4) the tax burden on working families has reach an unsustainable level, as evidenced by the fact that in 1948 the average American family with children paid only 4.3 percent of its income to the Federal Government in direct taxes and today the average family pays about 25 percent;

(5) the tax code unfairly penalizes saving and investment by double taxing these activities while only taxing income used for consumption once, and as a result the United States has one of the lowest savings rates, at 4.7 percent, in the industrialized world;

(6) the tax code stifles economic growth by discouraging work and capital formation through excessively high tax rates;

(7) Congress and the President have found it necessary, on 2 separate occasions, to enact laws to protect taxpayers from the abuses of the Internal Revenue Service and a third bill has been introduced by the 105th Congress; and

(8) the complexity of the tax code has increased the number of Internal Revenue Service employees responsible for administering the tax laws to 110,000 and this costs the taxpayers $9,800,000,000 each year.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Internal Revenue Code of 1986 needs broad-based reform; and

(2) the President should submit to Congress a comprehensive proposal to reform the Internal Revenue Code of 1986.

KERRY (AND OTHERS) AMENDMENT NO. 554

Mr. KERRY (for himself, Mr. CONRAD, and Mr. JOHNSON) proposed an amendment to the bill, S. 949, supra; as follows:

On page 13, beginning with line 9, strike all through page 17, line 12, and insert the following:

''(2) LIMITATION BASED ON ADJUSTED GROSS INCOME.—The dollar amount in subsection (a) shall be reduced (but not below zero) ratably for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds $60,000 but does not exceed $75,000. For purposes of the preceding sentence, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

''(3) LIMITATION BASED ON AMOUNT OF TAX.—The aggregate credit allowed by subsection (a) (determined after paragraph (2)) shall not exceed the sum of—

''(A) the excess (if any) of—

''(i) the taxpayer's regular tax liability for the taxable year reduced by the credits allowable against such tax under this subpart (other than this section), over

''(ii) the taxpayer's tentative minimum tax for such taxable year (determined without regard to the alternative minimum tax foreign tax credit), plus

''(B) the excess (if any) of—

''(i) the sum of—

''(I) the taxpayer's liability for the taxable year under sections 3101 and 3201,

''(II) the amount of tax paid on behalf of such taxpayer for the taxable year under sections 3111 and 3221, plus

''(III) the taxpayer's liability for such year under sections 1401 and 3211, over

''(ii) the credit allowed for the taxable year under section 32.

''(c) QUALIFYING CHILD.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying child' means any individual if—

''(A) the taxpayer is allowed a deduction under section 151 with respect to such individual for the taxable year,

''(B) such individual has not attained the applicable age as of the close of the calendar year in which the taxable year of the taxpayer begins, and

''(C) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B).

''(2) APPLICABLE AGE.—For purposes of paragraph (1), the applicable age is 13 in calendar year 1997, and increased by 1 year for each of the next 4 succeeding calendar years.

''(3) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States.'

(d) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.

''(e) RECAPTURE OF CREDIT.—

''(1) IN GENERAL.—If—

''(A) during any taxable year any amount is withdrawn from a qualified tuition program or an education individual retirement account maintained for the benefit of a beneficiary and such amount is subject to tax under section 529(f) or 530(c)(3), and

''(B) the amount of the credit allowed under this section for the prior taxable year was contingent on a contribution being made to such a program or account for the benefit of such beneficiary,

the taxpayer's tax imposed by this chapter for the taxable year shall be increased by the lesser of the amount described in subparagraph (A) or the credit described in subparagraph (B).

''(2) NO CREDITS AGAINST TAX, ETC.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining—

''(A) the amount of any credit under this subpart or subpart B or D of this part, and

''(B) the amount of the minimum tax imposed by section 55.

''(f) OTHER DEFINITIONS.—For purposes of this section, the terms 'qualified tuition program' and 'education individual retirement account' have the meanings given such terms by section 529 and 530, respectively.

''(g) PHASEIN OF CREDIT.—In the case of taxable years beginning in 1997, subsection (a)(1) shall be applied by substituting '$250' for '$500'.''

JEFFORDS (AND OTHERS) AMENDMENT NO. 555

(Ordered to lie on the table.)

Mr. JEFFORDS (for himself, Mr. DODD, Mr. ROBERTS, Mr. JOHNSON, Mr. KOHL, Ms. SNOWE, and Ms. LANDRIEU) submitted an amendment intended to be proposed by them to the bill, S. 949, supra; as follows:

At the end of the bill insert the following:

TITLE ____—INCENTIVES FOR QUALITY CHILD CARE

SEC. ___01. EXPANSION OF DEPENDENT CARE TAX CREDIT.

(a) PERCENTAGE OF EMPLOYMENT-RELATED EXPENSES DETERMINED BY STATUS OF CARE GIVER.—Section 21(a)(2) (defining applicable percentage) is amended to read as follows:

''(2) APPLICABLE PERCENTAGE DEFINED.—

''(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable percentage' means—

''(i) in the case of employment-related expenses described in subsection (b)(2)(A)(ii) incurred for the care of a qualifying individual described in subsection (b)(1)(A) by an accredited child care center or a credentialed child care professional, the initial percentage reduced (but not below 12.5 percent) ratably for each $2,500 (or fraction thereof) by which the taxpayers's adjusted gross income for the taxable year exceeds $20,000, and

''(ii) in any other case, 30 percent reduced (but not below 10 percent) ratably for each $2,500 (or fraction thereof) by which the taxpayers's adjusted gross income for the taxable year exceeds $20,000 but does not exceed $70,000.

''(B) INITIAL PERCENTAGE FOR EXPENSES INCURRED FOR ACCREDITED OR CREDENTIALED PROVIDERS.—For purposes of subparagraph (A)(i), the initial percentage shall be determined in accordance with the following table:

''In the case of any taxable year beginning in—	The initial percentage is—
1998	31.5
1999	33
2000	34.5
2001	36
2002 and thereafter	37.5.''

(b) DEFINITIONS.—Section 21(b)(2) (relating to definitions of qualifying individual and employment-related expenses) is amended by adding at the end the following:

''(E) ACCREDITED CHILD CARE CENTER.—The term 'accredited child care center' means—

''(i) a center that is accredited, by a child care credentialing or accreditation entity recognized by a State, to provide child care to children in the State (except children who

a tribal organization elects to serve through a center described in clause (ii));

''(ii) a center that is accredited, by a child care credentialing or accreditation entity recognized by a tribal organization, to provide child care for children served by the tribal organization; or

''(iii) a center that is used as a Head Start center under the Head Start Act (42 U.S.C. 9831 et seq.) and is in compliance with any applicable performance standards established by regulation under such Act for Head Start programs.

''(F) CHILD CARE CREDENTIALING OR ACCREDITATION ENTITY.—The term 'child care credentialing or accreditation entity' means a nonprofit private organization or public agency that—

''(i) is recognized by a State agency or tribal organization; and

''(ii) accredits a center or credentials an individual to provide child care on the basis of—

''(I) an accreditation or credentialing instrument based on peer-validated research;

''(II) compliance with applicable State and local licensing requirements, or standards described in section 658E(c)(2)(E)(ii) of the Child Care and Development Block Grant Act (42 U.S.C. 9858c(c)(2)(E)(ii)), as appropriate, for the center or individual;

''(III) outside monitoring of the center or individual; and

''(IV) criteria that provide assurances of—

''(aa) compliance with age-appropriate health and safety standards at the center or by the individual;

''(bb) use of age-appropriate developmental and educational activities, as an integral part of the child care program carried out at the center or by the individual; and

''(cc) use of ongoing staff development or training activities for the staff of the center or the individual, including related skills-based testing.

''(G) CREDENTIALED CHILD CARE PROFESSIONAL.—The term 'credentialed child care professional' means—

''(i) an individual who is credentialed, by a child care credentialing or accreditation entity recognized by a State, to provide child care to children in the State (except children who a tribal organization elects to serve through an individual described in clause (i)); or

''(ii) an individual who is credentialed, by a child care credentialing or accreditation entity recognized by a tribal organization, to provide child care for children served by the tribal organization.

''(H) TRIBAL ORGANIZATION.—The term 'tribal organization' has the meaning given the term in section 658P of the Child Care and Development Block Grant Act (42 U.S.C. 9858n).''

(c) CREDIT MADE REFUNDABLE FOR LOW INCOME TAXPAYERS.—

(1) IN GENERAL.—Section 21 (relating to credit for household and dependent care services) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following:

''(f) CREDIT MADE REFUNDABLE FOR LOW INCOME TAXPAYERS.—

''(1) IN GENERAL.—For purposes of this subtitle, in the case of an applicable taxpayer individual, the credit allowable under subsection (a) for any taxable year shall be treated as a credit allowable under subpart C of this part.

''(2) APPLICABLE TAXPAYER.—For purposes of this subsection, the term 'applicable taxpayer' means a taxpayer with respect to whom the credit under section 32 is allowable for the taxable year.

''(3) COORDINATION WITH ADVANCE PAYMENTS AND MINIMUM TAX.—Rules similar to the rules of subsections (g) and (h) of section 32 shall apply with respect to the portion of any credit to which this subsection applies.''.

(2) ADVANCE PAYMENT OF CREDIT.—

(A) IN GENERAL.—Chapter 25 (relating to general provisions relating to employment taxes) is amended by inserting after section 3507 the following:

''SEC. 3507A. ADVANCE PAYMENT OF DEPENDENT CARE CREDIT.

''(a) GENERAL RULE.—Except as otherwise provided in this section, every employer making payment of wages with respect to whom a dependent care eligibility certificate is in effect shall, at the time of paying such wages, make an additional payment equal to such employee's dependent care advance amount.

''(b) DEPENDENT CARE ELIGIBILITY CERTIFICATE.—For purposes of this title, a dependent care eligibility certificate is a statement furnished by an employee to the employer which—

''(1) certifies that the employee will be eligible to receive the credit provided by section 21 for the taxable year,

''(2) certifies that the employee reasonably expects to be an applicable taxpayer for the taxable year,

''(3) certifies that the employee does not have a dependent care eligibility certificate in effect for the calendar year with respect to the payment of wages by another employer,

''(4) states whether or not the employee's spouse has a dependent care eligibility certificate in effect,

''(5) states the number of qualifying individuals in the household maintained by the employee,

''(6) states whether a qualifying individual will be cared for by an accredited child care center or a credentialed child care professional, and

''(7) estimates the amount of employment-related expenses for the calendar year.

''(c) DEPENDENT CARE ADVANCE AMOUNT.—

''(1) IN GENERAL.—For purposes of this title, the term 'dependent care advance amount' means, with respect to any payroll period, the amount determined—

''(A) on the basis of the employee's wages from the employer for such period,

''(B) on the basis of the employee's estimated employment-related expenses included in the dependent care eligibility certificate, and

''(C) in accordance with tables provided by the Secretary.

''(2) ADVANCE AMOUNT TABLES.—The tables referred to in paragraph (1)(C) shall be similar in form to the tables prescribed under section 3402 and, to the maximum extent feasible, shall be coordinated with such tables and the tables prescribed under section 3507(c).

''(d) OTHER RULES.—For purposes of this section, rules similar to the rules of subsections (d) and (e) of section 3507 shall apply.

''(e) DEFINITIONS.—For purposes of this section, terms used in this section which are defined in section 21 shall have the respective meanings given such terms by section 21.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 25 is amended by adding after the item relating to section 3507 the following:

''Sec. 3507A. Advance payment of dependent care credit.''.

(d) EFFECTIVE DATES.—

(1) APPLICABLE PERCENTAGE.—The amendments made by subsection (a) and (b) shall apply to taxable years beginning after December 31, 1997.

(2) CREDIT MADE REFUNDABLE.—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 2001.

SEC. ___02. EXPANSION OF DEPENDENT CARE ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 129(a)(2)(A) (relating to limitation of exclusion) is amended to read as follows:

''(A) DOLLAR LIMITATION.—

''(i) 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—

''(I) in the case of dependent care services provided by an accredited child care center or a credentialed child care professional for a qualifying individual described in section 21(b)(1)(A), an amount determined in accordance with the following table:

''In the case of taxable years beginning in:	For 1 qualifying individual, the amount is:	For 2 or more qualifying individuals, the amount is:
1998	$5,200	$6,700
1999	$5,400	$6,900
2000	$5,600	$7,100
2001	$5,800	$7,300
2002 and thereafter	$6,000	$7,500,

''(II) in the case of other dependent care services for a qualifying individual described in section 21(b)(1)(A) or payments described in subsection (e)(1)(B), an amount determined in accordance with the following table:

''In the case of taxable years beginning in:	For 1 qualifying individual, the amount is:	For 2 or more qualifying individuals, the amount is:
1998	$4,800	$6,300
1999	$4,600	$6,100
2000	$4,400	$5,900
2001	$4,200	$5,700
2002 and thereafter	$4,000	$5,500,

and

''(III) in the case of other dependent care services for a qualifying individual described in subparagraph (B) or (C) of section 21(b)(1), $5,000.

''(ii) AMOUNTS FOR MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a separate return by a married individual, clause (i) shall be applied by using one-half of any amount specified in such clause.

''(iii) PROVIDERS.—For purposes of clause (i)(I), the terms 'accredited child care center' and 'credentialed child care professional' have the meaning given such terms by subparagraphs (E) and (G) of section 21(c)(2), respectively.

(b) PAYMENTS FOR STAY-AT-HOME CARE ALLOWED.—

(1) IN GENERAL.—Section 129(e)(1) (relating to definitions and special rules) is amended to read as follows:

''(1) DEPENDENT CARE ASSISTANCE.—The term 'dependent care assistance' means—

''(A) the payment of, or provision of, those services which if paid for by the employee would be considered employment-related expenses under section 21(b)(2) (relating to expenses for household and dependent care services necessary for gainful employment), and

''(B) any payment to the employee from amounts contributed to the employee's account during the pregnancy of the employee paid within 1 year after such contribution and during the period in which—

''(i) the employee,

''(ii) the employee's spouse, or

''(iii) a parent of the employee or the employee's spouse,

stays at home to care for a qualifying individual described in section 21(b)(1)(A).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 129(c) (relating to payments to related individuals) is amended by striking ''No amount'' and inserting ''Except in the case of payments described in subsection (e)(1)(B), no amount.''.

(B) Section 129(e)(9) (relating to identifying information required with respect to service provider) is amended by striking ''No amount'' and inserting ''Except in the case of payments described in paragraph (1)(B)(i), no amount.''.

(c) DEPENDENT CARE ASSISTANCE PROGRAM FOR FEDERAL EMPLOYEES.—Subpart G of part III of title 5, United States Code, is amended by inserting after chapter 87 the following:

''CHAPTER 88—DEPENDENT CARE ASSISTANCE PROGRAM

''§ 8801. Definitions

''(a) For the purpose of this chapter, 'employee' means—

''(1) an employee as defined by section 2105 of this title;

''(2) a Member of Congress as defined by section 2106 of this title;

''(3) a Congressional employee as defined by section 2107 of this title;

''(4) the President;

''(5) a justice or judge of the United States appointed to hold office during good behavior (i) who is in regular active judicial service, or (ii) who is retired from regular active service under section 371(b) or 372(a) of title 28, United States Code, or (iii) who has resigned the judicial office under section 371(a) of title 28 with the continued right during the remainder of his lifetime to receive the salary of the office at the time of his resignation;

''(6) an individual first employed by the government of the District of Columbia before October 1, 1987;

''(7) an individual employed by Gallaudet College;

''(8) an individual employed by a county committee established under section 590h(b) of title 16;

''(9) an individual appointed to a position on the office staff of a former President under section 1(b) of the Act of August 25, 1958 (72 Stat. 838); and

''(10) an individual appointed to a position on the office staff of a former President, or a former Vice President under section 4 of the Presidential Transition Act of 1963, as amended (78 Stat. 153), who immediately before the date of such appointment was an employee as defined under any other paragraph of this subsection;

but does not include—

''(A) an employee of a corporation supervised by the Farm Credit Administration if private interests elect or appoint a member of the board of directors;

''(B) an individual who is not a citizen or national of the United States and whose permanent duty station is outside the United States, unless the individual was an employee for the purpose of this chapter on September 30, 1979, by reason of service in an Executive agency, the United States Postal Service, or the Smithsonian Institution in the area which was then known as the Canal Zone; or

''(C) an employee excluded by regulation of the Office of Personnel Management under section 8716(b) of this title.

''(b) For the purpose of this chapter, 'dependent care assistance program' has the meaning given such term by section 129(d) of the Internal Revenue Code of 1986.

''§ 8802. Dependent care assistance program

''The Office of Personnel Management shall establish and maintain a dependent care assistance program for the benefit of employees.''.

(d) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1997.

SEC. ___03. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

''SEC. 45D. EMPLOYER-PROVIDED CHILD CARE CREDIT.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—For purposes of section 38, the employer-provided child care credit determined under this section for the taxable year is an amount equal to the applicable percentage of the qualified child care expenditures of the taxpayer for such taxable year.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage for any taxable year is equal to 50%.

''(b) DOLLAR LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed $150,000.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED CHILD CARE EXPENDITURE.—The term 'qualified child care expenditure' means any amount paid or incurred—

''(A) to acquire, construct, rehabilitate, or expand property—

''(i) which is to be used as part of a qualified child care facility of the taxpayer,

''(ii) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and

''(iii) which does not constitute part of the principal residence (within the meaning of section 1034) of the taxpayer or any employee of the taxpayer,

''(B) for the operating costs of a qualified child care facility of the taxpayer, including costs related to the training of employees, to scholarship programs, and to the providing of increased compensation to employees with higher levels of child care training,

''(C) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer,

''(D) under a contract to provide child care resource and referral services to employees of the taxpayer, or

''(E) for the costs of seeking accreditation from a child care credentialing or accreditation entity (as defined in section 21(b)(2)(F) with respect to a qualified child care facility.

''(2) QUALIFIED CHILD CARE FACILITY.—

''(A) IN GENERAL.—The term 'qualified child care facility' means a facility—

''(i) the principal use of which is to provide child care assistance, and

''(ii) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including, but not limited to, the licensing of the facility as a child care facility.

Clause (i) shall not apply to a facility which is the principal residence (within the meaning of section 1034) of the operator of the facility.

''(B) SPECIAL RULES WITH RESPECT TO A TAXPAYER.—A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless—

''(i) enrollment in the facility is open to employees of the taxpayer during the taxable year,

''(ii) the facility is not the principal trade or business of the taxpayer unless at least 30 percent of the enrollees of such facility are dependents of employees of the taxpayer, and

''(iii) the use of such facility (or the eligibility to use such facility) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).

''(d) RECAPTURE OF ACQUISITION AND CONSTRUCTION CREDIT.—

''(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care facility of the taxpayer, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

''(A) the applicable recapture percentage, and

''(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer described in subsection (c)(1)(A) with respect to such facility had been zero.

''(2) APPLICABLE RECAPTURE PERCENTAGE.—

''(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

''If the recapture event occurs in:	**The applicable recapture percentage is:**
Years 1–3	100
Year 4	85
Year 5	70
Year 6	55
Year 7	40
Year 8	25
Years 9 and 10	10
Years 11 and thereafter	0.

''(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care facility is placed in service by the taxpayer.

''(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

''(A) CESSATION OF OPERATION.—The cessation of the operation of the facility as a qualified child care facility.

''(B) CHANGE IN OWNERSHIP.—

''(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayer's interest in a qualified child care facility with respect to which the credit described in subsection (a) was allowable.

''(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

''(4) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

''(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified child care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

''(e) SPECIAL RULES.—For purposes of this section—

''(1) AGGREGATION RULES.—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

''(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

''(f) NO DOUBLE BENEFIT.—

''(1) REDUCTION IN BASIS.—For purposes of this subtitle—

''(A) IN GENERAL.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (c)(1)(A), the basis of such property shall be reduced by the amount of the credit so determined.

''(B) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any property the basis of which was reduced under subparagraph (A), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

''(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.

''(g) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 1999.''

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) is amended—

(A) by striking out ''plus'' at the end of paragraph (11),

(B) by striking out the period at the end of paragraph (12), and inserting a comma and ''plus'', and

(C) by adding at the end the following new paragraph:

''(13) the employer-provided child care credit determined under section 45D.''

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45D. Employer-provided child care credit.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. ___04. CHARITABLE CONTRIBUTIONS OF SCIENTIFIC EQUIPMENT TO ACCREDITED AND CREDENTIALED CHILD CARE PROVIDERS AND TO ELEMENTARY AND SECONDARY SCHOOLS.

(a) IN GENERAL.—Subparagraph (B) of section 170(e)(4) (relating to special rule for contributions of scientific property used for research) is amended to read as follows:

''(B) QUALIFIED RESEARCH, CHILD CARE, OR EDUCATION CONTRIBUTION.—For purposes of this paragraph, the term 'qualified research, child care, or education contribution' means a charitable contribution by a corporation of tangible personal property (including computer software), but only if—

''(i) the contribution is to—

''(I) an accredited child care center (as defined in section 21(c)(2)(E)) which is an organization described in section 501(c)(3) and exempt from taxation under section 501(a),

''(II) an organization described in section 501(c)(3) and exempt from taxation under section 501(a) which is a professional or educational support entity for accredited child care centers or credentialed child care professionals (as defined in subparagraphs (E) and (G) of section 21(c)(2), respectively),

''(III) an educational organization described in subsection (b)(1)(A)(ii),

''(IV) a governmental unit described in subsection (c)(1), or

''(V) an organization described in section 41(e)(6)(B),

''(ii) the contribution is made not later than 3 years after the date the taxpayer acquired the property (or in the case of property constructed by the taxpayer, the date the construction of the property is substantially completed),

''(iii) the property is scientific equipment or apparatus substantially all of the use of which by the donee is for—

''(I) research or experimentation (within the meaning of section 174), or for research training, in the United States in physical or biological sciences, or

''(II) in the case of an organization described in subclause (I), (II), (III), or (IV) of clause (i), use within the United States for educational purposes related to the purpose or function of the organization,

''(iv) the original use of the property began with the taxpayer (or in the case of property constructed by the taxpayer, with the donee),

''(v) the property is not transferred by the donee in exchange for money, other property, or services, and

''(vi) the taxpayer receives from the donee a written statement representing that its use and disposition of the property will be in accordance with the provisions of clauses (iv) and (v).''.

(b) DONATIONS TO CHARITY FOR REFURBISHING.—Section 170(e)(4) is amended by adding at the end the following:

''(D) DONATIONS TO CHARITY FOR REFURBISHING.—For purposes of this paragraph, a charitable contribution by a corporation shall be treated as a qualified research, child care, or education contribution if—

''(i) such contribution is a contribution of property described in subparagraph (B)(iii) to an organization described in section 501(c)(3) and exempt from taxation under section 501(a),

''(ii) such organization repairs and refurbishes the property and donates the property to an organization described in subparagraph (B)(i), and

''(iii) the taxpayer receives from the organization to whom the taxpayer contributed the property a written statement representing that its use of the property (and any use by the organization to which it donates the property) meets the requirements of this paragraph.''.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (4)(A) of section 170(e) is amended by striking ''qualified research contribution'' each place it appears and inserting ''qualified research, child care, or education contribution''.

(2) The heading for section 170(e)(4) is amended by inserting '', CHILD CARE, OR EDUCATION'' after ''RESEARCH''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. ___05. 2-PERCENT FLOOR ON MISCELLANEOUS ITEMIZED DEDUCTIONS NOT APPLICABLE TO ACCREDITATION AND CREDENTIALING EXPENSES OF INDIVIDUAL CHILD CARE PROVIDERS.

(a) IN GENERAL.—Section 67(b) (relating to miscellaneous itemized deductions) is amended by striking ''and'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', and'', and by adding at the end the following:

''(13) the deduction allowable for accreditation and credentialing expenses of child care providers.''.

(b) DEFINITION.—Section 67 (relating to 2-percent floor on miscellaneous itemized deductions) is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following:

''(e) ACCREDITATION AND CREDENTIALING EXPENSES OF CHILD CARE PROVIDERS.—For purposes of this section—

''(1) IN GENERAL.—The term 'accreditation and credentialing expenses of child care providers' means direct professional costs and educational and training expenses paid or incurred by an eligible individual in order to achieve and remain qualified for service as an employee of an accredited child care center or as a credentialed child care professional (as defined in subparagraphs (E) and (G) of section 21(c)(2), respectively).

''(2) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means an individual 60 percent of the taxable income of whom for any taxable year is derived from service described in paragraph (1).''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. ___06. EXPANSION OF HOME OFFICE DEDUCTION TO INCLUDE USE OF OFFICE FOR DEPENDENT CARE.

(a) IN GENERAL.—Section 280A(c)(1) (relating to certain business use) is amended by adding at the end the following: ''A portion of a dwelling unit and the exclusive use of such portion otherwise described in this paragraph shall not fail to be so described if such portion is also used by the taxpayer during such exclusive use to care for a dependent of the taxpayer.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. ___07. EXPANSION OF COORDINATED ENFORCEMENT EFFORTS OF INTERNAL REVENUE SERVICE AND HHS OFFICE OF CHILD SUPPORT ENFORCEMENT.

(a) STATE REPORTING OF CUSTODIAL DATA.—Section 454A(e)(4)(D) of the Social Security Act (42 U.S.C. 654(e)(4)(D)) is amended by striking ''the birth date of any child'' and inserting ''the birth date and custodial status of any child''.

(b) MATCHING PROGRAM BY IRS OF CUSTODIAL DATA AND TAX STATUS INFORMATION.—

(1) NATIONAL DIRECTORY OF NEW HIRES.—Section 453(i)(3) of the Social Security Act (42 U.S.C. 653(i)(3)) is amended by striking ''a claim with respect to employment in a tax return'' and inserting ''information which is required on a tax return''.

(2) FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS.—Section 453(h) of the such Act (42 U.S.C. 653(h)) is amended by adding at the end the following:

''(3) ADMINISTRATION OF FEDERAL TAX LAWS.—The Secretary of the Treasury shall have access to the information described in paragraph (2), consisting of the names and social security numbers of the custodial parents linked with the children in the custody of such parents, for the purpose of administering those sections of the Internal Revenue Code of 1986 which grant tax benefits based on support and residence provided dependent children.''

(c) MINIMUM PAST-DUE SUPPORT THRESHOLD FOR USE OF OFFSET PROCEDURE.—

(1) PART D FAMILIES.—Section 464(b)(1) of the Social Security Act (42 U.S.C. 664(b)(1)) is amended by inserting ''(not to exceed $150)'' after ''minimum amount''.

(2) OTHER FAMILIES.—Section 464(b)(2)(A) of such Act (42 U.S.C. 664(b)(2)(A)) is amended by striking ''$500'' both places it appears and inserting ''$150''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1997.

Mr. JEFFORDS. Mr. President, tomorrow I will introduce my amendment on child care.

Today, there are more than 12 million children under the age of five—including half of all infants under one year of age—who spend at least part of their day being cared for by someone other than their parents. The past two decades have seen a dramatic rise in the number of women in the paid labor force. More than 60 percent of women with preschool aged children, are employed full- or part-time. For most of these families, child care is a requirement, not an option.

Women now constitute 46 percent of our Nation's labor force. Most women are not working just to achieve a degree of personal growth outside the home, but to meet their family's basic needs. Their employment is not a choice, but an essential part of their family's economic survival.

Similarly, child care that is affordable and convenient is necessary for most women working outside the home. Many of the traditional sources of child care are no longer available—as many of the friends, neighbors, grandparents, and other relatives who used to be available to provide child care are also working. Research has repeatedly demonstrated that for parents who must work, child care services that are dependable and of high quality make it easier to find and keep a job. Good child care helps parents reach and maintain economic self-sufficiency. There is a clear connection between child care and the production of income. Congress acknowledged this when is passed welfare reform last year.

Since 1990, the costs of child care have risen about 6 percent annually. This is almost triple the annual increase in the cost of living. At the same time, there are strong indicators that the quality of child care has significantly decreased during that same period of time. Parents are paying more but getting less.

The costs of child care are almost wholly dependent upon the geographic area, the type of child care, and the age of the child. For example, a family purchasing full-time child care services for a 4-year old in rural New York using a family child care home may pay as little as $60 a week. In contrast, a family with an infant using a child care center in New York City may pay more than $250 a week.

I think that few of us know how much child care costs. The Senate Employee's Child Care Center costs between $150 and $175 a week—$7,800 to $9,100 a year. That puts it in the high-middle range in terms of costs for the Washington, DC area. The younger the child, the higher the costs—and Senate Employee's Child Care Center does not accept children under 18 months old.

For a 3- to 4-year-old, which is the least expensive age group, the national average for center-based child care is $4,600 a year. The average cost for high quality care, such as that provided by the Senate Employee's Child Care Center, is between $8,500 and $9,100 a year.

A family normally spends about 20 percent of its income on housing and 10 percent on food. The costs of child care for a low- or middle-income family can rival the cost of housing and be double the cost of food. Even though most of us recognize the critical part that child care plays in the economic survival of families, we often fail to recognize it as a basic cost which consumes a significant portion of a family's income.

Parents can only purchase child care they can afford. While the supply of child care has increased over the past 10 years, shortages are still the norm for those in rural areas, those with school-aged children, and for lower-income families. Those who do find care that is affordable and convenient are often unsatisfied with the quality of the care their child receives. In fact, one quarter of all parents would change their child care arrangement if they could find and afford something better.

The quality of child care in America is very troubling. A recent nationwide study found that 40 percent of the child care provided to infants in child care centers was potentially injurious. Fifteen-percent of center-based child care providers for all preschoolers are so bad that a child's health and safety are threatened; 70 percent are mediocre—not hurting or helping children; and 15 percent actively promote a child's development. Center-based child care, the object of this study, is the most heavily regulated and frequently monitored type of child care. Children in less regulated settings are predicted to be far worse.

Combining the research on the quality of child care with the breakthroughs on the development of the human brain produces a very disturbing situation. Many children enter child care by 11 weeks of age, are in care for close to 30 hours a week, and often stay in some form of child care until they enter school. During that same period of life, a child's brain is undergoing a series of extraordinary changes.

In the first 3 years of life, the brain either makes the connections it needs for learning or it atrophies, making later efforts at remediation in learning, behavior, and thinking difficult, at best. The experiences and stimulation that a caretaker provide to a child are the foundations upon which all future learning is built. The brain's greatest and most critical growth spurt is between birth and 10 years of age—precisely the time when non-parental child care is most frequently utilized. A Time magazine special report on ''How a Child's Brain Develops'' (February 3, 1997) said it best, ''. . . Good, affordable day care is not a luxury or a fringe benefit for welfare mothers and working parents but essential brain food for the next generation.'' While bad child care can seriously impair a child's development, high-quality child care significantly increases the chances of good developmental outcomes for children.

Think about it. At the most important time in the development of a child's brain, 12 million children are being cared for by people who are paid less than the person who picks up your garbage each week, and are required to have less training and less skills-based testing than the person who cuts your hair. Child care providers play an important role in a child's development, for they help fine-tune the child's capacity to think and process information, social skills, emotional health, and acquisition of language.

Last year, our goal in child care was to streamline Federal assistance by creating a cohesive structure for Federal assistance and to provide sufficient Government funds to subsidize child care for welfare recipients who were transitioning into work. This year our goal must be to promote the healthy development of children in child care. I am worried that the pressure of the need to accommodate the increasing demand for child care will force many into forgoing quality just to increase the number of child care slots available.

This amendment, then, incorporates modifications to five different sections of the Tax Code. Each of the provisions has been included to solve a specific problem in an effort to improve the quality of child care. Taken as a whole, these provisions represent a comprehensive effort to increase the supply while simultaneously creating a demand for high-quality child care, and making it affordable for low- and middle-income families.

To offset the cost of these changes, my amendment reduces, but does not eliminate, the dependent care tax credit for upper-income taxpayers and the amount that an employee can place in a dependent care assistance plan used to reimburse non-accredited or non-credential child care is gradually decreased. In addition, the amendment expands the coordinated enforcement efforts of the Internal Revenue Service and the HHS Office of Child Support Enforcement, which will significantly reduce the amount of fraud related to illegal tax deduction and credit claims by non-custodial parents.

The first provision in the amendment makes several changes in the Child and Dependent Care Tax Credit [CDCTC]. This tax credit is the largest tax-based subsidy for child care. My amendment raises the income level for the receipt of the highest percentage of employment-related child care costs from $10,000 to $20,000. The percentage is decreased at a rate of 1 percent for each additional $2,500 in adjusted gross income and sets a minimum percentage of 10 percent for incomes of $70,000 and above.

This change represents a more equitable distribution of limited resources

based on the percentage of income a family must use to meet child care expenses. For families qualifying for the EITC, my amendment makes the child care tax credit refundable, on a quarterly basis. This will enable many low-income working families to move from part-time to full-time employment, by easing the burden of child care costs and having the money available at regular intervals throughout the year.

Finally, the amendment establishes, over a 5-year period, different rates for the tax credit, dependent on whether the child care is provided in an accredited child care facility or by a credentialed professional. This will reward parents who choose high-quality child care and help defray the additional costs of that care.

I am sensitive to the concerns of colleagues who object to reducing the child care tax credit. But before you judge this reduction too harshly, let's put it into perspective. The tax credit remains at or above the current rate of 20 percent for parents with adjusted gross incomes of $45,000 or less, regardless of the type of child care. The median income of families with children nationally is $37,000. While there are wide differences in between States, there are only four States where the median exceeds $45,000 AGI triggering a reduction in the current rate of 20 percent. Most States are significantly below this trigger.

At the end of the 5-year phase in period, the tax credit remains at or above the current 20 percent rate for families with an AGI of $55,000. No States have median incomes of families with children which exceed the $55,000 AGI level for high quality child care which triggers a reduction below current child care tax rate. Families with incomes at or above $70,000 will still receive a tax credit of 10 percent, increased to 12.5 percent if high quality care is used.

In terms of money, a 1 percent decrease in the child care tax credit equals $24 when care for one child is claimed, and $48 for two or more children. Families making $70,000 or more are the hardest hit by my amendment. Yet their maximum financial cost is $240 a year for one child, or $480 a year for two or more children—about half of one percent of their adjusted gross income.

The second area of changes occurs in the Dependent Care Assistance Plan [DCAP]. The amendment increases the amount that an employee can contribute to a DCAP account, if the funds are used to pay for the care of two or more eligible persons. In addition, the amount of DCAP contributions is increased for high-quality care and decreased for care that is provided by an unaccredited child care facility or a person who has not received a professional credential. These differential rates are phased in over a 5-year period in order for child care providers to achieve accreditation or become credentialed in child care.

Current law prohibits DCAP from being used to pay relatives for care. While I support needed controls on the use of DCAP accounts in most cases, my amendment would make a very limited exception to this prohibition. DCAP payments could be made to pay a parent or grandparent to care for a newborn child. The DCAP account could be joined at anytime during a pregnancy. The funds would be available for up to 12 months from the date of deposit into the employee's DCAP account—because babies have a timetable all their own when it comes time to be born.

The last change my amendment makes in DCAP is through the addition of a requirement that Federal employees have the opportunity to contribute to Dependent Care Assistance Plans. Private employees, as well as many State and local governments, have had DCAP available for their employees since 1981. Consistent with the intent of the Congressional Accountability Act, I want to make this child care subsidy available to Federal workers, including legislative branch employees.

Child care is a growing concern to businesses big and small. Employers are coming to the realization that affordable, convenient high-quality child care is a critical element in hiring and retaining skilled employees. Many companies, such as Johnson & Johnson, IBM, and others have been very innovative in providing child care assistance for their employees. Small businesses in particular are finding it difficult to meet the child care needs of their employees, but recognize the importance of that help.

I am defering to my colleague from Wisconsin, Senator KOHL, who has an excellent amendment providing a tax credit to businesses who provide child care services and support for their employees. My amendment included a similar provision, but because Senator KOHL has been working on this aspect of child care for so long, I dropped my provision and urge my colleagues to vote for his amendment as well as this one.

Current law prohibits businesses from receiving a charitable deduction for donations made to public entities, such as schools and child care services. My amendment will extend eligibility for a business charitable deduction to the donation of educational equipment and supplies donated to public schools, public child care providers and public child care support entities, such as resource and referral services. If child care is to improve and meet the developmental needs of our Nation's children, every available resource must be made available. Computers which are discarded because they are too slow or have insufficient hard drive capacity, can be the first step into the computer-age for a small child or the link to professional training for a child care provider.

A critical part of improving the quality of child care is professional development for child care providers. Since the 1970's there has been a decline in child care teacher salaries. In 1990, teachers in child care centers earned an average of $11,500 a year. Assistant teachers, the largest growing segment of child care professionals, were paid 10 to 20 percent less than child care teachers. The 1990 annual income of regulated family child care providers was $10,944 which translates to about $4 an hour. Nonregulated family child care, generally comprised of providers taking care of a smaller number of children, earned an average of $4,275 a year—substantially less than minimum wage. With these wages, it is easy to understand why more child care providers do not participate in professional training or attend college classes to improve their skills. The costs of applying for and receiving certification as a qualified child care professional are minimal, but understandably out of reach for many child care providers.

My amendment will exempt expenses directly related to child care accreditation or becoming credentialed from the 2 percent floor that is applied to miscellaneous itemized deductions. This will at least permit child care providers to receive a full deduction for the expenses associated with improving the child care services which they provide. This incentive for professional growth and the development of new skills is a small but critical part of my overall effort to support high-quality child care.

The last provision in my amendment creates a very limited exception to the executive use rule governing the tax deduction for home office expenses. The amendment will permit the mixed use of home office space for business and personal purposes to allow a person to care for his or her child. In some ways, the need for this exception comes down to fundamental fairness. How many school days, snow days and other times do children accompany their parents into work? I can always tell when the schools are unexpectedly closed, by the increased number of little people I see in Senate offices and eateries. I have been in Senate offices and other workplaces when a crib or playpen is clearly in evidence. Yet, none of us question whether our offices are exclusively for business use. One of the big incentives for telecommuting and home-based business is to allow parents to have more time with their families, yet existing law would keep a new mother from legitimately claiming a home office deduction if she has her child read a book or play in a corner of the room where she is working.

The need for high-quality child care is compelling. Having affordable, convenient child care is tied directly to a family's ability to produce income. Good child care can be an effective way to support the healthy development of children, particularly in the acquisition of social and language skills. For the millions of children who spend much of their pre-school lives being cared for by someone other than their parents, child care provides the foundation upon which all future education

will be built—and determines to a large extent whether that foundation will be strong or weak.

As we all know, quality child care costs money. It costs money to parents who bear the biggest burden for the cost of child care. It costs businesses both through the direct assistance that they provide to employees to help with the costs of child care, and through their ability to hire and retain a skilled work force. It costs Government through existing tax provisions, direct spending, and discretionary spending targeted at child care. But the costs of not making this investment are even higher. Those costs can be measured in the cost of remedial education, the increase of an unskilled labor force, the increase in prison populations, and most importantly, the blunted potential of millions of children.

I urge my colleagues to support my amendment to the budget reconciliation act.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AN AMENDMENT TO BE PROPOSED BY SENATOR JEFFORDS ON THE BUDGET RECONCILIATION ACT OF 1997 TO IMPROVE THE QUALITY OF CHILD CARE

Changes to the Tax Code to encourage improvements in child care services and options for meeting employment-related child care needs—multiple provisions.

Proposed Amendment: To amend the Internal Revenue Code to encourage the demand for and supply of high quality child care by:

(1) Making the following changes in the Dependent Care Tax Credit—

(a) Increasing the percentage of child care expenses to 30 percent for families with incomes at or below $20,000 AGI; decreased at the rate of 1 percent for every $2,500 AGI over $20,000 to a minimum of 10 percent for AGI over $70,000

(b) Phasing in a differential percentage (over 5 years) if the child care is provided in an accredited center or by a credentialed professional; At the end of the phase in period, there is a 25 percent differential in the percentage of the tax credit between high-quality child care and other child care

(c) Making the Dependent Care Tax Credit refundable beginning in 2002, for taxpayers eligible for the EITC, including the differential percentage (see b above) for high quality child care.

(2) Making the following changes in the Dependent Care Assistance Program—

(a) The amount of money that can be placed in a Dependent Care Assistance Program by an employee is increased for accredited or credentialed child care, increased if there is more than one qualified dependent, and decreased if child care is provided in non-accredited child care or with a non-credentialed child care professional—phased in over 5 years

(b) An exception in the calendar year spending requirement and prohibition against its use to pay relatives for providing care is made to make it possible for a parent or grandparent to provide care for a newborn child

(c) Federal employees are provided the opportunity of enrolling in a dependent care assistance plan

(3) Extending the eligibility for businesses to take a qualified charitable deduction for the donation of educational equipment and material to public schools and accredited or credentialed non-profit child care providers and child care support entities.

(4) Exempting the expenses related to achieving and maintaining child care accreditation and credentialing from the 2 percent floor applicable to miscellaneous itemized deductions.

(5) Excepting the mixed use of home office space for business and personal purposes to allow for the care of a dependent from the exclusive use rule governing home office deductions.

Reasons for Change: The increase in the number or employed women with young children, combined with recent reforms in the welfare system, has placed tremendous pressures on states and communities to dramatically expand the amount of available child care. Studies on the relationship between quality child care and job retention, employment absenteeism, and job acquisition clearly identifies that the quality and safety of child care is as important as the existence of child care services. In addition, the recent research on the development of the human brain underscores how child care affects the development of the tomorrow's workers and citizens. The Committee for Economic Development recently issued a report which identified changes in federal tax policies, training of child care workers, incentives for certification, educational resources, and increased business involvement as critical to efforts to improve the quality of child care. The tax code changes included in this amendment address each of these issues.

Summary of each provision:

I. CHANGES TO THE DEPENDENT CARE TAX CREDIT

A. Percent of the current $2,400 work related child care expenses ($4,800 for 2 or more dependents):

Initial percentage reduced by 1 percent for each $2,500 by which the taxpayer's AGI exceeds $20,000 but does not exceed $70,000—rate does not reduce below 12.5 percent for accredited/credentialed child care, 10 percent for non-accredited/non-credentialed child care.

A 25 percent rate differential for accredited or credentialed child care (as defined in the bill) is phased in over 5 years.

For child care provided in non-accredited facilities or by non-credentialed providers, the initial percentage is 30 percent and the phase out percentage is 10 percent, regardless of the year.

Initial and phase out percentage for accredited/credentialied child care:

Taxable year beginning in—	Initial percent	Phaseout percent
1998	31.5	12.5
1999	33.0	12.5
2000	34.5	12.5
2001	36.0	12.5
2002	37.5	12.5

B: Credit made refundable for Low Income Tax Payers:

Applicable taxpayers are those for whom credit under section 32 of the tax code (EITC) is allowable for the taxable year.

Coordinated with advance payments and minimum tax rules, including eligibility certification and advance payment table.

Applies to taxable years beginning December 31, 2001.

II. EXPANSION OF DEPENDENT CARE ASSISTANCE PROGRAM

A. Change in Dollar Limitation:

Applies to child care only—not elder or other dependent care.

Change in rates for child in accredited/credentialed child care:

Taxable years beginning in:	For 1 qualifying child	2 or more qualifying child
1998	$5,200	$6,700
1999	5,400	6,900
2000	5,600	7,100
2001	5,800	7,300
2002 and thereafter	6,000	7,500

Change in rates for child NOT in accredited/credentialed child care:

Taxable years beginning in—	For 1 qualifying child	2 or more qualifying child
1998	$4,800	$6,300
1999	4,600	6,100
2000	4,400	5,900
2001	4,200	5,700
2002 and thereafter	4,000	5,500

B. Changes in eligibility for Dependent Care Assistance Program:

Exception in calendar year spending requirement and prohibition against using Dependent Care Assistance Program to pay relative providing care.

During pregnancy, parent may elect to join the employer's Dependent Care Assistance Program at any time during pregnancy.

If parent signs up during a pregnancy, each deposit into the individual's Dependent Care Assistance Account may be available for use for a 12 month period.

If parent signs up during a pregnancy, the funds may be used to reimburse a parent or spouse to remain at home with the newborn child as an alternative to placing the child in child care in order to return to work.

Federal employees must be provided with the opportunity to enroll in a Dependent Care Assistance Program.

III. CHARITABLE DEDUCTION FOR DONATING EDUCATIONAL EQUIPMENT & MATERIALS

Extending eligibility for qualified charitable deduction for business donation of educational equipment and materials to public schools, accredited or credentialed non-profit child care providers, and public or non-profit child care support entities.

IV. TAX DEDUCTION FOR SPECIFIC EDUCATIONAL EXPENSES FOR INDIVIDUAL CHILD CARE PROVIDERS

Exemption from the 2% floor on applicable to miscellaneous itemized deductions is provided for educational expenses directly related to achieving or maintaining child care accreditation or professional child care credentials for individuals deriving at least 60% of their taxable income through the provision of child care services.

V. CHANGE IN HOME OFFICE DEDUCTION

Limited exception to the exclusive use rule permitting mixed use of space for business and personal purposes in the case of taxpayers who conduct home-based business while caring for dependents.

Revenue Estimate: 4.11 Billion over 10 years.

Revenue Offset: To offset these increases, the dependent care tax credit is reduced (not eliminated) for upper-income taxpayers and the amount that an employee can place in a dependent care assistance plan used to reimburse non-accredited or non-credential child care is decreased. In addition, the amendment expands the coordinated enforcement efforts of the Internal Revenue Service and the HHS Office of Child Support Enforcement, which will significantly reduce the amount of fraud related to illegal tax deduction and credit claims by non-custodial parents.

For the Purpose of this Amendment:

The terms credential and accreditation are used to refer to formal credentialing and accreditation processes by a private non-profit or public entity that is state recognized

(minimum requirements: age-appropriate health and safety standards, age-appropriate developmental and educational activities as an integral part of the program, outside monitoring of the program/individual, accreditation/credentialing instruments based on peer-validated research, programs/facilities meet any applicable state and local licensing requirements, and on-going staff development-training which includes related skills testing). There are several organizations and a few states that currently provide accreditation and/or credentialing for early childhood development programs, child care and child care providers.

LEVIN (AND McCAIN) AMENDMENT NO. 556

Mr. ROTH (for Mr. LEVIN for himself and Mr. MCCAIN) proposed an amendment to the bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

SEC. . SENSE OF THE SENATE REGARDING TAX TREATMENT OF STOCK OPTIONS.

(a) FINDINGS.—The Senate finds that—

(1) currently businesses can deduct the value of stock options as business expense on their income tax returns, even though the stock options are not treated as an expense on the books of these same businesses; and

(2) stock options are the only form of compensation that is treated in this way.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Committee on Finance of the Senate should hold hearings on the tax treatment of stock options.

ENZI (AND OTHERS) AMENDMENT NO. 557

Mr. ROTH (for Mr. ENZI for himself, Mr. HAGEL, Mr. HUTCHINSON, Mr. GRAMS, Mr. ROBERTS, Mr. INHOFE, Mr. THOMAS, Mr. ALLARD, Mr. LUGAR, Mr. SANTORUM, Mr. FRIST, Mr. BURNS, and Mr. SESSIONS) proposed an amendment to the bill, S. 949, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . SENSE OF THE SENATE ON ESTATE TAXES.

(a) The Senate finds that whereas—

(1) The Federal estate tax punishes hard working small business owners and discourages savings and growth; and

(2) The Federal estate tax imposes an unfair economic burden on small businesses and reduces their ability to survive and compete with large corporations; and

(3) A reduction in Federal estate taxes for family-owned farms and enterprises will help to prevent the liquidation of small businesses that strengthen American communities by providing jobs and security;

(b) It is the Sense of the Senate that—

(1) The estate tax relief provided in this bill is an important step that will enable more family-owned farms and small businesses to survive and continue to provide economic security and job creation in American communities; and

(2) Congress should eliminate the Federal estate tax liability for family-owned businesses by the end of 2002 on a deficit-neutral basis.

DODD AMENDMENT NO. 558

Mr. ROTH (for Mr. DODD) proposed an amendment to the bill, S. 949, supra; as follows:

On page 77, between lines 11 and 12, insert the following:

SEC. . TREATMENT OF CANCELLATION OF CERTAIN STUDENT LOANS.

(a) CERTAIN LOANS BY EXEMPT ORGANIZATIONS.—

(1) IN GENERAL.—Paragraph (2) of section 108(f) (defining student loan) is amended by striking ''or'' at the end of subparagraph (B) and by striking subparagraph (D) and inserting the following:

''(D) any educational organization described in section 170(b)(1)(A)(ii) if such loan is made—

''(i) pursuant to an agreement with any entity described in subparagraph (A), (B), or (C) under which the funds from which the loan was made were provided to such educational organization, or

''(ii) pursuant to a program of such educational organization which is designed to encourage its students to serve in occupations with unmet needs or in areas with unmet needs and under which the services provided by the students (or former students) are for or under the direction of a governmental unit or an organization described in section 501(c)(3) and exempt from tax under section 501(a).

The term 'student loan' includes any loan made by an educational organization so described or by an organization exempt from tax under section 501(a) to refinance a loan meeting the requirements of the preceding sentence.''

(2) EXCEPTION FOR DISCHARGES ON ACCOUNT OF SERVICES PERFORMED FOR CERTAIN LENDERS.—Subsection (f) of section 108 is amended by adding at the end the following new paragraph:

''(3) EXCEPTION FOR DISCHARGES ON ACCOUNT OF SERVICES PERFORMED FOR CERTAIN LENDERS.—Paragraph (1) shall not apply to the discharge of a loan made by an organization described in paragraph (2)(D) (or by an organization described in paragraph (2)(E) from funds provided by an organization described in paragraph (2)(D)) if the discharge is on account of services performed for either such organization.''

(b) CERTAIN STUDENT LOANS THE REPAYMENT OF WHICH IS INCOME CONTINGENT.—Paragraph (1) of section 108(f) is amended by striking ''any student loan if'' and all that follows and inserting ''any student loan if—

''(A) such discharge was pursuant to a provision of such loan under which all or part of the indebtedness of the individual would be discharged if the individual worked for a certain period of time in certain professions for any of a broad class of employers, or

''(B) in the case of a loan made under part D of title IV of the Higher Education Act of 1965 which has a repayment schedule established under section 455(e)(4) of such Act (relating to income contingent repayments), such discharge is after the maximum repayment period under such loan (as prescribed under such part).''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges of indebtedness after the date of the enactment of this Act.

GRAMS AMENDMENT NO. 559

Mr. ROTH (for Mr. GRAMS) proposed an amendment to the bill, S. 949, supra; as follows:

''(j) QUALIFIED GAMES OF CHANCE.—

(1) IN GENERAL.—The term 'unrelated trade or business' does not include the activity of qualified games of chance.

(2) QUALIFIED GAMES OF CHANCE.—For purposes of this subsection, the term 'qualified games of chance means any game of chance, other than provided in subsection (f), conducted by an organization if—

''(A) such organization is licensed pursuant to State law to conduct such game,

''(B) only organizations which are organized as nonprofit corporations or are exempt from tax under section 501(a) may be so licensed to conduct such game within the State, and

''(C) the conduct of such game does not violate State or local law.''

DORGAN AMENDMENTS NOS. 560–561

Mr. ROTH (for Mr. DORGAN) proposed two amendments to the bill, S. 949, supra; as follows:

AMENDMENT NO. 560

On page 211, between lines 5 and 6, insert the following:

SEC. 724. DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS MAY BE USED WITHOUT PENALTY TO REPLACE OR REPAIR PROPERTY DAMAGED IN PRESIDENTIALLY DECLARED DISASTER AREAS.

(a) IN GENERAL.—Section 72(t)(2) (relating to exceptions to 10-percent additional tax on early distributions), as amended by sections 203 and 303, is amended by adding at the end the following new subparagraph:

''(G) DISTRIBUTIONS FOR DISASTER-RELATED EXPENSES.—Distributions from an individual retirement plan which are qualified disaster-related distributions.''

(b) QUALIFIED DISASTER-RELATED DISTRIBUTIONS.—Section 72(t), as amended by sections 203 and 303, is amended by adding at the end the following new paragraph:

''(9) QUALIFIED DISASTER-RELATED DISTRIBUTIONS.—For purposes of paragraph (2)(E)—

''(A) IN GENERAL.—The term 'qualified disaster-related distribution' means any payment or distribution received by an individual to the extent that the payment or distribution is used by such individual within 60 days of the payment or distribution to pay for the repair or replacement of tangible property which is disaster-damaged property.

''(B) LIMITATIONS.—

''(i) ONLY DISTRIBUTIONS WITHIN 2 YEARS.—The term 'qualified disaster-related distribution' shall only include any payment or distribution which is made during the 2-year period beginning on the date of the determination referred to in subparagraph (D).

''(ii) DOLLAR LIMITATION.—Such term shall not include distributions to the extent the amount of such distributions exceeds $10,000 during the 2-year period described in clause (i).

''(C) DISASTER-DAMAGED PROPERTY.—The term 'disaster-damaged property' means property—

''(i) which was located in a disaster area on the date of the determination referred to in subparagraph (C), and

''(ii) which was destroyed or substantially damaged as a result of the disaster occurring in such area.

''(D) DISASTER AREA.—The term 'disaster area' means an area determined by the President during 1997 to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1996, with respect to disasters occurring after such date.

SEC. 725. ELIMINATION OF 10 PERCENT FLOOR FOR DISASTER LOSSES.

(a) GENERAL RULE.—Section 165(h)(2)(A) (relating to net casualty loss allowed only to the extent it exceeds 10 percent of adjusted gross income) is amended by striking clauses (i) and (ii) and inserting the following new clauses:

''(i) the amount of the personal casualty gains for the taxable year,

''(ii) the amount of the federally declared disaster losses for the taxable year (or, if lesser, the net casualty loss), plus

''(iii) the portion of the net casualty loss which is not deductible under clause (ii) but only to the extent such portion exceeds 10 percent of the adjusted gross income of the individual.

For purposes of the preceding sentence, the term 'net casualty loss' means the excess of personal casualty losses for the taxable year over personal casualty gains.''

(b) FEDERALLY DECLARED DISASTER LOSS DEFINED.—Section 165(h)(3) (relating to treatment of casualty gains and losses) is amended by adding at the end the following new subparagraph:

''(C) FEDERALLY DECLARED DISASTER LOSS.—

''(i) IN GENERAL.—The term 'federally declared disaster loss' means any personal casualty loss attributable to a disaster occurring during 1997 in an area subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

''(ii) DOLLAR LIMITATION.—Such term shall not include personal casualty losses to the extent such losses exceed $10,000 for the taxable year.''

(c) CONFORMING AMENDMENT.—The heading for section 165(h)(2) is amended by striking ''NET CASUALTY LOSS'' and inserting ''NET NONDISASTER CASUALTY LOSS''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to losses attributable to disasters occurring after December 31, 1996, including for purposes of determining the portion of such losses allowable in taxable years ending before such date pursuant to an election under section 165(i) of the Internal Revenue Code of 1986.

On page 211, between lines 5 and 6, insert the following:

SECTION 724. ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.

(a) IN GENERAL.—Section 6404 (relating to abatements) is amended by adding at the end the following:

''(h) ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.—

''(1) IN GENERAL.—If the Secretary extends for any period the time for filing income tax returns under section 6081 and the time for paying income tax with respect to such returns under section 6161 (and waives any penalties relating to the failure to so file or so pay) for any individual located in a Presidentially declared disaster area, the Secretary shall abate for such period the assessment of any interest prescribed under section 6601 on such income tax.

''(2) PRESIDENTIALLY DECLARED DISASTER AREA.—For purposes of paragraph (1), the term 'Presidentially declared disaster area' means, with respect to any individual, any area which the President has determined during 1997 warrants assistance for the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance.

''(3) INDIVIDUAL.—For purposes of this subsection, the term 'individual' shall not include any estate or trust.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disasters declared after December 31, 1996.

BIDEN AMENDMENT NO. 562

Mr. ROTH (for Mr. BIDEN) proposed an amendment to the bill, S. 949, supra; as follows:

At the appropriate place, insert the following:

SEC. . SURVIVOR BENEFITS FOR PUBLIC SAFETY OFFICERS KILLED IN THE LINE OF DUTY.

IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 138 as section 139 and by inserting after section 137 the following new section:

''SEC. 138. SURVIVOR BENEFITS ATTRIBUTABLE TO SERVICE BY A PUBLIC SAFETY OFFICER WHO IS KILLED IN THE LINE OF DUTY.

''(a) IN GENERAL.—Gross income shall not include any amount paid as a survivor annuity on account of the death of a public safety officer (as such term is defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968) killed in the line of duty—

''(1) if such annuity is provided under a governmental plan which meets the requirements of section 401(1) to the spouse (or a former spouse) of the public safety officer or to a child of such officer; and

''(2) to the extent such annuity is attributable to such officer's service as a public safety officer.

''(b) EXCEPTIONS.—

''(1) IN GENERAL.—Subsection (a) shall not apply with respect to the death of any public safety officer if—

''(A) the death was caused by the intentional misconduct of the officer or by such officer's intention to bring about such officer's death;

''(B) the officer was voluntarily intoxicated (as defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968) at the time of death; or

''(C) the officer was performing such officer's duties in a grossly negligent manner at the time of death.

''(2) EXCEPTION FOR BENEFITS PAID TO CERTAIN INDIVIDUALS.—Subsection (a) shall not apply to any payment to an individual whose actions were a substantial contributing factor at the death of the officer.

(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received in taxable years beginning after December 31, 1996, with respect to individuals dying after such date.

DODD (AND D'AMATO) AMENDMENT NO. 563

Mr. ROTH (for Mr. DODD for himself and Mr. D'AMATO) proposed an amendment to the bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

SEC. . TREATMENT OF CERTAIN DISABILITY BENEFITS RECEIVED BY FORMER POLICE OFFICERS OR FIREFIGHTERS.

(a) GENERAL RULE.—For purposes of determining whether any amount to which this section applies is excludable from gross income under section 104(a)(1) of the Internal Revenue Code of 1986, the following conditions shall be treated as personal injuries or sickness in the course of employment:

(1) Heart disease.

(2) Hypertension.

(b) AMOUNTS TO WHICH SECTION APPLIES.—his section shall apply to any amount—

(1) which is payable—

(A) to an individual (or to the survivors of an individual) who was a full-time employee of any police department or fire department which is organized and operated by a State, by any political subdivision thereof, or by any agency or instrumentality of a State or political subdivision thereof, and

(B) under a State law (as in existence on July 1, 1992) which irrebuttably presumed that heart disease and hypertension are work-related illnesses but only for employees separating from service before such date; and

(2) which is received in calendar year 1989, 1990, or 1991.

For purposes of the preceding sentence, the term ''State'' includes the District of Columbia.

(c) WAIVER OF STATUTE OF LIMITATIONS.—If, on the date of the enactment of this Act (or at any time within the 1-year period beginning on such date of enactment) credit or refund of any overpayment of tax resulting from the provisions of this section is barred by any law or rule of law, credit or refund of such overpayment shall, nevertheless, be allowed or made if claim therefore is filed before the date 1 year after such date of enactment.

SECTION . REMOVAL OF DOLLAR LIMITATION ON BENEFIT PAYMENTS FROM A DEFINED BENEFIT PLAN MAINTAINED FOR CERTAIN POLICE AND FIRE EMPLOYEES.

(a) IN GENERAL.—Subparagraph (G) of section 415(b)(2) of the Internal Revenue Code of 1986 is amended by striking ''participant—'' and all that follows and inserting ''participant, subparagraphs (C) and (D) of this paragraph and subparagraph (B) of paragraph (1) shall not apply.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1996.

BOXER AMENDMENT NO. 564

Mr. ROTH (for Mrs. BOXER) proposed an amendment to the bill, S. 949, supra; as follows:

On page 208, between lines 16 and 17, insert the following:

SEC. . DIVERSIFICATION IN SECTION 401(k) PLAN INVESTMENTS.

(a) LIMITATIONS ON INVESTMENT IN EMPLOYER SECURITIES AND EMPLOYER REAL PROPERTY BY CASH OR DEFERRED ARRANGEMENTS.—Section 407(d)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1107(d)(3)) is amended by adding at the end the following:

''(D)(i) The term 'eligible individual account plan' does not include that portion of an individual account plan that consists of elective deferrals (as defined in section 402(g)(3) of the Internal Revenue Code of 1986) pursuant to a qualified cash or deferred arrangement as defined in section 401(k) of the Internal Revenue Code of 1986 (and earnings allocable thereto) are required to be invested in qualifying employer securities or qualifying employer real property or both pursuant to the documents and instruments governing the plan or at the direction of a person other than the participant on whose behalf such elective deferrals are made to the plan (or the participant's beneficiary).

''(ii) For purposes of subsection (a), such portion shall be treated as a separate plan.

''(iii) This subparagraph shall not apply to an individual account plan if the fair market value of the assets of all individual account plans maintained by the employer equals not more than 10 percent of the fair market value of the assets of all pension plans maintained by the employer.

''(iv) This subparagraph shall not apply to an individual account plan that is an employee stock ownership plan as defined in

section 409(a) or 4975(e)(7) of the Internal Revenue Code.''.

(v) This subparagraph shall not apply to an individual account plan if not more than 1 percent of an employees eligible compensation deposited to the plan as an elective deferral (as so defined) is required to be invested in the qualifying employer securities.

(b) EFFECTIVE DATE.—(1) IN GENERAL.—The amendments made by this section shall apply to employer securities and employer real property acquired after the beginning of the first plan year beginning after the 90th day after the date of enactment of this Act.

(2) SPECIAL RULE FOR CERTAIN ACQUISITIONS.—Employer securities and employer real property acquired pursuant to a binding written contract to acquire such securities and real property in effect on the date of enactment of this Act and at all times thereafter, shall be treated as acquired immediately before such date.

DASCHLE AMENDMENT NO. 565

Mr. ROTH (for Mr. DASCHLE) proposed an amendment to the bill, S. 949, supra; as follows:

Beginning on page 189, line 24, strike ''and'' and all that follows through page 190, line 1, and insert the following:

''(III) capital expenditures related to rail operations for Class II or Class III rail carriers in the State,

''(IV) any project that is eligible to receive funding under section 5309, 5310, or 5311 of title 49, United States Code,

''(V) any project that is eligible to receive funding under section 130 of title 23, United States Code, and

''(VI) the payment of interest.

Mr. DASCHLE. Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the Record, as follows:

DASCHLE AMENDMENT TO S. 949 TO EXPAND USES OF INTERCITY PASSENGER RAIL FUND FOR NON-AMTRAK STATES

LIMITATIONS PROPOSED BY S. 949

The Finance Committee bill creates an Intercity Passenger Rail Fund financed by 0.5 cent per gallon of the federal fuel excise taxes primarily to finance Amtrak. The bill also sets aside 1% of annual program funds per year for each state with no Amtrak service. The six states currently lacking Amtrak service are South Dakota, Wyoming, Oklahoma, Maine, Alaska and Hawaii. However, the bill *limits* the use of those funds by non-Amtrak States to: (1) intercity passenger rail or bus service capital improvements and maintenance, or (2) The purchase of intercity passenger rail services from the National Railroad Passenger Corporation.

PROBLEMS POSED TO NON-AMTRAK STATES

South Dakota and some of the other non-Amtrak states have no passenger rail service and only limited intercity bus service. This type of funding would not significantly benefit these states, nor could they wisely invest funds in such service.

AMENDMENT ALLOWS NON-AMTRAK STATES TO USE FUNDS PRODUCTIVELY

The amendment would expand the use of funding provided to non-Amtrak states under this provision to include the expenditure of such funds for:

1. Rural and public transportation projects that are eligible for funding under Sections 5309 (discretionary transit-urban areas), 5310 (transit capital for the elderly and handicapped), and 5311 (rural transit capital and operations) of Title 49 USC. Rural public transportation (a portion of which is intercity in nature in transporting elderly and disabled from small towns to larger cities for medical care, shopping and other purposes, as well as providing local nutritional needs and mobility) is extremely important and needed in South Dakota in order to deal with the vast aging population in a sparsely populated area. During FY 1996 in the State, rural public transportation operators provided 1,114,672 rides and traveled 2,102,414 miles transporting the elderly and disabled of which over 50% of the rides were for medical, employment and nutritional needs. However, only about two-thirds of the State currently has access to limited Public Transportation, and over half of the existing transit vehicles in the providers' fleets are older than 7 years or have over 1000,000 miles. Therefore this funding would address significant public transit needs.

2. Rail/highway crossing safety projects that are eligible for funding under Section 130 of Title 23, USC. Only 219 out of 2025 of South Dakota's rail/highway crossings are signalized, and there is a tremendous unmet need to improve the safety of rail/highway crossings in the state.

3. Capital expenditures related to rail operations for Class II and Class III railroads within the state. Only railroads that are primarily regional carriers-not large railroads would be eligible for assistance. This is extremely important for states like South Dakota which depends on regional carriers and has made a major investment on its own and currently owns approximately 50% of the rail lines operating in the state in order to provide a core rail transportation system to benefit the state's agricultural economy.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that two joint oversight hearings have been scheduled before the Committee on Energy and Natural Resources and the House Resources Committee.

The hearings will take place Wednesday, July 9, 1997 at 11 a.m. and Thursday, July 10, 1997 at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of the hearings is to receive testimony on the Final Draft of the Tongass Land Management Plan as the first step in the congressional review process provided by the 1996 amendments to the Regulatory Flexibility Act.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510. For further information, please call Judy Brown or Mark Rey at (202) 224–6170.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ROTH. Mr. President, I ask unanimous consent that the Committee on Commerce, Science and Transportation be authorize to meet on Thursday, June 26, 1997, at 2 p.m. on pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ROTH. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, June 26 for purposes of conducting a Subcommittee on Forests and Public Land Management hearing which is scheduled to begin at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ROTH. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, June 26 for purposes of conducting a Subcommittee on National Parks, Historic Preservation, and Recreation hearing which is scheduled to begin at 2 p.m.

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROTH. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, June 26, at 4 p.m. for a business meeting on issues relating to the matter of issuing subpoenas for the special investigation hearings.

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. ROTH. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate on Thursday, June 26, 1997, to markup legislation pending in the Committee. The markup will begin at 9:30 a.m. in room 428A of the Russell Senate Office Building.

THE PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CLEAN AIR, WETLANDS, PRIVATE PROPERTY, AND NUCLEAR SAFETY

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety be granted permission to conduct an oversight hearing Thursday, June 26, 1997, 9:30 a.m., Hearing Room (SD–406), on recent administrative changes and judicial decisions relating to Section 404 of the Federal Water Pollution Control Act.

THE PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, EXPORT AND TRADE PROMOTION

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Export and Trade Promotion of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 26, 1997, at 9:30 a.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. ROTH. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, June 26, 1997, to hold a hearing on the prevalence of waste fraud and abuse in the health care industry, with particular focus on Medicare.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SECURITIES

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, June 26, 1997, to conduct an oversight hearing on Social Security investments in the securities markets.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

DAVID G. UNGER, ASSOCIATE CHIEF OF THE USDA FOREST SERVICE

• Ms. SNOWE. Mr. President, I would like to take a few minutes to recognize a distinguished civil servant and new resident of the State of Maine.

My colleagues know the value of having experienced, wise, and seasoned legislators in our midst to work through many of the difficult and complex issues we face on a daily basis. We can all appreciate the tremendous loss, therefore, at the Department of Agriculture when Associate Chief Dave Unger retires from his post at the Forest Service at the end of this month.

Mr. Unger has 40 years of experience working with natural resource issues in the public arena. Most recently he has been second in command at the Forest Service, engaged in the management of the National Forest System, the Forest Service research priorities, State and private forestry programs, international forestry issues, and administrative responsibilities. As one of the most heavily forested States in the country, Maine has benefitted from his leadership through technical assistance to landowners, advanced wood products manufacturing technology from the research program, and recreational opportunities in our own corner of the White Mountain National Forest.

In addition to serving as Associate Chief for the Forest Service, Mr. Unger was Deputy Assistant Secretary for Natural Resources and Environment, Associate Chief for the Soil Conservation Service, executive vice president of the National Association of Conservation Districts, Director of the Pennsylvania State Soil and Water Commission, among other leadership posts in the natural resources and conservation arena.

Recently, Mr. Unger was honored by the President of the United States with a Distinguished Executive Rank Award. In 1991, President Bush awarded him the Presidential Meritorious Executive Rank Award. He is a fellow of the Soil and Water Conservation Society and has been recognized by many other organizations for his contributions over a long and productive career helping farmers, conserving forests and protecting wildlife.

I am also pleased to say that Mr. Unger has chosen one of the most beautiful places in the world to retire with his wife, Carolyn. He will become a permanent resident of Maine where I am sure our communities, farmers, foresters, and others will continue to reap the benefits of his illustrious career. I want to welcome the Ungers Downeast, congratulate Mr. Unger on a full and productive career, and wish them both the best in their retirement in Maine.•

TRIBUTE TO MRS. MERRILL CATT AND THE RICE PADDY KIDS

• Mr. BUMPERS. Mr. President, I rise today to pay tribute to Mrs. Merrill Catt, a speech therapist in the Weiner, AR, public school system and eight of her students who participated in a year-long project entitled ''The Rice Paddy Kids''. This project was designed to teach economics and provide hands-on learning experience to the students who ranged from third to eighth grade and were receiving speech/language therapy and resource services.

Because the students live in the heart of the rice-producing region of Arkansas, which is the leading rice-producing State in the United States, the project focused on the production and marketing of rice. In the initial phase of the project the students gathered information and knowledge about rice and its economic impact locally and nationally. The second phase of the project consisted of hands-on learning opportunities as the students planned, advertised, and produced products containing rice and marketed their products to the student body and the community. In addition to the applications of economic concepts and basic skills contained in each phase, curriculum activities were incorporated to improve the students' individual language deficiencies. The students concluded the project by planning and implementing a rice banquet for their parents, business supporters, teachers, school administration and community members.

What I've just summarized in several paragraphs takes many long hours of hard work and dedication to plan, organize, and implement. This is the second economic project Mrs. Catt has successfully undertaken to expand the knowledge and capabilities of her speech and language students, and I commend her for her initiative and willingness to go the extra mile for the benefit of her students and school. In addition to teaching these students about rice, she has shown them what can be accomplished when the important principles of responsibility, cooperation, perseverance, and innovation are utilized. I also congratulate the eight ''Rice Paddy Kids'' for a job well done. Not only are these students the benefactors of the project but they are an integral part of its success. While educating and helping themselves, they also educated and benefited their school and community.

There are many school systems in Arkansas that are larger in terms of student population and funding than the Weiner school system. However, the accomplishments of Mrs. Catt and ''The Rice Paddy Kids'' are a perfect example of how bigger is not always better. They have demonstrated a principle in which I firmly believe: being from a small town is no excuse not to think big and achieve great things.•

TRIBUTE TO FLIP KLEFFNER

• Mr. CRAIG. Mr. President, today I would like to take a few moments to pay tribute to Flip Kleffner who, after a long and distinguished career as University of Idaho alumni director, will be retiring June 30.

I take a personal interest in his retirement because, as a fellow University of Idaho graduate, I've been the beneficiary of all his work.

Flip has served as alumni director for the past 15 years and has been involved with the University of Idaho most of his life. He is a former student body president and was a standout athlete who excelled at basketball, baseball, and football. In fact, he still holds the school record for the longest punt at 82 yards.

Flip has always made everything he does a very personal effort. In that regard, he's a tremendous example of how one person really can make a difference. He has quietly given countless hours of volunteer service to his community—in everything from youth sports to education—without expecting anything in return.

In addition, his efforts to continually improve the quality of education in Idaho have helped the State keep its best and brightest at home.

Flip has a wonderful sense of humor and is one of the most personable, pleasant people I have ever had the privilege of knowing. He will be greatly missed at the university, but I'm confident he'll remain an active force for good on campus—even in retirement.

He has had a remarkable career and I wish him all the best now as he enters this new chapter in his life.•

TRIBUTE TO DR. DAN DOYLE

• Mr. ROCKEFELLER. Mr. President, improvements in health care provide America with a sense of security. Knowing there are advancements in the medical field every day gives people hope that someday we will find cures for cancer, AIDS, leukemia, and other serious diseases. Although these advancements are notable, we cannot

forget the small town doctors who are doing their part to help our fellow citizens stay healthy and fight medical problems.

That is why I take this opportunity to express admiration and appreciation for an outstanding West Virginia physician. Dr. Daniel B. Doyle has recently received the 1997 National Rural Health Association's Practitioner of the Year Award.

For 20 years, Dr. Doyle has served the health care needs of southern, rural West Virginia. Since 1977, he has directed the New River Family Health Center in Scarbro, WV. As its director, Dr. Doyle developed all the clinical systems, recruited staff, and helped guide the center's institutional policy, budget, and strategic planning. As a result of his tremendous efforts, the center now serves a county of over 50,000 people.

Today Dr. Doyle is a full-time family physician for the New River Family Health Center. Along with serving as the Director of Medical Education for the New River Health Association, he is also the director of the Fayette, Raleigh, and Nicholas rural health initiative consortium. As a small part of his endeavors with the New River Health Association, Dr. Doyle also works with the Hidden Valley Health Care Center, a 60-bed nursing home.

One of Dr. Doyle's colleagues, Jacquelynn A. Copenhaver, coordinator of the Rivers and Bridges Rural Health Education Partnerships Consortium, said, ''Doyle is involved in his community through his willingness to serve his patients whenever the need arises. He does not hesitate to make home visits, and by making those home visits, he meets the needs of the families of his patients as well as the needs of the patients themselves.''

I am extremely proud that one of this country's finest doctors is dedicated to serving the people of West Virginia. Knowing that the health of West Virginians is in such capable hands, I have added confidence that the future health of our State and Nation will get better and better.●

COMMENCEMENT ADDRESS OF PATRICIA FERRONE

● Mr. KERRY. Mr. President, I was given the opportunity recently to read a speech prepared by my Executive Assistant, Patricia Ferrone, on the occasion of her graduation from the University of Maryland University College. I think this speech embodies many of the ideals we often talk about here on the floor of the United States Senate, and I commend all of our colleagues to take a moment and read her very thoughtful and insightful perspectives on education today. I ask it be printed in the RECORD.

The speech follows:

COMMENCEMENT ADDRESS, UNIVERSITY OF MARYLAND CLASS OF 1997

My name is Patricia Ferrone, and two years ago I enrolled in the Open Learning program at the University of Maryland University College. Today, I am thrilled to be a member of the University of Maryland's class of 1997.

Twenty years ago, I adhered to a strict interpretation of Mark Twain's adage that you should never let schooling interfere with your education. After all, how in the world was I to get on with my life if all I did was go to school? How could I find a good job, make a living, and gain experience if all I did was sit in a classroom?

What I didn't realize then was that education is not designed to limit our experience, but to broaden our perspective. I didn't realize that education is a rite of passage from darkness to light, from ignorance to analysis, from having a narrow vision to acquiring a sweeping view of the immense, rich, and colorful world around us, and from living in one moment in space and time to understanding ourselves and our place in history and in the universe.

Twenty years ago, I didn't realize that education is much more than day to day experiences in a limited world. But today, I know that education is the difference between being and becoming; it is discovering that the world I live in is not the only world that exists. Today I know that education is timeless, and I've learned that education is a rite of passage to a true understanding of society, the world, and ultimately of ourselves.

The education we've been lucky enough to receive here at the University of Maryland, has not been about sitting in a classroom and learning to parrot mathematical functions or names and dates, or other people's ideas. It is more fundamental. Here, we have been taught how to think for ourselves and how to look into ourselves and our history and learn the reference points of civilization so that we fully comprehend and appreciate the times in which we live.

Therefore, it is important for all of us to understand that the education we have acquired here is not some kind of job training program. Because if we think it is, if we treat it like it is, then we will have failed, for we will have trapped ourselves in our time, never understanding that civilization is a continuing journey, and that there is a precedence for our failures and our success, and we must learn what they are.

Our society and our personal lives will always contain areas of uncertainty and confusion; we will always be confronted by more questions than answers. Education alone will never be a panacea for curing society's ills or for defeating our own personal challenges. But I am convinced that obtaining an education is a moral imperative for improving the quality of our own individual lives and, ultimately, improving the quality of life around us. Today I am certain that education is the key to the treasures of the universe, and it is also the key that unlocks the riches that lie inside each of us.

Over the past several years, we have all worked hard to earn our degrees. During the process, we were confronted by the anxieties of new possibilities, but our commitment to our goal inspired us to meet the challenge. We all refused to believe that we had limitations. So our graduation today is a personal rite of passage that we should all be proud of and should celebrate. But, my hope for all of us is that the passion that drove our commitment does not end here.

I can stand before you now and say with certainty that Mark Twain and I were wrong. It is through schooling that we learn the broader view of where we have been, and therefore understand where we are, so that we can logically think about where we want to go. I know the education I have received here has been my compass. It has set me on course and given me direction.

I am eternally grateful to all my instructors and to the University of Maryland University College for making this experience one of the richest and most profound learning experiences of my life. Now I understand that education is the catalyst that turns knowledge and experience into wisdom—and gaining wisdom is more than a rite of passage, it is a lifetime process.●

COMMENTS BY SENATOR SNOWE AT WOMEN'S SUFFRAGE STATUE REDEDICATION

● Ms. SNOWE. Mr. President, I would like to share with my colleagues a speech I gave today at the rededication ceremony for the Suffrage Statue. I ask that my speech be printed in the RECORD.

The speech follows:

Thank you, Lynn, for that kind introduction. It is a pleasure and honor to be here on a day that recognizes the importance of the role of women in our nation. Speaker Gingrich, you honor us with your presence and the women of America appreciate your efforts and support in returning this statue to its rightful place. And I would also like to commend Karen Staser and Joan Meecham, co-chairs of the Women's Suffrage Statute Campaign—what a wonderful day this must be to see your hard work come to fruition in such a splendid fashion.

And make no mistake: this effort has meant a great deal of hard work, and the colleagues I join today deserve special recognition for their tireless crusade to ensure that this statue is part of these hallowed halls. The outstanding attendance at this ceremony here in the Rotunda speaks to the symbolic importance of this re-dedication.

As you know, for years this statue was relegated to the crypt beneath our feet. In fact, a fitting title for the story of the women's suffrage statue could be ''Tales from the Crypt''. While Lady Liberty has stood proudly atop the dome of the United States Capitol, the ladies who fought to make that liberty real for women have languished in its basement.

In 1995 when a number of us sought the relocation of the statue to its originally intended spot—the Rotunda—we thought that it was a little thing to ask. We never could have imagined that this request, which on its merits seemed so straightforward, would become so problematic. The bottom line is, the debate should not have been about the weight of the statue, but the weight of an argument . . . and the worth of a just cause. When Susan B. Anthony said, ''What is this little thing we are asking for? It seems so little, yet it is everything'' she was talking about a woman's right to vote—but she could have been speaking about the moving of her own statue.

The difficult and circuitous journey these ladies have had from Crypt to Rotunda is in many ways emblematic of women's struggles for justice and equality throughout our history. For too long, women in this country had to endure the myth of what—or where—a ''woman's place'' should be. According to the out-of-date stereotype, a woman's place used to be only in the parlor, the kitchen, and, I suppose, the crypt. Since then, a lot has changed. Today, a woman's place is in the House, the Senate, and yes, in the Rotunda.

But it was not always this way. It took 73 long years beginning at the Seneca Falls Convention in 1848—spanning two centuries, eighteen Presidencies, and three wars—for women to get the right to vote. That's what it took before women won the right to shape

their destinies through full participation in this republic.

Well, it's hard to believe that it has taken them 76 more years—and fourteen more Presidencies—to earn a place of dignity for these three women who fought valiantly for that right . . . three women who changed America—Susan B. Anthony, Elizabeth Cady Stanton, and Lucretia Mott.

But the day has finally arrived and I am extremely pleased to help celebrate their long-overdue ''change of address'', one that is fitting for the accomplishments they bestowed on a grateful nation. There is no question about the symbolic importance of their new home. The Rotunda is the epicenter, if you will, of our American democracy. The Rotunda is ''the symbolic and physical heart of the United States Capitol'', according to the Architect of the Capitol.

What that means is simply this: what adorns the Rotunda matters. And having this statue here will matter to the throngs of Americans who come to Washington to be inspired by its symbolism. It will matter to the young girls who tours The Capitol and ask of the significance of these heroines. And it matters that visitors from the furthest flung reaches of the globe leave with no doubt about the importance we place on the participation of women in the greatest democracy that this world has ever seen.

The Rotunda's gilded halls will now not only reverberate with the images of our forefathers, but with our foremothers as well. Granted, the statues and monuments that have inhabited the Rotunda are of great men whose words and actions bequeathed a nation and people who today stand alone at the summit of civilization.

But we also know that women have played their roles in reaching the summit, as did these three women—Susan B. Anthony, Lucretia Mott, and Elizabeth Cady Stanton—in dedicating their lives to getting women into voting booths and out of the shadows of civic life. How could we do no less than to fight to bring their memory out of the shadows of the Crypt? After all, if we are to celebrate all that women have accomplished in America, we must celebrate those who gave life to our dreams. If we are to appreciate all that we have, we must appreciate those who fought for our opportunity to have it. And if we are to exercise our rights with strength and wisdom, we must understand that they came to us not by entitlement but by struggle.

As we bring the likenesses of these women into the light of day, so too do we take a step toward bringing history into the light of truth. Because for too long, women were the forgotten lines in the narrative of humankind. As these great ladies finally receive the recognition they have earned, let their spirit inspire us to honor and study other heroic women in history who also deserve recognition—like Sojourner Truth, who spoke so eloquently for African-American women. Indeed, it is my sincere hope that Sojourner Truth will soon join these ladies in the Rotunda where a woman of her courage and stature belongs.

Truth and her remarkable story also highlights the importance of the effort that has begun to create a National Women's History Museum. When you consider that we have memorialized Archie Bunker's chair and Norm's bar stool in a museum in the Nation's Capital—and I think that's fine—it's not unreasonable to think that there should be a place in Washington to memorialize all that women have contributed to America.

That's why I spearheaded a letter last month to President Clinton, signed by 20 of my Senate colleagues, urging him to establish a Task Force responsible for developing such a museum. This museum will ensure that women's accomplishments are never again relegated to the cellar of the annals of history.

So let us celebrate today and honor these three great American women. They had courage. They had tenacity. They had strength. And they've certainly had patience.

It's been 76 years since our country began to fulfill Susan B. Anthony's vision of ''Men, their rights and nothing more; women, their rights and nothing less''. It was the first dramatic step toward the realization that a country founded on the vestment of power in the people would not survive if over half those people were silenced. Let the story these women have to tell be silenced no longer. Let everyone who passes through this grandest of buildings forever hear their voices, and be inspired by lives led in pursuit of justice.

MEMORIAL TO KRISTY DANIELLE VAUGHN

• Mr. ALLARD. Mr President, Kristy Danielle Vaughn, daughter of Gary and Kelli Vaughn, of Joes, Co, was a promising young student about to report for duty this month at the United States Military Academy at West Point. She had been nominated for an appointment there by former U.S. Senator Hank Brown and myself when I served in the U.S. House of Representatives.

She was a leader in her high school government, 4–H Club, sports, and school organizations, and received numerous awards in all areas. With all these responsibilities, she also gave much of her time to the duties of her family's farm. This bright young woman was suddenly killed in an auto accident recently as she was on her way to the All State Basketball finals in Greeley, CO.

Kristy very actively contributed her time and talents to her school and her community. She will be greatly missed in Joes, and her opportunities and contributions at West Point will never be realized. •

TRIBUTE TO THE COMMUNITY OF MATTAWA, WA

• Mr. GORTON. Mr. President, last weekend, I had the opportunity to spend time along the banks of the Columbia River in the town of Mattawa, WA. I held a field hearing there to explore various proposals to preserve a stretch of the Columbia River's pristine beauty, and to ensure that one of our State's great natural assets remains protected.

The community of Mattawa opened its doors to me, to my staff, and to all of those who testified at and attended the public hearing, which attracted nearly 1,000 people. I want to thank the people of the community who so generously welcomed us, and worked so diligently to ensure that our hearing was a success. Without their attention to detail and enthusiasm, such civil discourse in so comfortable a setting would not have been possible. We could not have asked for finer hosts.

Our public hearing was held at the Saddle Mountain Intermediate School, in Mattawa. I would especially like to thank Dr. Bill Miller, superintendent of the Wahluke School District for all of his efforts on our behalf. Also, I would like to thank all of those in law enforcement, the school staff, and the volunteers who made our hearing such a success:

Mattawa Mayor Judy Essor; Ms. Luz Juarez-Stump, Saddle Mountain Intermediate School principal; Ms. Karen Hilliker, Saddle Mountain Intermediate School secretary; Mr. Mike Holland, Middle School principal; Mary Jane Holland, Wahluke School District staff; Mr. Steven Buckingham, teacher and advisor for the class of 1998; Ms. Lark Moore, Ms. Polly Weeks and Ms. Marlene Bird, staff for the Wahluke School District; Students from the Wahluke High School class of 1998, who provided us with wonderful refreshments; Andrea Eckenbuerg, chairwoman of the parent volunteers; Mr. Scott Egan, technical director for the school; Mr. Tim Schrag, maintenance supervisor; Chief of Policy Randy Blackburn and Chief Criminal Deputy Bryan Pratt who coordinated security for us.

These individuals made our visit comfortable and enjoyable, and I hope some day soon to be able to return to this beautiful, friendly part of our State.

Thank you all.•

TRIBUTE TO DR. JOHN MATHER

• Mr. SARBANES. Mr. President, it gives me great pleasure to rise today to recognize Dr. John Mather, a senior astrophysicist from Hyattsville, MD, who works at the nearby Goddard Space Flight Center [GSFC] in Greenbelt, MD. Dr. Mather has risen to the top of his field and was recently elected to the National Academy of Sciences for his distinguished and continued groundbreaking achievements in the area of original research.

As a senior Astrophysicist at Goddard, Dr. Mather serves as a Study Scientist for the Next Generation Space Telescope, which will be a successor to the Hubbel Space Telescope. He also serves as chair of the Anomaly Review Board for the HST NICMOS Instrumental as PI for the ARCADE/DIMES mission studies, as PI for a Long Term Astrophysics grant for the study of the anisotropy of the cosmic IR background, as well as other projects that will advance science well into the next century.

Since joining NASA in 1974, Dr. Mather has received a number of commendations and awards for his cutting edge work in the demanding field of astrophysics. Among his accomplishments are the Group Achievement

Award from GSFC, the Exception Achievement Award, the John C. Lindsay Memorial Award, the Group Achievement Award, the Rotary National Space Achievement Award, the National Air and Space Museum Trophy, the American Institute of Aeronautics and Astronautics Space Science Award, an Honorary Doctor of Science Degree from Swarthmore College, and the Rumford Prize from the American Academy of Arts and Sciences.

In recent years, Dr. Mather has continued to publish on the topic of the COBE FIRAS Spectrum, the Far Infrared Absolute Spectrophotometer on the Cosmic Background Explorer and other topics, always maintaining his grasp of current scientific discoveries.

A native of New Jersey, Dr. Mather grew up on the Rutgers University Dairy Research Station where his father worked as a geneticist. He went on to graduate from Swarthmore College with highest honors in Physics. He received his doctorate in Physics in 1974 from the University of California at Berkeley. We in Maryland are certainly delighted that he has since decided to become a member of the Hyattsville community and a prominent member of the NASA presence in the state.

Mr. President, Dr. Mather's election to the National Academy of Sciences is a tremendous milestone in this public servant's already magnificent career. As Dr. Mather continues to be a rising star in the astrophysics community it is truly an honor to recognize this fine Marylander for his accomplishments and I wish him continued success in future endeavors.●

BALANCED BUDGET RECONCILIATION ACT OF 1997

● Mr. SPECTER. Mr. President, I wish to explain my vote against waiving the Budget Act on the point of order raised by Senator ROCKEFELLER yesterday concerning the provisions in S. 947 on balance billing in the Medicare Program.

The Balanced Budget Act of 1997 includes a new Medicare Choice Program, allowing Medicare beneficiaries for the first time to choose from a wide range of options for receiving their Medicare coverage, including traditional fee-for-service plans, private fee-for-service plans, provider sponsored organizations, medical savings accounts, health maintenance organizations, and preferred provider organizations.

Within the context of Medicare Choice, there is an issue as to whether current law Medicare balance billing requirements should apply across the board. Under the Medicare Program, balance billing refers to the arrangement in which the Federal Government pays doctors at a given rate for treating a patient and doctors can charge up to a specific percentage above that amount.

This legislation exempts from balance billing requirements the new private fee-for-service plans and medical savings accounts. If the Rockefeller point of order were sustained and the exemptions eliminated, doctors would be less likely to participate in the Medicare Choice Program's fee-for-service or medical savings account options because balance billing would cap their charges. As a result, seniors would have fewer options for medical care under this new program. I would note that under this legislation, no senior citizen would be required to choose any specific option, and each person can analyze all of the options to determine which best suits his or her individual health care needs. Further, balance billing will still remain in effect for the other options under Medicare Choice. Accordingly, in order to maximize choices for Medicare beneficiaries, I supported the motion to waive the Budget Act to overcome the Rockefeller point of order.●

SUPREME COURT STRIKES DOWN THE COMMUNICATION DECENCY ACT

● Mr. FEINGOLD. Mr. President, I rise to applaud today's U.S. Supreme Court decision striking down the Communications Decency Act as an unconstitutional restriction of free speech on the Internet, affirming the 1996 lower court decision.

In striking down the provisions of the CDA, which effectively censors the speech of adults on the Internet, the Court stated ''We agree with the District Court's conclusion that the CDA places an unacceptably heavy burden on protected speech.'' The Court concluded that the CDA ''threatens to torch a large segment of the Internet community.''

Mr. President, this decision is a victory not only for Internet users, it is a victory for all Americans who hold the first amendment right to free speech among their most cherished rights.

The Senator from Vermont [Senator LEAHY] and I spoke in opposition to the CDA when it was first brought to the Senate floor in 1995 during consideration of the Telecommunications Act. The high court decision pointed out the many flaws of the CDA that the Senator from Vermont and I raised before the legislation was approved. Among other concerns, we pointed out that indecency restrictions which have been upheld when applied to other media, were unconstitutional when applied to the Internet due to its unique nature. We urged our colleagues to study the problem and the potential solutions more carefully before they rushed headlong to pass what we knew to be unconstitutional legislation. Ultimately, the CDA passed the Senate in June 1995 with only 2 hours of debate and no Congressional hearings. The lack of congressional consideration of the CDA's problems was among the reasons cited by the Court in its finding that the act violated the first amendment. In failing to carefully examine the problem, the Congress merely tied the CDA up in Court for over a year while getting no closer to its goal of protecting children on the Internet.

Both the Supreme Court, and the lower court before it, conducted an exhaustive review of the nature of the Internet and of the technologies that exist to protect children and concluded that the CDA was an unconstitutional restriction on the free speech of adults that was not narrowly tailored to the goal of protecting kids on the Net.

Specifically, Mr. President, the Supreme Court found that:

Other laws restricting speech that have been upheld by the Supreme Court are substantially different from the CDA. Fundamentally, the Court determined that unlike other media that have been subject to some speech restrictions, the Internet receives full first amendment protection. Additionally, the Court pointed out that restrictions previously upheld by the High Court have been time, place and manner restrictions, rather than ''content-based blanket restriction on speech.'' Those differences bring into question the constitutionality of the CDA rather than confirming it.

The characteristics of other media that have some speech restrictions, such as the scarcity of broadcast spectrum and the invasive nature of broadcast media, do not apply to the Internet.

The combination of criminal penalties for violations and the vague nature of the ''indecency'' prohibition will chill speech on the Internet because speakers will not know which speech is prohibited and which is acceptable.

The breadth of the indecency standard in the CDA is unprecedented.

The CDA attempts to protect children by suppressing constitutionally protected speech of adults. This burden of speech is constitutionally unacceptable because less restrictive means of achieving the Government's goal are available.

Mr. President, the Supreme Court correctly struck down the Communications Decency Act. While this decision precludes enforcement of the act, Congress should act quickly to repeal the CDA. It is time to conduct a thorough and thoughtful review of constitutional methods to protect children on the Internet from those who would seek to harm them.

Mr. President, I urge my colleagues to read today's Supreme Court decision striking down the Communications Decency Act and work toward more effective solutions to protect our kids.●

THE BALANCED BUDGET ACT OF 1997

The text of H.R. 2015, as amended by S. 947, is as follows:

Resolved, That the bill from the House of Representatives (H.R. 2015) entitled ''An Act to provide for reconciliation pursuant to section 104(a) of the concurrent resolution on

the budget for fiscal year 1998.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Balanced Budget Act of 1997''.

SEC. 2. TABLE OF TITLES.

The table of titles for this Act is as follows:

Title I. Committee on Agriculture, Nutrition, and Forestry.
Title II. Committee on Banking, Housing, and Urban Affairs.
Title III. Committee on Commerce, Science, and Transportation.
Title IV. Committee on Energy and Natural Resources.
Title V. Committee on Finance.
Title VI. Committee on Governmental Affairs.
Title VII. Committee on Labor and Human Resources.
Title VIII. Committee on Veterans' Affairs.

TITLE I—COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

SEC. 1001. HARDSHIP EXEMPTION.

Section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o)) is amended—

(1) in paragraph (2)(D), by striking ''or (5)'' and inserting ''(5), or (6)'';

(2) by redesignating paragraph (6) as paragraph (7); and

(3) by inserting after paragraph (5) the following:

''(6) 15-PERCENT HARDSHIP EXEMPTION.—

''(A) DEFINITIONS.—In this paragraph:

''(i) CASELOAD.—The term 'caseload' means the average monthly number of individuals receiving food stamps during the 12-month period ending the preceding June 30.

''(ii) COVERED INDIVIDUAL.—The term 'covered individual' means a food stamp recipient, or an individual denied eligibility for food stamp benefits solely due to paragraph (2), who—

''(I) is not eligible for an exception under paragraph (3);

''(II) does not reside in an area covered by a waiver granted under paragraph (4);

''(III) is not complying with subparagraph (A), (B), or (C) of paragraph (2);

''(IV) is not receiving food stamp benefits during the 3 months of eligibility provided under paragraph (2); and

''(V) is not receiving food stamp benefits under paragraph (5).

''(B) GENERAL RULE.—Subject to subparagraphs (C) through (F), a State agency may provide a hardship exemption from the requirements of paragraph (2) for covered individuals.

''(C) FISCAL YEAR 1998.—Subject to subparagraph (E), for fiscal year 1998, a State agency may provide a number of hardship exemptions such that the average monthly number of the exemptions in effect during the fiscal year does not exceed 15 percent of the number of covered individuals in the State in fiscal year 1998, as estimated by the Secretary, based on the survey conducted to carry out section 16(c) for fiscal year 1996 and such other factors as the Secretary considers appropriate due to the timing and limitations of the survey.

''(D) SUBSEQUENT FISCAL YEARS.—Subject to subparagraphs (E) and (F), for fiscal year 1999 and each subsequent fiscal year, a State agency may provide a number of hardship exemptions such that the average monthly number of the exemptions in effect during the fiscal year does not exceed 15 percent of the number of covered individuals in the State, as estimated by the Secretary under subparagraph (C), adjusted by the Secretary to reflect changes in the State's caseload and the Secretary's estimate of changes in the proportion of food stamp recipients covered by waivers granted under paragraph (4).

''(E) CASELOAD ADJUSTMENTS.—The Secretary shall adjust the number of individuals estimated for a State under subparagraph (C) or (D) during a fiscal year if the number of food stamp recipients in the State varies from the caseload by more than 10 percent, as determined by the Secretary.

''(F) EXEMPTION ADJUSTMENTS.—For fiscal year 1999 and each subsequent fiscal year, the Secretary shall increase or decrease the number of individuals who may be granted a hardship exemption by a State agency to the extent that the average monthly number of hardship exemptions in effect in the State for the preceding fiscal year is greater or less than the average monthly number of hardship exemptions estimated for the State agency for such preceding fiscal year.

''(G) REPORTING REQUIREMENT.—A State agency shall submit such reports to the Secretary as the Secretary determines are necessary to ensure compliance with this paragraph.''.

SEC. 1002. ADDITIONAL FUNDING FOR EMPLOYMENT AND TRAINING.

Section 16(h) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)) is amended by striking paragraphs (1) and (2) and inserting the following:

''(1) IN GENERAL.—

''(A) AMOUNTS.—To carry out employment and training programs, the Secretary shall reserve for allocation to State agencies, to remain available until expended, from funds made available for each fiscal year under section 18(a)(1) the amount of—

''(i) for fiscal year 1996, $75,000,000;

''(ii) for fiscal year 1997, $79,000,000;

''(iii) for fiscal year 1998, $221,000,000;

''(iv) for fiscal year 1999, $224,000,000;

''(v) for fiscal year 2000, $226,000,000;

''(vi) for fiscal year 2001, $228,000,000; and

''(vii) for fiscal year 2002, $170,000,000.

''(B) ALLOCATION.—The Secretary shall allocate the amounts reserved under subparagraph (A) among the State agencies using a reasonable formula (as determined by the Secretary) that reflects the proportion of food stamp recipients who are not eligible for an exception under section 6(o)(3) that reside in each State, as estimated by the Secretary based on the survey conducted to carry out subsection (c) for fiscal year 1996 and such other factors as the Secretary considers appropriate due to the timing and limitations of the survey (as adjusted by the Secretary each fiscal year to reflect changes in each State's caseload (as defined in section 6(o)(5)(A))).

''(C) REALLOCATION.—If a State agency will not expend all of the funds allocated to the State agency for a fiscal year under subparagraph (B), the Secretary shall reallocate the unexpended funds to other States (during the fiscal year or the subsequent fiscal year) as the Secretary considers appropriate and equitable.

''(D) MINIMUM ALLOCATION.—Notwithstanding subparagraph (B), the Secretary shall ensure that each State agency operating an employment and training program shall receive not less than $50,000 for each fiscal year.

''(E) PLACEMENTS.—Of the amount of funds reserved for a State agency for a fiscal year under subparagraphs (A) through (D), the State agency shall be eligible to receive for the fiscal year not more than an amount equal to the sum of—

''(i) the product obtained by multiplying—

''(I) the average monthly number of food stamp recipients who during the fiscal year—

''(aa) are not eligible for an exception under section 6(o)(3); and

''(bb) are placed in and comply with a program described in subparagraph (B) or (C) of section 6(o)(2), other than a program described in subparagraph (A) or (B) of section 6(o)(1); by

''(II) an amount determined by the Secretary to reflect the reasonable cost of efficiently and economically providing services that meet the requirements of subparagraph (B) or (C) of section 6(o)(2) to food stamp recipients described in subclause (I) for the fiscal year, as periodically adjusted by the Secretary; and

''(ii) the product obtained by multiplying—

''(I) the average monthly number of food stamp recipients in activities not described in clause (i)(I)(bb) who during the fiscal year are placed in and comply with an employment and training program; by

''(II) an amount determined by the Secretary to reflect the reasonable cost of efficiently and economically providing employment and training services to food stamp recipients described in subclause (I) for the fiscal year that is less than the amount determined under clause (i)(II), as periodically adjusted by the Secretary.

''(F) USE OF FUNDS.—Of the amount of funds a State agency receives under subparagraphs (A) through (E) for a fiscal year, not less than 75 percent shall be used by the State agency in the fiscal year to serve food stamp recipients described in subparagraph (E)(i)(I)(aa) who are placed in and comply with a program described in subparagraph (E)(i)(I)(bb).

''(G) MAINTENANCE OF EFFORT.—To receive an amount reserved under subparagraph (A), a State agency shall maintain the expenditures of the State agency for employment and training programs and workfare programs for any fiscal year under paragraph (2), and administrative expenses under section 20(g)(1), at a level that is not less than 75 percent of the level of the expenditures by the State agency to carry out the programs for fiscal year 1996.

''(2) ADDITIONAL PAYMENTS TO STATES.—If a State agency—

''(A) incurs costs to place individuals in employment and training programs, including the costs for case management and casework to facilitate the transition from economic dependency to self-sufficiency through work; and

''(B) does not use the funds provided under paragraph (1)(A) to defray the costs incurred;

the Secretary shall pay the State agency an amount equal to 50 percent of the costs incurred, subject to paragraph (3).''.

SEC. 1003. DENIAL OF FOOD STAMPS FOR PRISONERS.

(a) STATE PLANS.—

(1) IN GENERAL.—Section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)) is amended by striking paragraph (20) and inserting the following:

''(20) that the State agency shall establish a system and take action on a periodic basis—

''(A) to verify and otherwise ensure that an individual does not receive coupons in more than 1 jurisdiction within the State; and

''(B) to verify and otherwise ensure that an individual who is placed under detention in a Federal, State, or local penal, correctional, or other detention facility for more than 30 days shall not be eligible to participate in the food stamp program as a member of any household, except that—

''(i) the Secretary may determine that extraordinary circumstances make it impracticable for the State agency to obtain information necessary to discontinue inclusion of the individual; and

''(ii) a State agency that obtains information collected under section 1611(e)(1)(I)(i)(I) of the Social Security Act (42 U.S.C. 1382(e)(1)(I)(i)(I)) through an agreement under section 1611(e)(1)(I)(ii)(II) of that Act (42 U.S.C. 1382(e)(1)(I)(ii)(II)), or under another program determined by the Secretary to be comparable to the program carried out under that section, shall be considered in compliance with this subparagraph.''.

(2) LIMITS ON DISCLOSURE AND USE OF INFORMATION.—Section 11(e)(8)(E) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)(E)) is amended by striking ''paragraph (16)'' and inserting ''paragraph (16) or (20)(B)''.

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall take effect on the date that is 1 year after the date of enactment of this Act.

(B) EXTENSION.—The Secretary of Agriculture may grant a State an extension of time to comply with the amendments made by this subsection, not to exceed beyond the date that is 2 years after the date of enactment of this Act, if the chief executive officer of the State submits a request for the extension to the Secretary—

(i) stating the reasons why the State is not able to comply with the amendments made by this subsection by the date that is 1 year after the date of enactment of this Act;

(ii) providing evidence that the State is making a good faith effort to comply with the amendments made by this subsection as soon as practicable; and

(iii) detailing a plan to bring the State into compliance with the amendments made by this subsection as soon as practicable and not later than the date of the requested extension.

(b) INFORMATION SHARING.—Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020) is amended by adding at the end the following:

''(q) DENIAL OF FOOD STAMPS FOR PRISONERS.—The Secretary shall assist States, to the maximum extent practicable, in implementing a system to conduct computer matches or other systems to prevent prisoners described in section 11(e)(20)(B) from receiving food stamp benefits.''.

SEC. 1004. NUTRITION EDUCATION.

Section 11(f) of the Food Stamp Act of 1977 (7 U.S.C. 2020(f)) is amended—

(1) by striking ''(f) To encourage'' and inserting the following:

''(f) NUTRITION EDUCATION.—

''(1) IN GENERAL.—To encourage''; and

(2) by adding at the end the following:

''(2) GRANTS.—

''(A) IN GENERAL.—The Secretary shall make available not more than $600,000 for each of fiscal years 1998 through 2001 to pay the Federal share of grants made to eligible private nonprofit organizations and State agencies to carry out subparagraph (B).

''(B) ELIGIBILITY.—A private nonprofit organization or State agency shall be eligible to receive a grant under subparagraph (A) if the organization or agency agrees—

''(i) to use the funds to direct a collaborative effort to coordinate and integrate nutrition education into health, nutrition, social service, and food distribution programs for food stamp participants and other low-income households; and

''(ii) to design the collaborative effort to reach large numbers of food stamp participants and other low-income households through a network of organizations, including schools, child care centers, farmers' markets, health clinics, and outpatient education services.

''(C) PREFERENCE.—In deciding between 2 or more private nonprofit organizations or State agencies that are eligible to receive a grant under subparagraph (B), the Secretary shall give a preference to an organization or agency that conducted a collaborative effort described in subparagraph (B) and received funding for the collaborative effort from the Secretary before the date of enactment of this paragraph.

''(D) FEDERAL SHARE.—

''(i) IN GENERAL.—Subject to subparagraph (E), the Federal share of a grant under this paragraph shall be 50 percent.

''(ii) NO IN-KIND CONTRIBUTIONS.—The non-Federal share of a grant under this paragraph shall be in cash.

''(iii) PRIVATE FUNDS.—The non-Federal share of a grant under this paragraph may include amounts from private nongovernmental sources.

''(E) LIMIT ON INDIVIDUAL GRANT.—A grant under subparagraph (A) may not exceed $200,000 for a fiscal year.''.

TITLE II—COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Subtitle A—Mortgage Assignment and Annual Adjustment Factors

SEC. 2001. TABLE OF CONTENTS.

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Sec. 2002. Extension of foreclosure avoidance and borrower assistance provisions for FHA single family housing mortgage insurance program.
Sec. 2003. Adjustment of maximum monthly rents for certain dwelling units in new construction and substantial or moderate rehabilitation projects assisted under section 8 rental assistance program.
Sec. 2004. Adjustment of maximum monthly rents for nonturnover dwelling units assisted under section 8 rental assistance program.

Subtitle B—Multifamily Housing Reform

Sec. 2100. Short title.

PART 1—FHA-INSURED MULTIFAMILY HOUSING MORTGAGE AND HOUSING ASSISTANCE RESTRUCTURING

Sec. 2101. Findings and purposes.
Sec. 2102. Definitions.
Sec. 2103. Authority of participating administrative entities.
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Sec. 2106. Prohibition on restructuring.
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PART 2—MISCELLANEOUS PROVISIONS

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SUBPART A—FHA SINGLE FAMILY AND MULTIFAMILY HOUSING

Sec. 2311. Authorization to immediately suspend mortgagees.
Sec. 2312. Extension of equity skimming to other single family and multifamily housing programs.
Sec. 2313. Civil money penalties against mortgagees, lenders, and other participants in FHA programs.

SUBPART B—FHA MULTIFAMILY PROVISIONS

Sec. 2320. Civil money penalties against general partners, officers, directors, and certain managing agents of multifamily projects.
Sec. 2321. Civil money penalties for noncompliance with section 8 HAP contracts.
Sec. 2322. Extension of double damages remedy.
Sec. 2323. Obstruction of Federal audits.

SEC. 2002. EXTENSION OF FORECLOSURE AVOIDANCE AND BORROWER ASSISTANCE PROVISIONS FOR FHA SINGLE FAMILY HOUSING MORTGAGE INSURANCE PROGRAM.

Section 407 of The Balanced Budget Downpayment Act, I (12 U.S.C. 1710 note) is amended—

(1) in subsection (c)—

(A) by striking ''only''; and

(B) by inserting '', on, or after'' after ''before''; and

(2) by striking subsection (e).

SEC. 2003. ADJUSTMENT OF MAXIMUM MONTHLY RENTS FOR CERTAIN DWELLING UNITS IN NEW CONSTRUCTION AND SUBSTANTIAL OR MODERATE REHABILITATION PROJECTS ASSISTED UNDER SECTION 8 RENTAL ASSISTANCE PROGRAM.

The third sentence of section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) is amended by inserting before the period at the end the following: '', and during fiscal year 1999 and thereafter''.

SEC. 2004. ADJUSTMENT OF MAXIMUM MONTHLY RENTS FOR NONTURNOVER DWELLING UNITS ASSISTED UNDER SECTION 8 RENTAL ASSISTANCE PROGRAM.

The last sentence of section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) is amended by inserting before the period at the end the following: '', and during fiscal year 1999 and thereafter''.

Subtitle B—Multifamily Housing Reform

SEC. 2100. SHORT TITLE.

This subtitle may be cited as the ''Multifamily Assisted Housing Reform and Affordability Act of 1997''.

Part 1—FHA-Insured Multifamily Housing Mortgage and Housing Assistance Restructuring

SEC. 2101. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there exists throughout the Nation a need for decent, safe, and affordable housing;

(2) as of the date of enactment of this Act, it is estimated that—

(A) the insured multifamily housing portfolio of the Federal Housing Administration consists of 14,000 rental properties, with an aggregate unpaid principal mortgage balance of $38,000,000,000; and

(B) approximately 10,000 of these properties contain housing units that are assisted with project-based rental assistance under section 8 of the United States Housing Act of 1937;

(3) FHA-insured multifamily rental properties are a major Federal investment, providing affordable rental housing to an estimated 2,000,000 low- and very low-income families;

(4) approximately 1,600,000 of these families live in dwelling units that are assisted with project-based rental assistance under section 8 of the United States Housing Act of 1937;

(5) a substantial number of housing units receiving project-based assistance have rents that are higher than the rents of comparable, unassisted rental units in the same housing rental market;

(6) many of the contracts for project-based assistance will expire during the several years following the date of enactment of this Act;

(7) it is estimated that—

(A) if no changes in the terms and conditions of the contracts for project-based assistance are made before fiscal year 2000, the cost of renewing all expiring rental assistance contracts under section 8 of the United States Housing Act of 1937 for both project-based and tenant-based rental assistance will increase from approximately $3,600,000,000 in fiscal year 1997 to over $14,300,000,000 by fiscal year 2000 and some $22,400,000,000 in fiscal year 2006;

(B) of those renewal amounts, the cost of renewing project-based assistance will increase from $1,200,000,000 in fiscal year 1997 to almost $7,400,000,000 by fiscal year 2006; and

(C) without changes in the manner in which project-based rental assistance is provided, renewals of expiring contracts for project-based rental assistance will require an increasingly larger portion of the discretionary budget authority of the Department of Housing and Urban Development in each subsequent fiscal year for the foreseeable future;

(8) absent new budget authority for the renewal of expiring rental contracts for project-based assistance, many of the FHA-insured multifamily housing projects that are assisted with

project-based assistance will likely default on their FHA-insured mortgage payments, resulting in substantial claims to the FHA General Insurance Fund and Special Risk Insurance Funds;

(9) more than 15 percent of federally assisted multifamily housing projects are physically or financially distressed, including a number which suffer from mismanagement;

(10) due to Federal budget constraints, the downsizing of the Department of Housing and Urban Development, and diminished administrative capacity, the Department lacks the ability to ensure the continued economic and physical well-being of the stock of federally insured and assisted multifamily housing projects; and

(11) the economic, physical, and management problems facing the stock of federally insured and assisted multifamily housing projects will be best served by reforms that—

(A) reduce the cost of Federal rental assistance, including project-based assistance, to these projects by reducing the debt service and operating costs of these projects while retaining the low-income affordability and availability of this housing;

(B) address physical and economic distress of this housing and the failure of some project managers and owners of projects to comply with management and ownership rules and requirements; and

(C) transfer and share many of the loan and contract administration functions and responsibilities of the Secretary with capable State, local, and other entities.

(b) PURPOSES.—The purposes of this part are—

(1) to preserve low-income rental housing affordability and availability while reducing the long-term costs of project-based assistance;

(2) to reform the design and operation of Federal rental housing assistance programs, administered by the Secretary, to promote greater multifamily housing project operating and cost efficiencies;

(3) to encourage owners of eligible multifamily housing projects to restructure their FHA-insured mortgages and project-based assistance contracts in a manner that is consistent with this part before the year in which the contract expires;

(4) to streamline and improve federally insured and assisted multifamily housing project oversight and administration;

(5) to resolve the problems affecting financially and physically troubled federally insured and assisted multifamily housing projects through cooperation with residents, owners, State and local governments, and other interested entities and individuals; and

(6) to grant additional enforcement tools to use against those who violate agreements and program requirements, in order to ensure that the public interest is safeguarded and that Federal multifamily housing programs serve their intended purposes.

SEC. 2102. DEFINITIONS.

In this part:

(1) COMPARABLE PROPERTIES.—The term ''comparable properties'' means properties that are—

(A) similar to the eligible multifamily housing project in neighborhood (including risk of crime), location, access, street appeal, age, property size, apartment mix, physical configuration, property and unit amenities, and utilities;

(B) unregulated by contractual encumbrances or local rent-control laws; and

(C) occupied predominantly by renters who receive no rent supplements or rental assistance.

(2) ELIGIBLE MULTIFAMILY HOUSING PROJECT.—The term ''eligible multifamily housing project'' means a property consisting of more than 4 dwelling units—

(A) with rents which, on an average per unit or per room basis, exceed the fair market rent or the rent of comparable properties in the same market area, as determined by the Secretary;

(B) that is covered in whole or in part by a contract for project-based assistance under—

(i) the new construction and substantial rehabilitation program under section 8(b)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1983);

(ii) the property disposition program under section 8(b) of the United States Housing Act of 1937;

(iii) the moderate rehabilitation program under section 8(e)(2) of the United States Housing Act of 1937;

(iv) the loan management assistance program under section 8 of the United States Housing Act of 1937;

(v) section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975);

(vi) the rent supplement program under section 101 of the Housing and Urban Development Act of 1965; or

(vii) section 8 of the United States Housing Act of 1937, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965; and

(C) financed by a mortgage insured or held by the Secretary under the National Housing Act.

(3) EXPIRING CONTRACT.—The term ''expiring contract'' means a project-based assistance contract attached to an eligible multifamily housing project which, under the terms of the contract, will expire.

(4) EXPIRATION DATE.—The term ''expiration date'' means the date on which an expiring contract expires.

(5) FAIR MARKET RENT.—The term ''fair market rent'' means the fair market rental established under section 8(c) of the United States Housing Act of 1937.

(6) LOW-INCOME FAMILIES.—The term ''low-income families'' has the same meaning as provided under section 3(b)(2) of the United States Housing Act of 1937.

(7) PORTFOLIO RESTRUCTURING AGREEMENT.—The term ''Portfolio restructuring agreement'' means the agreement entered into between the Secretary and a participating administrative entity, as provided under section 2103.

(8) PARTICIPATING ADMINISTRATIVE ENTITY.—The term ''participating administrative entity'' means a public agency, including a State housing finance agency or local housing agency, which meets the requirements under section 2103(b).

(9) PROJECT-BASED ASSISTANCE.—The term ''project-based assistance'' means rental assistance under section 8 of the United States Housing Act of 1937 that is attached to a multifamily housing project.

(10) RENEWAL.—The term ''renewal'' means the replacement of an expiring Federal rental contract with a new contract under section 8 of the United States Housing Act of 1937, consistent with the requirements of this part.

(11) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development.

(12) STATE.—The term ''State'' has the same meaning as in section 104 of the Cranston-Gonzalez National Affordable Housing Act.

(13) TENANT-BASED ASSISTANCE.—The term ''tenant-based assistance'' has the same meaning as in section 8(f) of the United States Housing Act of 1937.

(14) UNIT OF GENERAL LOCAL GOVERNMENT.—The term ''unit of general local government'' has the same meaning as in section 104 of the Cranston-Gonzalez National Affordable Housing Act.

(15) VERY LOW-INCOME FAMILY.—The term ''very low-income family'' has the same meaning as in section 3(b) of the United States Housing Act of 1937.

(16) QUALIFIED MORTGAGEE.—The term ''qualified mortgagee'' means an entity approved by the Secretary that is capable of servicing, as well as originating, FHA-insured mortgages, and that—

(A) is not suspended or debarred by the Secretary;

(B) is not suspended or on probation imposed by the Mortgagee Review Board;

(C) is not in default under any Government National Mortgage Association obligation; and

(D) meets previous participation requirements.

SEC. 2103. AUTHORITY OF PARTICIPATING ADMINISTRATIVE ENTITIES.

(a) PARTICIPATING ADMINISTRATIVE ENTITIES.—

(1) IN GENERAL.—The Secretary shall enter into portfolio restructuring agreements with participating administrative entities for the implementation of mortgage restructuring and rental assistance sufficiency plans to restructure FHA-insured multifamily housing mortgages, in order to—

(A) reduce the costs of current and expiring contracts for assistance under section 8 of the United States Housing Act of 1937;

(B) address financially and physically troubled projects; and

(C) correct management and ownership deficiencies.

(2) PORTFOLIO RESTRUCTURING AGREEMENTS.—Each portfolio restructuring agreement entered into under this subsection shall—

(A) be a cooperative agreement to establish the obligations and requirements between the Secretary and the participating administrative entity;

(B) identify the eligible multifamily housing projects or groups of projects for which the participating administrative entity is responsible for assisting in developing and implementing approved mortgage restructuring and rental assistance sufficiency plans under section 2104;

(C) require the participating administrative entity to review and certify to the accuracy and completeness of a comprehensive needs assessment submitted by the owner of an eligible multifamily housing project, in accordance with the information and data requirements of section 403 of the Housing and Community Development Act of 1992, including such other data, information, and requirements as the Secretary may require to be included as part of the comprehensive needs assessment;

(D) identify the responsibilities of both the participating administrative entity and the Secretary in implementing a mortgage restructuring and rental assistance sufficiency plan, including any actions proposed to be taken under section 2106 or 2107;

(E) require each mortgage restructuring and rental assistance sufficiency plan to be prepared in accordance with the requirements of section 2104 for each eligible multifamily housing project;

(F) indemnify the participating administrative entity against lawsuits and penalties for actions taken pursuant to the agreement, excluding actions involving gross negligence or willful misconduct; and

(G) include compensation for all reasonable expenses incurred by the participating administrative entity necessary to perform its duties under this part, including such incentives as may be authorized under section 2108.

(b) SELECTION OF PARTICIPATING ADMINISTRATIVE ENTITY.—

(1) SELECTION CRITERIA.—The Secretary shall select a participating administrative entity based on the following criteria—

(A) is located in the State or local jurisdiction in which the eligible multifamily housing project or projects are located;

(B) has demonstrated expertise in the development or management of low-income affordable rental housing;

(C) has a history of stable, financially sound, and responsible administrative performance;

(D) has demonstrated financial strength in terms of asset quality, capital adequacy, and liquidity; and

(E) is otherwise qualified, as determined by the Secretary, to carry out the requirements of this part.

(2) SELECTION OF MORTGAGE RISK-SHARING ENTITIES AND FISCAL YEAR 1997 MULTIFAMILY DEMONSTRATION AUTHORITY.—Any State housing finance agency or local housing agency that is designated as a qualified participating entity under section 542 of the Housing and Community Development Act of 1992 or under section 212 of Public Law 104–204, shall automatically qualify as a participating administrative entity under this section.

(3) ALTERNATIVE ADMINISTRATORS.—With respect to any eligible multifamily housing project that is located in a State or local jurisdiction in which the Secretary determines that a participating administrative entity is not located, is unavailable, or does not qualify, the Secretary shall either—

(A) carry out the requirements of this part with respect to that eligible multifamily housing project; or

(B) contract with other qualified entities that meet the requirements of subsection (b), with the exception of subsection (b)(1)(A), the authority to carry out all or a portion of the requirements of this part with respect to that eligible multifamily housing project.

(4) PREFERENCE FOR PUBLIC HOUSING FINANCE AGENCIES AS PARTICIPATING ADMINISTRATIVE ENTITIES.—In selecting participating administrative entities under this subsection, the Secretary shall give preference to State housing finance agencies and local housing agencies.

(5) STATE AND LOCAL PORTFOLIO REQUIREMENTS.—

(A) IN GENERAL.—If the housing finance agency of a State is selected as the participating administrative entity, that agency shall be responsible for all eligible multifamily housing projects in that State, except that a local housing agency selected as a participating administrative entity shall be responsible for all eligible multifamily housing projects in the jurisdiction of the agency.

(B) RIGHT OF FIRST REFUSAL.—A participating State housing finance agency or local housing agency shall have the right of first refusal to assume responsibility for any properties it has financed.

(C) DELEGATION.—A participating administrative entity may delegate or transfer responsibilities and functions under this part to one or more interested and qualified public entities.

(D) WAIVER.—A State housing finance agency or local housing agency may request a waiver from the Secretary from the requirements of subparagraph (A) for good cause.

SEC. 2104. MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLAN.

(a) IN GENERAL.—

(1) DEVELOPMENT OF PROCEDURES AND REQUIREMENTS.—The Secretary shall develop procedures and requirements for the submission of a mortgage restructuring and rental assistance sufficiency plan for each eligible multifamily housing project with an expiring contract.

(2) TERMS AND CONDITIONS.—Each mortgage restructuring and rental assistance sufficiency plan submitted under this subsection shall be developed at the initiative of an owner of an eligible multifamily housing project, in cooperation with the qualified mortgagee servicing the loan, with a participating administrative entity, under such terms and conditions as the Secretary shall require.

(3) CONSOLIDATION.—Mortgage restructuring and rental assistance sufficiency plans submitted under this subsection may be consolidated as part of an overall strategy for more than one property.

(b) NOTICE REQUIREMENTS.—The Secretary shall establish notice procedures and hearing requirements for tenants and owners concerning the dates for the expiration of project-based assistance contracts for any eligible multifamily housing project.

(c) EXTENSION OF CONTRACT TERM.—Subject to agreement by a project owner, the Secretary may extend the term of any expiring contract or provide a section 8 contract with rent levels set in accordance with subsection (g) for a period sufficient to facilitate the implementation of a mortgage restructuring and rental assistance sufficiency plan, as determined by the Secretary.

(d) TENANT RENT PROTECTION.—If the owner of a project with an expiring Federal rental assistance contract does not agree to extend the contract, not less than 12 months prior to terminating the contract, the project owner shall provide written notice to the Secretary and the tenants and the Secretary shall make tenant-based assistance available to tenants residing in units assisted under the expiring contract at the time of expiration.

(e) MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLAN.—Each mortgage restructuring and rental assistance sufficiency plan shall—

(1) except as otherwise provided, restructure the project-based assistance rents for the eligible multifamily housing project in a manner consistent with subsection (g);

(2) allow for rent adjustments by applying an operating cost adjustment factor established under guidelines established by the Secretary;

(3) require the owner or purchaser of an eligible multifamily housing project with an expiring contract to submit to the participating administrative entity a comprehensive needs assessment, in accordance with the information and data requirements of section 403 of the Housing and Community Development Act of 1992, including such other data, information, and requirements as the Secretary may require to be included as part of the comprehensive needs assessment;

(4) require the owner or purchaser of the project to provide or contract for competent management of the project;

(5) require the owner or purchaser of the project to take such actions as may be necessary to rehabilitate, maintain adequate reserves, and to maintain the project in decent and safe condition, based on housing quality standards established by—

(A) the Secretary; or

(B) local housing codes or codes adopted by public housing agencies that—

(i) meet or exceed housing quality standards established by the Secretary; and

(ii) do not severely restrict housing choice;

(6) require the owner or purchaser of the project to maintain affordability and use restrictions for the remaining term of the existing mortgage and, if applicable, the remaining term of the second mortgage, as the participating administrative entity determines to be appropriate and consistent with the rent levels established under subsection (g), which restrictions shall be consistent with the long-term physical and financial viability character of the project as affordable housing;

(7) meet subsidy layering requirements under guidelines established by the Secretary;

(8) require the owner or purchaser of the project to meet such other requirements as the Secretary determines to be appropriate; and

(9) prohibit the owner from refusing to lease any available dwelling unit to a recipient of tenant-based assistance under section 8 of the United States Housing Act of 1937.

(f) TENANT AND COMMUNITY PARTICIPATION AND CAPACITY BUILDING.—

(1) PROCEDURES.—

(A) IN GENERAL.—The Secretary shall establish procedures to provide an opportunity for tenants of the project and other affected parties, including local government and the community in which the project is located, to participate effectively in the restructuring process established by this part.

(B) CRITERIA.—These procedures shall include—

(i) the rights to timely and adequate written notice of the proposed decisions of the owner or the Secretary or participating administrative entity;

(ii) timely access to all relevant information (except for information determined to be proprietary under standards established by the Secretary);

(iii) an adequate period to analyze this information and provide comments to the Secretary or participating administrative entity (which comments shall be taken into consideration by the participating administrative entity); and

(iv) if requested, a meeting with a representative of the participating administrative entity and other affected parties.

(2) PROCEDURES REQUIRED.—The procedures established under paragraph (1) shall permit tenant, local government, and community participation in at least the following decisions or plans specified in this part:

(A) The Portfolio Restructuring Agreement.

(B) Any proposed expiration of the section 8 contract.

(C) The project's eligibility for restructuring pursuant to section 2106 and the mortgage restructuring and rental assistance sufficiency plan pursuant to section 2104.

(D) Physical inspections.

(E) Capital needs and management assessments, whether before or after restructuring.

(F) Any proposed transfer of the project.

(3) FUNDING.—

(A) IN GENERAL.—The Secretary may provide not more than $10,000,000 annually in funding to tenant groups, nonprofit organizations, and public entities for building the capacity of tenant organizations, for technical assistance in furthering any of the purposes of this part (including transfer of developments to new owners) and for tenant services, from those amounts made available under appropriations Acts for implementing this part.

(B) ALLOCATION.—The Secretary may allocate any funds made available under subparagraph (A) through existing technical assistance programs pursuant to any other Federal law, including the Low-Income Housing Preservation and Resident Homeownership Act of 1990 and the Multifamily Property Disposition Reform Act of 1994.

(C) PROHIBITION.—None of the funds made available under subparagraph (A) may be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation.

(g) RENT LEVELS.—

(1) IN GENERAL.—Except as provided in paragraph (2), each mortgage restructuring and rental assistance sufficiency plan pursuant to the terms, conditions, and requirements of this part shall establish for units assisted with project-based assistance in eligible multifamily housing projects adjusted rent levels that—

(A) are equivalent to rents derived from comparable properties, if—

(i) the participating administrative entity makes the rent determination not later than 120 days after the owner submits a mortgage restructuring and rental assistance sufficiency plan; and

(ii) the market rent determination is based on not less than 2 comparable properties; or

(B) if those rents cannot be determined, are equal to 90 percent of the fair market rents for the relevant market area.

(2) EXCEPTIONS.—

(A) IN GENERAL.—A contract under this section may include rent levels that exceed the rent level described in paragraph (1) at rent levels that do not exceed 120 percent of the local fair market rent if the participating administrative entity—

(i) determines, that the housing needs of the tenants and the community cannot be adequately addressed through implementation of

the rent limitation required to be established through a mortgage restructuring and rental assistance sufficiency plan under paragraph (1); and

(ii) follows the procedures under paragraph (3).

(B) EXCEPTION RENTS.—In any fiscal year, a participating administrative entity may approve exception rents on not more than 20 percent of all units in the geographic jurisdiction of the entity with expiring contracts in that fiscal year, except that the Secretary may waive this ceiling upon a finding of special need in the geographic area served by the participating administrative entity.

(3) RENT LEVELS FOR EXCEPTION PROJECTS.—For purposes of this section, a project eligible for an exception rent shall receive a rent calculation on the actual and projected costs of operating the project, at a level that provides income sufficient to support a budget-based rent that consists of—

(A) the debt service of the project;

(B) the operating expenses of the project, as determined by the participating administrative entity, including—

(i) contributions to adequate reserves;

(ii) the costs of maintenance and necessary rehabilitation; and

(iii) other eligible costs permitted under section 8 of the United States Housing Act of 1937;

(C) an adequate allowance for potential operating losses due to vacancies and failure to collect rents, as determined by the participating administrative entity;

(D) an allowance for a reasonable rate of return to the owner or purchaser of the project, as determined by the participating administrative entity, which may be established to provide incentives for owners or purchasers to meet benchmarks of quality for management and housing quality; and

(E) other expenses determined by the participating administrative entity to be necessary for the operation of the project.

(h) EXEMPTIONS FROM RESTRUCTURING.—Subject to section 2106, the Secretary shall renew project-based assistance contracts at existing rents, or at a level that provides income sufficient to support a budget-based rent (including a budget-based rent adjustment if justified by reasonable and expected operating expenses), if—

(1) the project was financed through obligations such that the implementation of a mortgage restructuring and rental assistance sufficiency plan under this section is inconsistent with applicable law or agreements governing such financing;

(2) in the determination of the Secretary or the participating administrative entity, the restructuring would not result in significant section 8 savings to the Secretary; or

(3) the project has an expiring contract under section 8 of the United States Housing Act of 1937 but does not qualify as an eligible multifamily housing project pursuant to section 2102(2) of this part.

SEC. 2105. SECTION 8 RENEWALS AND LONG-TERM AFFORDABILITY COMMITMENT BY OWNER OF PROJECT.

(a) SECTION 8 RENEWALS OF RESTRUCTURED PROJECTS.—Subject to the availability of amounts provided in advance in appropriations Acts, the Secretary shall enter into contracts with participating administrative entities pursuant to which the participating administrative entity shall offer to renew or extend an expiring section 8 contract on an eligible multifamily housing project, and the owner of the project shall accept the offer, provided the initial renewal is in accordance with the terms and conditions specified in the mortgage restructuring and rental assistance sufficiency plan.

(b) REQUIRED COMMITMENT.—After the initial renewal of a section 8 contract pursuant to this section, the owner shall accept each offer made pursuant to subsection (a) to renew the contract, for the remaining term of the existing mortgage and, if applicable, the remaining term of an existing second mortgage, if the offer to renew is on terms and conditions specified in the mortgage restructuring and rental assistance sufficiency plan.

SEC. 2106. PROHIBITION ON RESTRUCTURING.

(a) PROHIBITION ON RESTRUCTURING.—The Secretary shall not consider any mortgage restructuring and rental assistance sufficiency plan or request for contract renewal if the participating administrative entity determines that—

(1) the owner or purchaser of the project has engaged in material adverse financial or managerial actions or omissions with regard to this project (or with regard to other similar projects if the Secretary determines that those actions or omissions constitute a pattern of mismanagement that would warrant suspension or debarment by the Secretary), including—

(A) materially violating any Federal, State, or local law or regulation with regard to this project or any other federally assisted project, after receipt of notice and an opportunity to cure;

(B) materially breaching a contract for assistance under section 8 of the United States Housing Act of 1937, after receipt of notice and an opportunity to cure;

(C) materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity, after receipt of notice and an opportunity to cure;

(D) repeatedly and materially violating any Federal, State, or local law or regulation with regard to the project or any other federally assisted project;

(E) repeatedly and materially breaching a contract for assistance under section 8 of the United States Housing Act of 1937;

(F) repeatedly and materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity;

(G) repeatedly failing to make mortgage payments at times when project income was sufficient to maintain and operate the property;

(H) materially failing to maintain the property according to housing quality standards after receipt of notice and a reasonable opportunity to cure; or

(I) committing any actions or omissions that would warrant suspension or debarment by the Secretary;

(2) the owner or purchaser of the property materially failed to follow the procedures and requirements of this part, after receipt of notice and an opportunity to cure; or

(3) the poor condition of the project cannot be remedied in a cost effective manner, as determined by the participating administrative entity.

(b) OPPORTUNITY TO DISPUTE FINDINGS.—

(1) IN GENERAL.—During the 30-day period beginning on the date on which the owner or purchaser of an eligible multifamily housing project receives notice of a rejection under subsection (a) or of a mortgage restructuring and rental assistance sufficiency plan under section 2104, the Secretary or participating administrative entity shall provide that owner or purchaser with an opportunity to dispute the basis for the rejection and an opportunity to cure.

(2) AFFIRMATION, MODIFICATION, OR REVERSAL.—

(A) IN GENERAL.—After providing an opportunity to dispute under paragraph (1), the Secretary or the participating administrative entity may affirm, modify, or reverse any rejection under subsection (a) or rejection of a mortgage restructuring and rental assistance sufficiency plan under section 2104.

(B) REASONS FOR DECISION.—The Secretary or the participating administrative entity, as applicable, shall identify the reasons for any final decision under this paragraph.

(C) REVIEW PROCESS.—The Secretary shall establish an administrative review process to appeal any final decision under this paragraph.

(c) FINAL DETERMINATION.—Any final determination under this section shall not be subject to judicial review.

(d) DISPLACED TENANTS.—Subject to the availability of amounts provided in advance in appropriations Acts, for any low-income tenant that is residing in a project or receiving assistance under section 8 of the United States Housing Act of 1937 at the time of rejection under this section, that tenant shall be provided with tenant-based assistance and reasonable moving expenses, as determined by the Secretary.

(e) TRANSFER OF PROPERTY.—For properties disqualified from the consideration of a mortgage restructuring and rental assistance sufficiency plan under this section because of actions by an owner or purchaser in accordance with paragraph (1) or (2) of subsection (a), the Secretary shall establish procedures to facilitate the voluntary sale or transfer of a property as part of a mortgage restructuring and rental assistance sufficiency plan, with a preference for tenant organizations and tenant-endorsed community-based nonprofit and public agency purchasers meeting such reasonable qualifications as may be established by the Secretary, which purchasers shall be eligible to receive project-based assistance under section 8 of the United States Housing Act of 1937.

SEC. 2107. RESTRUCTURING TOOLS.

(a) RESTRUCTURING TOOLS.—In this part, and to the extent these actions are consistent with this section, an approved mortgage restructuring and rental assistance sufficiency plan may include one or more of the following:

(1) FULL OR PARTIAL PAYMENT OF CLAIM.—Making a full payment of claim or partial payment of claim under section 541(b) of the National Housing Act. Any payment under this paragraph shall not require the approval of a mortgagee.

(2) REFINANCING OF DEBT.—Refinancing of all or part of the debt on a project, if the refinancing would result in significant subsidy savings under section 8 of the United States Housing Act of 1937.

(3) MORTGAGE INSURANCE.—Providing FHA multifamily mortgage insurance, reinsurance or other credit enhancement alternatives, including multifamily risk-sharing mortgage programs, as provided under section 542 of the Housing and Community Development Act of 1992. Any limitations on the number of units available for mortgage insurance under section 542 shall not apply to eligible multifamily housing projects. Any credit subsidy costs of providing mortgage insurance shall be paid from the General Insurance Fund and the Special Risk Insurance Fund.

(4) CREDIT ENHANCEMENT.—Any additional State or local mortgage credit enhancements and risk-sharing arrangements may be established with State or local housing finance agencies, the Federal Housing Finance Board, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation, to a modified first mortgage.

(5) COMPENSATION OF THIRD PARTIES.—Entering into agreements, incurring costs, or making payments, as may be reasonably necessary, to compensate the participation of participating administrative entities and other parties in undertaking actions authorized by this part. Upon request, participating administrative entities shall be considered to be contract administrators under section 8 of the United States Housing Act of 1937 for purposes of any contracts entered into as part of an approved mortgage restructuring and rental assistance sufficiency plan. Subject to the availability of amounts provided in advance in appropriations Acts for administrative fees under section 8 of the United States Housing Act of 1937, such fees shall be used to compensate participating administrative entities

for compliance monitoring costs incurred under section 2110.

(6) RESIDUAL RECEIPTS.—Applying any acquired residual receipts to maintain the long-term affordability and physical condition of the property or of other eligible multifamily housing projects. The participating administrative entity may expedite the acquisition of residual receipts by entering into agreements with owners of housing covered by an expiring contract to provide an owner with a share of the receipts, not to exceed 10 percent.

(7) REHABILITATION NEEDS.—Assisting in addressing the necessary rehabilitation needs of the project, except that assistance under this paragraph shall not exceed the equivalent of $5,000 per unit for those units covered with project-based assistance. Rehabilitation may be paid from the provision of grants from residual receipts or, as provided in appropriations Acts, from budget authority provided for increases in the budget authority for assistance contracts under section 8 of the United States Housing Act of 1937, the rehabilitation grant program established under section 2201 of this subtitle, or through the debt restructuring transaction. Each owner that receives rehabilitation assistance shall contribute not less than 25 percent of the amount of rehabilitation assistance received.

(8) MORTGAGE RESTRUCTURING.—Restructuring mortgages to provide a structured first mortgage to cover rents at levels that are established in section 2104(g) and a second mortgage equal to the difference between the restructured first mortgage and the mortgage balance of the eligible multifamily housing project at the time of restructuring. The second mortgage shall bear interest at a rate not to exceed the applicable Federal rate for a term not to exceed 50 years. If the first mortgage remains outstanding, payments of interest and principal on the second mortgage shall be made from a portion of the excess project income only after the payment of all reasonable and necessary operating expenses (including deposits in a reserve for replacement), debt service on the first mortgage, and such other expenditures as may be approved by the Secretary. Such portion shall be equal to not less than 75 percent of excess project income. The participating administrative entity may provide up to 25 percent of the excess project income to the project owner if the participating administrative entity determines that the project owner meets benchmarks of quality for management and housing quality. During the period in which the first mortgage remains outstanding, no payments of interest or principal shall be required on the second mortgage. The second mortgage shall be assumable by any subsequent purchaser of any multifamily housing project, pursuant to guidelines established by the Secretary. The participating administrative entity may be authorized to modify the terms or forgive all or part of the second mortgage upon acquisition by a tenant organization or tenant-endorsed community-based nonprofit or public agency, pursuant to guidelines established by the Secretary. The principal and accrued interest due under the second mortgage shall be fully payable upon disposition of the property, unless the mortgage is assumed under the preceding sentence. The owner shall begin repayment of the second mortgage upon full payment of the first mortgage in equal monthly installments in an amount equal to the monthly principal and interest payments formerly paid under the first mortgage. The principal and interest of a second mortgage shall be immediately due and payable upon a finding by the Secretary that an owner has failed to materially comply with this part or any requirements of the United States Housing Act of 1937 as those requirements apply to the applicable project, after receipt of notice of such failure and a reasonable opportunity to cure such failure. The second mortgage may be a direct obligation of the Secretary or a loan financed through a lender, other than the Secretary. If the second mortgage is a direct obligation of the Secretary, the participating administrative entity shall be authorized in the portfolio restructuring agreement to act as the agent of the Secretary in servicing such mortgage and enforcing the rights of the Secretary thereunder. Any credit subsidy costs of providing a second mortgage shall be paid from the General Insurance Fund and the Special Risk Insurance Fund.

(b) ROLE OF FNMA AND FHLMC.—Section 1335 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4565) is amended—

(1) in paragraph (3), by striking ''and'' at the end;

(2) paragraph (4), by striking the period at the end and inserting ''; and'';

(3) by striking ''To meet'' and inserting the following:

''(a) IN GENERAL.—To meet''; and

(4) by adding at the end the following:

''(5) assist in maintaining the affordability of assisted units in eligible multifamily housing projects with expiring contracts, as defined under the Multifamily Assisted Housing Reform and Affordability Act of 1997.

''(b) AFFORDABLE HOUSING GOALS.—Actions taken under subsection (a)(5) shall constitute part of the contribution of each entity in meeting their affordable housing goals under sections 1332, 1333, and 1334 for any fiscal year, as determined by the Secretary.''.

(c) PROHIBITION ON EQUITY SHARING BY THE SECRETARY.—The Secretary is prohibited from participating in any equity agreement or profit-sharing agreement in conjunction with any eligible multifamily housing project.

SEC. 2108. SHARED SAVINGS INCENTIVE.

(a) IN GENERAL.—At the time a participating administrative entity is designated, the Secretary shall negotiate an incentive agreement with the participating administrative entity, which agreement shall provide such entity with a share of any principal and interest payments on the second mortgage. The Secretary shall negotiate with participating administrative entities a savings incentive formula that provides for periodic payments over a period of not less than 5 years, which is allocated as incentives to participating administrative entities.

(b) USE OF SAVINGS.—Notwithstanding any other provision of law, the incentive agreement under subsection (a) shall require any savings provided to a participating administrative entity under that agreement to be used only for providing decent, safe, and affordable housing for very low-income families and persons with a priority for eligible multifamily housing projects.

SEC. 2109. MANAGEMENT STANDARDS.

Each participating administrative entity shall establish and implement management standards, including requirements governing conflicts of interest between owners, managers, contractors with an identity of interest, pursuant to guidelines established by the Secretary and consistent with industry standards.

SEC. 2110. MONITORING OF COMPLIANCE.

(a) COMPLIANCE AGREEMENTS.—Pursuant to regulations issued by the Secretary after public notice and comment, each participating administrative entity, through binding contractual agreements with owners and otherwise, shall ensure long-term compliance with the provisions of this part. Each agreement shall, at a minimum, provide for—

(1) enforcement of the provisions of this part; and

(2) remedies for the breach of those provisions.

(b) PERIODIC MONITORING.—

(1) IN GENERAL.—Not less than annually, each participating administrative entity shall review the status of all multifamily housing projects for which a mortgage restructuring and rental assistance sufficiency plan has been implemented.

(2) INSPECTIONS.—Each review under this subsection shall include onsite inspection to determine compliance with housing codes and other requirements as provided in this part and the portfolio restructuring agreements.

(c) AUDIT BY THE SECRETARY.—The Comptroller General of the United States, the Secretary, and the Inspector General of the Department of Housing and Urban Development may conduct an audit at any time of any multifamily housing project for which a mortgage restructuring and rental assistance sufficiency plan has been implemented.

SEC. 2111. REVIEW.

(a) ANNUAL REVIEW.—In order to ensure compliance with this part, the Secretary shall conduct an annual review and report to Congress on actions taken under this part and the status of eligible multifamily housing projects.

(b) SUBSIDY LAYERING REVIEW.—The participating administrative entity shall certify, pursuant to guidelines issued by the Secretary, that the requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 are satisfied so that the combination of assistance provided in connection with a property for which a mortgage is to be restructured shall not be any greater than is necessary to provide affordable housing.

SEC. 2112. GAO AUDIT AND REVIEW.

(a) INITIAL AUDIT.—Not later than 18 months after the effective date of interim or final regulations promulgated under this part, the Comptroller General of the United States shall conduct an audit to evaluate a representative sample of all eligible multifamily housing projects and the implementation of all mortgage restructuring and rental assistance sufficiency plans.

(b) REPORT.—

(1) IN GENERAL.—Not later than 18 months after the audit conducted under subsection (a), the Comptroller General of the United States shall submit to Congress a report on the status of all eligible multifamily housing projects and the implementation of all mortgage restructuring and rental assistance sufficiency plans.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) a description of the initial audit conducted under subsection (a); and

(B) recommendations for any legislative action to increase the financial savings to the Federal Government of the restructuring of eligible multifamily housing projects balanced with the continued availability of the maximum number of affordable low-income housing units.

SEC. 2113. REGULATIONS.

(a) RULEMAKING AND IMPLEMENTATION.—The Secretary shall issue interim regulations necessary to implement this part not later than the expiration of the 6-month period beginning on the date of enactment of this Act. Not later than 1 year after the date of enactment of this subtitle, in accordance with the negotiated rulemaking procedures set forth in subchapter III of chapter 5 of title 5, United States Code, the Secretary shall implement final regulations implementing this part.

(b) REPEAL OF FHA MULTIFAMILY HOUSING DEMONSTRATION AUTHORITY.—

(1) IN GENERAL.—Beginning upon the expiration of the 6-month period beginning on the date of enactment of this Act, the Secretary may not exercise any authority or take any action under section 210 of the Balanced Budget Down Payment Act, II.

(2) UNUSED BUDGET AUTHORITY.—Any unused budget authority under section 210(f) of the Balanced Budget Down Payment Act, II, shall be available for taking actions under the requirements established through regulations issued under subsection (a).

SEC. 2114. TECHNICAL AND CONFORMING AMENDMENTS.

(a) CALCULATION OF LIMIT ON PROJECT-BASED ASSISTANCE.—Section 8(d) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)) is amended by adding at the end the following:

''(5) CALCULATION OF LIMIT.—Any contract entered into under section 2104 of the Multifamily Assisted Housing Reform and Affordability

Act of 1997 shall be excluded in computing the limit on project-based assistance under this subsection.''.

(b) PARTIAL PAYMENT OF CLAIMS ON MULTIFAMILY HOUSING PROJECTS.—Section 541 of the National Housing Act (12 U.S.C. 1735f–19) is amended—

(1) in subsection (a), in the subsection heading, by striking ''AUTHORITY'' and inserting ''DEFAULTED MORTGAGES'';

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following:

''(b) EXISTING MORTGAGES.—Notwithstanding any other provision of law, the Secretary, in connection with a mortgage restructuring under section 2104 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, may make a one time, nondefault partial payment of the claim under the mortgage insurance contract, which shall include a determination by the Secretary or the participating administrative entity, in accordance with the Multifamily Assisted Housing Reform and Affordability Act of 1997, of the market value of the project and a restructuring of the mortgage, under such terms and conditions as the Secretary may establish.''.

(c) REUSE AND RESCISSION OF CERTAIN RECAPTURED BUDGET AUTHORITY.—Section 8(bb) of the United States Housing Act of 1937 (42 U.S.C. 1437f(b)(b)) is amended to read as follows:

''(bb) REUSE AND RESCISSION OF CERTAIN RECAPTURED BUDGET AUTHORITY.—If a project-based assistance contract for an eligible multifamily housing project subject to actions authorized under title I is terminated or amended as part of restructuring under section 107, the Secretary shall recapture the budget authority not required for the terminated or amended contract and, without regard to section 218 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act of 1997, use such amounts as are necessary to provide housing assistance for the same number of families covered by such contract for the remaining term of such contract, under a contract providing for project-based or tenant-based assistance. The amount of budget authority saved as a result of the shift to project-based or tenant-based assistance shall be rescinded.''.

SEC. 2115. TERMINATION OF AUTHORITY.

(a) IN GENERAL.—Except as provided in subsection (b), this part is repealed effective October 1, 2001.

(b) EXCEPTION.—The repeal under this section does not apply with respect to projects and programs for which binding commitments have been entered into before October 1, 2001.

Part 2—Miscellaneous Provisions

SEC. 2201. REHABILITATION GRANTS FOR CERTAIN INSURED PROJECTS.

Section 236 of the National Housing Act (12 U.S.C. 1715z–1) is amended by adding at the end the following:

''(s) GRANT AUTHORITY.—

''(1) IN GENERAL.—The Secretary may make grants for the capital costs of rehabilitation to owners of projects that meet the eligibility and other criteria set forth in, and in accordance with, this subsection.

''(2) PROJECT ELIGIBILITY.—A project may be eligible for capital grant assistance under this subsection—

''(A) if—

''(i) the project was insured under section 236 or section 221(d)(3) of the National Housing Act; and

''(ii) the project was assisted by the loan management assistance program under section 8 of the United States Housing Act of 1937 on the date of enactment of the Multifamily Assisted Housing Reform and Affordability Act of 1997;

''(B) if the project owner agrees to maintain the housing quality standards that were in effect immediately prior to the extinguishment of the mortgage insurance;

''(C) if the Secretary determines that the owner or purchaser of the project has not engaged in material adverse financial or managerial actions or omissions with regard to this project (or with regard to other similar projects if the Secretary determines that those actions or omissions constitute a pattern of mismanagement that would warrant suspension or debarment by the Secretary), including—

''(i) materially violating any Federal, State, or local law or regulation with regard to this project or any other federally assisted project, after receipt of notice and an opportunity to cure;

''(ii) materially breaching a contract for assistance under section 8 of the United States Housing Act of 1937, after receipt of notice and an opportunity to cure;

''(iii) materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity, after receipt of notice and an opportunity to cure;

''(iv) repeatedly failing to make mortgage payments at times when project income was sufficient to maintain and operate the property;

''(v) materially failing to maintain the property according to housing quality standards after receipt of notice and a reasonable opportunity to cure; or

''(vi) committing any act or omission that would warrant suspension or debarment by the Secretary; and

''(D) if the project owner demonstrates to the satisfaction of the Secretary—

''(i) using information in a comprehensive needs assessment, that capital grant assistance is needed for rehabilitation of the project; and

''(ii) that project income is not sufficient to support such rehabilitation.

''(3) ELIGIBLE PURPOSES.—The Secretary may make grants to the owners of eligible projects for the purposes of—

''(A) payment into project replacement reserves;

''(B) providing a fair return on equity investment;

''(C) debt service payments on non-Federal rehabilitation loans; and

''(D) payment of nonrecurring maintenance and capital improvements, under such terms and conditions as are determined by the Secretary.

''(4) GRANT AGREEMENT.—

''(A) IN GENERAL.—The Secretary shall provide in any grant agreement under this subsection that the grant shall be terminated if the project fails to meet housing quality standards, as applicable on the date of enactment of the Multifamily Housing Reform and Affordability Act of 1997, or any successor standards for the physical conditions of projects, as are determined by the Secretary.

''(B) AFFORDABILITY AND USE CLAUSES.—The Secretary shall include in a grant agreement under this subsection a requirement for the project owners to maintain such affordability and use restrictions as the Secretary determines to be appropriate.

''(C) OTHER TERMS.—The Secretary may include in a grant agreement under this subsection such other terms and conditions as the Secretary determines to be necessary.

''(5) DELEGATION.—

''(A) IN GENERAL.—In addition to the authorities set forth in subsection (p), the Secretary may delegate to State and local governments the responsibility for the administration of grants under this subsection. Any such government may carry out such delegated responsibilities directly or under contracts.

''(B) ADMINISTRATION COSTS.—In addition to other eligible purposes, amounts of grants under this subsection may be made available for costs of administration under subparagraph (A).

''(6) FUNDING.—

''(A) IN GENERAL.—For purposes of carrying out this subsection, the Secretary may make available amounts that are unobligated amounts for contracts for interest reduction payments—

''(i) that were previously obligated for contracts for interest reduction payments under this section until insurance under this section was extinguished;

''(ii) that become available as a result of the outstanding principal balance of a mortgage having been written down;

''(iii) that are uncommitted balances within the limitation on maximum payments that may have been, before the date of enactment of the Multifamily Assisted Housing Reform and Affordability Act of 1997, permitted in any fiscal year; or

''(iv) that become available from any other source.

''(B) LIQUIDATION AUTHORITY.—The Secretary may liquidate obligations entered into under this subsection under section 1305(10) of title 31, United States Code.

''(C) CAPITAL GRANTS.—In making capital grants under the terms of this subsection, using the amounts that the Secretary has recaptured from contracts for interest reduction payments, the Secretary shall ensure that the rates and amounts of outlays do not at any one time exceed the rates and amounts of outlays that would have been experienced if the insurance had not been extinguished or the principal amount had not been written down, and the interest reduction payments that the Secretary has recaptured had continued in accordance with the terms in effect immediately prior to such extinguishment or write-down.''.

SEC. 2202. MINIMUM RENT.

Notwithstanding section 3(a) of the United States Housing Act of 1937, the Secretary of Housing and Urban Development may provide that each family receiving project-based assistance under section 8 shall pay a minimum monthly rent in an amount not to exceed $25 per month.

SEC. 2203. REPEAL OF FEDERAL PREFERENCES.

(a) SECTION 8 EXISTING AND MODERATE REHABILITATION.—Section 8(d)(1)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)) is amended to read as follows:

''(A) the selection of tenants shall be the function of the owner, subject to the annual contributions contract between the Secretary and the agency, except that with respect to the certificate and moderate rehabilitation programs only, for the purpose of selecting families to be assisted, the public housing agency may establish, after public notice and an opportunity for public comment, a written system of preferences for selection that are not inconsistent with the comprehensive housing affordability strategy for the jurisdiction in which the project is located, in accordance with title I of the Cranston-Gonzalez National Affordable Housing Act;''.

(b) SECTION 8 NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION.—

(1) REPEAL.—Section 545(c) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437f note) is amended to read as follows:

''(c) [Reserved.]''.

(2) PROHIBITION.—The provisions of section 8(e)(2) of the United States Housing Act of 1937, as in existence on the day before October 1, 1983, that require tenant selection preferences shall not apply with respect to—

(A) housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937, as in existence on the day before October 1, 1983; or

(B) projects financed under section 202 of the Housing Act of 1959, as in existence on the day before the date of enactment of the Cranston-Gonzalez National Affordable Housing Act.

(c) RENT SUPPLEMENTS.—Section 101(k) of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s(k)) is amended to read as follows:

''(k) [Reserved.]''.

(d) CONFORMING AMENDMENTS.—

(1) UNITED STATES HOUSING ACT OF 1937.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

(A) in section 6(o), by striking ''preference rules specified in'' and inserting ''written selection criteria established pursuant to'';

(B) in section 8(d)(2)(A), by striking the last sentence; and

(C) in section 8(d)(2)(H), by striking ''Notwithstanding subsection (d)(1)(A)(i), an'' and inserting ''An''.

(2) CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—The Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704 et seq.) is amended—

(A) in section 455(a)(2)(D)(iii), by striking ''would qualify for a preference under'' and inserting ''meet the written selection criteria established pursuant to''; and

(B) in section 522(f)(6)(B), by striking ''any preferences for such assistance under section 8(d)(1)(A)(i)'' and inserting ''the written selection criteria established pursuant to section 8(d)(1)(A)''.

(3) LOW-INCOME HOUSING PRESERVATION AND RESIDENT HOMEOWNERSHIP ACT OF 1990.—The second sentence of section 226(b)(6)(B) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4116(b)(6)(B)) is amended by striking ''requirement for giving preferences to certain categories of eligible families under'' and inserting ''written selection criteria established pursuant to''.

(4) HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992.—Section 655 of the Housing and Community Development Act of 1992 (42 U.S.C. 13615) is amended by striking ''preferences for occupancy'' and all that follows before the period at the end and inserting ''selection criteria established by the owner to elderly families according to such written selection criteria, and to near-elderly families according to such written selection criteria, respectively''.

(5) REFERENCES IN OTHER LAW.—Any reference in any Federal law other than any provision of any law amended by paragraphs (1) through (5) of this subsection or to the preferences for assistance under section 8(d)(1)(A)(i) of the United States Housing Act of 1937, as that section existed on the day before the effective date of this part, shall be considered to refer to the written selection criteria established pursuant to section 8(d)(1)(A) of the United States Housing Act of 1937, as amended by this subsection.

Part 3—Enforcement Provisions

SEC. 2301. IMPLEMENTATION.

(a) ISSUANCE OF NECESSARY REGULATIONS.—Notwithstanding section 7(o) of the Department of Housing and Urban Development Act or part 10 of title 24, Code of Federal Regulations (as in existence on the date of enactment of this Act), the Secretary shall issue such regulations as the Secretary determines to be necessary to implement this subtitle and the amendments made by this subtitle in accordance with section 552 or 553 of title 5, United States Code, as determined by the Secretary.

(b) USE OF EXISTING REGULATIONS.—In implementing any provision of this subtitle, the Secretary may, in the discretion of the Secretary, provide for the use of existing regulations to the extent appropriate, without rulemaking.

Subpart A—FHA Single Family and Multifamily Housing

SEC. 2311. AUTHORIZATION TO IMMEDIATELY SUSPEND MORTGAGEES.

Section 202(c)(3)(C) of the National Housing Act (12 U.S.C. 1708(c)(3)(C)) is amended by inserting after the first sentence the following: ''Notwithstanding paragraph (4)(A), a suspension shall be effective upon issuance by the Board if the Board determines that there exists adequate evidence that immediate action is required to protect the financial interests of the Department or the public.''.

SEC. 2312. EXTENSION OF EQUITY SKIMMING TO OTHER SINGLE FAMILY AND MULTIFAMILY HOUSING PROGRAMS.

Section 254 of the National Housing Act (12 U.S.C. 1715z–19) is amended to read as follows:

''SEC. 254. EQUITY SKIMMING PENALTY.

''(a) IN GENERAL.—Whoever, as an owner, agent, or manager, or who is otherwise in custody, control, or possession of a multifamily project or a 1- to 4-family residence that is security for a mortgage note that is described in subsection (b), willfully uses or authorizes the use of any part of the rents, assets, proceeds, income, or other funds derived from property covered by that mortgage note for any purpose other than to meet reasonable and necessary expenses that include expenses approved by the Secretary if such approval is required, in a period during which the mortgage note is in default or the project is in a nonsurplus cash position, as defined by the regulatory agreement covering the property, or the mortgagor has failed to comply with the provisions of such other form of regulatory control imposed by the Secretary, shall be fined not more than $500,000, imprisoned not more than 5 years, or both.

''(b) MORTGAGE NOTES DESCRIBED.—For purposes of subsection (a), a mortgage note is described in this subsection if it—

''(1) is insured, acquired, or held by the Secretary pursuant to this Act;

''(2) is made pursuant to section 202 of the Housing Act of 1959 (including property still subject to section 202 program requirements that existed before the date of enactment of the Cranston-Gonzalez National Affordable Housing Act); or

''(3) is insured or held pursuant to section 542 of the Housing and Community Development Act of 1992, but is not reinsured under section 542 of the Housing and Community Development Act of 1992.''.

SEC. 2313. CIVIL MONEY PENALTIES AGAINST MORTGAGEES, LENDERS, AND OTHER PARTICIPANTS IN FHA PROGRAMS.

(a) CHANGE TO SECTION TITLE.—Section 536 of the National Housing Act (12 U.S.C. 1735f–14) is amended by striking the section heading and the section designation and inserting the following:

''SEC. 536. CIVIL MONEY PENALTIES AGAINST MORTGAGEES, LENDERS, AND OTHER PARTICIPANTS IN FHA PROGRAMS.''.

(b) EXPANSION OF PERSONS ELIGIBLE FOR PENALTY.—Section 536(a) of the National Housing Act (12 U.S.C. 1735f–14(a)) is amended—

(1) in paragraph (1), by striking the first sentence and inserting the following: ''If a mortgagee approved under the Act, a lender holding a contract of insurance under title I, or a principal, officer, or employee of such mortgagee or lender, or other person or entity participating in either an insured mortgage or title I loan transaction under this Act or providing assistance to the borrower in connection with any such loan, including sellers of the real estate involved, borrowers, closing agents, title companies, real estate agents, mortgage brokers, appraisers, loan correspondents and dealers, knowingly and materially violates any applicable provision of subsection (b), the Secretary may impose a civil money penalty on the mortgagee or lender, or such other person or entity, in accordance with this section. The penalty under this paragraph shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed whether or not the Secretary imposes other administrative sanctions.''; and

(2) in paragraph (2)—

(A) in the first sentence, by inserting ''or such other person or entity'' after ''lender''; and

(B) in the second sentence, by striking ''provision'' and inserting ''the provisions''.

(c) ADDITIONAL VIOLATIONS FOR MORTGAGEES, LENDERS, AND OTHER PARTICIPANTS IN FHA PROGRAMS.—Section 536(b) of the National Housing Act (12 U.S.C. 1735f–14(b)) is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following:

''(2) The Secretary may impose a civil money penalty under subsection (a) for any knowing and material violation by a principal, officer, or employee of a mortgagee or lender, or other participants in either an insured mortgage or title I loan transaction under this Act or provision of assistance to the borrower in connection with any such loan, including sellers of the real estate involved, borrowers, closing agents, title companies, real estate agents, mortgage brokers, appraisers, loan correspondents, and dealers for—

''(A) submission to the Secretary of information that was false, in connection with any mortgage insured under this Act, or any loan that is covered by a contract of insurance under title I of this Act;

''(B) falsely certifying to the Secretary or submitting to the Secretary a false certification by another person or entity; or

''(C) failure by a loan correspondent or dealer to submit to the Secretary information which is required by regulations or directives in connection with any loan that is covered by a contract of insurance under title I.''; and

(3) in paragraph (3), as redesignated, by striking ''or paragraph (1)(F)'' and inserting ''or (F), or paragraph (2) (A), (B), or (C)''.

(d) CONFORMING AND TECHNICAL AMENDMENTS.—Section 536 of the National Housing Act (12 U.S.C. 1735f–14) is amended—

(1) in subsection (c)(1)(B), by inserting after ''lender'' the following: ''or such other person or entity'';

(2) in subsection (d)(1)—

(A) by inserting ''or such other person or entity'' after ''lender''; and

(B) by striking ''part 25'' and inserting ''parts 24 and 25''; and

(3) in subsection (e), by inserting ''or such other person or entity'' after ''lender'' each place that term appears.

Subpart B—FHA Multifamily Provisions

SEC. 2320. CIVIL MONEY PENALTIES AGAINST GENERAL PARTNERS, OFFICERS, DIRECTORS, AND CERTAIN MANAGING AGENTS OF MULTIFAMILY PROJECTS.

(a) CIVIL MONEY PENALTIES AGAINST MULTIFAMILY MORTGAGORS.—Section 537 of the National Housing Act (12 U.S.C. 1735f–15) is amended—

(1) in subsection (b)(1), by striking ''on that mortgagor'' and inserting the following: ''on that mortgagor, on a general partner of a partnership mortgagor, or on any officer or director of a corporate mortgagor'';

(2) in subsection (c)—

(A) by striking the subsection heading and inserting the following:

''(c) OTHER VIOLATIONS.—''; and

(B) in paragraph (1)—

(i) by striking ''VIOLATIONS.—The Secretary may'' and all that follows through the colon and inserting the following:

''(A) LIABLE PARTIES.—The Secretary may also impose a civil money penalty under this section on—

''(i) any mortgagor of a property that includes five or more living units and that has a mortgage insured, coinsured, or held pursuant to this Act;

''(ii) any general partner of a partnership mortgagor of such property;

''(iii) any officer or director of a corporate mortgagor;

''(iv) any agent employed to manage the property that has an identity of interest with the mortgagor, with the general partner of a partnership mortgagor, or with any officer or director of a corporate mortgagor of such property; or

''(v) any member of a limited liability company that is the mortgagor of such property or is the general partner of a limited partnership mortgagor or is a partner of a general partnership mortgagor.

''(B) VIOLATIONS.—A penalty may be imposed under this section upon any liable party under

subparagraph (A) that knowingly and materially takes any of the following actions:'';

(ii) in subparagraph (B), as designated by clause (i), by redesignating the subparagraph designations (A) through (L) as clauses (i) through (xii), respectively;

(iii) by adding after clause (xii), as redesignated by clause (ii), the following:

''(xiii) Failure to maintain the premises, accommodations, any living unit in the project, and the grounds and equipment appurtenant thereto in good repair and condition in accordance with regulations and requirements of the Secretary, except that nothing in this clause shall have the effect of altering the provisions of an existing regulatory agreement or federally insured mortgage on the property.

''(xiv) Failure, by a mortgagor, a general partner of a partnership mortgagor, or an officer or director of a corporate mortgagor, to provide management for the project that is acceptable to the Secretary pursuant to regulations and requirements of the Secretary.''; and

(iv) in the last sentence, by deleting ''of such agreement'' and inserting ''of this subsection'';

(3) in subsection (d)—

(A) in paragraph (1)(B), by inserting after ''mortgagor'' the following: '', general partner of a partnership mortgagor, officer or director of a corporate mortgagor, or identity of interest agent employed to manage the property''; and

(B) by adding at the end the following:

''(5) PAYMENT OF PENALTY.—No payment of a civil money penalty levied under this section shall be payable out of project income.'';

(4) in subsection (e)(1), by deleting ''a mortgagor'' and inserting ''an entity or person'';

(5) in subsection (f), by inserting after ''mortgagor'' each place such term appears the following: '', general partner of a partnership mortgagor, officer or director of a corporate mortgagor, or identity of interest agent employed to manage the property'';

(6) by striking the heading of subsection (f) and inserting the following: ''CIVIL MONEY PENALTIES AGAINST MULTIFAMILY MORTGAGORS, GENERAL PARTNERS OF PARTNERSHIP MORTGAGORS, OFFICERS AND DIRECTORS OF CORPORATE MORTGAGORS, AND CERTAIN MANAGING AGENTS''; and

(7) by adding at the end the following:

''(k) IDENTITY OF INTEREST MANAGING AGENT.—In this section, the terms 'agent employed to manage the property that has an identity of interest' and 'identity of interest agent' mean an entity—

''(1) that has management responsibility for a project;

''(2) in which the ownership entity, including its general partner or partners (if applicable) and its officers or directors (if applicable), has an ownership interest; and

''(3) over which the ownership entity exerts effective control.''.

(b) IMPLEMENTATION.—

(1) PUBLIC COMMENT.—The Secretary shall implement the amendments made by this section by regulation issued after notice and opportunity for public comment. The notice shall seek comments primarily as to the definitions of the terms ''ownership interest in'' and ''effective control'', as those terms are used in the definition of the terms ''agent employed to manage the property that has an identity of interest'' and ''identity of interest agent''.

(2) TIMING.—A proposed rule implementing the amendments made by this section shall be published not later than 1 year after the date of enactment of this Act.

(c) APPLICABILITY OF AMENDMENTS.—The amendments made by subsection (a) shall apply only with respect to—

(1) violations that occur on or after the effective date of the final regulations implementing the amendments made by this section; and

(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of a violation that occurs on or after that date.

SEC. 2321. CIVIL MONEY PENALTIES FOR NONCOMPLIANCE WITH SECTION 8 HAP CONTRACTS.

(a) BASIC AUTHORITY.—Title I of the United States Housing Act of 1937 is amended—

(1) by designating the second section designated as section 27 (as added by section 903(b) of Public Law 104–193 (110 Stat. 2348)) as section 28; and

(2) by adding at the end the following:

''SEC. 29. CIVIL MONEY PENALTIES AGAINST SECTION 8 OWNERS.

''(a) IN GENERAL.—

''(1) EFFECT ON OTHER REMEDIES.—The penalties set forth in this section shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed regardless of whether the Secretary imposes other administrative sanctions.

''(2) FAILURE OF SECRETARY.—The Secretary may not impose penalties under this section for a violation, if a material cause of the violation is the failure of the Secretary, an agent of the Secretary, or a public housing agency to comply with an existing agreement.

''(b) VIOLATIONS OF HOUSING ASSISTANCE PAYMENT CONTRACTS FOR WHICH PENALTY MAY BE IMPOSED.—

''(1) LIABLE PARTIES.—The Secretary may impose a civil money penalty under this section on—

''(A) any owner of a property receiving project-based assistance under section 8;

''(B) any general partner of a partnership owner of that property; and

''(C) any agent employed to manage the property that has an identity of interest with the owner or the general partner of a partnership owner of the property.

''(2) VIOLATIONS.—A penalty may be imposed under this section for a knowing and material breach of a housing assistance payments contract, including the following—

''(A) failure to provide decent, safe, and sanitary housing pursuant to section 8; or

''(B) knowing or willful submission of false, fictitious, or fraudulent statements or requests for housing assistance payments to the Secretary or to any department or agency of the United States.

''(3) AMOUNT OF PENALTY.—The amount of a penalty imposed for a violation under this subsection, as determined by the Secretary, may not exceed $25,000 per violation.

''(c) AGENCY PROCEDURES.—

''(1) ESTABLISHMENT.—The Secretary shall issue regulations establishing standards and procedures governing the imposition of civil money penalties under subsection (b). These standards and procedures—

''(A) shall provide for the Secretary or other department official to make the determination to impose the penalty;

''(B) shall provide for the imposition of a penalty only after the liable party has received notice and the opportunity for a hearing on the record; and

''(C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing and judicial review, as provided under subsection (d).

''(2) FINAL ORDERS.—

''(A) IN GENERAL.—If a hearing is not requested before the expiration of the 15-day period beginning on the date on which the notice of opportunity for hearing is received, the imposition of a penalty under subsection (b) shall constitute a final and unappealable determination.

''(B) EFFECT OF REVIEW.—If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order.

''(C) FAILURE TO REVIEW.—If the Secretary does not review that determination or order before the expiration of the 90-day period beginning on the date on which the determination or order is issued, the determination or order shall be final.

''(3) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under subsection (b), the Secretary shall take into consideration—

''(A) the gravity of the offense;

''(B) any history of prior offenses by the violator (including offenses occurring before the enactment of this section);

''(C) the ability of the violator to pay the penalty;

''(D) any injury to tenants;

''(E) any injury to the public;

''(F) any benefits received by the violator as a result of the violation;

''(G) deterrence of future violations; and

''(H) such other factors as the Secretary may establish by regulation.

''(4) PAYMENT OF PENALTY.—No payment of a civil money penalty levied under this section shall be payable out of project income.

''(d) JUDICIAL REVIEW OF AGENCY DETERMINATION.—Judicial review of determinations made under this section shall be carried out in accordance with section 537(e) of the National Housing Act.

''(e) REMEDIES FOR NONCOMPLIANCE.—

''(1) JUDICIAL INTERVENTION.—

''(A) IN GENERAL.—If a person or entity fails to comply with the determination or order of the Secretary imposing a civil money penalty under subsection (b), after the determination or order is no longer subject to review as provided by subsections (c) and (d), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against that person or entity and such other relief as may be available.

''(B) FEES AND EXPENSES.—Any monetary judgment awarded in an action brought under this paragraph may, in the discretion of the court, include the attorney's fees and other expenses incurred by the United States in connection with the action.

''(2) NONREVIEWABILITY OF DETERMINATION OR ORDER.—In an action under this subsection, the validity and appropriateness of the determination or order of the Secretary imposing the penalty shall not be subject to review.

''(f) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

''(g) DEPOSIT OF PENALTIES.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, if the mortgage covering the property receiving assistance under section 8 is insured or formerly insured by the Secretary, the Secretary shall apply all civil money penalties collected under this section to the appropriate insurance fund or funds established under this Act, as determined by the Secretary.

''(2) EXCEPTION.—Notwithstanding any other provision of law, if the mortgage covering the property receiving assistance under section 8 is neither insured nor formerly insured by the Secretary, the Secretary shall make all civil money penalties collected under this section available for use by the appropriate office within the Department for administrative costs related to enforcement of the requirements of the various programs administered by the Secretary.

''(h) DEFINITIONS.—In this section—

''(1) the term 'agent employed to manage the property that has an identity of interest' means an entity—

''(A) that has management responsibility for a project;

''(B) in which the ownership entity, including its general partner or partners (if applicable), has an ownership interest; and

''(C) over which such ownership entity exerts effective control; and

''(2) the term 'knowing' means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.''.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply only with respect to—

(1) violations that occur on or after the effective date of final regulations implementing the amendments made by this section; and

(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of a violation that occurs on or after such date.

(c) IMPLEMENTATION.—

(1) REGULATIONS.—

(A) IN GENERAL.—The Secretary shall implement the amendments made by this section by regulation issued after notice and opportunity for public comment.

(B) COMMENTS SOUGHT.—The notice under subparagraph (A) shall seek comments as to the definitions of the terms ''ownership interest in'' and ''effective control'', as such terms are used in the definition of the term ''agent employed to manage such property that has an identity of interest''.

(2) TIMING.—A proposed rule implementing the amendments made by this section shall be published not later than 1 year after the date of enactment of this Act.

SEC. 2322. EXTENSION OF DOUBLE DAMAGES REMEDY.

Section 421 of the Housing and Community Development Act of 1987 (12 U.S.C. 1715z–4a) is amended—

(1) in subsection (a)(1)—

(A) in the first sentence, by striking ''Act; or (B)'' and inserting the following: ''Act; (B) a regulatory agreement that applies to a multifamily project whose mortgage is insured or held by the Secretary under section 202 of the Housing Act of 1959 (including property subject to section 202 of such Act as it existed before enactment of the Cranston-Gonzalez National Affordable Housing Act of 1990); (C) a regulatory agreement or such other form of regulatory control as may be imposed by the Secretary that applies to mortgages insured or held by the Secretary under section 542 of the Housing and Community Development Act of 1992, but not reinsured under section 542 of the Housing and Community Development Act of 1992; or (D)''; and

(B) in the second sentence, by inserting after ''agreement'' the following: '', or such other form of regulatory control as may be imposed by the Secretary,'';

(2) in subsection (a)(2), by inserting after ''Act,'' the following: ''under section 202 of the Housing Act of 1959 (including section 202 of such Act as it existed before enactment of the Cranston-Gonzalez National Affordable Housing Act of 1990) and under section 542 of the Housing and Community Development Act of 1992,'';

(3) in subsection (b), by inserting after ''agreement'' the following: '', or such other form of regulatory control as may be imposed by the Secretary,'';

(4) in subsection (c)—

(A) in the first sentence, by inserting after ''agreement'' the following: '', or such other form of regulatory control as may be imposed by the Secretary,''; and

(B) in the second sentence, by inserting before the period the following: ''or under the Housing Act of 1959, as appropriate''; and

(5) in subsection (d), by inserting after ''agreement'' the following: '', or such other form of regulatory control as may be imposed by the Secretary,''.

SEC. 2323. OBSTRUCTION OF FEDERAL AUDITS.

Section 1516(a) of title 18, United States Code, is amended by inserting after ''under a contract or subcontract,'' the following: ''or relating to any property that is security for a mortgage note that is insured, guaranteed, acquired, or held by the Secretary of Housing and Urban Development pursuant to any Act administered by the Secretary,''.

TITLE III—COMMITTEE ON COMMERCE SCIENCE AND TRANSPORTATION

Subtitle A—Spectrum Auctions and License Fees

SEC. 3001. SPECTRUM AUCTIONS.

(a) EXTENSION AND EXPANSION OF AUCTION AUTHORITY.—

(1) IN GENERAL.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(A) by striking paragraphs (1) and (2) and inserting in lieu thereof the following:

''(1) GENERAL AUTHORITY.—If mutually exclusive applications are accepted for any initial license or construction permit that will involve an exclusive use of the electromagnetic spectrum, then, except as provided in paragraph (2), the Commission shall grant the license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection. The Commission, subject to paragraphs (2) and (7) of this subsection, also may use auctions as a means to assign spectrum when it determines that such an auction is consistent with the public interest, convenience, and necessity, and the purposes of this Act.

''(2) EXCEPTIONS.—The competitive bidding authority granted by this subsection shall not apply to a license or construction permit the Commission issues—

''(A) for public safety services, including private internal radio services used by State and local governments and non-government entities, including emergency auto service by nonprofit organizations, that—

''(i) are used to protect the safety of life, health, or property; and

''(ii) are not made commercially available to the public;

''(B) for public telecommunications services, as defined in section 397(14) of this Act, when the license application is for channels reserved for noncommercial use;

''(C) for spectrum and associated orbits used in the provision of any communications within a global satellite system;

''(D) for initial licenses or construction permits for new digital television service given to existing terrestrial broadcast licensees to replace their current television licenses;

''(E) for terrestrial radio and television broadcasting when the Commission determines that an alternative method of resolving mutually exclusive applications serves the public interest substantially better than competitive bidding; or

''(F) for spectrum allocated for unlicensed use pursuant to part 15 of the Commission's regulations (47 C.F.R. part 15), if the competitive bidding for licenses would interfere with operation of end-user products permitted under such regulations.'';

(B) by striking ''1998'' in paragraph (11) and inserting ''2007''; and

(C) by inserting after paragraph (13) the following:

''(14) OUT-OF-BAND EFFECTS.—The Commission and the National Telecommunications and Information Administration shall seek to create incentives to minimize the effects of out-of-band emissions to promote more efficient use of the electromagnetic spectrum. The Commission and the National Telecommunications and Information Administration also shall encourage licensees to minimize the effects of interference.''.

(2) CONFORMING AMENDMENT.—Subsection (i) of section 309 of the Communications Act of 1934 is repealed.

(b) AUCTION OF 45 MEGAHERTZ LOCATED AT 1,710–1,755 MEGAHERTZ.—

(1) IN GENERAL.—The Commission shall assign by competitive bidding 45 megahertz located at 1,710–1,755 megahertz no later than December 31, 2001, for commercial use.

(2) FEDERAL GOVERNMENT USERS.—Any Federal Government station that, on the date of enactment of this Act, is assigned to use electromagnetic spectrum located in the 1,710–1,755 megahertz band shall retain that use until December 31, 2003, unless exempted from relocation.

(c) COMMISSION TO MAKE ADDITIONAL SPECTRUM AVAILABLE BY AUCTION.—

(1) IN GENERAL.—The Federal Communications Commission shall complete all actions necessary to permit the assignment, by September 30, 2002, by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)), of licenses for the use of bands of frequencies currently allocated by the Commission that—

(A) in the aggregate span not less than 55 megahertz;

(B) are located below 3 gigahertz; and

(C) as of the date of enactment of this Act, have not been—

(i) designated by Commission regulation for assignment pursuant to section 309(j);

(ii) identified by the Secretary of Commerce pursuant to section 113 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923); or

(iii) allocated for Federal Government use pursuant to section 305 of the Communications Act of 1934 (47 U.S.C. 305).

(2) CRITERIA FOR REASSIGNMENT.—In making available bands of frequencies for competitive bidding pursuant to paragraph (1), the Commission shall—

(A) seek to promote the most efficient use of the electromagnetic spectrum;

(B) consider the cost to incumbent licensees of relocating existing uses to other bands of frequencies or other means of communication;

(C) consider the needs of public safety radio services;

(D) comply with the requirements of international agreements concerning spectrum allocations; and

(E) coordinate with the Secretary of Commerce when there is any impact on Federal Government spectrum use.

(3) NOTIFICATION TO THE SECRETARY OF COMMERCE.—The Commission shall attempt to accommodate incumbent licensees displaced under this section by relocating them to other frequencies available to the Commission. The Commission shall notify the Secretary of Commerce whenever the Commission is not able to provide for the effective relocation of an incumbent licensee to a band of frequencies available to the Commission for assignment. The notification shall include—

(A) specific information on the incumbent licensee;

(B) the bands the Commission considered for relocation of the licensee; and

(C) the reasons the incumbent cannot be accommodated in these bands.

(4) REPORT TO THE SECRETARY OF COMMERCE.—

(A) TECHNICAL REPORT.—The Commission, in consultation with the National Telecommunications and Information Administration, shall submit a detailed technical report to the Secretary of Commerce setting forth—

(i) the reasons the incumbent licensees described in paragraph (3) could not be accommodated in existing non-government spectrum; and

(ii) the Commission's recommendations for relocating those incumbents.

(B) NTIA USE OF REPORT.—The National Telecommunications and Information Administration shall review this report when assessing whether a commercial licensee can be accommodated by being reassigned to a frequency allocated for Government use.

(d) IDENTIFICATION AND REALLOCATION OF FREQUENCIES.—

(1) IN GENERAL.—Section 113 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended by adding at the end thereof the following:

''(f) ADDITIONAL REALLOCATION REPORT.—If the Secretary receives a report from the Commission pursuant to section 3001(c)(6) of the Balanced Budget Act of 1997, the Secretary shall

submit to the President, the Congress, and the Commission a report with the Secretary's recommendations.

''(g) REIMBURSEMENT OF FEDERAL SPECTRUM USERS FOR RELOCATION COSTS.—

''(1) IN GENERAL.—

''(A) ACCEPTANCE OF COMPENSATION AUTHORIZED.—In order to expedite the efficient use of the electromagnetic spectrum, and notwithstanding section 3302(b) of title 31, United States Code, any Federal entity that operates a Federal Government station that has been identified by NTIA for relocation may accept payment, including in-kind compensation and shall be reimbursed if required to relocate by the service applicant, provider, licensee, or representative entering the band as a result of a license assignment by the Commission or otherwise authorized by Commission rules.

''(B) DUTY TO COMPENSATE OUSTED FEDERAL ENTITY.—Any such service applicant, provider, licensee, or representative shall compensate the Federal entity in advance for relocating through monetary or in-kind payment for the cost of relocating the Federal entity's operations from one or more electromagnetic spectrum frequencies to any other frequency or frequencies, or to any other telecommunications transmission media.

''(C) COMPENSABLE COSTS.—Compensation shall include, but not be limited to, the costs of any modification, replacement, or reissuance of equipment, facilities, operating manuals, regulations, or other relocation expenses incurred by that entity.

''(D) DISPOSITION OF PAYMENTS.—Payments, other than in-kind compensation, pursuant to this section shall be deposited by electronic funds transfer in a separate agency account or accounts which shall be used to pay directly the costs of relocation, to repay or make advances to appropriations or funds which do or will initially bear all or part of such costs, or to refund excess sums when necessary, and shall remain available until expended.

''(E) APPLICATION TO CERTAIN OTHER RELOCATIONS.—The provisions of this paragraph also apply to any Federal entity that operates a Federal Government station assigned to use electromagnetic spectrum identified for reallocation under subsection (a), if before the date of enactment of the Balanced Budget Act of 1997 the Commission has not identified that spectrum for service or assigned licenses or otherwise authorized service for that spectrum.

''(2) PETITIONS FOR RELOCATION.—Any person seeking to relocate a Federal Government station that has been assigned a frequency within a band allocated for mixed Federal and non-Federal use under this Act shall submit a petition for relocation to NTIA. The NTIA shall limit or terminate the Federal Government station's operating license within 6 months after receiving the petition if the following requirements are met:

''(A) The proposed relocation is consistent with obligations undertaken by the United States in international agreements and with United States national security and public safety interests.

''(B) The person seeking relocation of the Federal Government station has guaranteed to defray entirely, through payment in advance, advance in-kind payment of costs, or a combination of payment in advance and advance in-kind payment, all relocation costs incurred by the Federal entity, including, but not limited to, all engineering, equipment, site acquisition and construction, and regulatory fee costs.

''(C) The person seeking relocation completes all activities necessary for implementing the relocation, including construction of replacement facilities (if necessary and appropriate) and identifying and obtaining on the Federal entity's behalf new frequencies for use by the relocated Federal Government station (if the station is not relocating to spectrum reserved exclusively for Federal use).

''(D) Any necessary replacement facilities, equipment modifications, or other changes have been implemented and tested by the Federal entity to ensure that the Federal Government station is able to accomplish successfully its purposes including maintaining communication system performance.

''(E) The Secretary has determined that the proposed use of any spectrum frequency band to which a Federal entity relocates its operations is suitable for the technical characteristics of the band and consistent with other uses of the band. In exercising authority under this subparagraph, the Secretary shall consult with the Secretary of Defense, the Secretary of State, and other appropriate Federal officials.

''(3) RIGHT TO RECLAIM.—If within one year after the relocation of a Federal Government station, the Federal entity affected demonstrates to the Secretary and the Commission that the new facilities or spectrum are not comparable to the facilities or spectrum from which the Federal Government station was relocated, the person who sought the relocation shall take reasonable steps to remedy any defects or pay the Federal entity for the costs of returning the Federal Government station to the electromagnetic spectrum from which the station was relocated.

''(h) FEDERAL ACTION TO EXPEDITE SPECTRUM TRANSFER.—Any Federal Government station which operates on electromagnetic spectrum that has been identified for reallocation under this Act for mixed Federal and non-Federal use in any reallocation report under subsection (a), to the maximum extent practicable through the use of subsection (g) and any other applicable law, shall take prompt action to make electromagnetic spectrum available for use in a manner that maximizes efficient use of the electromagnetic spectrum.

''(i) FEDERAL SPECTRUM ASSIGNMENT RESPONSIBILITY.—This section does not modify NTIA's authority under section 103(b)(2)(A) of this Act.

''(j) DEFINITIONS.—As used in this section—

''(1) the term 'Federal entity' means any department, agency, or instrumentality of the Federal Government that utilizes a Government station license obtained under section 305 of the 1934 Act (47 U.S.C. 305);

''(2) the term 'digital television services' means television services provided using digital technology to enhance audio quality and video resolution, as further defined in the Memorandum Opinion, Report, and Order of the Commission entitled 'Advanced Television Systems and Their Impact Upon the Existing Television Service', MM Docket No. 87–268 and any subsequent FCC proceedings dealing with digital television; and

''(3) the term 'analog television licenses' means licenses issued pursuant to 47 CFR 73.682 et seq.''.

(2) Section 114(a) of that Act (47 U.S.C. 924(a)) is amended by striking ''(a) or (d)(1)'' and inserting ''(a), (d)(1), or (f)''.

(e) IDENTIFICATION AND REALLOCATION OF AUCTIONABLE FREQUENCIES.—

(1) SECOND REPORT REQUIRED.—Section 113(a) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(a)) is amended by inserting ''and within 6 months after the date of enactment of the Balanced Budget Act of 1997'' after ''Act of 1993''.

(2) IN GENERAL.—Section 113(b) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(b)) is amended—

(A) by striking the caption of paragraph (1) and inserting ''INITIAL REALLOCATION REPORT.—'';

(B) by inserting ''in the initial report required by subsection (a)'' after ''recommend for reallocation'' in paragraph (1);

(C) by inserting ''or (3)'' after ''paragraph (1)'' each place it appears in paragraph (2); and

(D) by adding at the end thereof the following:

''(3) SECOND REALLOCATION REPORT.—The Secretary shall make available for reallocation a total of 20 megahertz in the second report required by subsection (a), for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), that is located below 3 gigahertz and that meets the criteria specified in paragraphs (1) through (5) of subsection (a).''.

(3) ALLOCATION AND ASSIGNMENT.—Section 115 of that Act (47 U.S.C. 925) is amended—

(A) by striking ''the report required by section 113(a)'' in subsection (b) and inserting ''the initial reallocation report required by section 113(a)''; and

(B) by adding at the end thereof the following:

''(c) ALLOCATION AND ASSIGNMENT OF FREQUENCIES IDENTIFIED IN THE SECOND ALLOCATION REPORT.—

''(1) PLAN.—Within 12 months after it receives a report from the Secretary under section 113(f) of this Act, the Commission shall—

''(A) submit a plan, prepared in coordination with the Secretary of Commerce, to the President and to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Commerce, for the allocation and assignment under the 1934 Act of frequencies identified in the report; and

''(B) implement the plan.

''(2) CONTENTS.—The plan prepared by the Commission under paragraph (1) shall consist of a schedule of reallocation and assignment of those frequencies in accordance with section 309(j) of the 1934 Act in time for the assignment of those licenses or permits by September 30, 2002.''.

SEC. 3002. DIGITAL TELEVISION SERVICES.

Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended by adding at the end thereof the following:

''(15) AUCTION OF RECAPTURED BROADCAST TELEVISION SPECTRUM AND POTENTIAL DIGITAL TELEVISION LICENSE FEES.—

''(A) LIMITATIONS ON TERMS OF TERRESTRIAL TELEVISION BROADCAST LICENSES.—

''(i) A television license that authorizes analog television services may not be renewed to authorize such services for a period that extends beyond December 31, 2006. The Commission shall extend or waive this date for any station in any television market unless 95 percent of the television households have access to digital local television signals, either by direct off-air reception or by other means.

''(ii) A commercial digital television license that is issued shall expire on September 30, 2003. A commercial digital television license shall be re-issued only subject to fulfillment of the licensee's obligations under subparagraph (C).

''(iii) No later than December 31, 2001, and every 2 years thereafter, the Commission shall report to Congress on the status of digital television conversion in each television market. In preparing this report, the Commission shall consult with other departments and agencies of the Federal Government. The report shall contain the following information:

''(I) Actual consumer purchases of analog and digital television receivers, including the price, availability, and use of conversion equipment to allow analog sets to receive a digital signal.

''(II) The percentage of television households in each market that has access to digital local television signals as defined in paragraph (a)(1), whether such access is attained by direct off-air reception or by some other means.

''(III) The cost to consumers of purchasing digital television receivers (or conversion equipment to prevent obsolescence of existing analog equipment) and other related changes in the marketplace, such as increases in the cost of cable converter boxes.

''(B) SPECTRUM REVERSION AND RESALE.—

''(i) The Commission shall—

''(I) ensure that, as analog television licenses expire pursuant to subparagraph (A)(i), each broadcaster shall return electromagnetic spectrum according to the Commission's direction; and

''(II) reclaim and organize the electromagnetic spectrum in a manner to maximize the deployment of new and existing services.

''(ii) Licensees for new services occupying electromagnetic spectrum previously used for the broadcast of analog television shall be selected by competitive bidding. The Commission shall start the competitive bidding process by July 1, 2001, with payment pursuant to the competitive bidding rules established by the Commission. The Commission shall report the total revenues from the competitive bidding by January 1, 2002.

''(C) DEFINITIONS.—As used in this paragraph—

''(i) the term 'digital television services' means television services provided using digital technology to enhance audio quality and video resolution, as further defined in the Memorandum Opinion, Report, and Order of the Commission entitled 'Advanced Television Systems and Their Impact Upon the Existing Television Service', MM Docket No. 87–268 and any subsequent Commission proceedings dealing with digital television; and

''(ii) the term 'analog television licenses' means licenses issued pursuant to 47 CFR 73.682 et seq.''.

SEC. 3003. ALLOCATION AND ASSIGNMENT OF NEW PUBLIC SAFETY AND COMMERCIAL LICENSES.

(a) IN GENERAL.—The Federal Communications Commission, not later than January 1, 1998, shall allocate from electromagnetic spectrum between 746 megahertz and 806 megahertz—

(1) 24 megahertz of that spectrum for public safety services according to terms and conditions established by the Commission, in consultation with the Secretary of Commerce and the Attorney General; and

(2) 36 megahertz of that spectrum for commercial purposes to be assigned by competitive bidding.

(b) ASSIGNMENT.—The Commission shall—

(1) commence assignment of the licenses for public safety created pursuant to subsection (a) no later than September 30, 1998; and

(2) commence competitive bidding for the commercial licenses created pursuant to subsection (a) no later than March 31, 1998.

(c) LICENSING OF UNUSED FREQUENCIES FOR PUBLIC SAFETY RADIO SERVICES.—

(1) USE OF UNUSED CHANNELS FOR PUBLIC SAFETY.—It shall be the policy of the Federal Communications Commission, notwithstanding any other provision of this Act or any other law, to waive whatever licensee eligibility and other requirements (including bidding requirements) are applicable in order to permit the use of unassigned frequencies for public safety purposes by a State or local government agency upon a showing that—

(A) no other existing satisfactory public safety channel is immediately available to satisfy the requested use;

(B) the proposed use is technically feasible without causing harmful interference to existing stations in the frequency band entitled to protection from such interference under the rules of the Commission; and

(C) use of the channel for public safety purposes is consistent with other existing public safety channel allocations in the geographic area of proposed use.

(2) APPLICABILITY.—Paragraph (1) shall apply to any application—

(A) is pending before the Commission on the date of enactment of this Act;

(B) was not finally determined under section 402 or 405 of the Communications Act of 1934 (47 U.S.C. 402 or 405) on May 15, 1997; or

(C) is filed after May 15, 1997.

(d) PROTECTION OF BROADCAST TV LICENSEES DURING DIGITAL TRANSITION.—Public safety and commercial licenses granted pursuant to this subsection—

(1) shall enjoy flexibility in use, subject to—

(A) interference limits set by the Commission at the boundaries of the electromagnetic spectrum block and service area; and

(B) any additional technical restrictions imposed by the Commission to protect full-service analog and digital television licenses during a transition to digital television;

(2) may aggregate multiple licenses to create larger spectrum blocks and service areas;

(3) may disaggregate or partition licenses to create smaller spectrum blocks or service areas; and

(4) may transfer a license to any other person qualified to be a licensee.

(e) PROTECTION OF PUBLIC SAFETY LICENSEES DURING DIGITAL TRANSITION.—The Commission shall establish rules insuring that public safety licensees using spectrum reallocated pursuant to subsection (a)(1) shall not be subject to harmful interference from television broadcast licensees.

(f) DIGITAL TELEVISION ALLOTMENT.—In assigning temporary transitional digital licenses, the Commission shall—

(1) minimize the number of allotments between 746 and 806 megahertz and maximize the amount of spectrum available for public safety and new services;

(2) minimize the number of allotments between 698 and 746 megahertz in order to facilitate the recovery of spectrum at the end of the transition;

(3) consider minimizing the number of allotments between 54 and 72 megahertz to facilitate the recovery of spectrum at the end of the transition; and

(4) develop an allotment plan designed to recover 78 megahertz of spectrum to be assigned by competitive bidding, in addition to the 60 megahertz identified in paragraph (a) of this subsection.

(g) INCUMBENT BROADCAST LICENSEES.—Any person who holds an analog television license or a digital television license between 746 and 806 megahertz—

(1) may not operate at that frequency after the date on which the digital television services transition period terminates, as determined by the Commission; and

(2) shall surrender immediately the license or permit to construct pursuant to Commission rules.

(h) DEFINITIONS.—For purposes of this section:

(1) COMMISSION.—The term ''Commission'' means the Federal Communications Commission.

(2) DIGITAL TELEVISION (DTV) SERVICE.—The term ''digital television (DTV) service'' means terrestrial broadcast services provided using digital technology to enhance audio quality and video resolution, as further defined in the Memorandum Opinion, Report, and Order of the Commission entitled ''Advanced Television Systems and Their Impact Upon the Existing Television Service'', MM Docket No. 87–268, or subsequent findings of the Commission.

(3) DIGITAL TELEVISION LICENSE.—The term ''digital television license'' means a full-service license issued pursuant to rules adopted for digital television service.

(4) ANALOG TELEVISION LICENSE.—The term ''analog television license'' means a full-service license issued pursuant to 47 CFR 73.682 et seq.

(5) PUBLIC SAFETY SERVICES.—The term ''public safety services'' means services whose sole or principal purpose is to protect the safety of life, health, or property.

(6) SERVICE AREA.—The term ''service area'' means the geographic area over which a licensee may provide service and is protected from interference.

(7) SPECTRUM BLOCK.—The term ''spectrum block'' means the range of frequencies over which the apparatus licensed by the Commission is authorized to transmit signals.

SEC. 3004. FLEXIBLE USE OF ELECTROMAGNETIC SPECTRUM.

Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end thereof the following:

''(y) Shall allocate electromagnetic spectrum so as to provide flexibility of use, except—

''(1) as required by international agreements relating to global satellite systems or other telecommunication services to which the United States is a party;

''(2) as required by public safety allocations;

''(3) to the extent that the Commission finds, after notice and an opportunity for public comment, that such an allocation would not be in the public interest;

''(4) to the extent that flexible use would retard investment in communications services and systems, or technology development thereby lessening the value of the electromagnetic spectrum; or

''(5) to the extent that flexible use would result in harmful interference among users.''.

SEC. 3005. RESERVE PRICE.

In any auction conducted or supervised by the Federal Communications Commission (hereinafter the Commission) for any license, permit or right which has value, a reasonable reserve price shall be set by the Commission for each unit in the auction unless the Commission determines it not to be in the public interest. The reserve price shall establish a minimum bid for the unit to be auctioned. If no bid is received above the reserve price for a unit, the unit shall be retained. The Commission shall re-assess the reserve price for that unit and place the unit in the next scheduled or next appropriate auction.

SUBTITLE B—MERCHANT MARINE PROVISIONS

SEC. 3501. EXTENSION OF VESSEL TONNAGE DUTIES.

(a) EXTENSION OF DUTIES.—Section 36 of the Act of August 5, 1909 (36 Stat. 111; 46 U.S.C. App. 121), is amended by inserting ''1999, 2000, 2001, and 2002,'' after ''1998,'' each place it appears.

(b) CONFORMING AMENDMENT.—The Act of March 8, 1910 (36 Stat. 234; 46 U.S.C. 132), is amended by striking ''and 1998,'' and inserting ''1998, 1999, 2000, 2001, and 2002,''.

TITLE IV—COMMITTEE ON ENERGY AND NATURAL RESOURCES

SEC. 4001. LEASE OF EXCESS STRATEGIC PETROLEUM RESERVE CAPACITY.

Part B of title I of the Energy Policy and Conservation Act (42 U.S.C. 6231 et seq.) is amended by adding at the end the following new section:

''USE OF UNDERUTILIZED FACILITIES

''SEC. 168. Notwithstanding section 649(b) of the Department of Energy Organization Act (42 U.S.C. 7259(b)), the Secretary is authorized to store in underutilized Strategic Petroleum Reserve facilities, by lease or otherwise, petroleum product owned by a foreign government or its representative: Provided, That funds resulting from the leasing or other use of a Reserve facility on or after October 1, 2007, shall be available to the Secretary, without further appropriation, for the purchase of petroleum products for the Reserve: Provided further, That petroleum product stored under this section is not part of the Strategic Petroleum Reserve, is not subject to part C of this title, and notwithstanding any provision of this Act, may be exported from the United States.''.

TITLE V—COMMITTEE ON FINANCE

SEC. 5000. AMENDMENTS TO SOCIAL SECURITY ACT AND REFERENCES TO OBRA; TABLE OF CONTENTS OF TITLE.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA.—In this title, the terms ''OBRA–1986'', ''OBRA–1987'', ''OBRA–1989'', ''OBRA–1990'', and ''OBRA–1993'' refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203), the Omnibus Budget Reconciliation Act of 1989

(Public Law 101–239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66), respectively.

(c) TABLE OF CONTENTS.—The table of contents of this title is as follows:

TITLE V—COMMITTEE ON FINANCE

Sec. 5000. Amendments to Social Security Act and references to OBRA; table of contents of title.
Sec. 5000A. Extension of moratorium.

DIVISION 1—MEDICARE

Subtitle A—Medicare Choice Program

CHAPTER 1—MEDICARE CHOICE PROGRAM

SUBCHAPTER A—MEDICARE CHOICE PROGRAM

Sec. 5001. Establishment of Medicare Choice program.
''PART C—MEDICARE CHOICE PROGRAM
''Sec. 1851. Eligibility, election, and enrollment.
''Sec. 1852. Benefits and beneficiary protections.
''Sec. 1853. Payments to Medicare Choice organizations.
''Sec. 1854. Premiums.
''Sec. 1855. Organizational and financial requirements for Medicare Choice organizations; provider-sponsored organizations.
''Sec. 1856. Establishment of standards.
''Sec. 1857. Contracts with Medicare Choice organizations.
''Sec. 1859. Definitions; miscellaneous provisions.
Sec. 5002. Transitional rules for current medicare HMO program.
Sec. 5003. Conforming changes in Medigap program.

SUBCHAPTER B—SPECIAL RULES FOR MEDICARE CHOICE MEDICAL SAVINGS ACCOUNTS

Sec. 5006. Medicare Choice MSA.

CHAPTER 2—INTEGRATED LONG-TERM CARE PROGRAMS

SUBCHAPTER A—PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

Sec. 5011. Coverage of PACE under the medicare program.
Sec. 5012. Effective date; transition.
Sec. 5013. Study and reports.

SUBCHAPTER B—SOCIAL HEALTH MAINTENANCE ORGANIZATIONS

Sec. 5015. Social health maintenance organizations (SHMOs).

SUBCHAPTER C—OTHER PROGRAMS

Sec. 5018. Extension of certain medicare community nursing organization demonstration projects.

CHAPTER 3—COMMISSIONS

Sec. 5021. National Bipartisan Commission on the Future of Medicare.
Sec. 5022. Medicare Payment Advisory Commission.

CHAPTER 4—MEDIGAP PROTECTIONS

Sec. 5031. Medigap protections.
Sec. 5032. Addition of high deductible Medigap policy.

CHAPTER 5—DEMONSTRATIONS

SUBCHAPTER A—MEDICARE CHOICE COMPETITIVE PRICING DEMONSTRATION PROJECT

PART I—IN GENERAL

Sec. 5041. Medicare Choice competitive pricing demonstration project.
Sec. 5042. Determination of annual Medicare Choice capitation rates.
Sec. 5043. Benefits and beneficiary premiums.

PART II—INFORMATION AND QUALITY STANDARDS

SUBPART A—INFORMATION

Sec. 5044. Information requirements.

SUBPART B—QUALITY IN DEMONSTRATION PLANS

Sec. 5044A. Definitions.
Sec. 5044B. Quality Advisory Institute.
Sec. 5044C. Duties of Director.
Sec. 5044D. Compliance.
Sec. 5044E. Payments for value.
Sec. 5044F. Certification requirement.
Sec. 5044G. Licensing of certification entities.
Sec. 5044H. Certification criteria.
Sec. 5044I. Grievance and appeals.

SUBCHAPTER B—OTHER PROJECTS

Sec. 5045. Medicare enrollment demonstration project.
Sec. 5046. Medicare coordinated care demonstration project.
Sec. 5047. Establishment of medicare reimbursement demonstration projects.

CHAPTER 6—TAX TREATMENT OF HOSPITALS PARTICIPATING IN PROVIDER-SPONSORED ORGANIZATIONS

Sec. 5049. Tax treatment of hospitals which participate in provider-sponsored organizations.

Subtitle B—Prevention Initiatives

Sec. 5101. Annual screening mammography for women over age 39.
Sec. 5102. Coverage of colorectal screening.
Sec. 5103. Diabetes screening tests.
Sec. 5104. Coverage of bone mass measurements.
Sec. 5105. Study on medical nutrition therapy services.

Subtitle C—Rural Initiatives

Sec. 5151. Sole community hospitals.
Sec. 5152. Medicare-dependent, small rural hospital payment extension.
Sec. 5153. Medicare rural hospital flexibility program.
Sec. 5154. Prohibiting denial of request by rural referral centers for reclassification on basis of comparability of wages.
Sec. 5155. Rural health clinic services.
Sec. 5156. Medicare reimbursement for telehealth services.
Sec. 5157. Telemedicine, informatics, and education demonstration project.

Subtitle D—Anti-Fraud and Abuse Provisions and Improvements in Protecting Program Integrity

CHAPTER 1—REVISIONS TO SANCTIONS FOR FRAUD AND ABUSE

Sec. 5201. Authority to refuse to enter into medicare agreements with individuals or entities convicted of felonies.
Sec. 5202. Exclusion of entity controlled by family member of a sanctioned individual.
Sec. 5203. Imposition of civil money penalties.

CHAPTER 2—IMPROVEMENTS IN PROTECTING PROGRAM INTEGRITY

Sec. 5211. Disclosure of information, surety bonds, and accreditation.
Sec. 5212. Provision of certain identification numbers.
Sec. 5213. Application of certain provisions of the bankruptcy code.
Sec. 5214. Replacement of reasonable charge methodology by fee schedules.
Sec. 5215. Application of inherent reasonableness to all part B services other than physicians' services.
Sec. 5216. Requirement to furnish diagnostic information.
Sec. 5217. Report by GAO on operation of fraud and abuse control program.
Sec. 5218. Competitive bidding.
Sec. 5219. Improving information to medicare beneficiaries.
Sec. 5220. Prohibiting unnecessary and wasteful medicare payments for certain items.
Sec. 5221. Reducing excessive billings and utilization for certain items.
Sec. 5222. Improving information to medicare beneficiaries.
Sec. 5223. Prohibiting unnecessary and wasteful medicare payments for certain items.
Sec. 5224. Reducing excessive billings and utilization for certain items.
Sec. 5225. Improved carrier authority to reduce excessive medicare payments.
Sec. 5226. Itemization of surgical dressing bills submitted by home health agencies.

CHAPTER 3—CLARIFICATIONS AND TECHNICAL CHANGES

Sec. 5231. Other fraud and abuse related provisions.

Subtitle E—Prospective Payment Systems

CHAPTER 1—PROVISIONS RELATING TO PART A

Sec. 5301. Prospective payment for inpatient rehabilitation hospital services.
Sec. 5302. Study and report on payments for long-term care hospitals.

CHAPTER 2—PROVISIONS RELATING TO PART B

SUBCHAPTER A—PAYMENT FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES

Sec. 5311. Elimination of formula-driven overpayments (FDO) for certain outpatient hospital services.
Sec. 5312. Extension of reductions in payments for costs of hospital outpatient services.
Sec. 5313. Prospective payment system for hospital outpatient department services.

SUBCHAPTER B—AMBULANCE SERVICES

Sec. 5321. Payments for ambulance services.

CHAPTER 3—PROVISIONS RELATING TO PARTS A AND B

SUBCHAPTER A—PAYMENTS TO SKILLED NURSING FACILITIES

Sec. 5331. Extension of cost limits.
Sec. 5332. Prospective payment for skilled nursing facility services.

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Sec. 5341. Recapturing savings resulting from temporary freeze on payment increases for home health services.
Sec. 5342. Interim payments for home health services.
Sec. 5343. Prospective payment for home health services.
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Sec. 5361. Modification of part A home health benefit for individuals enrolled under part B.
Sec. 5362. Imposition of $5 copayment for part B home health services.
Sec. 5363. Clarification of part-time or intermittent nursing care.
Sec. 5364. Study on definition of homebound.
Sec. 5365. Normative standards for home health claims denials.
Sec. 5366. Inclusion of cost of service in explanation of medicare benefits.

Subtitle F—Provisions Relating to Part A

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Sec. 5402. Capital payments for PPS hospitals.

CHAPTER 2—PAYMENT OF PPS EXEMPT HOSPITALS

Sec. 5421. Payment update.
Sec. 5422. Reductions to capital payments for certain PPS-exempt hospitals and units.
Sec. 5423. Cap on TEFRA limits.
Sec. 5424. Change in bonus and relief payments.
Sec. 5425. Target amounts for rehabilitation hospitals, long-term care hospitals, and psychiatric hospitals.
Sec. 5426. Treatment of certain long-term care hospitals located within other hospitals.
Sec. 5426A. Rebasing.
Sec. 5427. Elimination of exemptions; report on exceptions and adjustments.

Sec. 5428. Technical correction relating to subsection (d) hospitals.
Sec. 5429. Certain cancer hospitals.

CHAPTER 3—GRADUATE MEDICAL EDUCATION PAYMENTS

SUBCHAPTER A—DIRECT MEDICAL EDUCATION

Sec. 5441. Limitation on number of residents and rolling average FTE count.
Sec. 5442. Permitting payment to nonhospital providers.
Sec. 5443. Medicare special reimbursement rule for primary care combined residency programs.

SUBCHAPTER B—INDIRECT MEDICAL EDUCATION

Sec. 5446. Indirect graduate medical education payments.

SUBCHAPTER C—GRADUATE MEDICAL EDUCATION PAYMENTS FOR MANAGED CARE ENROLLEES

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Sec. 5461. Disproportionate share payments to hospitals for managed care and Medicare Choice enrollees.
Sec. 5462. Reform of disproportionate share payments to hospitals serving vulnerable populations.
Sec. 5463. Medicare capital asset sales price equal to book value.
Sec. 5464. Elimination of IME and DSH payments attributable to outlier payments.
Sec. 5465. Treatment of transfer cases.
Sec. 5466. Reductions in payments for enrollee bad debt.
Sec. 5467. Floor on area wage index.
Sec. 5468. Increase base payment rate to Puerto Rico hospitals.
Sec. 5469. Permanent extension of hemophilia pass-through.
Sec. 5470. Coverage of services in religious nonmedical health care institutions under the medicare and medicaid programs.

CHAPTER 5—PAYMENTS FOR HOSPICE SERVICES

Sec. 5481. Payment for home hospice care based on location where care is furnished.
Sec. 5482. Hospice care benefits periods.
Sec. 5483. Other items and services included in hospice care.
Sec. 5484. Contracting with independent physicians or physician groups for hospice care services permitted.
Sec. 5485. Waiver of certain staffing requirements for hospice care programs in non-urbanized areas.
Sec. 5486. Limitation on liability of beneficiaries for certain hospice coverage denials.
Sec. 5487. Extending the period for physician certification of an individual's terminal illness.
Sec. 5488. Effective date.

Subtitle G—Provisions Relating to Part B Only

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Sec. 5502. Establishing update to conversion factor to match spending under sustainable growth rate.
Sec. 5503. Replacement of volume performance standard with sustainable growth rate.
Sec. 5504. Payment rules for anesthesia services.
Sec. 5505. Implementation of resource-based methodologies.
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Sec. 5522. Improvements in administration of laboratory services benefit.
Sec. 5523. Payments for durable medical equipment.
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Sec. 5525. Updates for ambulatory surgical services.
Sec. 5526. Reimbursement for drugs and biologicals.

CHAPTER 3—PART B PREMIUM AND RELATED PROVISIONS

Sec. 5541. Part B premium.
Sec. 5542. Income-related reduction in medicare subsidy.
Sec. 5543. Demonstration project on income-related part B deductible.
Sec. 5544. Low-income medicare beneficiary block grant program.

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Sec. 5602. Improvements in recovery of payments.

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Sec. 5611. Conforming age for eligibility under medicare to retirement age for social security benefits.
Sec. 5612. Increased certification period for certain organ procurement organizations.
Sec. 5613. Facilitating the use of private contracts under the medicare program.

Subtitle I—Miscellaneous Provisions

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Subtitle I—Medicaid

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''PART B—PROVISIONS RELATING TO MANAGED CARE

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''Sec. 1942. Beneficiary access to services generally.
''Sec. 1943. Requirements for access to emergency care.
''Sec. 1944. Other beneficiary protections.
''Sec. 1945. Assuring quality care.
''Sec. 1946. Protections for providers.
''Sec. 1947. Assuring adequacy of payments to medicaid managed care organizations and entities.
''Sec. 1948. Fraud and abuse.
''Sec. 1949. Sanctions for noncompliance by managed care entities.
''Sec. 1950. Definitions; miscellaneous provisions.''.

Sec. 5702. Primary care case management services as State option without need for waiver.
Sec. 5703. Additional reforms to expand and simplify managed care.

SUBCHAPTER B—MANAGEMENT FLEXIBILITY REFORMS

Sec. 5711. Elimination of Boren amendment requirements for provider payment rates.
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SUBCHAPTER C—REDUCTION OF DISPROPORTIONATE SHARE HOSPITAL (DSH) PAYMENTS

Sec. 5721. Disproportionate share hospital (DSH) payments.

CHAPTER 2—EXPANSION OF MEDICAID ELIGIBILITY

Sec. 5731. State option to permit workers with disabilities to buy into medicaid.
Sec. 5732. 12-month continuous eligibility for children.

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Sec. 5741. Establishment of PACE program as medicaid State option.
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CHAPTER 4—MEDICAID MANAGEMENT AND PROGRAM REFORMS

Sec. 5751. Elimination of requirement to pay for private insurance.
Sec. 5752. Elimination of obstetrical and pediatric payment rate requirements.
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Sec. 5761. Increased FMAPs.
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Sec. 5763. Community-based mental health services.
Sec. 5764. Optional medicaid coverage of certain CDC-screened breast cancer patients.
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Sec. 5767. Removal of name from nurse aide registry.
Sec. 5768. Waiver of certain provider tax provisions.
Sec. 5769. Continuation of State-wide section 1115 medicaid waivers.
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Subtitle J—Children's Health Insurance Initiatives

Sec. 5801. Establishment of children's health insurance initiatives.

''TITLE XXI—CHILD HEALTH INSURANCE INITIATIVES

''Sec. 2101. Purpose.
''Sec. 2102. Definitions.
''Sec. 2103. Appropriation.
''Sec. 2104. Program outline.
''Sec. 2105. Distribution of funds.
''Sec. 2106. Use of funds.
''Sec. 2107. State option for the purchase or provision of children's health insurance.
''Sec. 2108. Program integrity.
''Sec. 2109. Annual reports.''.

DIVISION 3—INCOME SECURITY AND OTHER PROVISIONS

Subtitle K—Income Security, Welfare-to-Work Grant Program, and Other Provisions

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Sec. 5811. SSI eligibility for aliens receiving SSI on August 22, 1996.
Sec. 5812. Extension of eligibility period for refugees and certain other qualified aliens from 5 to 7 years for SSI and medicaid.
Sec. 5813. Exceptions for certain Indians from limitation on eligibility for supplemental security income and medicaid benefits.

Sec. 5814. SSI eligibility for disabled legal aliens in the United States on August 22, 1996.
Sec. 5815. Exemption from restriction on supplemental security income program participation by certain recipients eligible on the basis of very old applications.
Sec. 5816. Reinstatement of eligibility for benefits.
Sec. 5817. Exemption for children who are legal aliens from 5-year ban on medicaid eligibility.
Sec. 5818. Treatment of certain Amerasian immigrants as refugees.
Sec. 5819. SSI eligibility for severely disabled aliens.
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CHAPTER 2—WELFARE-TO-WORK GRANT PROGRAM
Sec. 5821. Welfare-to-work grants.
Sec. 5822. Clarification of a State's ability to sanction an individual receiving assistance under TANF for noncompliance.
CHAPTER 3—UNEMPLOYMENT COMPENSATION
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Sec. 5851. Restrictions on availability of earned income credit for taxpayers who improperly claimed credit in prior year.
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SEC. 5000A. EXTENSION OF MORATORIUM.

Section 6408(a)(3) of the Omnibus Budget Reconciliation Act of 1989, as amended by section 13642 of the Omnibus Budget Reconciliation Act of 1993 is amended by striking ''December 31, 1995'' and inserting ''December 31, 2002''.

DIVISION 1—MEDICARE

Subtitle A—Medicare Choice Program

CHAPTER 1—MEDICARE CHOICE PROGRAM

Subchapter A—Medicare Choice Program

SEC. 5001. ESTABLISHMENT OF MEDICARE CHOICE PROGRAM.

Title XVIII is amended by redesignating part C as part D and by inserting after part B the following new part:

''PART C—MEDICARE CHOICE PROGRAM

''ELIGIBILITY, ELECTION, AND ENROLLMENT

''SEC. 1851. (a) CHOICE OF MEDICARE BENEFITS THROUGH MEDICARE CHOICE PLANS.—

''(1) IN GENERAL.—Subject to the provisions of this section, each Medicare Choice eligible individual (as defined in paragraph (3)) is entitled to elect to receive benefits under this title—

''(A) through the traditional medicare fee-for-service program under parts A and B, or

''(B) through enrollment in a Medicare Choice plan under this part.

''(2) TYPES OF MEDICARE CHOICE PLANS THAT MAY BE AVAILABLE.—A Medicare Choice plan may be any of the following types of plans of health insurance:

''(A) FEE-FOR-SERVICE PLANS.—A plan that reimburses hospitals, physicians, and other providers on the basis of a privately determined fee schedule or other basis.

''(B) PLANS OFFERED BY PREFERRED PROVIDER ORGANIZATIONS.—A Medicare Choice plan offered by a preferred provider organization.

''(C) POINT OF SERVICE PLANS.—A point of service plan.

''(D) PLANS OFFERED BY PROVIDER-SPONSORED ORGANIZATION.—A Medicare Choice plan offered by a provider-sponsored organization, as defined in section 1855(e).

''(E) PLANS OFFERED BY HEALTH MAINTENANCE ORGANIZATIONS.—A Medicare Choice plan offered by a health maintenance organization.

''(F) COMBINATION OF MSA PLAN AND CONTRIBUTIONS TO MEDICARE CHOICE MSA.—An MSA plan, as defined in section 1859(b)(3), and a contribution into a Medicare Choice medical savings account (MSA).

''(G) OTHER HEALTH CARE PLANS.—Any other private plan for the delivery of health care items and services that is not described in a preceding subparagraph.

''(3) MEDICARE CHOICE ELIGIBLE INDIVIDUAL.—

''(A) IN GENERAL.—In this title, subject to subparagraph (B), the term 'Medicare Choice eligible individual' means an individual who is entitled to benefits under part A and enrolled under part B.

''(B) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—Such term shall not include an individual medically determined to have end-stage renal disease, except that an individual who develops end-stage renal disease while enrolled in a Medicare Choice plan may continue to be enrolled in that plan.

''(b) SPECIAL RULES.—

''(1) RESIDENCE REQUIREMENT.—

''(A) IN GENERAL.—Except as the Secretary may otherwise provide, an individual is eligible to elect a Medicare Choice plan offered by a Medicare Choice organization only if the plan serves the geographic area in which the individual resides.

''(B) CONTINUATION OF ENROLLMENT PERMITTED.—Pursuant to rules specified by the Secretary, the Secretary shall provide that an individual may continue enrollment in a plan, notwithstanding that the individual no longer resides in the service area of the plan, so long as the plan provides benefits for enrollees located in the area in which the individual resides.

''(2) SPECIAL RULE FOR CERTAIN INDIVIDUALS COVERED UNDER FEHBP OR ELIGIBLE FOR VETERANS OR MILITARY HEALTH BENEFITS, VETERANS.—

''(A) FEHBP.—An individual who is enrolled in a health benefit plan under chapter 89 of title 5, United States Code, is not eligible to enroll in an MSA plan until such time as the Director of the Office of Management and Budget certifies to the Secretary that the Office of Personnel Management has adopted policies which will ensure that the enrollment of such individuals in such plans will not result in increased expenditures for the Federal Government for health benefit plans under such chapter.

''(B) VA AND DOD.—The Secretary may apply rules similar to the rules described in subparagraph (A) in the case of individuals who are eligible for health care benefits under chapter 55 of title 10, United States Code, or under chapter 17 of title 38 of such Code.

''(3) LIMITATION ON ELIGIBILITY OF QUALIFIED MEDICARE BENEFICIARIES AND OTHER MEDICAID BENEFICIARIES TO ENROLL IN AN MSA PLAN.—An individual who is a qualified medicare beneficiary (as defined in section 1905(p)(1)), a qualified disabled and working individual (described in section 1905(s)), an individual described in section 1902(a)(10)(E)(iii), or otherwise entitled to medicare cost-sharing under a State plan under title XIX is not eligible to enroll in an MSA plan.

''(4) COVERAGE UNDER MSA PLANS ON A DEMONSTRATION BASIS.—

''(A) IN GENERAL.—An individual is not eligible to enroll in an MSA plan under this part—

''(i) on or after January 1, 2003, unless the enrollment is the continuation of such an enrollment in effect as of such date; or

''(ii) as of any date if the number of such individuals so enrolled as of such date has reached 100,000.

Under rules established by the Secretary, an individual is not eligible to enroll (or continue enrollment) in an MSA plan for a year unless the individual provides assurances satisfactory to the Secretary that the individual will reside in the United States for at least 183 days during the year.

''(B) EVALUATION.—The Secretary shall regularly evaluate the impact of permitting enrollment in MSA plans under this part on selection (including adverse selection), use of preventive care, access to care, and the financial status of the Trust Funds under this title.

''(C) REPORTS.—The Secretary shall submit to Congress periodic reports on the numbers of individuals enrolled in such plans and on the evaluation being conducted under subparagraph (B). The Secretary shall submit such a report, by not later than March 1, 2002, on whether the time limitation under subparagraph (A)(i) should be extended or removed and whether to change the numerical limitation under subparagraph (A)(ii).

''(c) PROCESS FOR EXERCISING CHOICE.—

''(1) IN GENERAL.—The Secretary shall establish a process through which elections described in subsection (a) are made and changed, including the form and manner in which such elections are made and changed. Such elections shall be made or changed as provided in subsection (e) and shall become effective as provided in subsection (f).

''(2) COORDINATION THROUGH MEDICARE CHOICE ORGANIZATIONS.—

''(A) ENROLLMENT.—Such process shall permit an individual who wishes to elect a Medicare Choice plan offered by a Medicare Choice organization to make such election through the filing of an appropriate election form with the organization.

''(B) DISENROLLMENT.—Such process shall permit an individual, who has elected a Medicare Choice plan offered by a Medicare Choice organization and who wishes to terminate such election, to terminate such election through the filing of an appropriate election form with the organization.

''(3) DEFAULT.—

''(A) INITIAL ELECTION.—

''(i) IN GENERAL.—Subject to clause (ii), an individual who fails to make an election during an initial election period under subsection (e)(1) is deemed to have chosen the traditional medicare fee-for-service program option.

''(ii) SEAMLESS CONTINUATION OF COVERAGE.—The Secretary may establish procedures under which an individual who is enrolled in a health plan (other than Medicare Choice plan) offered by a Medicare Choice organization at the time of the initial election period and who fails to elect to receive coverage other than through the organization is deemed to have elected the Medicare Choice plan offered by the organization (or, if the organization offers more than one such plan, such plan or plans as the Secretary identifies under such procedures).

''(B) CONTINUING PERIODS.—An individual who has made (or is deemed to have made) an election under this section is considered to have continued to make such election until such time as—

''(i) the individual changes the election under this section, or

''(ii) the Medicare Choice plan with respect to which such election is in effect is discontinued.

''(d) PROVIDING INFORMATION TO PROMOTE INFORMED CHOICE.—

''(1) IN GENERAL.—The Secretary shall provide for activities under this subsection to broadly disseminate information to medicare beneficiaries (and prospective medicare beneficiaries) on the coverage options provided under this section in order to promote an active, informed selection among such options.

''(2) PROVISION OF NOTICE.—

''(A) OPEN SEASON NOTIFICATION.—At least 15 days before the beginning of each annual, coordinated election period (as defined in subsection (e)(3)(B)), the Secretary shall mail to each Medicare Choice eligible individual residing in an area the following:

''(i) GENERAL INFORMATION.—The general information described in paragraph (3).

''(ii) LIST OF PLANS AND COMPARISON OF PLAN OPTIONS.—A list identifying the Medicare Choice plans that are (or will be) available to residents of the area and information described in paragraph (4) concerning such plans. Such information shall be presented in a comparative, chart-like form.

''(iii) ADDITIONAL INFORMATION.—Any other information that the Secretary determines will assist the individual in making the election under this section.

The mailing of such information shall be coordinated with the mailing of any annual notice under section 1804.

''(B) NOTIFICATION TO NEWLY MEDICARE CHOICE ELIGIBLE INDIVIDUALS.—To the extent practicable, the Secretary shall, not later than 30 days before the beginning of the initial Medicare Choice enrollment period for an individual described in subsection (e)(1)(A), mail to the individual the information described in subparagraph (A).

''(C) FORM.—The information disseminated under this paragraph shall be written and formatted using language that is easily understandable by medicare beneficiaries.

''(D) PERIODIC UPDATING.—The information described in subparagraph (A) shall be updated on at least an annual basis to reflect changes in the availability of Medicare Choice plans and the benefits and net monthly premiums for such plans.

''(3) GENERAL INFORMATION.—General information under this paragraph, with respect to coverage under this part during a year, shall include the following:

''(A) BENEFITS UNDER TRADITIONAL MEDICARE FEE-FOR-SERVICE PROGRAM OPTION.—A general description of the benefits covered under the traditional medicare fee-for-service program under parts A and B, including—

''(i) covered items and services,

''(ii) beneficiary cost sharing, such as deductibles, coinsurance, and copayment amounts, and

''(iii) any beneficiary liability for balance billing.

''(B) PART B PREMIUM.—The part B premium rates that will be charged for part B coverage.

''(C) ELECTION PROCEDURES.—Information and instructions on how to exercise election options under this section.

''(D) RIGHTS.—A general description of procedural rights (including grievance and appeals procedures) of beneficiaries under the traditional medicare fee-for-service program and the Medicare Choice program and the right to be protected against discrimination based on health status-related factors under section 1852(b).

''(E) INFORMATION ON MEDIGAP AND MEDICARE SELECT.—A general description of the benefits, enrollment rights, and other requirements applicable to medicare supplemental policies under section 1882 and provisions relating to medicare select policies described in section 1882(t).

''(F) POTENTIAL FOR CONTRACT TERMINATION.—The fact that a Medicare Choice organization may terminate or refuse to renew its contract under this part and the effect the termination or nonrenewal of its contract may have on individuals enrolled with the Medicare Choice plan under this part.

''(4) INFORMATION COMPARING PLAN OPTIONS.—Information under this paragraph, with respect to a Medicare Choice plan for a year, shall include the following:

''(A) BENEFITS.—The benefits covered under the plan, including—

''(i) covered items and services beyond those provided under the traditional medicare fee-for-service program,

''(ii) any beneficiary cost sharing,

''(iii) any maximum limitations on out-of-pocket expenses, and

''(iv) in the case of an MSA plan, differences in cost sharing and balance billing under such a plan compared to under other Medicare Choice plans.

''(B) PREMIUMS.—The net monthly premium, if any, for the plan.

''(C) SERVICE AREA.—The service area of the plan.

''(D) QUALITY AND PERFORMANCE.—To the extent available, plan quality and performance indicators for the benefits under the plan (and how they compare to such indicators under the traditional medicare fee-for-service program under parts A and B in the area involved), including—

''(i) disenrollment rates for medicare enrollees electing to receive benefits through the plan for the previous 2 years (excluding disenrollment due to death or moving outside the plan's service area),

''(ii) information on medicare enrollee satisfaction,

''(iii) information on health outcomes,

''(iv) the extent to which a medicare enrollee may select the health care provider of their choice, including health care providers within the plan's network and out-of-network health care providers (if the plan covers out-of-network items and services), and

''(v) an indication of medicare enrollee exposure to balance billing and the restrictions on coverage of items and services provided to such enrollee by an out-of-network health care provider.

''(E) SUPPLEMENTAL BENEFITS OPTIONS.—Whether the organization offering the plan offers optional supplemental benefits and the terms and conditions (including premiums) for such coverage.

''(F) PHYSICIAN COMPENSATION.—An overall summary description as to the method of compensation of participating physicians.

''(5) MAINTAINING A TOLL-FREE NUMBER AND INTERNET SITE.—The Secretary shall maintain a toll-free number for inquiries regarding Medicare Choice options and the operation of this part in all areas in which Medicare Choice plans are offered and an Internet site through which individuals may electronically obtain information on such options and Medicare Choice plans.

''(6) USE OF NON-FEDERAL ENTITIES.—The Secretary may enter into contracts with non-Federal entities to carry out activities under this subsection.

''(7) PROVISION OF INFORMATION.—A Medicare Choice organization shall provide the Secretary with such information on the organization and each Medicare Choice plan it offers as may be required for the preparation of the information referred to in paragraph (2)(A).

''(8) COORDINATION WITH STATES.—The Secretary shall coordinate with States to the maximum extent feasible in developing and distributing information provided to beneficiaries.

''(e) COVERAGE ELECTION PERIODS.—

''(1) INITIAL CHOICE UPON ELIGIBILITY TO MAKE ELECTION IF MEDICARE CHOICE PLANS AVAILABLE TO INDIVIDUAL.—If, at the time an individual first becomes entitled to benefits under part A and enrolled under part B, there is one or more Medicare Choice plans offered in the area in which the individual resides, the individual shall make the election under this section during a period specified by the Secretary such that if the individual elects a Medicare Choice plan during the period, coverage under the plan becomes effective as of the first date on which the individual may receive such coverage.

''(2) OPEN ENROLLMENT AND DISENROLLMENT OPPORTUNITIES.—Subject to paragraph (5), a Medicare Choice eligible individual may change the election under subsection (a)(1) at any time, except that such individual may only enroll in a Medicare Choice plan which has an open enrollment period in effect at that time.

''(3) ANNUAL, COORDINATED ELECTION PERIOD.—

''(A) IN GENERAL.—Subject to paragraph (5), a Medicare Choice eligible individual may change an election under subsection (a)(1) during an annual, coordinated election period.

''(B) ANNUAL, COORDINATED ELECTION PERIOD.—For purposes of this section, the term 'annual, coordinated election period' means, with respect to a calendar year (beginning with 1998), the month of November before such year.

''(C) MEDICARE CHOICE HEALTH INFORMATION FAIRS.—In the month of November of each year (beginning with 1997), the Secretary shall provide for a nationally coordinated educational and publicity campaign to inform Medicare Choice eligible individuals about Medicare Choice plans and the election process provided under this section.

''(4) SPECIAL ELECTION PERIODS.—A Medicare Choice individual may make a new election under this section if—

''(A) the organization's or plan's certification under this part has been terminated or the organization has terminated or otherwise discontinued providing the plan;

''(B) the individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances (specified by the Secretary, but not including termination of the individual's enrollment on the basis described in clause (i) or (ii) subsection (g)(3)(B));

''(C) the individual demonstrates (in accordance with guidelines established by the Secretary) that—

''(i) the organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual (including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards); or

''(ii) the organization (or an agent or other entity acting on the organization's behalf) materially misrepresented the plan's provisions in marketing the plan to the individual; or

''(D) the individual meets such other exceptional conditions as the Secretary may provide.

''(5) SPECIAL RULES FOR MSA PLANS.—Notwithstanding the preceding provisions of this subsection, an individual—

''(A) may elect an MSA plan only during—

''(i) an initial open enrollment period described in paragraph (1), or

''(ii) an annual, coordinated election period described in paragraph (3)(B), and

''(B) may not discontinue an election of an MSA plan except during the periods described in subparagraph (A) and under paragraph (4).

''(6) OPEN ENROLLMENT PERIODS.—A Medicare Choice organization—

''(A) shall accept elections or changes to elections described in paragraphs (1), (3), and (4) during the periods prescribed in such paragraphs, and

''(B) may accept other changes to elections at such other times as the organization provides.

''(f) EFFECTIVENESS OF ELECTIONS AND CHANGES OF ELECTIONS.—

''(1) DURING INITIAL COVERAGE ELECTION PERIOD.—An election of coverage made during the initial coverage election period under subsection (e)(1)(A) shall take effect upon the date the individual becomes entitled to benefits under part A and enrolled under part B, except as the Secretary may provide (consistent with section 1838) in order to prevent retroactive coverage.

''(2) DURING CONTINUOUS OPEN ENROLLMENT PERIODS.—An election or change of coverage made under subsection (e)(2) shall take effect with the first day of the first calendar month following the date on which the election is made.

''(3) ANNUAL, COORDINATED ELECTION PERIOD.—An election or change of coverage made during an annual, coordinated election period (as defined in subsection (e)(3)(B)) in a year shall take effect as of the first day of the following year unless the individual elects to have it take effect on December 1 of the election year.

''(4) OTHER PERIODS.—An election or change of coverage made during any other period under subsection (e)(4) shall take effect in such manner as the Secretary provides in a manner consistent (to the extent practicable) with protecting continuity of health benefit coverage.

''(g) GUARANTEED ISSUE AND RENEWAL.—

''(1) IN GENERAL.—Except as provided in this subsection, a Medicare Choice organization shall provide that at any time during which elections are accepted under this section with respect to a Medicare Choice plan offered by the organization, the organization will accept without restrictions individuals who are eligible to make such election.

''(2) PRIORITY.—If the Secretary determines that a Medicare Choice organization, in relation to a Medicare Choice plan it offers, has a capacity limit and the number of Medicare Choice eligible individuals who elect the plan under this section exceeds the capacity limit, the organization may limit the election of individuals of the plan under this section but only if priority in election is provided—

''(A) first to such individuals as have elected the plan at the time of the determination, and

''(B) then to other such individuals in such a manner that does not discriminate, on a basis described in section 1852(b), among the individuals (who seek to elect the plan).

The preceding sentence shall not apply if it would result in the enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the medicare population in the service area of the plan.

''(3) LIMITATION ON TERMINATION OF ELECTION.—

''(A) IN GENERAL.—Subject to subparagraph (B), a Medicare Choice organization may not for any reason terminate the election of any individual under this section for a Medicare Choice plan it offers.

''(B) BASIS FOR TERMINATION OF ELECTION.—A Medicare Choice organization may terminate an individual's election under this section with respect to a Medicare Choice plan it offers if—

''(i) any net monthly premiums required with respect to such plan are not paid on a timely basis (consistent with standards under section 1856 that provide for a grace period for late payment of net monthly premiums),

''(ii) the individual has engaged in disruptive behavior (as specified in such standards), or

''(iii) the plan is terminated with respect to all individuals under this part in the area in which the individual resides.

''(C) CONSEQUENCE OF TERMINATION.—

''(i) TERMINATIONS FOR CAUSE.—Any individual whose election is terminated under clause (i) or (ii) of subparagraph (B) is deemed to have elected the traditional medicare fee-for-service program option described in subsection (a)(1)(A).

''(ii) TERMINATION BASED ON PLAN TERMINATION OR SERVICE AREA REDUCTION.—Any individual whose election is terminated under subparagraph (B)(iii) shall have a special election period under subsection (e)(4)(A) in which to change coverage to coverage under another Medicare Choice plan. Such an individual who fails to make an election during such period is deemed to have chosen to change coverage to the traditional medicare fee-for-service program option described in subsection (a)(1)(A).

''(D) ORGANIZATION OBLIGATION WITH RESPECT TO ELECTION FORMS.—Pursuant to a contract under section 1857, each Medicare Choice organization receiving an election form under subsection (c)(3) shall transmit to the Secretary (at such time and in such manner as the Secretary may specify) a copy of such form or such other information respecting the election as the Secretary may specify.

''(h) APPROVAL OF MARKETING MATERIAL AND APPLICATION FORMS.—

''(1) SUBMISSION.—No marketing material or application form may be distributed by a Medicare Choice organization to (or for the use of) Medicare Choice eligible individuals unless—

''(A) at least 45 days before the date of distribution the organization has submitted the material or form to the Secretary for review, and

''(B) the Secretary has not disapproved the distribution of such material or form.

''(2) REVIEW.—The standards established under section 1856 shall include guidelines for the review of any material or form submitted and under such guidelines the Secretary shall disapprove (or later require the correction of) such material or form if the material or form is materially inaccurate or misleading or otherwise makes a material misrepresentation.

''(3) DEEMED APPROVAL (1-STOP SHOPPING).—In the case of material or form that is submitted under paragraph (1)(A) to the Secretary or a regional office of the Department of Health and Human Services and the Secretary or the office has not disapproved the distribution of marketing material or form under paragraph (1)(B) with respect to a Medicare Choice plan in an area, the Secretary is deemed not to have disapproved such distribution in all other areas covered by the plan and organization except to the extent that such material or form is specific only to an area involved.

''(4) PROHIBITION OF CERTAIN MARKETING PRACTICES.—Each Medicare Choice organization shall conform to fair marketing standards, in relation to Medicare Choice plans offered under this part, included in the standards established under section 1856.

''(i) EFFECT OF ELECTION OF MEDICARE CHOICE PLAN OPTION.—Subject to sections 1852(a)(5) and 1857(f)(2)—

''(1) payments under a contract with a Medicare Choice organization under section 1853(a) with respect to an individual electing a Medicare Choice plan offered by the organization shall be instead of the amounts which (in the absence of the contract) would otherwise be payable under parts A and B for items and services furnished to the individual, and

''(2) subject to subsections (e) and (g) of section 1853, only the Medicare Choice organization shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.

''BENEFITS AND BENEFICIARY PROTECTIONS

''SEC. 1852. (a) BASIC BENEFITS.—

''(1) IN GENERAL.—Except as provided in section 1859(b)(3) for MSA plans, each Medicare Choice plan shall provide to members enrolled under this part, through providers and other persons that meet the applicable requirements of this title and part A of title XI—

''(A) those items and services for which benefits are available under parts A and B to individuals residing in the area served by the plan, and

''(B) additional benefits required under section 1854(f)(1)(A).

''(2) SUPPLEMENTAL BENEFITS.—

''(A) BENEFITS INCLUDED SUBJECT TO SECRETARY'S APPROVAL.—Each Medicare Choice organization may provide to individuals enrolled under this part (without affording those individuals an option to decline the coverage) supplemental health care benefits that the Secretary may approve. The Secretary shall approve any such supplemental benefits unless the Secretary determines that including such supplemental benefits would substantially discourage enrollment by Medicare Choice eligible individuals with the organization.

''(B) AT ENROLLEES' OPTION.—A Medicare Choice organization may provide to individuals enrolled under this part (other than under an MSA plan) supplemental health care benefits that the individuals may elect, at their option, to have covered.

''(3) ORGANIZATION AS SECONDARY PAYER.—Notwithstanding any other provision of law, a Medicare Choice organization may (in the case of the provision of items and services to an individual under a Medicare Choice plan under circumstances in which payment under this title is made secondary pursuant to section 1862(b)(2)) charge or authorize the provider of such services to charge, in accordance with the charges allowed under a law, plan, or policy described in such section—

''(A) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

''(B) such individual to the extent that the individual has been paid under such law, plan, or policy for such services.

''(4) NATIONAL COVERAGE DETERMINATIONS.—If there is a national coverage determination made in the period beginning on the date of an announcement under section 1853(b) and ending on the date of the next announcement under such section and the Secretary projects that the determination will result in a significant change in the costs to a Medicare Choice organization of providing the benefits that are the subject of such national coverage determination and that such change in costs was not incorporated in the determination of the annual Medicare Choice capitation rate under section 1853 included in the announcement made at the beginning of such period, then, unless otherwise required by law—

''(A) such determination shall not apply to contracts under this part until the first contract year that begins after the end of such period, and

''(B) if such coverage determination provides for coverage of additional benefits or coverage under additional circumstances, section 1851(i) shall not apply to payment for such additional benefits or benefits provided under such additional circumstances until the first contract year that begins after the end of such period.

''(5) SATISFACTION OF REQUIREMENT.—

''(A) IN GENERAL.—A MedicarePlus plan offered by a MedicarePlus organization satisfies paragraph (1)(A), with respect to benefits for items and services furnished other than through a provider that has a contract with the organization offering the plan, if the plan provides (in addition to any cost sharing provided for under the plan) for at least the total dollar amount of payment for such items and services as would otherwise be authorized under parts A and B (including any balance billing permitted under such parts).

''(B) EXCEPTION FOR MSA PLANS AND UNRESTRICTED FEE-FOR-SERVICE PLANS.—Subparagraph (A) shall not apply to an MSA plan or an unrestricted fee-for-service plan.

''(b) ANTIDISCRIMINATION.—

''(1) BENEFICIARIES.—

''(A) IN GENERAL.—A Medicare Choice organization may not deny, limit, or condition the coverage or provision of benefits under this part, for individuals permitted to be enrolled with the organization under this part, based on any health status-related factor described in section 2702(a)(1) of the Public Health Service Act.

''(B) CONSTRUCTION.—Subparagraph (A) shall not be construed as requiring a Medicare Choice organization to enroll individuals who are determined to have end-stage renal disease, except as provided under section 1851(a)(3)(B).

''(2) PROVIDERS.—A Medicare Choice organization shall not discriminate with respect to participation, reimbursement, or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification. This paragraph shall not be construed to prohibit a plan from including providers only to the extent necessary to meet the needs of the plan's enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan.

''(c) DISCLOSURE REQUIREMENTS.—

''(1) DETAILED DESCRIPTION OF PLAN PROVISIONS.—A Medicare Choice organization shall disclose, in clear, accurate, and standardized form to each enrollee with a Medicare Choice plan offered by the organization under this part at the time of enrollment and at least annually thereafter, the following information regarding such plan:

''(A) SERVICE AREA.—The plan's service area.

''(B) BENEFITS.—Benefits offered under the plan, including information described in section 1851(d)(3)(A) and exclusions from coverage and, if it is an MSA plan, a comparison of benefits under such a plan with benefits under other Medicare Choice plans.

''(C) ACCESS.—The number, mix, and distribution of plan providers.

''(D) OUT-OF-AREA COVERAGE.—Out-of-area coverage provided by the plan.

''(E) EMERGENCY COVERAGE.—Coverage of emergency services and urgently needed care, including—

''(i) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

''(ii) the process and procedures of the plan for obtaining emergency services; and

''(iii) the locations of (I) emergency departments, and (II) other settings, in which plan physicians and hospitals provide emergency services and post-stabilization care.

''(F) SUPPLEMENTAL BENEFITS.—Supplemental benefits available from the organization offering the plan, including—

''(i) whether the supplemental benefits are optional,

''(ii) the supplemental benefits covered, and

''(iii) the premium price for the supplemental benefits.

''(G) PRIOR AUTHORIZATION RULES.—Rules regarding prior authorization or other review requirements that could result in nonpayment.

''(H) PLAN GRIEVANCE AND APPEALS PROCEDURES.—All plan appeal or grievance rights and procedures.

''(I) QUALITY ASSURANCE PROGRAM.—A description of the organization's quality assurance program under subsection (e).

''(J) OUT-OF-NETWORK COVERAGE.—The out-of-network coverage (if any) provided by the plan.

''(2) DISCLOSURE UPON REQUEST.—Upon request of a Medicare Choice eligible individual, a Medicare Choice organization must provide the following information to such individual:

''(A) The information described in paragraphs (3) and (4) of section 1851(d).

''(B) Information on utilization review procedures.

''(d) ACCESS TO SERVICES.—

''(1) IN GENERAL.—A Medicare Choice organization offering a Medicare Choice plan, other than an unrestricted fee-for-service plan, may select the providers from whom the benefits under the plan are provided so long as—

''(A) the organization makes such benefits available and accessible to each individual electing the plan within the plan service area with reasonable promptness and in a manner which assures continuity in the provision of benefits;

''(B) when medically necessary the organization makes such benefits available and accessible 24 hours a day and 7 days a week;

''(C) the plan provides for reimbursement with respect to services which are covered under subparagraphs (A) and (B) and which are provided to such an individual other than through the organization, if—

''(i) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition, and it was not reasonable given the circumstances to obtain the services through the organization, or

''(ii) the services were renal dialysis services and were provided other than through the organization because the individual was temporarily out of the plan's service area;

''(D) the organization provides access to appropriate providers, including credentialed specialists, for medically necessary treatment and services;

''(E) coverage is provided for emergency services (as defined in paragraph (3)) without regard to prior authorization or the emergency

care provider's contractual relationship with the organization; and

''(F) except as provided by the Secretary on a case-by-case basis, the organization provides primary care services within 30 minutes or 30 miles from an enrollee's place of residence if the enrollee resides in a rural area.

''(2) GUIDELINES RESPECTING COORDINATION OF POST-STABILIZATION CARE.—

''(A) IN GENERAL.—A Medicare Choice plan shall comply with such guidelines as the Secretary shall prescribe relating to promoting efficient and timely coordination of appropriate maintenance and post-stabilization care of an enrollee after the enrollee has been determined to be stable under section 1867.

''(B) CONTENT OF GUIDELINES.—The guidelines prescribed under subparagraph (A) shall provide that—

''(i) a provider of emergency services shall make a documented good faith effort to contact the plan in a timely fashion from the point at which the individual is stabilized to request approval for medically necessary post-stabilization care,

''(ii) the plan shall respond in a timely fashion to the initial contact with the plan with a decision as to whether the services for which approval is requested will be authorized, and

''(iii) if a denial of a request is communicated, the plan shall, upon request from the treating physician, arrange for a physician who is authorized by the plan to review the denial to communicate directly with the treating physician in a timely fashion.

''(3) DEFINITION OF EMERGENCY SERVICES.—In this subsection—

''(A) IN GENERAL.—The term 'emergency services' means, with respect to an individual enrolled with an organization, covered inpatient and outpatient services that—

''(i) are furnished by a provider that is qualified to furnish such services under this title, and

''(ii) are needed to evaluate or stabilize an emergency medical condition (as defined in subparagraph (B)).

''(B) EMERGENCY MEDICAL CONDITION BASED ON PRUDENT LAYPERSON.—The term 'emergency medical condition' means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

''(i) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

''(ii) serious impairment to bodily functions, or

''(iii) serious dysfunction of any bodily organ or part.

''(e) QUALITY ASSURANCE PROGRAM.—

''(1) IN GENERAL.—Each Medicare Choice organization must have arrangements, consistent with any regulation, for an ongoing quality assurance program for health care services it provides to individuals enrolled with Medicare Choice plans of the organization.

''(2) ELEMENTS OF PROGRAM.—The quality assurance program shall—

''(A) stress health outcomes and provide for the collection, analysis, and reporting of data (in accordance with a quality measurement system that the Secretary recognizes) that will permit measurement of outcomes and other indices of the quality of Medicare Choice plans and organizations;

''(B) provide for the establishment of written protocols for utilization review, based on current standards of medical practice;

''(C) provide review by physicians and other health care professionals of the process followed in the provision of such health care services;

''(D) monitor and evaluate high volume and high risk services and the care of acute and chronic conditions;

''(E) evaluate the continuity and coordination of care that enrollees receive;

''(F) have mechanisms to detect both underutilization and overutilization of services;

''(G) after identifying areas for improvement, establish or alter practice parameters;

''(H) take action to improve quality and assesses the effectiveness of such action through systematic followup;

''(I) make available information on quality and outcomes measures to facilitate beneficiary comparison and choice of health coverage options (in such form and on such quality and outcomes measures as the Secretary determines to be appropriate);

''(J) be evaluated on an ongoing basis as to its effectiveness;

''(K) include measures of consumer satisfaction; and

''(L) provide the Secretary with such access to information collected as may be appropriate to monitor and ensure the quality of care provided under this part.

''(3) EXTERNAL REVIEW.—Each Medicare Choice organization shall, for each Medicare Choice plan it operates, have an agreement with an independent quality review and improvement organization approved by the Secretary to perform functions of the type described in sections 1154(a)(4)(B) and 1154(a)(14) with respect to services furnished by Medicare Choice plans for which payment is made under this title.

''(4) EXCEPTION FOR MEDICARE CHOICE UNRESTRICTED FEE-FOR-SERVICE PLANS.—Paragraphs (1) through (3) of this subsection and subsection (h)(2) (relating to maintaining medical records) shall not apply in the case of a Medicare Choice organization in relation to a Medicare Choice unrestricted fee-for-service plan.

''(5) TREATMENT OF ACCREDITATION.—The Secretary shall provide that a Medicare Choice organization is deemed to meet requirements of paragraphs (1) and (2) of this subsection and subsection (h) (relating to confidentiality and accuracy of enrollee records) if the organization is accredited (and periodically reaccredited) by a private organization under a process that the Secretary has determined assures that the organization, as a condition of accreditation, applies and enforces standards with respect to the requirements involved that are no less stringent than the standards established under section 1856 to carry out the respective requirements.

''(6) ANNUAL REPORT ON NON-HEALTH EXPENDITURES.—Each Medicare Choice organization shall, at the request of the enrollee, annually provide to enrollees a statement disclosing the proportion of the premiums and other revenues received by the organization that are expended for non-health care items and services.

''(f) COVERAGE DETERMINATIONS.—

''(1) DECISIONS ON NONEMERGENCY CARE.—A Medicare Choice organization shall make determinations regarding authorization requests for nonemergency care on a timely basis, depending on the urgency of the situation.

''(2) RECONSIDERATIONS.—

''(A) IN GENERAL.—Subject to subsection (g)(4), a reconsideration of a determination of an organization denying coverage shall be made within 30 days of the date of receipt of medical information, but not later than 60 days after the date of the determination.

''(B) PHYSICIAN DECISION ON CERTAIN RECONSIDERATIONS.—A reconsideration relating to a determination to deny coverage based on a lack of medical necessity shall be made only by a physician other than a physician involved in the initial determination.

''(g) GRIEVANCES AND APPEALS.—

''(1) GRIEVANCE MECHANISM.—Each Medicare Choice organization must provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the organization provides health care services) and enrollees with Medicare Choice plans of the organization under this part.

''(2) APPEALS.—An enrollee with a Medicare Choice plan of a Medicare Choice organization under this part who is dissatisfied by reason of the enrollee's failure to receive any health service to which the enrollee believes the enrollee is entitled and at no greater charge than the enrollee believes the enrollee is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the organization a party. If the amount in controversy is $1,000 or more, the individual or organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the organization shall be entitled to be parties to that judicial review. In applying subsections (b) and (g) of section 205 as provided in this paragraph, and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.

''(3) INDEPENDENT REVIEW OF CERTAIN COVERAGE DENIALS.—The Secretary shall contract with an independent, outside entity to review and resolve reconsiderations that affirm denial of coverage.

''(4) EXPEDITED DETERMINATIONS AND RECONSIDERATIONS.—

''(A) RECEIPT OF REQUESTS.—An enrollee in a Medicare Choice plan may request, either in writing or orally, an expedited determination or reconsideration by the Medicare Choice organization regarding a matter described in paragraph (2). The organization shall also permit the acceptance of such requests by physicians.

''(B) ORGANIZATION PROCEDURES.—

''(i) IN GENERAL.—The Medicare Choice organization shall maintain procedures for expediting organization determinations and reconsiderations when, upon request of an enrollee, the organization determines that the application of normal time frames for making a determination (or a reconsideration involving a determination) could seriously jeopardize the life or health of the enrollee or the enrollee's ability to regain maximum function.

''(ii) TIMELY RESPONSE.—In an urgent case described in clause (i), the organization shall notify the enrollee (and the physician involved, as appropriate) of the determination (or determination on the reconsideration) as expeditiously as the enrollee's health condition requires, but not later than 72 hours (or 24 hours in the case of a reconsideration) of the time of receipt of the request for the determination or reconsideration (or receipt of the information necessary to make the determination or reconsideration), or such longer period as the Secretary may permit in specified cases.

''(h) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—Each Medicare Choice organization shall establish procedures—

''(1) to safeguard the privacy of individually identifiable enrollee information,

''(2) to maintain accurate and timely medical records and other health information for enrollees, and

''(3) to assure timely access of enrollees to their medical information.

''(i) INFORMATION ON ADVANCE DIRECTIVES.—Each Medicare Choice organization shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).

''(j) RULES REGARDING PHYSICIAN PARTICIPATION.—

''(1) PROCEDURES.—Each Medicare Choice organization shall establish reasonable procedures relating to the participation (under an agreement between a physician and the organization) of physicians under Medicare Choice plans offered by the organization under this part. Such procedures shall include—

''(A) providing notice of the rules regarding participation,

''(B) providing written notice of participation decisions that are adverse to physicians, and

''(C) providing a process within the organization for appealing such adverse decisions, including the presentation of information and views of the physician regarding such decision.

''(2) CONSULTATION IN MEDICAL POLICIES.—A Medicare Choice organization shall consult with physicians who have entered into participation agreements with the organization regarding the organization's medical policy, quality, and medical management procedures.

''(3) LIMITATIONS ON PHYSICIAN INCENTIVE PLANS.—

''(A) IN GENERAL.—No Medicare Choice organization may operate any physician incentive plan (as defined in subparagraph (B)) unless the following requirements are met:

''(i) No specific payment is made directly or indirectly under the plan to a physician or physician group as an inducement to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the organization.

''(ii) If the plan places a physician or physician group at substantial financial risk (as determined by the Secretary) for services not provided by the physician or physician group, the organization—

''(I) provides stop-loss protection for the physician or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of physicians placed at such substantial financial risk in the group or under the plan and the number of individuals enrolled with the organization who receive services from the physician or group, and

''(II) conducts periodic surveys of both individuals enrolled and individuals previously enrolled with the organization to determine the degree of access of such individuals to services provided by the organization and satisfaction with the quality of such services.

''(iii) The organization provides the Secretary with descriptive information regarding the plan, sufficient to permit the Secretary to determine whether the plan is in compliance with the requirements of this subparagraph.

''(B) PHYSICIAN INCENTIVE PLAN DEFINED.—In this paragraph, the term 'physician incentive plan' means any compensation arrangement between a Medicare Choice organization and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization under this part.

''(4) LIMITATION ON PROVIDER INDEMNIFICATION.—A Medicare Choice organization may not provide (directly or indirectly) for a provider (or group of providers) to indemnify the organization against any liability resulting from a civil action brought for any damage caused to an enrollee with a Medicare Choice plan of the organization under this part by the organization's denial of medically necessary care.

''(k) TREATMENT OF SERVICES FURNISHED BY CERTAIN PROVIDERS.—

''(1) IN GENERAL.—A physician or other entity (other than a provider of services) that does not have a contract establishing payment amounts for services furnished to an individual enrolled under this part with a MedicarePlus organization shall accept as payment in full for covered services under this title that are furnished to such an individual the amounts that the physician or other entity could collect if the individual were not so enrolled. Any penalty or other provision of law that applies to such a payment with respect to an individual entitled to benefits under this title (but not enrolled with a MedicarePlus organization under this part) also applies with respect to an individual so enrolled.

''(2) EXCEPTION FOR MSA PLANS AND UNRESTRICTED FEE-FOR-SERVICE PLANS.—Paragraph (1) shall not apply to an MSA plan or an unrestricted fee-for-service plan.

''PAYMENTS TO MEDICARE CHOICE ORGANIZATIONS

''SEC. 1853. (a) PAYMENTS TO ORGANIZATIONS.—

''(1) MONTHLY PAYMENTS.—

''(A) IN GENERAL.—Under a contract under section 1857 and subject to subsections (e) and (f), the Secretary shall make monthly payments under this section in advance to each Medicare Choice organization, with respect to coverage of an individual under this part in a Medicare Choice payment area for a month, in an amount equal to 1/12 of the annual Medicare Choice capitation rate (as calculated under subsection (c)) with respect to that individual for that area, adjusted for such risk factors as age, disability status, gender, institutional status, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such factors, if such changes will improve the determination of actuarial equivalence.

''(B) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—The Secretary shall establish separate rates of payment to a Medicare Choice organization with respect to classes of individuals determined to have end-stage renal disease and enrolled in a Medicare Choice plan of the organization. Such rates of payment shall be actuarially equivalent to rates paid to other enrollees in the Medicare Choice payment area (or such other area as specified by the Secretary). In accordance with regulations, the Secretary shall provide for the application of the seventh sentence of section 1881(b)(7) to payments under this section covering the provision of renal dialysis treatment in the same manner as such sentence applies to composite rate payments described in such sentence.

''(2) ADJUSTMENT TO REFLECT NUMBER OF ENROLLEES.—

''(A) IN GENERAL.—The amount of payment under this subsection may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled with an organization under this part and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

''(B) SPECIAL RULE FOR CERTAIN ENROLLEES.—

''(i) IN GENERAL.—Subject to clause (ii), the Secretary may make retroactive adjustments under subparagraph (A) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls with a Medicare Choice organization under a plan operated, sponsored, or contributed to by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the organization under this part, except that for purposes of making such retroactive adjustments under this subparagraph, such period may not exceed 90 days.

''(ii) EXCEPTION.—No adjustment may be made under clause (i) with respect to any individual who does not certify that the organization provided the individual with the disclosure statement described in section 1852(c) at the time the individual enrolled with the organization.

''(3) ESTABLISHMENT OF RISK ADJUSTMENT FACTORS.—

''(A) IN GENERAL.—The Secretary shall develop and implement a method of risk adjustment of payment rates under this section that accounts for variations in per capita costs based on health status. Such method shall not be implemented before the Secretary receives an evaluation by an outside, independent actuary of the actuarial soundness of such method.

''(B) DATA COLLECTION.—In order to carry out this paragraph, the Secretary shall require Medicare Choice organizations (and eligible organizations with risk-sharing contracts under section 1876) to submit, for periods beginning on or after January 1, 1998, data regarding inpatient hospital services and other services and other information the Secretary deems necessary.

''(4) INTERIM RISK ADJUSTMENT.—

''(A) IN GENERAL.—In the case of an applicable enrollee in a Medicare Choice plan, the payment to the Medicare Choice organization under this section shall be reduced by an amount equal to the applicable percentage of the amount of such payment (determined without regard to this paragraph).

''(B) APPLICABLE ENROLLEE.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'applicable enrollee' means, with respect to any month, a medicare eligible individual who—

''(I) is enrolled in a Medicare Choice plan, and

''(II) has not been enrolled in Medicare Choice plans and plans operated by eligible organizations with risk-sharing contracts under section 1876 for an aggregate number of months greater than 60 (including the month for which the determination is being made).

''(ii) EXCEPTION FOR BENEFICIARIES MAINTAINING ENROLLMENT IN CERTAIN PLANS.—The term 'applicable enrollee' shall not include any individual enrolled in a Medicare Choice plan offered by a Medicare Choice organization if such individual was enrolled in a health plan (other than a Medicare Choice plan) offered by such organization at the time of the individual's initial election period under section 1851(e)(1) and has been continuously enrolled in such Medicare Choice plan (or another Medicare Choice plan offered by such organization) since such election period.

''(C) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined in accordance with the following table:

''Months enrolled in HMOs:	Applicable percentage:
1–12	5
13–24	4
25–36	3
37–48	2
49–60	1.

''(D) EXCEPTION FOR NEW PLANS.—This paragraph shall not apply to applicable enrollees in a Medicare Choice plan for any month if—

''(i) such month occurs during the first 12 months during which the plan enrolls Medicare Choice eligible individuals in the Medicare Choice payment area, and

''(ii) the annual Medicare Choice capitation rate for such area for the calendar year preceding the calendar year in which such 12-month period begins is less than the annual national Medicare Choice capitation rate (as determined under subsection (c)(4)) for such preceding calendar year.

In the case of 1998, clause (ii) shall be applied by using the adjusted average per capita cost under section 1876 for 1997 rather than such capitation rate.

''(E) TERMINATION.—This paragraph shall not apply to any month beginning on or after the first day of the first month to which the method for risk adjustment described in paragraph (3) applies.

''(b) ANNUAL ANNOUNCEMENT OF PAYMENT RATES.—

''(1) ANNUAL ANNOUNCEMENT.—The Secretary shall annually determine, and shall announce (in a manner intended to provide notice to interested parties) not later than August 1 before the calendar year concerned—

''(A) the annual Medicare Choice capitation rate for each Medicare Choice payment area for the year, and

''(B) the risk and other factors to be used in adjusting such rates under subsection (a)(1)(A) for payments for months in that year.

''(2) ADVANCE NOTICE OF METHODOLOGICAL CHANGES.—At least 45 days before making the announcement under paragraph (1) for a year, the Secretary shall provide for notice to Medicare Choice organizations of proposed changes

to be made in the methodology from the methodology and assumptions used in the previous announcement and shall provide such organizations an opportunity to comment on such proposed changes.

''(3) EXPLANATION OF ASSUMPTIONS.—In each announcement made under paragraph (1), the Secretary shall include an explanation of the assumptions and changes in methodology used in the announcement in sufficient detail so that Medicare Choice organizations can compute monthly adjusted Medicare Choice capitation rates for individuals in each Medicare Choice payment area which is in whole or in part within the service area of such an organization.

''(c) CALCULATION OF ANNUAL MEDICARE CHOICE CAPITATION RATES.—

''(1) IN GENERAL.—For purposes of this part, each annual Medicare Choice capitation rate, for a Medicare Choice payment area for a contract year consisting of a calendar year, is equal to the largest of the amounts specified in the following subparagraph (A), (B), or (C):

''(A) BLENDED CAPITATION RATE.—The sum of—

''(i) the area-specific percentage for the year (as specified under paragraph (2) for the year) of the annual area-specific Medicare Choice capitation rate for the year for the Medicare Choice payment area, as determined under paragraph (3), and

''(ii) the national percentage (as specified under paragraph (2) for the year) of the annual national Medicare Choice capitation rate for the year, as determined under paragraph (4),

multiplied by the payment adjustment factors described in subparagraphs (A) and (B) of paragraph (5).

''(B) MINIMUM AMOUNT.—Subject to paragraph (8)—

''(i) For 1998, $4,200 (but not to exceed, in the case of an area outside the 50 States and the District of Columbia, 150 percent of the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the area).

''(ii) For each subsequent year, 101 percent of the amount in effect under this subparagraph for the previous year.

''(C) MINIMUM PERCENTAGE INCREASE.—Subject to paragraph (8)—

''(i) For 1998, 101 percent of the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the Medicare Choice payment area.

''(ii) For each subsequent year, 101 percent of the annual Medicare Choice capitation rate under this paragraph for the area for the previous year.

''(2) AREA-SPECIFIC AND NATIONAL PERCENTAGES.—For purposes of paragraph (1)(A)—

''(A) for 1998, the 'area-specific percentage' is 90 percent and the 'national percentage' is 10 percent,

''(B) for 1999, the 'area-specific percentage' is 80 percent and the 'national percentage' is 20 percent,

''(C) for 2000, the 'area-specific percentage' is 70 percent and the 'national percentage' is 30 percent,

''(D) for 2001, the 'area-specific percentage' is 60 percent and the 'national percentage' is 40 percent, and

''(E) for a year after 2001, the 'area-specific percentage' is 50 percent and the 'national percentage' is 50 percent.

''(3) ANNUAL AREA-SPECIFIC MEDICARE CHOICE CAPITATION RATE.—

''(A) IN GENERAL.—For purposes of paragraph (1)(A), the annual area-specific Medicare Choice capitation rate for a Medicare Choice payment area—

''(i) for 1998 is the modified annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the area, increased by the national average per capita growth percentage for 1998 (as defined in paragraph (6)); or

''(ii) for a subsequent year is the annual area-specific Medicare Choice capitation rate for the previous year determined under this paragraph for the area, increased by the national average per capita growth percentage for such subsequent year.

''(B) MODIFIED ANNUAL PER CAPITA RATE OF PAYMENT.—For purposes of subparagraph (A), the modified annual per capita rate of payment for a Medicare Choice payment area for 1997 shall be equal to the annual per capita rate of payment for such area for such year which would have been determined under section 1876(a)(1)(C) if 25 percent of any payments attributable to sections 1886(d)(5)(B), 1886(h), and 1886(d)(5)(F) (relating to IME, GME, and DSH payments) were not taken into account.

''(C) SPECIAL RULES FOR 1999, 2000, AND 2001.—In applying subparagraph (A)(ii) for 1999, 2000, and 2001, the annual area-specific Medicare Choice capitation rate for the preceding calendar year shall be the amount which would have been determined if subparagraph (B) had been applied by substituting the following percentages for '25 percent':

''(i) In 1999, 50 percent.

''(ii) In 2000, 75 percent.

''(iii) In 2001, 100 percent.

''(4) ANNUAL NATIONAL MEDICARE CHOICE CAPITATION RATE.—For purposes of paragraph (1)(A), the annual national Medicare Choice capitation rate for a Medicare Choice payment area for a year is equal to—

''(A) the sum (for all Medicare Choice payment areas) of the product of—

''(i) the annual area-specific Medicare Choice capitation rate for that year for the area under paragraph (3), and

''(ii) the average number of medicare beneficiaries residing in that area in the year; divided by

''(B) the sum of the amounts described in subparagraph (A)(ii) for all Medicare Choice payment areas for that year.

''(5) PAYMENT ADJUSTMENT BUDGET NEUTRALITY FACTORS.—For purposes of paragraph (1)(A)—

''(A) BLENDED RATE PAYMENT ADJUSTMENT FACTOR.—For each year, the Secretary shall compute a blended rate payment adjustment factor such that, not taking into account subparagraphs (B) and (C) of paragraph (1) and the application of the payment adjustment factor described in subparagraph (B) but taking into account paragraph (7), the aggregate of the payments that would be made under this part is equal to the aggregate payments that would have been made under this part (not taking into account such subparagraphs and such other adjustment factor) if the area-specific percentage under paragraph (1) for the year had been 100 percent and the national percentage had been 0 percent.

''(B) FLOOR-AND-MINIMUM-UPDATE PAYMENT ADJUSTMENT FACTOR.—For each year, the Secretary shall compute a floor-and-minimum-update payment adjustment factor so that, taking into account the application of the blended rate payment adjustment factor under subparagraph (A) and subparagraphs (B) and (C) of paragraph (1) and the application of the adjustment factor under this subparagraph, the aggregate of the payments under this part shall not exceed the aggregate payments that would have been made under this part if subparagraphs (B) and (C) of paragraph (1) did not apply and if the floor-and-minimum-update payment adjustment factor under this subparagraph was 1.

''(6) NATIONAL AVERAGE PER CAPITA GROWTH PERCENTAGE DEFINED.—In this part, the 'national average per capita growth percentage' for any year (beginning with 1998) is equal to the sum of—

''(A) the percentage increase in the gross domestic product per capita for the 12-month period ending on June 30 of the preceding year, plus

''(B) 0.5 percentage points.

''(7) TREATMENT OF AREAS WITH HIGHLY VARIABLE PAYMENT RATES.—In the case of a Medicare Choice payment area for which the annual per capita rate of payment determined under section 1876(a)(1)(C) for 1997 varies by more than 20 percent from such rate for 1996, for purposes of this subsection the Secretary may substitute for such rate for 1997 a rate that is more representative of the costs of the enrollees in the area.

''(8) ADJUSTMENTS TO MINIMUM AMOUNTS AND MINIMUM PERCENTAGE INCREASES.—After computing all amounts under this subsection (without regard to this paragraph) for any year, the Secretary shall—

''(A) redetermine the amount under paragraph (1)(C) for such year by substituting '100 percent' for '101 percent' each place it appears, and

''(B) increase the minimum amount under paragraph (1)(B) to an amount equal to the lesser of—

''(i) the amount the Secretary estimates will result in increased payments under such paragraph equal to the decrease in payments by reason of the redetermination under subparagraph (A), or

''(ii) an amount equal to 85 percent of the annual national Medicare Choice capitation rate determined under paragraph (4).

''(9) STUDY OF LOCAL PRICE INDICATORS.—The Secretary and the Medicare Payment Advisory Commission shall each conduct a study with respect to appropriate measures for adjusting the annual Medicare Choice capitation rates determined under this section to reflect local price indicators, including the medicare hospital wage index and the case-mix of a geographic region. The Secretary and the Advisory Commission shall report the results of such study to the appropriate committees of Congress, including recommendations (if any) for legislation.

''(d) MEDICARE CHOICE PAYMENT AREA DEFINED.—

''(1) IN GENERAL.—In this part, except as provided in paragraph (3), the term 'Medicare Choice payment area' means a county, or equivalent area specified by the Secretary.

''(2) RULE FOR ESRD BENEFICIARIES.—In the case of individuals who are determined to have end stage renal disease, the Medicare Choice payment area shall be a State or such other payment area as the Secretary specifies.

''(3) GEOGRAPHIC ADJUSTMENT.—

''(A) IN GENERAL.—Upon written request of the chief executive officer of a State for a contract year (beginning after 1998) made at least 7 months before the beginning of the year, the Secretary shall make a geographic adjustment to a Medicare Choice payment area in the State otherwise determined under paragraph (1)—

''(i) to a single statewide Medicare Choice payment area,

''(ii) to the metropolitan based system described in subparagraph (C), or

''(iii) to consolidating into a single Medicare Choice payment area noncontiguous counties (or equivalent areas described in paragraph (1)) within a State.

Such adjustment shall be effective for payments for months beginning with January of the year following the year in which the request is received.

''(B) BUDGET NEUTRALITY ADJUSTMENT.—In the case of a State requesting an adjustment under this paragraph, the Secretary shall adjust the payment rates otherwise established under this section for Medicare Choice payment areas in the State in a manner so that the aggregate of the payments under this section in the State shall not exceed the aggregate payments that would have been made under this section for Medicare Choice payment areas in the State in the absence of the adjustment under this paragraph.

''(C) METROPOLITAN BASED SYSTEM.—The metropolitan based system described in this subparagraph is one in which—

''(i) all the portions of each metropolitan statistical area in the State or in the case of a consolidated metropolitan statistical area, all of the

portions of each primary metropolitan statistical area within the consolidated area within the State, are treated as a single Medicare Choice payment area, and

''(ii) all areas in the State that do not fall within a metropolitan statistical area are treated as a single Medicare Choice payment area.

''(D) AREAS.—In subparagraph (C), the terms 'metropolitan statistical area', 'consolidated metropolitan statistical area', and 'primary metropolitan statistical area' mean any area designated as such by the Secretary of Commerce.

''(e) SPECIAL RULES FOR INDIVIDUALS ELECTING MSA PLANS.—

''(1) IN GENERAL.—If the amount of the monthly premium for an MSA plan for a Medicare Choice payment area for a year is less than 1/12 of the annual Medicare Choice capitation rate applied under this section for the area and year involved, the Secretary shall deposit an amount equal to 100 percent of such difference in a Medicare Choice MSA established (and, if applicable, designated) by the individual under paragraph (2).

''(2) ESTABLISHMENT AND DESIGNATION OF MEDICARE CHOICE MEDICAL SAVINGS ACCOUNT AS REQUIREMENT FOR PAYMENT OF CONTRIBUTION.—In the case of an individual who has elected coverage under an MSA plan, no payment shall be made under paragraph (1) on behalf of an individual for a month unless the individual—

''(A) has established before the beginning of the month (or by such other deadline as the Secretary may specify) a Medicare Choice MSA (as defined in section 138(b)(2) of the Internal Revenue Code of 1986), and

''(B) if the individual has established more than one such Medicare Choice MSA, has designated one of such accounts as the individual's Medicare Choice MSA for purposes of this part. Under rules under this section, such an individual may change the designation of such account under subparagraph (B) for purposes of this part.

''(3) LUMP-SUM DEPOSIT OF MEDICAL SAVINGS ACCOUNT CONTRIBUTION.—In the case of an individual electing an MSA plan effective beginning with a month in a year, the amount of the contribution to the Medicare Choice MSA on behalf of the individual for that month and all successive months in the year shall be deposited during that first month. In the case of a termination of such an election as of a month before the end of a year, the Secretary shall provide for a procedure for the recovery of deposits attributable to the remaining months in the year.

''(4) SPECIAL RULE FOR APPLICABLE ENROLLEE.—In the case of an enrollee in a MSA plan for any month who is an applicable enrollee for such month under section 1853(a)(4)(B), the amount of the deposit under paragraph (1) for such month shall be reduced by the applicable percentage (as defined in section 1853(a)(4)(C)) of the amount of such deposit (determined without regard to this paragraph).

''(f) PAYMENTS FROM TRUST FUND.—The payment to a Medicare Choice organization under this section for individuals enrolled under this part with the organization and payments to a Medicare Choice MSA under subsection (e)(1)(B) shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines reflects the relative weight that benefits under part A and under part B represents of the actuarial value of the total benefits under this title. Monthly payments otherwise payable under this section for October 2001 shall be paid on the last business day of September 2001. Monthly payments otherwise payable under this section for October 2006 shall be paid on the first business day of October 2006.

''(g) SPECIAL RULE FOR CERTAIN INPATIENT HOSPITAL STAYS.—In the case of an individual who is receiving inpatient hospital services from a subsection (d) hospital (as defined in section 1886(d)(1)(B)) as of the effective date of the individual's—

''(1) election under this part of a Medicare Choice plan offered by a Medicare Choice organization—

''(A) payment for such services until the date of the individual's discharge shall be made under this title through the Medicare Choice plan or the traditional medicare fee-for-service program option described in section 1851(a)(1)(A) (as the case may be) elected before the election with such organization,

''(B) the elected organization shall not be financially responsible for payment for such services until the date after the date of the individual's discharge, and

''(C) the organization shall nonetheless be paid the full amount otherwise payable to the organization under this part; or

''(2) termination of election with respect to a Medicare Choice organization under this part—

''(A) the organization shall be financially responsible for payment for such services after such date and until the date of the individual's discharge,

''(B) payment for such services during the stay shall not be made under section 1886(d) or by any succeeding Medicare Choice organization, and

''(C) the terminated organization shall not receive any payment with respect to the individual under this part during the period the individual is not enrolled.

''PREMIUMS

''SEC. 1854. (a) SUBMISSION AND CHARGING OF PREMIUMS.—

''(1) IN GENERAL.—Subject to paragraph (3), each Medicare Choice organization shall file with the Secretary each year, in a form and manner and at a time specified by the Secretary—

''(A) the amount of the monthly premium for coverage for services under section 1852(a) under each Medicare Choice plan it offers under this part in each Medicare Choice payment area (as defined in section 1853(d)) in which the plan is being offered; and

''(B) the enrollment capacity in relation to the plan in each such area.

''(2) TERMINOLOGY.—In this part—

''(A) the term 'monthly premium' means, with respect to a Medicare Choice plan offered by a Medicare Choice organization, the monthly premium filed under paragraph (1), not taking into account the amount of any payment made toward the premium under section 1853; and

''(B) the term 'net monthly premium' means, with respect to such a plan and an individual enrolled with the plan, the premium (as defined in subparagraph (A)) for the plan reduced by the amount of payment made toward such premium under section 1853.

''(b) MONTHLY PREMIUM CHARGED.—The monthly amount of the premium charged by a Medicare Choice organization for a Medicare Choice plan offered in a Medicare Choice payment area to an individual under this part shall be equal to the net monthly premium plus any monthly premium charged in accordance with subsection (e)(2) for supplemental benefits.

''(c) UNIFORM PREMIUM.—The monthly premium and monthly amount charged under subsection (b) of a Medicare Choice organization under this part may not vary among individuals who reside in the same Medicare Choice payment area.

''(d) TERMS AND CONDITIONS OF IMPOSING PREMIUMS.—Each Medicare Choice organization shall permit the payment of net monthly premiums on a monthly basis and may terminate election of individuals for a Medicare Choice plan for failure to make premium payments only in accordance with section 1851(g)(3)(B)(i). A Medicare Choice organization is not authorized to provide for cash or other monetary rebates as an inducement for enrollment or otherwise.

''(e) LIMITATION ON ENROLLEE COST-SHARING.—

''(1) FOR BASIC AND ADDITIONAL BENEFITS.—Except as provided in paragraph (2), in no event may—

''(A) the net monthly premium (multiplied by 12) and the actuarial value of the deductibles, coinsurance, and copayments applicable on average to individuals enrolled under this part with a Medicare Choice plan of an organization with respect to required benefits described in section 1852(a)(1) and additional benefits (if any) required under subsection (f)(1) for a year, exceed

''(B) the actuarial value of the deductibles, coinsurance, and copayments that would be applicable on average to individuals entitled to benefits under part A and enrolled under part B if they were not members of a Medicare Choice organization for the year.

''(2) FOR SUPPLEMENTAL BENEFITS.—If the Medicare Choice organization provides to its members enrolled under this part supplemental benefits described in section 1852(a)(3), the sum of the monthly premium rate (multiplied by 12) charged for such supplemental benefits and the actuarial value of its deductibles, coinsurance, and copayments charged with respect to such benefits may not exceed the adjusted community rate for such benefits (as defined in subsection (f)(4)).

''(3) EXCEPTION FOR MSA PLANS AND UNRESTRICTED FEE-FOR-SERVICE PLANS.—Paragraphs (1) and (2) do not apply to an MSA plan or an unrestricted fee-for-service plan.

''(4) DETERMINATION ON OTHER BASIS.—If the Secretary determines that adequate data are not available to determine the actuarial value under paragraph (1)(A) or (2), the Secretary may determine such amount with respect to all individuals in the Medicare Choice payment area, the State, or in the United States, eligible to enroll in the Medicare Choice plan involved under this part or on the basis of other appropriate data.

''(f) REQUIREMENT FOR ADDITIONAL BENEFITS.—

''(1) REQUIREMENT.—

''(A) IN GENERAL.—Each Medicare Choice organization (in relation to a Medicare Choice plan it offers) shall provide that if there is an excess amount (as defined in subparagraph (B)) for the plan for a contract year, subject to the succeeding provisions of this subsection, the organization shall provide to individuals such additional benefits (as the organization may specify) in a value which is at least equal to the adjusted excess amount (as defined in subparagraph (C)).

''(B) EXCESS AMOUNT.—For purposes of this paragraph, the 'excess amount', for an organization for a plan, is the amount (if any) by which—

''(i) the average of the capitation payments made to the organization under section 1853 for the plan at the beginning of contract year, exceeds

''(ii) the actuarial value of the required benefits described in section 1852(a)(1) under the plan for individuals under this part, as determined based upon an adjusted community rate described in paragraph (4) (as reduced for the actuarial value of the coinsurance and deductibles under parts A and B).

''(C) ADJUSTED EXCESS AMOUNT.—For purposes of this paragraph, the 'adjusted excess amount', for an organization for a plan, is the excess amount reduced to reflect any amount withheld and reserved for the organization for the year under paragraph (3).

''(D) NO APPLICATION TO MSA PLANS.—Subparagraph (A) shall not apply to an MSA plan.

''(E) UNIFORM APPLICATION.—This paragraph shall be applied uniformly for all enrollees for a plan in a Medicare Choice payment area.

''(F) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing a Medicare Choice organization from providing health care benefits that are in addition to the benefits otherwise required to be provided under this paragraph and from imposing a premium for such additional benefits.

''(2) STABILIZATION FUND.—A Medicare Choice organization may provide that a part of the

value of an excess amount described in paragraph (1) be withheld and reserved in the Federal Hospital Insurance Trust Fund and in the Federal Supplementary Medical Insurance Trust Fund (in such proportions as the Secretary determines to be appropriate) by the Secretary for subsequent annual contract periods, to the extent required to stabilize and prevent undue fluctuations in the additional benefits offered in those subsequent periods by the organization in accordance with such paragraph. Any of such value of the amount reserved which is not provided as additional benefits described in paragraph (1)(A) to individuals electing the Medicare Choice plan of the organization in accordance with such paragraph prior to the end of such periods, shall revert for the use of such trust funds.

''(3) DETERMINATION BASED ON INSUFFICIENT DATA.—For purposes of this subsection, if the Secretary finds that there is insufficient enrollment experience to determine an average of the capitation payments to be made under this part at the beginning of a contract period, the Secretary may determine such an average based on the enrollment experience of other contracts entered into under this part.

''(4) ADJUSTED COMMUNITY RATE.—

''(A) IN GENERAL.—For purposes of this subsection, subject to subparagraph (B), the term 'adjusted community rate' for a service or services means, at the election of a Medicare Choice organization, either—

''(i) the rate of payment for that service or services which the Secretary annually determines would apply to an individual electing a Medicare Choice plan under this part if the rate of payment were determined under a 'community rating system' (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C)), or

''(ii) such portion of the weighted aggregate premium, which the Secretary annually estimates would apply to such an individual, as the Secretary annually estimates is attributable to that service or services,

but adjusted for differences between the utilization characteristics of the individuals electing coverage under this part and the utilization characteristics of the other enrollees with the plan (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of individuals selecting other Medicare Choice coverage, or Medicare Choice eligible individuals in the area, in the State, or in the United States, eligible to elect Medicare Choice coverage under this part and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

''(B) SPECIAL RULE FOR PROVIDER-SPONSORED ORGANIZATIONS.—In the case of a Medicare Choice organization that is a provider-sponsored organization, the adjusted community rate under subparagraph (A) for a Medicare Choice plan of the organization may be computed (in a manner specified by the Secretary) using data in the general commercial marketplace or (during a transition period) based on the costs incurred by the organization in providing such a plan.

''(g) PERIODIC AUDITING.—The Secretary shall provide for the annual auditing of the financial records (including data relating to medicare utilization, costs, and computation of the adjusted community rate) of at least one-third of the Medicare Choice organizations offering Medicare Choice plans under this part. The Comptroller General shall monitor auditing activities conducted under this subsection.

''(h) PROHIBITION OF STATE IMPOSITION OF PREMIUM TAXES.—No State may impose a premium tax or similar tax with respect to payments on Medicare Choice plans or the offering of such plans.

''ORGANIZATIONAL AND FINANCIAL REQUIREMENTS FOR MEDICARE CHOICE ORGANIZATIONS; PROVIDER-SPONSORED ORGANIZATIONS

''SEC. 1855. (a) ORGANIZED AND LICENSED UNDER STATE LAW.—

''(1) IN GENERAL.—Subject to paragraphs (2) and (3), a Medicare Choice organization shall be organized and licensed under State law as a risk-bearing entity eligible to offer health insurance or health benefits coverage in each State in which it offers a Medicare Choice plan.

''(2) SPECIAL EXCEPTION BEFORE 2001 FOR PROVIDER-SPONSORED ORGANIZATIONS.—

''(A) IN GENERAL.—In the case of a provider-sponsored organization that seeks to offer a Medicare Choice plan in a State, the Secretary shall waive the requirement of paragraph (1) that the organization be licensed in that State for any year before 2001 if—

''(i) the organization files an application for such waiver with the Secretary, and

''(ii) the contract with the organization under section 1857 requires the organization to meet all requirements of State law which relate to the licensing of the organization (other than solvency requirements or a prohibition on licensure for such organization).

''(B) TREATMENT OF WAIVER.—

''(i) IN GENERAL.—In the case of a waiver granted under this paragraph for a provider-sponsored organization—

''(I) the waiver shall be effective for the years specified in the waiver, except it may be renewed based on a subsequent application, and

''(II) subject to subparagraph (A)(ii), any provisions of State law which would otherwise prohibit the organization from providing coverage pursuant to a contract under this part shall be superseded.

''(ii) TERMINATION.—A waiver granted under this paragraph shall in no event extend beyond the earlier of—

''(I) December 31, 2000; or

''(II) the date on which the Secretary determines that the State has in effect solvency standards identical to the standards established under section 1856(a).

''(C) PROMPT ACTION ON APPLICATION.—The Secretary shall grant or deny such a waiver application within 60 days after the date the Secretary determines that a substantially complete application has been filed.

''(D) ENFORCEMENT OF STATE STANDARDS.—

''(i) IN GENERAL.—The Secretary shall enter into agreements with States subject to a waiver under this paragraph to ensure the adequate enforcement of standards incorporated into the contract under subparagraph (A)(ii). Such agreements shall provide methods by which States may notify the Secretary of any failure by an organization to comply with such standards.

''(ii) ENFORCEMENT.—If the Secretary determines that an organization is not in compliance with the standards described in clause (i), the Secretary shall take appropriate actions under subsections (g) and (h) with respect to civil penalties and termination of the contract. The Secretary shall allow an organization 60 days to comply with the standards after notification of failure.

''(E) REPORT.—The Secretary shall, not later than December 31, 1998, report to Congress on the waiver procedure in effect under this paragraph. Such report shall include an analysis of State efforts to adopt regulatory standards that take into account health plan sponsors that provide services directly to enrollees through affiliated providers.

''(3) EXCEPTION IF REQUIRED TO OFFER MORE THAN MEDICARE CHOICE PLANS.—Paragraph (1) shall not apply to a Medicare Choice organization in a State if the State requires the organization, as a condition of licensure, to offer any product or plan other than a Medicare Choice plan.

''(4) LICENSURE DOES NOT SUBSTITUTE FOR OR CONSTITUTE CERTIFICATION.—The fact that an organization is licensed in accordance with paragraph (1) does not deem the organization to meet other requirements imposed under this part.

''(b) PREPAID PAYMENT.—A Medicare Choice organization shall be compensated (except for premiums, deductibles, coinsurance, and copayments) for the provision of health care services to enrolled members under the contract under this part by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided to a member.

''(c) ASSUMPTION OF FULL FINANCIAL RISK.—The Medicare Choice organization shall assume full financial risk on a prospective basis for the provision of the health care services (except, at the election of the organization, hospice care) for which benefits are required to be provided under section 1852(a)(1), except that the organization—

''(1) may obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which for any year exceeds the applicable amount determined under the last sentence of this subsection for the year,

''(2) may obtain insurance or make other arrangements for the cost of such services provided to its enrolled members other than through the organization because medical necessity required their provision before they could be secured through the organization,

''(3) may obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year, and

''(4) may make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

For purposes of paragraph (1), the applicable amount for 1998 is the amount established by the Secretary, and for 1999 and any succeeding year is the amount in effect for the previous year increased by the percentage change in the Consumer Price Index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

''(d) CERTIFICATION OF PROVISION AGAINST RISK OF INSOLVENCY FOR PSOS.—

''(1) IN GENERAL.—Each Medicare Choice organization that is a provider-sponsored organization with a waiver in effect under subsection (a)(2) shall meet the standards established under section 1856(a) with respect to the financial solvency and capital adequacy of the organization.

''(2) CERTIFICATION PROCESS FOR SOLVENCY STANDARDS FOR PSOS.—The Secretary shall establish a process for the receipt and approval of applications of a provider-sponsored organization for certification (and periodic recertification) of the organization as meeting such solvency standards. Under such process, the Secretary shall act upon such an application not later than 60 days after the date the application has been received.

''(e) PROVIDER-SPONSORED ORGANIZATION DEFINED.—

''(1) IN GENERAL.—In this part, the term 'provider-sponsored organization' means a public or private entity—

''(A) that is established or organized and operated by a local health care provider, or local group of affiliated health care providers,

''(B) that provides a substantial proportion (as defined by the Secretary in accordance with paragraph (2)) of the health care items and services under the contract under this part directly through the provider or affiliated group of providers, and

''(C) with respect to which those affiliated providers that share, directly or indirectly, substantial financial risk with respect to the provision of such items and services have at least a majority financial interest in the entity.

''(2) SUBSTANTIAL PROPORTION.—In defining what is a 'substantial proportion' for purposes of paragraph (1)(B), the Secretary—

''(A) shall take into account the need for such an organization to assume responsibility for providing—

''(i) significantly more than the majority of the items and services under the contract under this section through its own affiliated providers; and

''(ii) most of the remainder of the items and services under the contract through providers with which the organization has an agreement to provide such items and services,

in order to assure financial stability and to address the practical considerations involved in integrating the delivery of a wide range of service providers;

''(B) shall take into account the need for such an organization to provide a limited proportion of the items and services under the contract through providers that are neither affiliated with nor have an agreement with the organization; and

''(C) may allow for variation in the definition of substantial proportion among such organizations based on relevant differences among the organizations, such as their location in an urban or rural area.

''(3) AFFILIATION.—For purposes of this subsection, a provider is 'affiliated' with another provider if, through contract, ownership, or otherwise—

''(A) one provider, directly or indirectly, controls, is controlled by, or is under common control with the other,

''(B) both providers are part of a controlled group of corporations under section 1563 of the Internal Revenue Code of 1986,

''(C) each provider is a participant in a lawful combination under which each provider shares substantial financial risk in connection with the organization's operations, or

''(D) both providers are part of an affiliated service group under section 414 of such Code.

''(4) CONTROL.—For purposes of paragraph (3), control is presumed to exist if one party, directly or indirectly, owns, controls, or holds the power to vote, or proxies for, not less than 51 percent of the voting rights or governance rights of another.

''(5) HEALTH CARE PROVIDER DEFINED.—In this subsection, the term 'health care provider' means—

''(A) any individual who is engaged in the delivery of health care services in a State and who is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, and

''(B) any entity that is engaged in the delivery of health care services in a State and that, if it is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, is so licensed.

''(6) REGULATIONS.—The Secretary shall issue regulations to carry out this subsection.

''ESTABLISHMENT OF STANDARDS

''SEC. 1856. (a) ESTABLISHMENT OF SOLVENCY STANDARDS FOR PROVIDER-SPONSORED ORGANIZATIONS.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—The Secretary shall establish, on an expedited basis and using a negotiated rulemaking process under subchapter III of chapter 5 of title 5, United States Code, standards described in section 1855(d)(1) (relating to the financial solvency and capital adequacy of the organization) that entities must meet to qualify as provider-sponsored organizations under this part.

''(B) FACTORS TO CONSIDER FOR SOLVENCY STANDARDS.—In establishing solvency standards under subparagraph (A) for provider-sponsored organizations, the Secretary shall consult with interested parties and shall take into account—

''(i) the delivery system assets of such an organization and ability of such an organization to provide services directly to enrollees through affiliated providers,

''(ii) alternative means of protecting against insolvency, including reinsurance, unrestricted surplus, letters of credit, guarantees, organizational insurance coverage, partnerships with other licensed entities, and valuation attributable to the ability of such an organization to meet its service obligations through direct delivery of care, and

''(iii) any standards developed by the National Association of Insurance Commissioners specifically for risk-based health care delivery organizations.

''(C) ENROLLEE PROTECTION AGAINST INSOLVENCY.—Such standards shall include provisions to prevent enrollees from being held liable to any person or entity for the Medicare Choice organization's debts in the event of the organization's insolvency.

''(2) PUBLICATION OF NOTICE.—In carrying out the rulemaking process under this subsection, the Secretary, after consultation with the National Association of Insurance Commissioners, the American Academy of Actuaries, organizations representative of medicare beneficiaries, and other interested parties, shall publish the notice provided for under section 564(a) of title 5, United States Code, by not later than 45 days after the date of the enactment of this section.

''(3) TARGET DATE FOR PUBLICATION OF RULE.—As part of the notice under paragraph (2), and for purposes of this subsection, the 'target date for publication' (referred to in section 564(a)(5) of such title) shall be April 1, 1998.

''(4) ABBREVIATED PERIOD FOR SUBMISSION OF COMMENTS.—In applying section 564(c) of such title under this subsection, '15 days' shall be substituted for '30 days'.

''(5) APPOINTMENT OF NEGOTIATED RULEMAKING COMMITTEE AND FACILITATOR.—The Secretary shall provide for—

''(A) the appointment of a negotiated rulemaking committee under section 565(a) of such title by not later than 30 days after the end of the comment period provided for under section 564(c) of such title (as shortened under paragraph (4)), and

''(B) the nomination of a facilitator under section 566(c) of such title by not later than 10 days after the date of appointment of the committee.

''(6) PRELIMINARY COMMITTEE REPORT.—The negotiated rulemaking committee appointed under paragraph (5) shall report to the Secretary, by not later than January 1, 1998, regarding the committee's progress on achieving a consensus with regard to the rulemaking proceeding and whether such consensus is likely to occur before 1 month before the target date for publication of the rule. If the committee reports that the committee has failed to make significant progress towards such consensus or is unlikely to reach such consensus by the target date, the Secretary may terminate such process and provide for the publication of a rule under this subsection through such other methods as the Secretary may provide.

''(7) FINAL COMMITTEE REPORT.—If the committee is not terminated under paragraph (6), the rulemaking committee shall submit a report containing a proposed rule by not later than 1 month before the target date of publication.

''(8) INTERIM, FINAL EFFECT.—The Secretary shall publish a rule under this subsection in the Federal Register by not later than the target date of publication. Such rule shall be effective and final immediately on an interim basis, but is subject to change and revision after public notice and opportunity for a period (of not less than 60 days) for public comment. In connection with such rule, the Secretary shall specify the process for the timely review and approval of applications of entities to be certified as provider-sponsored organizations pursuant to such rules and consistent with this subsection.

''(9) PUBLICATION OF RULE AFTER PUBLIC COMMENT.—The Secretary shall provide for consideration of such comments and republication of such rule by not later than 1 year after the target date of publication.

''(b) ESTABLISHMENT OF OTHER STANDARDS.—

''(1) IN GENERAL.—The Secretary shall establish by regulation other standards (not described in subsection (a)) for Medicare Choice organizations and plans consistent with, and to carry out, this part.

''(2) USE OF CURRENT STANDARDS.—Consistent with the requirements of this part, standards established under this subsection shall be based on standards established under section 1876 to carry out analogous provisions of such section.

''(3) USE OF INTERIM STANDARDS.—For the period in which this part is in effect and standards are being developed and established under the preceding provisions of this subsection, the Secretary shall provide by not later than June 1, 1998, for the application of such interim standards (without regard to any requirements for notice and public comment) as may be appropriate to provide for the expedited implementation of this part. Such interim standards shall not apply after the date standards are established under the preceding provisions of this subsection.

''(4) APPLICATION OF NEW STANDARDS TO ENTITIES WITH A CONTRACT.—In the case of a Medicare Choice organization with a contract in effect under this part at the time standards applicable to the organization under this section are changed, the organization may elect not to have such changes apply to the organization until the end of the current contract year (or, if there is less than 6 months remaining in the contract year, until 1 year after the end of the current contract year).

''(5) RELATION TO STATE LAWS.—The standards established under this subsection shall supersede any State law or regulation with respect to Medicare Choice plans which are offered by Medicare Choice organizations under this part to the extent such law or regulation is inconsistent with such standards.

''CONTRACTS WITH MEDICARE CHOICE ORGANIZATIONS

''SEC. 1857. (a) IN GENERAL.—The Secretary shall not permit the election under section 1851 of a Medicare Choice plan offered by a Medicare Choice organization under this part, and no payment shall be made under section 1853 to an organization, unless the Secretary has entered into a contract under this section with the organization with respect to the offering of such plan. Such a contract with an organization may cover more than 1 Medicare Choice plan. Such contract shall provide that the organization agrees to comply with the applicable requirements and standards of this part and the terms and conditions of payment as provided for in this part.

''(b) MINIMUM ENROLLMENT REQUIREMENTS.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary may not enter into a contract under this section with a Medicare Choice organization unless the organization has at least 1,500 individuals who are receiving health benefits through the organization (500 such individuals if the organization primarily serves individuals residing outside of urbanized areas).

''(2) ALLOWING TRANSITION.—The Secretary may waive the requirement of paragraph (1) during the first 2 contract years with respect to an organization.

''(3) SPECIAL RULE FOR PSO.—In the case of a Medicare Choice organization which is a provider-sponsored organization, paragraph (1) shall be applied by taking into account individuals for whom the organization has assumed substantial financial risk.

''(c) CONTRACT PERIOD AND EFFECTIVENESS.—

''(1) PERIOD.—Each contract under this section shall be for a term of at least 1 year, as determined by the Secretary, and may be made

automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term.

''(2) TERMINATION AUTHORITY.—In accordance with procedures established under subsection (h), the Secretary may at any time terminate any such contract, or may impose the intermediate sanctions described in an applicable paragraph of subsection (g)(3) on the Medicare Choice organization, if the Secretary determines that the organization—

''(A) has failed substantially to carry out the contract;

''(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this part; or

''(C) no longer substantially meets the applicable conditions of this part.

''(3) EFFECTIVE DATE OF CONTRACTS.—The effective date of any contract executed pursuant to this section shall be specified in the contract, except that in no case shall a contract under this section which provides for coverage under an MSA plan be effective before January 1999 with respect to such coverage.

''(4) PREVIOUS TERMINATIONS.—The Secretary may not enter into a contract with a Medicare Choice organization if a previous contract with that organization under this section was terminated at the request of the organization within the preceding 5-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

''(5) NO CONTRACTING AUTHORITY.—The authority vested in the Secretary by this part may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

''(d) PROTECTIONS AGAINST FRAUD AND BENEFICIARY PROTECTIONS.—

''(1) INSPECTION AND AUDIT.—Each contract under this section shall provide that the Secretary, or any person or organization designated by the Secretary—

''(A) shall have the right to inspect or otherwise evaluate (i) the quality, appropriateness, and timeliness of services performed under the contract and (ii) the facilities of the organization when there is reasonable evidence of some need for such inspection, and

''(B) shall have the right to audit and inspect any books and records of the Medicare Choice organization that pertain (i) to the ability of the organization to bear the risk of potential financial losses, or (ii) to services performed or determinations of amounts payable under the contract.

''(2) ENROLLEE NOTICE AT TIME OF TERMINATION.—Each contract under this section shall require the organization to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled with the organization under this part.

''(3) DISCLOSURE.—

''(A) IN GENERAL.—Each Medicare Choice organization shall, in accordance with regulations of the Secretary, report to the Secretary financial information which shall include the following:

''(i) Such information as the Secretary may require demonstrating that the organization has a fiscally sound operation.

''(ii) A copy of the report, if any, filed with the Health Care Financing Administration containing the information required to be reported under section 1124 by disclosing entities.

''(iii) A description of transactions, as specified by the Secretary, between the organization and a party in interest. Such transactions shall include—

''(I) any sale or exchange, or leasing of any property between the organization and a party in interest;

''(II) any furnishing for consideration of goods, services (including management services), or facilities between the organization and a party in interest, but not including salaries paid to employees for services provided in the normal course of their employment and health services provided to members by hospitals and other providers and by staff, medical group (or groups), individual practice association (or associations), or any combination thereof; and

''(III) any lending of money or other extension of credit between an organization and a party in interest.

The Secretary may require that information reported respecting an organization which controls, is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the organization and such entity.

''(B) PARTY IN INTEREST DEFINED.—For the purposes of this paragraph, the term 'party in interest' means—

''(i) any director, officer, partner, or employee responsible for management or administration of a Medicare Choice organization, any person who is directly or indirectly the beneficial owner of more than 5 percent of the equity of the organization, any person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 percent of the organization, and, in the case of a Medicare Choice organization organized as a nonprofit corporation, an incorporator or member of such corporation under applicable State corporation law;

''(ii) any entity in which a person described in clause (i)—

''(I) is an officer or director;

''(II) is a partner (if such entity is organized as a partnership);

''(III) has directly or indirectly a beneficial interest of more than 5 percent of the equity; or

''(IV) has a mortgage, deed of trust, note, or other interest valuing more than 5 percent of the assets of such entity;

''(iii) any person directly or indirectly controlling, controlled by, or under common control with an organization; and

''(iv) any spouse, child, or parent of an individual described in clause (i).

''(C) ACCESS TO INFORMATION.—Each Medicare Choice organization shall make the information reported pursuant to subparagraph (A) available to its enrollees upon reasonable request.

''(4) LOAN INFORMATION.—The contract shall require the organization to notify the Secretary of loans and other special financial arrangements which are made between the organization and subcontractors, affiliates, and related parties.

''(e) ADDITIONAL CONTRACT TERMS.—

''(1) IN GENERAL.—The contract shall contain such other terms and conditions not inconsistent with this part (including requiring the organization to provide the Secretary with such information) as the Secretary may find necessary and appropriate.

''(2) COST-SHARING IN ENROLLMENT-RELATED COSTS.—The contract with a Medicare Choice organization shall require the payment to the Secretary for the organization's pro rata share (as determined by the Secretary) of the estimated costs to be incurred by the Secretary in carrying out section 1851 (relating to enrollment and dissemination of information). Such payments are appropriated to defray the costs described in the preceding sentence, to remain available until expended.

''(3) NOTICE TO ENROLLEES IN CASE OF DECERTIFICATION.—If a contract with a Medicare Choice organization is terminated under this section, the organization shall notify each enrollee with the organization under this part of such termination.

''(f) PROMPT PAYMENT BY MEDICARE CHOICE ORGANIZATION.—

''(1) REQUIREMENT.—A contract under this part shall require a Medicare Choice organization to provide prompt payment (consistent with the provisions of sections 1816(c)(2) and 1842(c)(2)) of claims submitted for services and supplies furnished to individuals pursuant to the contract, if the services or supplies are not furnished under a contract between the organization and the provider or supplier.

''(2) SECRETARY'S OPTION TO BYPASS NONCOMPLYING ORGANIZATION.—In the case of a Medicare Choice eligible organization which the Secretary determines, after notice and opportunity for a hearing, has failed to make payments of amounts in compliance with paragraph (1), the Secretary may provide for direct payment of the amounts owed to providers and suppliers for covered services and supplies furnished to individuals enrolled under this part under the contract. If the Secretary provides for the direct payments, the Secretary shall provide for an appropriate reduction in the amount of payments otherwise made to the organization under this part to reflect the amount of the Secretary's payments (and the Secretary's costs in making the payments).

''(g) INTERMEDIATE SANCTIONS.—

''(1) IN GENERAL.—If the Secretary determines that a Medicare Choice organization with a contract under this section—

''(A) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

''(B) imposes net monthly premiums on individuals enrolled under this part in excess of the net monthly premiums permitted;

''(C) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this part;

''(D) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this part) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

''(E) misrepresents or falsifies information that is furnished—

''(i) to the Secretary under this part, or

''(ii) to an individual or to any other entity under this part;

''(F) fails to comply with the requirements of section 1852(j)(3); or

''(G) employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services;

the Secretary may provide, in addition to any other remedies authorized by law, for any of the remedies described in paragraph (2).

''(2) REMEDIES.—The remedies described in this paragraph are—

''(A) civil money penalties of not more than $25,000 for each determination under paragraph (1) or, with respect to a determination under subparagraph (D) or (E)(i) of such paragraph, of not more than $100,000 for each such determination, plus, with respect to a determination under paragraph (1)(B), double the excess amount charged in violation of such paragraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under paragraph (1)(D), $15,000 for each individual not enrolled as a result of the practice involved,

''(B) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

''(C) suspension of payment to the organization under this part for individuals enrolled after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

''(3) OTHER INTERMEDIATE SANCTIONS.—In the case of a Medicare Choice organization for which the Secretary makes a determination under subsection (c)(2) the basis of which is not described in paragraph (1), the Secretary may apply the following intermediate sanctions:

''(A) Civil money penalties of not more than $25,000 for each determination under subsection (c)(2) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

''(B) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under subsection (g) during which the deficiency that is the basis of a determination under subsection (c)(2) exists.

''(C) Suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under subsection (c)(2) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.

''(4) CIVIL MONEY PENALTIES.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subsection (f) or under paragraph (2) or (3) of this subsection in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

''(h) PROCEDURES FOR TERMINATION.—

''(1) IN GENERAL.—The Secretary may terminate a contract with a Medicare Choice organization under this section in accordance with formal investigation and compliance procedures established by the Secretary under which—

''(A) the Secretary provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under subsection (c)(2);

''(B) the Secretary shall impose more severe sanctions on an organization that has a history of deficiencies or that has not taken steps to correct deficiencies the Secretary has brought to the organization's attention;

''(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

''(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before terminating the contract.

''(2) EXCEPTION FOR IMMINENT AND SERIOUS RISK TO HEALTH.—Paragraph (1) shall not apply if the Secretary determines that a delay in termination, resulting from compliance with the procedures specified in such paragraph prior to termination, would pose an imminent and serious risk to the health of individuals enrolled under this part with the organization.

''DEFINITIONS; MISCELLANEOUS PROVISIONS

''SEC. 1859. (a) DEFINITIONS RELATING TO MEDICARE CHOICE ORGANIZATIONS.—In this part—

''(1) MEDICARE CHOICE ORGANIZATION.—The term 'Medicare Choice organization' means a public or private entity that is certified under section 1856 as meeting the requirements and standards of this part for such an organization.

''(2) PROVIDER-SPONSORED ORGANIZATION.—The term 'provider-sponsored organization' is defined in section 1855(e)(1).

''(b) DEFINITIONS RELATING TO MEDICARE CHOICE PLANS.—

''(1) MEDICARE CHOICE PLAN.—The term 'Medicare Choice plan' means health benefits coverage offered under a policy, contract, or plan by a Medicare Choice organization pursuant to and in accordance with a contract under section 1857.

''(2) MEDICARE CHOICE UNRESTRICTED FEE-FOR-SERVICE PLAN.—The term 'Medicare Choice unrestricted fee-for-service plan' means a Medicare Choice plan that provides for coverage of benefits without restrictions relating to utilization and without regard to whether the provider has a contract or other arrangement with the organization offering the plan for the provision of such benefits.

''(3) MSA PLAN.—

''(A) IN GENERAL.—The term 'MSA plan' means a Medicare Choice plan that—

''(i) provides reimbursement for at least the items and services described in section 1852(a)(1) in a year but only after the enrollee incurs countable expenses (as specified under the plan) equal to the amount of an annual deductible (described in subparagraph (B));

''(ii) counts as such expenses (for purposes of such deductible) at least all amounts that would have been payable under parts A and B, and that would have been payable by the enrollee as deductibles, coinsurance, or copayments, if the enrollee had elected to receive benefits through the provisions of such parts;

''(iii) subject to clause (iv), provides, after such deductible is met for a year and for all subsequent expenses for items and services referred to in clause (i) in the year, for a level of reimbursement that is not less than—

''(I) 100 percent of such expenses, or

''(II) 100 percent of the amounts that would have been paid (without regard to any deductibles or coinsurance) under parts A and B with respect to such expenses,

whichever is less; and

''(iv) provides that the annual out-of-pocket expenses required to be paid under the plan (other than for premiums) for covered benefits does not exceed the amount in effect under section 220(c)(2)(A)(iii)(I) of the Internal Revenue Code of 1986 for the year.

''(B) DEDUCTIBLE.—The amount of annual deductible under an MSA plan shall not be less than or more than the amounts in excess under section 220(c)(2)(A)(i) of the Internal Revenue Code of 1986 for the year.

''(c) OTHER REFERENCES TO OTHER TERMS.—

''(1) MEDICARE CHOICE ELIGIBLE INDIVIDUAL.—The term 'Medicare Choice eligible individual' is defined in section 1851(a)(3).

''(2) MEDICARE CHOICE PAYMENT AREA.—The term 'Medicare Choice payment area' is defined in section 1853(d).

''(3) NATIONAL AVERAGE PER CAPITA GROWTH PERCENTAGE.—The 'national average per capita growth percentage' is defined in section 1853(c)(6).

''(4) MONTHLY PREMIUM; NET MONTHLY PREMIUM.—The terms 'monthly premium' and 'net monthly premium' are defined in section 1854(a)(2).

''(d) COORDINATED ACUTE AND LONG-TERM CARE BENEFITS UNDER A MEDICARE CHOICE PLAN.—Nothing in this part shall be construed as preventing a State from coordinating benefits under a medicaid plan under title XIX with those provided under a Medicare Choice plan in a manner that assures continuity of a full-range of acute care and long-term care services to poor elderly or disabled individuals eligible for benefits under this title and under such plan.

''(e) RESTRICTION ON ENROLLMENT FOR CERTAIN MEDICARE CHOICE PLANS.—

''(1) IN GENERAL.—In the case of a Medicare Choice religious fraternal benefit society plan described in paragraph (2), notwithstanding any other provision of this part to the contrary and in accordance with regulations of the Secretary, the society offering the plan may restrict the enrollment of individuals under this part to individuals who are members of the church, convention, or group described in paragraph (3)(B) with which the society is affiliated.

''(2) MEDICARE CHOICE RELIGIOUS FRATERNAL BENEFIT SOCIETY PLAN DESCRIBED.—For purposes of this subsection, a Medicare Choice religious fraternal benefit society plan described in this paragraph is a Medicare Choice plan described in section 1851(a)(2)(A) that—

''(A) is offered by a religious fraternal benefit society described in paragraph (3) only to members of the church, convention, or group described in paragraph (3)(B); and

''(B) permits all such members to enroll under the plan without regard to health status-related factors.

Nothing in this subsection shall be construed as waiving any plan requirements relating to financial solvency. In developing solvency standards under section 1856, the Secretary shall take into account open contract and assessment features characteristic of fraternal insurance certificates.

''(3) RELIGIOUS FRATERNAL BENEFIT SOCIETY DEFINED.—For purposes of paragraph (2)(A), a 'religious fraternal benefit society' described in this section is an organization that—

''(A) is exempt from Federal income taxation under section 501(c)(8) of the Internal Revenue Code of 1986;

''(B) is affiliated with, carries out the tenets of, and shares a religious bond with, a church or convention or association of churches or an affiliated group of churches;

''(C) offers, in addition to a Medicare Choice religious fraternal benefit society plan, at least the same level of health coverage to individuals not entitled to benefits under this title who are members of such church, convention, or group; and

''(D) does not impose any limitation on membership in the society based on any health status-related factor.

''(4) PAYMENT ADJUSTMENT.—Under regulations of the Secretary, in the case of individuals enrolled under this part under a Medicare Choice religious fraternal benefit society plan described in paragraph (2), the Secretary shall provide for such adjustment to the payment amounts otherwise established under section 1854 as may be appropriate to assure an appropriate payment level, taking into account the actuarial characteristics and experience of such individuals.''.

SEC. 5002. TRANSITIONAL RULES FOR CURRENT MEDICARE HMO PROGRAM.

(a) AUTHORIZING TRANSITIONAL WAIVER OF 50:50 RULE.—Section 1876(f) (42 U.S.C. 1395mm(f)) is amended—

(1) in paragraph (1)—

(A) by striking ''Each'' and inserting ''For contract periods beginning before January 1, 1999, each''; and

(B) by striking ''or under a State plan approved under title XIX'';

(2) in paragraph (2), by striking ''The Secretary'' and inserting ''Subject to paragraph (4), the Secretary'', and

(3) by adding at the end the following:

''(4) The Secretary may waive the requirement imposed by paragraph (1) if the Secretary determines that the plan meets all other beneficiary protections and quality standards under this section.''.

(b) TRANSITION.—Section 1876 (42 U.S.C. 1395mm) is amended by adding at the end the following new subsection:

''(k)(1) Except as provided in paragraph (2) or (3), the Secretary shall not enter into, renew, or continue any risk-sharing contract under this section with an eligible organization for any contract year beginning on or after—

''(A) the date standards for Medicare Choice organizations and plans are first established under section 1856 with respect to Medicare Choice organizations that are insurers or health maintenance organizations, or

''(B) in the case of such an organization with such a contract in effect as of the date such standards were first established, 1 year after such date.

''(2) The Secretary shall not enter into, renew, or continue any risk-sharing contract under this section with an eligible organization for any contract year beginning on or after January 1, 2000.

''(3) An individual who is enrolled in part B only and is enrolled in an eligible organization with a risk-sharing contract under this section on December 31, 1998, may continue enrollment in such organization in accordance with regulations issued by not later than July 1, 1998.

''(4) Notwithstanding subsection (a), the Secretary shall provide that payment amounts under risk-sharing contracts under this section for months in a year (beginning with January 1998) shall be computed—

''(A) with respect to individuals entitled to benefits under both parts A and B, by substituting payment rates under section 1853(a) for the payment rates otherwise established under section 1876(a), and

''(B) with respect to individuals only entitled to benefits under part B, by substituting an appropriate proportion of such rates (reflecting the relative proportion of payments under this title attributable to such part) for the payment rates otherwise established under subsection (a).

For purposes of carrying out this paragraph for payments for months in 1998, the Secretary shall compute, announce, and apply the payment rates under section 1853(a) (notwithstanding any deadlines specified in such section) in as timely a manner as possible and may (to the extent necessary) provide for retroactive adjustment in payments made under this section not in accordance with such rates.''.

(c) ENROLLMENT TRANSITION RULE.—An individual who is enrolled on December 31, 1998, with an eligible organization under section 1876 of the Social Security Act (42 U.S.C. 1395mm) shall be considered to be enrolled with that organization on January 1, 1999, under part C of title XVIII of such Act if that organization has a contract under that part for providing services on January 1, 1999 (unless the individual has disenrolled effective on that date).

(d) ADVANCE DIRECTIVES.—Section 1866(f) (42 U.S.C. 1395cc(f)) is amended—

(1) in paragraph (1)—

(A) by inserting ''1855(i),'' after ''1833(s),'', and

(B) by inserting '', Medicare Choice organization,'' after ''provider of services''; and

(2) in paragraph (2)(E), by inserting ''or a Medicare Choice organization'' after ''section 1833(a)(1)(A)''.

(e) EXTENSION OF PROVIDER REQUIREMENT.—Section 1866(a)(1)(O) (42 U.S.C. 1395cc(a)(1)(O)) is amended—

(1) by striking ''in the case of hospitals and skilled nursing facilities,'';

(2) by striking ''inpatient hospital and extended care'';

(3) by inserting ''with a Medicare Choice organization under part C or'' after ''any individual enrolled''; and

(4) by striking ''(in the case of hospitals) or limits (in the case of skilled nursing facilities)''.

(f) ADDITIONAL CONFORMING CHANGES.—

(1) CONFORMING REFERENCES TO PREVIOUS PART C.—Any reference in law (in effect before the date of the enactment of this Act) to part C of title XVIII of the Social Security Act is deemed a reference to part D of such title (as in effect after such date).

(2) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this chapter.

(g) IMMEDIATE EFFECTIVE DATE FOR CERTAIN REQUIREMENTS FOR DEMONSTRATIONS.—Section 1857(e)(2) of the Social Security Act (requiring contribution to certain costs related to the enrollment process comparative materials) applies to demonstrations with respect to which enrollment is effected or coordinated under section 1851 of such Act.

(h) USE OF INTERIM, FINAL REGULATIONS.—In order to carry out the amendments made by this chapter in a timely manner, the Secretary of Health and Human Services may promulgate regulations that take effect on an interim basis, after notice and pending opportunity for public comment.

(i) TRANSITION RULE FOR PSO ENROLLMENT.—In applying subsection (g)(1) of section 1876 of the Social Security Act (42 U.S.C. 1395mm) to a risk-sharing contract entered into with an eligible organization that is a provider-sponsored organization (as defined in section 1855(e)(1) of such Act, as inserted by section 5001) for a contract year beginning on or after January 1, 1998, there shall be substituted for the minimum number of enrollees provided under such section the minimum number of enrollees permitted under section 1857(b)(1) of such Act (as so inserted).

SEC. 5003. CONFORMING CHANGES IN MEDIGAP PROGRAM.

(a) CONFORMING AMENDMENTS TO MEDICARE CHOICE CHANGES.—

(1) IN GENERAL.—Section 1882(d)(3)(A)(i) (42 U.S.C. 1395ss(d)(3)(A)(i)) is amended—

(A) in the matter before subclause (I), by inserting ''(including an individual electing a Medicare Choice plan under section 1851)'' after ''of this title''; and

(B) in subclause (II)—

(i) by inserting ''in the case of an individual not electing a Medicare Choice plan'' after ''(II)'', and

(ii) by inserting before the comma at the end the following: ''or in the case of an individual electing a Medicare Choice plan, a medicare supplemental policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under the Medicare Choice plan or under another medicare supplemental policy''.

(2) CONFORMING AMENDMENTS.—Section 1882(d)(3)(B)(i)(I) (42 U.S.C. 1395ss(d)(3)(B)(i)(I)) is amended by inserting ''(including any Medicare Choice plan)'' after ''health insurance policies''.

(3) MEDICARE CHOICE PLANS NOT TREATED AS MEDICARE SUPPLEMENTARY POLICIES.—Section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by inserting ''or a Medicare Choice plan or'' after ''does not include''.

(b) ADDITIONAL RULES RELATING TO INDIVIDUALS ENROLLED IN MSA PLANS.—Section 1882 (42 U.S.C. 1395ss) is further amended by adding at the end the following new subsection:

''(u)(1) It is unlawful for a person to sell or issue a policy described in paragraph (2) to an individual with knowledge that the individual has in effect under section 1851 an election of an MSA plan.

''(2) A policy described in this subparagraph is a health insurance policy that provides for coverage of expenses that are otherwise required to be counted toward meeting the annual deductible amount provided under the MSA plan.''.

Subchapter B—Special Rules for Medicare Choice Medical Savings Accounts

SEC. 5006. MEDICARE CHOICE MSA.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to amounts specifically excluded from gross income) is amended by redesignating section 138 as section 139 and by inserting after section 137 the following new section:

''SEC. 138. MEDICARE CHOICE MSA.

''(a) EXCLUSION.—Gross income shall not include any payment to the Medicare Choice MSA of an individual by the Secretary of Health and Human Services under part C of title XVIII of the Social Security Act.

''(b) MEDICARE CHOICE MSA.—For purposes of this section, the term 'Medicare Choice MSA' means a medical savings account (as defined in section 220(d))—

''(1) which is designated as a Medicare Choice MSA,

''(2) with respect to which no contribution may be made other than—

''(A) a contribution made by the Secretary of Health and Human Services pursuant to part C of title XVIII of the Social Security Act, or

''(B) a trustee-to-trustee transfer described in subsection (c)(4),

''(3) the governing instrument of which provides that trustee-to-trustee transfers described in subsection (c)(4) may be made to and from such account, and

''(4) which is established in connection with an MSA plan described in section 1859(b)(3) of the Social Security Act.

''(c) SPECIAL RULES FOR DISTRIBUTIONS.—

''(1) DISTRIBUTIONS FOR QUALIFIED MEDICAL EXPENSES.—In applying section 220 to a Medicare Choice MSA—

''(A) qualified medical expenses shall not include amounts paid for medical care for any individual other than the account holder, and

''(B) section 220(d)(2)(C) shall not apply.

''(2) PENALTY FOR DISTRIBUTIONS FROM MEDICARE CHOICE MSA NOT USED FOR QUALIFIED MEDICAL EXPENSES IF MINIMUM BALANCE NOT MAINTAINED.—

''(A) IN GENERAL.—The tax imposed by this chapter for any taxable year in which there is a payment or distribution from a Medicare Choice MSA which is not used exclusively to pay the qualified medical expenses of the account holder shall be increased by 50 percent of the excess (if any) of—

''(i) the amount of such payment or distribution, over

''(ii) the excess (if any) of—

''(I) the fair market value of the assets in such MSA as of the close of the calendar year preceding the calendar year in which the taxable year begins, over

''(II) an amount equal to 60 percent of the deductible under the Medicare Choice MSA plan covering the account holder as of January 1 of the calendar year in which the taxable year begins.

Section 220(f)(2) shall not apply to any payment or distribution from a Medicare Choice MSA.

''(B) EXCEPTIONS.—Subparagraph (A) shall not apply if the payment or distribution is made on or after the date the account holder—

''(i) becomes disabled within the meaning of section 72(m)(7), or

''(ii) dies.

''(C) SPECIAL RULES.—For purposes of subparagraph (A)—

''(i) all Medicare Choice MSAs of the account holder shall be treated as 1 account,

''(ii) all payments and distributions not used exclusively to pay the qualified medical expenses of the account holder during any taxable year shall be treated as 1 distribution, and

''(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

''(3) WITHDRAWAL OF ERRONEOUS CONTRIBUTIONS.—Section 220(f)(2) and paragraph (2) of this subsection shall not apply to any payment or distribution from a Medicare Choice MSA to the Secretary of Health and Human Services of an erroneous contribution to such MSA and of the net income attributable to such contribution.

''(4) TRUSTEE-TO-TRUSTEE TRANSFERS.—Section 220(f)(2) and paragraph (2) of this subsection shall not apply to any trustee-to-trustee transfer from a Medicare Choice MSA of an account holder to another Medicare Choice MSA of such account holder.

''(d) SPECIAL RULES FOR TREATMENT OF ACCOUNT AFTER DEATH OF ACCOUNT HOLDER.—In applying section 220(f)(8)(A) to an account which was a Medicare Choice MSA of a decedent, the rules of section 220(f) shall apply in lieu of the rules of subsection (c) of this section with respect to the spouse as the account holder of such Medicare Choice MSA.

''(e) REPORTS.—In the case of a Medicare Choice MSA, the report under section 220(h)—

''(1) shall include the fair market value of the assets in such Medicare Choice MSA as of the close of each calendar year, and

''(2) shall be furnished to the account holder—

''(A) not later than January 31 of the calendar year following the calendar year to which such reports relate, and

''(B) in such manner as the Secretary prescribes in such regulations.

''(f) COORDINATION WITH LIMITATION ON NUMBER OF TAXPAYERS HAVING MEDICAL SAVINGS ACCOUNTS.—Subsection (i) of section 220 shall not apply to an individual with respect to a Medicare Choice MSA, and Medicare Choice MSA's shall not be taken into account in determining whether the numerical limitations under section 220(j) are exceeded.''.

(b) TECHNICAL AMENDMENTS.—

(1) The last sentence of section 4973(d) of such Code is amended by inserting ''or section 138(c)(3)'' after ''section 220(f)(3)''.

(2) Subsection (b) of section 220 of such Code is amended by adding at the end the following new paragraph:

''(7) MEDICARE ELIGIBLE INDIVIDUALS.—The limitation under this subsection for any month with respect to an individual shall be zero for the first month such individual is entitled to benefits under title XVIII of the Social Security Act and for each month thereafter.''.

(3) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following:

''Sec. 138. Medicare Choice MSA.

''Sec. 139. Cross references to other Acts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

CHAPTER 2—INTEGRATED LONG-TERM CARE PROGRAMS

Subchapter A—Programs of All-Inclusive Care for the Elderly (PACE)

SEC. 5011. COVERAGE OF PACE UNDER THE MEDICARE PROGRAM.

Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

''PAYMENTS TO, AND COVERAGE OF BENEFITS UNDER, PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

''SEC. 1894. (a) RECEIPT OF BENEFITS THROUGH ENROLLMENT IN PACE PROGRAM; DEFINITIONS FOR PACE PROGRAM RELATED TERMS.—

''(1) BENEFITS THROUGH ENROLLMENT IN A PACE PROGRAM.—In accordance with this section, in the case of an individual who is entitled to benefits under part A or enrolled under part B and who is a PACE program eligible individual (as defined in paragraph (5)) with respect to a PACE program offered by a PACE provider under a PACE program agreement—

''(A) the individual may enroll in the program under this section; and

''(B) so long as the individual is so enrolled and in accordance with regulations—

''(i) the individual shall receive benefits under this title solely through such program; and

''(ii) the PACE provider is entitled to payment under and in accordance with this section and such agreement for provision of such benefits.

''(2) PACE PROGRAM DEFINED.—For purposes of this section and section 1932, the term 'PACE program' means a program of all-inclusive care for the elderly that meets the following requirements:

''(A) OPERATION.—The entity operating the program is a PACE provider (as defined in paragraph (3)).

''(B) COMPREHENSIVE BENEFITS.—The program provides comprehensive health care services to PACE program eligible individuals in accordance with the PACE program agreement and regulations under this section.

''(C) TRANSITION.—In the case of an individual who is enrolled under the program under this section and whose enrollment ceases for any reason (including that the individual no longer qualifies as a PACE program eligible individual, the termination of a PACE program agreement, or otherwise), the program provides assistance to the individual in obtaining necessary transitional care through appropriate referrals and making the individual's medical records available to new providers.

''(3) PACE PROVIDER DEFINED.—

''(A) IN GENERAL.—For purposes of this section, the term 'PACE provider' means an entity that—

''(i) subject to subparagraph (B), is (or is a distinct part of) a public entity or a private, nonprofit entity organized for charitable purposes under section 501(c)(3) of the Internal Revenue Code of 1986; and

''(ii) has entered into a PACE program agreement with respect to its operation of a PACE program.

''(B) TREATMENT OF PRIVATE, FOR-PROFIT PROVIDERS.—Clause (i) of subparagraph (A) shall not apply—

''(i) to entities subject to a demonstration project waiver under subsection (h); and

''(ii) after the date the report under section 5013(b) of the Balanced Budget Act of 1997 is submitted, unless the Secretary determines that any of the findings described in subparagraph (A), (B), (C), or (D) of paragraph (2) of such section are true.

''(4) PACE PROGRAM AGREEMENT DEFINED.—For purposes of this section, the term 'PACE program agreement' means, with respect to a PACE provider, an agreement, consistent with this section, section 1932 (if applicable), and regulations promulgated to carry out such sections, between the PACE provider and the Secretary, or an agreement between the PACE provider and a State administering agency for the operation of a PACE program by the provider under such sections.

''(5) PACE PROGRAM ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this section, the term 'PACE program eligible individual' means, with respect to a PACE program, an individual who—

''(A) is 55 years of age or older;

''(B) subject to subsection (c)(4), is determined under subsection (c) to require the level of care required under the State medicaid plan for coverage of nursing facility services;

''(C) resides in the service area of the PACE program; and

''(D) meets such other eligibility conditions as may be imposed under the PACE program agreement for the program under subsection (e)(2)(A)(ii).

''(6) PACE PROTOCOL.—For purposes of this section, the term 'PACE protocol' means the Protocol for the Program of All-inclusive Care for the Elderly (PACE), as published by On Lok, Inc., as of April 14, 1995, or any successor protocol that may be agreed upon between the Secretary and On Lok, Inc.

''(7) PACE DEMONSTRATION WAIVER PROGRAM DEFINED.—For purposes of this section, the term 'PACE demonstration waiver program' means a demonstration program under either of the following sections (as in effect before the date of their repeal):

''(A) Section 603(c) of the Social Security Amendments of 1983 (Public Law 98–21), as extended by section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272).

''(B) Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509).

''(8) STATE ADMINISTERING AGENCY DEFINED.—For purposes of this section, the term 'State administering agency' means, with respect to the operation of a PACE program in a State, the agency of that State (which may be the single agency responsible for administration of the State plan under title XIX in the State) responsible for administering PACE program agreements under this section and section 1932 in the State.

''(9) TRIAL PERIOD DEFINED.—

''(A) IN GENERAL.—For purposes of this section, the term 'trial period' means, with respect to a PACE program operated by a PACE provider under a PACE program agreement, the first 3 contract years under such agreement with respect to such program.

''(B) TREATMENT OF ENTITIES PREVIOUSLY OPERATING PACE DEMONSTRATION WAIVER PROGRAMS.—Each contract year (including a year occurring before the effective date of this section) during which an entity has operated a PACE demonstration waiver program shall be counted under subparagraph (A) as a contract year during which the entity operated a PACE program as a PACE provider under a PACE program agreement.

''(10) REGULATIONS.—For purposes of this section, the term 'regulations' refers to interim final or final regulations promulgated under subsection (f) to carry out this section and section 1932.

''(b) SCOPE OF BENEFITS; BENEFICIARY SAFEGUARDS.—

''(1) IN GENERAL.—Under a PACE program agreement, a PACE provider shall—

''(A) provide to PACE program eligible individuals, regardless of source of payment and directly or under contracts with other entities, at a minimum—

''(i) all items and services covered under this title (for individuals enrolled under this section) and all items and services covered under title XIX, but without any limitation or condition as to amount, duration, or scope and without application of deductibles, copayments, coinsurance, or other cost-sharing that would otherwise apply under this title or such title, respectively; and

''(ii) all additional items and services specified in regulations, based upon those required under the PACE protocol;

''(B) provide such enrollees access to necessary covered items and services 24 hours per day, every day of the year;

''(C) provide services to such enrollees through a comprehensive, multidisciplinary health and social services delivery system which integrates acute and long-term care services pursuant to regulations; and

''(D) specify the covered items and services that will not be provided directly by the entity, and to arrange for delivery of those items and services through contracts meeting the requirements of regulations.

''(2) QUALITY ASSURANCE; PATIENT SAFEGUARDS.—The PACE program agreement shall require the PACE provider to have in effect at a minimum—

''(A) a written plan of quality assurance and improvement, and procedures implementing such plan, in accordance with regulations; and

''(B) written safeguards of the rights of enrolled participants (including a patient bill of rights and procedures for grievances and appeals) in accordance with regulations and with other requirements of this title and Federal and State law that are designed for the protection of patients.

''(c) ELIGIBILITY DETERMINATIONS.—

''(1) IN GENERAL.—The determination of whether an individual is a PACE program eligible individual—

''(A) shall be made under and in accordance with the PACE program agreement; and

''(B) who is entitled to medical assistance under title XIX, shall be made (or who is not so entitled, may be made) by the State administering agency.

''(2) CONDITION.—An individual is not a PACE program eligible individual (with respect to payment under this section) unless the individual's health status has been determined by the Secretary or the State administering agency, in accordance with regulations, to be comparable to the health status of individuals who

have participated in the PACE demonstration waiver programs. Such determination shall be based upon information on health status and related indicators (such as medical diagnoses and measures of activities of daily living, instrumental activities of daily living, and cognitive impairment) that are part of a uniform minimum data set collected by PACE providers on potential eligible individuals.

''(3) ANNUAL ELIGIBILITY RECERTIFICATIONS.—

''(A) IN GENERAL.—Subject to subparagraph (B), the determination described in subsection (a)(5)(B) for an individual shall be reevaluated at least annually.

''(B) EXCEPTION.—The requirement of annual reevaluation under subparagraph (A) may be waived during a period in accordance with regulations in those cases where the State administering agency determines that there is no reasonable expectation of improvement or significant change in an individual's condition during the period because of the advanced age, severity of the advanced age, severity of chronic condition, or degree of impairment of functional capacity of the individual involved.

''(4) CONTINUATION OF ELIGIBILITY.—An individual who is a PACE program eligible individual may be deemed to continue to be such an individual notwithstanding a determination that the individual no longer meets the requirement of subsection (a)(5)(B) if, in accordance with regulations, in the absence of continued coverage under a PACE program the individual reasonably would be expected to meet such requirement within the succeeding 6-month period.

''(5) ENROLLMENT; DISENROLLMENT.—The enrollment and disenrollment of PACE program eligible individuals in a PACE program shall be pursuant to regulations and the PACE program agreement and shall permit enrollees to voluntarily disenroll without cause at any time. Such regulations and agreement shall provide that the PACE program may not disenroll a PACE program eligible individual on the ground that the individual has engaged in noncompliant behavior if such behavior is related to a mental or physical condition of the individual. For purposes of the preceding sentence, the term 'noncompliant behavior' includes repeated noncompliance with medical advice and repeated failure to appear for appointments.

''(d) PAYMENTS TO PACE PROVIDERS ON A CAPITATED BASIS.—

''(1) IN GENERAL.—In the case of a PACE provider with a PACE program agreement under this section, except as provided in this subsection or by regulations, the Secretary shall make prospective monthly payments of a capitation amount for each PACE program eligible individual enrolled under the agreement under this section in the same manner and from the same sources as payments are made to an eligible organization under a risk-sharing contract under section 1876. Such payments shall be subject to adjustment in the manner described in section 1876(a)(1)(E).

''(2) CAPITATION AMOUNT.—The capitation amount to be applied under this subsection for a provider for a contract year shall be an amount specified in the PACE program agreement for the year. Such amount shall be based upon payment rates established under section 1876 for risk-sharing contracts and shall be adjusted to take into account the comparative frailty of PACE enrollees and such other factors as the Secretary determines to be appropriate. Such amount under such an agreement shall be computed in a manner so that the total payment level for all PACE program eligible individuals enrolled under a program is less than the projected payment under this title for a comparable population not enrolled under a PACE program.

''(e) PACE PROGRAM AGREEMENT.—

''(1) REQUIREMENT.—

''(A) IN GENERAL.—The Secretary, in close cooperation with the State administering agency, shall establish procedures for entering into, extending, and terminating PACE program agreements for the operation of PACE programs by entities that meet the requirements for a PACE provider under this section, section 1932, and regulations.

''(B) NUMERICAL LIMITATION.—

''(i) IN GENERAL.—The Secretary shall not permit the number of PACE providers with which agreements are in effect under this section or under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 to exceed—

''(I) 40 as of the date of the enactment of this section; or

''(II) as of each succeeding anniversary of such date, the numerical limitation under this subparagraph for the preceding year plus 20.

Subclause (II) shall apply without regard to the actual number of agreements in effect as of a previous anniversary date.

''(ii) TREATMENT OF CERTAIN PRIVATE, FOR-PROFIT PROVIDERS.—The numerical limitation in clause (i) shall not apply to a PACE provider that—

''(I) is operating under a demonstration project waiver under subsection (h); or

''(II) was operating under such a waiver and subsequently qualifies for PACE provider status pursuant to subsection (a)(3)(B)(ii).

''(2) SERVICE AREA AND ELIGIBILITY.—

''(A) IN GENERAL.—A PACE program agreement for a PACE program—

''(i) shall designate the service area of the program;

''(ii) may provide additional requirements for individuals to qualify as PACE program eligible individuals with respect to the program;

''(iii) shall be effective for a contract year, but may be extended for additional contract years in the absence of a notice by a party to terminate and is subject to termination by the Secretary and the State administering agency at any time for cause (as provided under the agreement);

''(iv) shall require a PACE provider to meet all applicable State and local laws and requirements; and

''(v) shall have such additional terms and conditions as the parties may agree to, provided that such terms and conditions are consistent with this section and regulations.

''(B) SERVICE AREA OVERLAP.—In designating a service area under a PACE program agreement under subparagraph (A)(i), the Secretary (in consultation with the State administering agency) may exclude from designation an area that is already covered under another PACE program agreement, in order to avoid unnecessary duplication of services and avoid impairing the financial and service viability of an existing program.

''(3) DATA COLLECTION; DEVELOPMENT OF OUTCOME MEASURES.—

''(A) DATA COLLECTION.—

''(i) IN GENERAL.—Under a PACE program agreement, the PACE provider shall—

''(I) collect data;

''(II) maintain, and afford the Secretary and the State administering agency access to, the records relating to the program, including pertinent financial, medical, and personnel records; and

''(III) make to the Secretary and the State administering agency reports that the Secretary finds (in consultation with State administering agencies) necessary to monitor the operation, cost, and effectiveness of the PACE program under this Act.

''(ii) REQUIREMENTS DURING TRIAL PERIOD.—During the first 3 years of operation of a PACE program (either under this section or under a PACE demonstration waiver program), the PACE provider shall provide such additional data as the Secretary specifies in regulations in order to perform the oversight required under paragraph (4)(A).

''(B) DEVELOPMENT OF OUTCOME MEASURES.—Under a PACE program agreement, the PACE provider, the Secretary, and the State administering agency shall jointly cooperate in the development and implementation of health status and quality of life outcome measures with respect to PACE program eligible individuals.

''(4) OVERSIGHT.—

''(A) ANNUAL, CLOSE OVERSIGHT DURING TRIAL PERIOD.—During the trial period (as defined in subsection (a)(9)) with respect to a PACE program operated by a PACE provider, the Secretary (in cooperation with the State administering agency) shall conduct a comprehensive annual review of the operation of the PACE program by the provider in order to assure compliance with the requirements of this section and regulations. Such a review shall include—

''(i) an on-site visit to the program site;

''(ii) comprehensive assessment of a provider's fiscal soundness;

''(iii) comprehensive assessment of the provider's capacity to provide all PACE services to all enrolled participants;

''(iv) detailed analysis of the entity's substantial compliance with all significant requirements of this section and regulations; and

''(v) any other elements the Secretary or State agency considers necessary or appropriate.

''(B) CONTINUING OVERSIGHT.—After the trial period, the Secretary (in cooperation with the State administering agency) shall continue to conduct such review of the operation of PACE providers and PACE programs as may be appropriate, taking into account the performance level of a provider and compliance of a provider with all significant requirements of this section and regulations.

''(C) DISCLOSURE.—The results of reviews under this paragraph shall be reported promptly to the PACE provider, along with any recommendations for changes to the provider's program, and shall be made available to the public upon request.

''(5) TERMINATION OF PACE PROVIDER AGREEMENTS.—

''(A) IN GENERAL.—Under regulations—

''(i) the Secretary or a State administering agency may terminate a PACE program agreement for cause; and

''(ii) a PACE provider may terminate an agreement after appropriate notice to the Secretary, the State agency, and enrollees.

''(B) CAUSES FOR TERMINATION.—In accordance with regulations establishing procedures for termination of PACE program agreements, the Secretary or a State administering agency may terminate a PACE program agreement with a PACE provider for, among other reasons, the fact that—

''(i) the Secretary or State administering agency determines that—

''(I) there are significant deficiencies in the quality of care provided to enrolled participants; or

''(II) the provider has failed to comply substantially with conditions for a program or provider under this section or section 1932; and

''(ii) the entity has failed to develop and successfully initiate, within 30 days of the receipt of written notice of such a determination, a plan to correct the deficiencies, or has failed to continue implementation of such a plan.

''(C) TERMINATION AND TRANSITION PROCEDURES.—An entity whose PACE provider agreement is terminated under this paragraph shall implement the transition procedures required under subsection (a)(2)(C).

''(6) SECRETARY'S OVERSIGHT; ENFORCEMENT AUTHORITY.—

''(A) IN GENERAL.—Under regulations, if the Secretary determines (after consultation with the State administering agency) that a PACE provider is failing substantially to comply with the requirements of this section and regulations, the Secretary (and the State administering agency) may take any or all of the following actions:

''(i) Condition the continuation of the PACE program agreement upon timely execution of a corrective action plan.

''(ii) Withhold some or all further payments under the PACE program agreement under this

section or section 1932 with respect to PACE program services furnished by such provider until the deficiencies have been corrected.

''(iii) Terminate such agreement.

''(B) APPLICATION OF INTERMEDIATE SANCTIONS.—Under regulations, the Secretary may provide for the application against a PACE provider of remedies described in section 1876(i)(6)(B) or 1903(m)(5)(B) in the case of violations by the provider of the type described in section 1876(i)(6)(A) or 1903(m)(5)(A), respectively (in relation to agreements, enrollees, and requirements under this section or section 1932, respectively).

''(7) PROCEDURES FOR TERMINATION OR IMPOSITION OF SANCTIONS.—Under regulations, the provisions of section 1876(i)(9) shall apply to termination and sanctions respecting a PACE program agreement and PACE provider under this subsection in the same manner as they apply to a termination and sanctions with respect to a contract and an eligible organization under section 1876.

''(8) TIMELY CONSIDERATION OF APPLICATIONS FOR PACE PROGRAM PROVIDER STATUS.—In considering an application for PACE provider program status, the application shall be deemed approved unless the Secretary, within 90 days after the date of the submission of the application to the Secretary, either denies such request in writing or informs the applicant in writing with respect to any additional information that is needed in order to make a final determination with respect to the application. After the date the Secretary receives such additional information, the application shall be deemed approved unless the Secretary, within 90 days of such date, denies such request.

''(f) REGULATIONS.—

''(1) IN GENERAL.—The Secretary shall issue interim final or final regulations to carry out this section and section 1932.

''(2) USE OF PACE PROTOCOL.—

''(A) IN GENERAL.—In issuing such regulations, the Secretary shall, to the extent consistent with the provisions of this section, incorporate the requirements applied to PACE demonstration waiver programs under the PACE protocol.

''(B) FLEXIBILITY.—In order to provide for reasonable flexibility in adapting the PACE service delivery model to the needs of particular organizations (such as those in rural areas or those that may determine it appropriate to use nonstaff physicians according to State licensing law requirements) under this section and section 1932, the Secretary (in close consultation with State administering agencies) may modify or waive provisions of the PACE protocol so long as any such modification or waiver is not inconsistent with and would not impair the essential elements, objectives, and requirements of this section, but may not modify or waive any of the following provisions:

''(i) The focus on frail elderly qualifying individuals who require the level of care provided in a nursing facility.

''(ii) The delivery of comprehensive, integrated acute and long-term care services.

''(iii) The interdisciplinary team approach to care management and service delivery.

''(iv) Capitated, integrated financing that allows the provider to pool payments received from public and private programs and individuals.

''(v) The assumption by the provider of full financial risk.

''(3) APPLICATION OF CERTAIN ADDITIONAL BENEFICIARY AND PROGRAM PROTECTIONS.—

''(A) IN GENERAL.—In issuing such regulations and subject to subparagraph (B), the Secretary may apply with respect to PACE programs, providers, and agreements such requirements of sections 1876 and 1903(m) relating to protection of beneficiaries and program integrity as would apply to eligible organizations under risk-sharing contracts under section 1876 and to health maintenance organizations under prepaid capitation agreements under section 1903(m).

''(B) CONSIDERATIONS.—In issuing such regulations, the Secretary shall—

''(i) take into account the differences between populations served and benefits provided under this section and under sections 1876 and 1903(m);

''(ii) not include any requirement that conflicts with carrying out PACE programs under this section; and

''(iii) not include any requirement restricting the proportion of enrollees who are eligible for benefits under this title or title XIX.

''(g) WAIVERS OF REQUIREMENTS.—With respect to carrying out a PACE program under this section, the following requirements of this title (and regulations relating to such requirements) are waived and shall not apply:

''(1) Section 1812, insofar as it limits coverage of institutional services.

''(2) Sections 1813, 1814, 1833, and 1886, insofar as such sections relate to rules for payment for benefits.

''(3) Sections 1814(a)(2)(B), 1814(a)(2)(C), and 1835(a)(2)(A), insofar as they limit coverage of extended care services or home health services.

''(4) Section 1861(i), insofar as it imposes a 3-day prior hospitalization requirement for coverage of extended care services.

''(5) Paragraphs (1) and (9) of section 1862(a), insofar as they may prevent payment for PACE program services to individuals enrolled under PACE programs.

''(h) DEMONSTRATION PROJECT FOR FOR-PROFIT ENTITIES.—

''(1) IN GENERAL.—In order to demonstrate the operation of a PACE program by a private, for-profit entity, the Secretary (in close consultation with State administering agencies) shall grant waivers from the requirement under subsection (a)(3) that a PACE provider may not be a for-profit, private entity.

''(2) SIMILAR TERMS AND CONDITIONS.—

''(A) IN GENERAL.—Except as provided under subparagraph (B), and paragraph (1), the terms and conditions for operation of a PACE program by a provider under this subsection shall be the same as those for PACE providers that are nonprofit, private organizations.

''(B) NUMERICAL LIMITATION.—The number of programs for which waivers are granted under this subsection shall not exceed 10. Programs with waivers granted under this subsection shall not be counted against the numerical limitation specified in subsection (e)(1)(B).

''(i) MISCELLANEOUS PROVISIONS.—Nothing in this section or section 1932 shall be construed as preventing a PACE provider from entering into contracts with other governmental or non-governmental payers for the care of PACE program eligible individuals who are not eligible for benefits under part A, or enrolled under part B, or eligible for medical assistance under title XIX.''.

SEC. 5012. EFFECTIVE DATE; TRANSITION.

(a) TIMELY ISSUANCE OF REGULATIONS; EFFECTIVE DATE.—The Secretary of Health and Human Services shall promulgate regulations to carry out this subtitle in a timely manner. Such regulations shall be designed so that entities may establish and operate PACE programs under sections 1894 and 1932 of the Social Security Act (as added by sections 5011 and 5751 of this Act) for periods beginning not later than 1 year after the date of the enactment of this Act.

(b) EXPANSION AND TRANSITION FOR PACE DEMONSTRATION PROJECT WAIVERS.—

(1) EXPANSION IN CURRENT NUMBER OF DEMONSTRATION PROJECTS.—Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 4118(g) of the Omnibus Budget Reconciliation Act of 1987, is amended—

(A) in paragraph (1), by inserting before the period at the end the following: '', except that the Secretary shall grant waivers of such requirements up to the applicable numerical limitation specified in section 1894(e)(1)(B) of the Social Security Act''; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking '', including permitting the organization to assume progressively (over the initial 3-year period of the waiver) the full financial risk''; and

(ii) in subparagraph (C), by adding at the end the following: ''In granting further extensions, an organization shall not be required to provide for reporting of information which is only required because of the demonstration nature of the project.''.

(2) ELIMINATION OF REPLICATION REQUIREMENT.—Subparagraph (B) of paragraph (2) of such section shall not apply to waivers granted under such section after the date of the enactment of this Act.

(3) TIMELY CONSIDERATION OF APPLICATIONS.—In considering an application for waivers under such section before the effective date of repeals made under subsection (d), subject to the numerical limitation under the amendment made by paragraph (1), the application shall be deemed approved unless the Secretary of Health and Human Services, within 90 days after the date of its submission to the Secretary, either denies such request in writing or informs the applicant in writing with respect to any additional information which is needed in order to make a final determination with respect to the application. After the date the Secretary receives such additional information, the application shall be deemed approved unless the Secretary, within 90 days of such date, denies such request.

(c) PRIORITY AND SPECIAL CONSIDERATION IN APPLICATION.—During the 3-year period beginning on the date of enactment of this Act:

(1) PROVIDER STATUS.—The Secretary of Health and Human Services shall give priority, in processing applications of entities to qualify as PACE programs under section 1894 or 1932 of the Social Security Act—

(A) first, to entities that are operating a PACE demonstration waiver program (as defined in section 1894(a)(7) of such Act); and

(B) then entities that have applied to operate such a program as of May 1, 1997.

(2) NEW WAIVERS.—The Secretary shall give priority, in the awarding of additional waivers under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986—

(A) to any entities that have applied for such waivers under such section as of May 1, 1997; and

(B) to any entity that, as of May 1, 1997, has formally contracted with a State to provide services for which payment is made on a capitated basis with an understanding that the entity was seeking to become a PACE provider.

(3) SPECIAL CONSIDERATION.—The Secretary shall give special consideration, in the processing of applications described in paragraph (1) and the awarding of waivers described in paragraph (2), to an entity which as of May 1, 1997 through formal activities (such as entering into contracts for feasibility studies) has indicated a specific intent to become a PACE provider.

(d) REPEAL OF CURRENT PACE DEMONSTRATION PROJECT WAIVER AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (2), the following provisions of law are repealed:

(A) Section 603(c) of the Social Security Amendments of 1983 (Public Law 98–21).

(B) Section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272).

(C) Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509).

(2) DELAY IN APPLICATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the repeals made by paragraph (1) shall not apply to waivers granted before the initial effective date of regulations described in subsection (a).

(B) APPLICATION TO APPROVED WAIVERS.—Such repeals shall apply to waivers granted before such date only after allowing such organizations a transition period (of up to 24 months) in order to permit sufficient time for an orderly

transition from demonstration project authority to general authority provided under the amendments made by this subtitle.

SEC. 5013. STUDY AND REPORTS.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in close consultation with State administering agencies, as defined in section 1894(a)(8) of the Social Security Act) shall conduct a study of the quality and cost of providing PACE program services under the medicare and medicaid programs under the amendments made by this subtitle.

(2) STUDY OF PRIVATE, FOR-PROFIT PROVIDERS.—Such study shall specifically compare the costs, quality, and access to services by entities that are private, for-profit entities operating under demonstration projects waivers granted under section 1894(h) of the Social Security Act with the costs, quality, and access to services of other PACE providers.

(b) REPORT.—

(1) IN GENERAL.—Not later than 4 years after the date of enactment of this Act, the Secretary shall provide for a report to Congress on the impact of such amendments on quality and cost of services. The Secretary shall include in such report such recommendations for changes in the operation of such amendments as the Secretary deems appropriate.

(2) TREATMENT OF PRIVATE, FOR-PROFIT PROVIDERS.—The report shall include specific findings on whether any of the following findings is true:

(A) The number of covered lives enrolled with entities operating under demonstration project waivers under section 1894(h) of the Social Security Act is fewer than 800 (or such lesser number as the Secretary may find statistically sufficient to make determinations respecting findings described in the succeeding subparagraphs).

(B) The population enrolled with such entities is less frail than the population enrolled with other PACE providers.

(C) Access to or quality of care for individuals enrolled with such entities is lower than such access or quality for individuals enrolled with other PACE providers.

(D) The application of such section has resulted in an increase in expenditures under the medicare or medicaid programs above the expenditures that would have been made if such section did not apply.

(c) INFORMATION INCLUDED IN ANNUAL RECOMMENDATIONS.—The Physician Payment Review Commission shall include in its annual recommendations under section 1845(b) of the Social Security Act (42 U.S.C. 1395w–1), and the Prospective Payment Review Commission shall include in its annual recommendations reported under section 1886(e)(3)(A) of such Act (42 U.S.C. 1395ww(e)(3)(A)), recommendations on the methodology and level of payments made to PACE providers under section 1894(d) of such Act and on the treatment of private, for-profit entities as PACE providers. References in the preceding sentence to the Physician Payment Review Commission and the Prospective Payment Review Commission shall be deemed to be references to the Medicare Payment Advisory Commission (MedPAC) established under section 5022(a) after the termination of the Physician Payment Review Commission and the Prospective Payment Review Commission provided for in section 5022(c)(2).

Subchapter B—Social Health Maintenance Organizations

SEC. 5015. SOCIAL HEALTH MAINTENANCE ORGANIZATIONS (SHMOS).

(a) EXTENSION OF DEMONSTRATION PROJECT AUTHORITIES.—Section 4018(b) of the Omnibus Budget Reconciliation Act of 1987 is amended—

(1) in paragraph (1), by striking ''1997'' and inserting ''2000'', and

(2) in paragraph (4), by striking ''1998'' and inserting ''2001''.

(b) EXPANSION OF CAP.—Section 13567(c) of the Omnibus Budget Reconciliation Act of 1993 is amended by striking ''12,000'' and inserting ''36,000''.

(c) REPORT ON INTEGRATION AND TRANSITION.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall submit to Congress, by not later than January 1, 1999, a plan for the integration of health plans offered by social health maintenance organizations (including SHMO I and SHMO II sites developed under section 2355 of the Deficit Reduction Act of 1984 and under the amendment made by section 4207(b)(3)(B)(i) of OBRA–1990, respectively) and similar plans as an option under the Medicare Choice program under part C of title XVIII of the Social Security Act.

(2) PROVISION FOR TRANSITION.—Such plan shall include a transition for social health maintenance organizations operating under demonstration project authority under such section.

(3) PAYMENT POLICY.—The report shall also include recommendations on appropriate payment levels for plans offered by such organizations, including an analysis of the application of risk adjustment factors appropriate to the population served by such organizations.

Subchapter C—Other Programs

SEC. 5018. EXTENSION OF CERTAIN MEDICARE COMMUNITY NURSING ORGANIZATION DEMONSTRATION PROJECTS.

Notwithstanding any other provision of law, demonstration projects conducted under section 4079 of the Omnibus Budget Reconciliation Act of 1987 may be conducted for an additional period of 2 years, and the deadline for any report required relating to the results of such projects shall be not later than 6 months before the end of such additional period.

CHAPTER 3—COMMISSIONS

SEC. 5021. NATIONAL BIPARTISAN COMMISSION ON THE FUTURE OF MEDICARE.

(a) ESTABLISHMENT.—There is established a commission to be known as the National Bipartisan Commission on the Future of Medicare (in this section referred to as the ''Commission'').

(b) FINDINGS.—Congress finds that—

(1) the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) provides essential health care coverage to this Nation's senior citizens and to individuals with disabilities;

(2) the Federal Hospital Insurance Trust Fund established under that Act has been spending more than it receives since 1995, and will be bankrupt in the year 2001;

(3) the Federal Hospital Insurance Trust Fund faces even greater solvency problems in the long run with the aging of the baby boom generation and the continuing decline in the number of workers paying into the medicare program for each medicare beneficiary;

(4) the trustees of the trust funds of the medicare program have reported that growth in spending within the Federal Supplementary Medical Insurance Trust Fund established under that Act is unsustainable; and

(5) expeditious action is needed in order to restore the financial integrity of the medicare program and to maintain this Nation's commitment to senior citizens and to individuals with disabilities.

(c) DUTIES OF THE COMMISSION.—The Commission shall—

(1) review and analyze the long-term financial condition of the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

(2) identify problems that threaten the financial integrity of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established under that title (42 U.S.C. 1395i, 1395t), including the extent to which current medicare update indexes do not accurately reflect inflation;

(3) analyze potential solutions to the problems identified under paragraph (2) that will ensure both the financial integrity of the medicare program and the provision of appropriate benefits under such program;

(4) make recommendations to restore the solvency of the Federal Hospital Insurance Trust Fund and the financial integrity of the Federal Supplementary Medical Insurance Trust Fund through the year 2030, when the last of the baby boomers reaches age 65;

(5) make recommendations for establishing the appropriate financial structure of the medicare program as a whole;

(6) make recommendations for establishing the appropriate balance of benefits covered and beneficiary contributions to the medicare program;

(7) make recommendations for the time periods during which the recommendations described in paragraphs (4), (5), and (6) should be implemented;

(8) make recommendations regarding the financing of graduate medical education (GME), including consideration of alternative broad-based sources of funding for such education and funding for institutions not currently eligible for such GME support under the medicare program that conduct approved graduate medical residency programs, such as children's hospitals;

(9) make recommendations on the feasibility of allowing individuals between the age of 62 and the medicare eligibility age to buy into the medicare program;

(10) make recommendations on the impact of chronic disease and disability trends on future costs and quality of services under the current benefit, financing, and delivery system structure of the medicare program; and

(11) review and analyze such other matters as the Commission deems appropriate.

(d) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 15 members, of whom—

(A) three shall be appointed by the President;

(B) six shall be appointed by the Majority Leader of the Senate, in consultation with the Minority Leader of the Senate, of whom not more than 4 shall be of the same political party; and

(C) six shall be appointed by the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives, of whom not more than 4 shall be of the same political party.

(2) COMPTROLLER GENERAL.—The Comptroller General of the United States shall advise the Commission on the methodology to be used in identifying problems and analyzing potential solutions in accordance with the duties of the Commission described in subsection (c).

(3) TERMS OF APPOINTMENT.—The members shall serve on the Commission for the life of the Commission.

(4) MEETINGS.—The Commission shall locate its headquarters in the District of Columbia, and shall meet at the call of the Chairperson.

(5) QUORUM.—Ten members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(6) CHAIRPERSON.—The Speaker of the House of Representatives, in consultation with the Majority Leader of the Senate, shall designate 1 of the members appointed under paragraph (1) as Chairperson of the Commission.

(7) VACANCIES.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made not later than 30 days after the Commission is given notice of the vacancy.

(8) COMPENSATION.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(9) EXPENSES.—Each member of the Commission shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

(e) STAFF AND SUPPORT SERVICES.—

(1) EXECUTIVE DIRECTOR.—

(A) APPOINTMENT.—The Chairperson shall appoint an executive director of the Commission.

(B) COMPENSATION.—The executive director shall be paid the rate of basic pay for level V of the Executive Schedule.

(2) STAFF.—With the approval of the Commission, the executive director may appoint such personnel as the executive director considers appropriate.

(3) APPLICABILITY OF CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

(4) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the executive director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(5) STAFF OF FEDERAL AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail any of the personnel of such agency to the Commission to assist in carrying out the duties of the Commission.

(6) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, statistical data, and other information from the Library of Congress and agencies and elected representatives of the executive and legislative branches of the Federal Government. The Chairperson of the Commission shall make requests for such access in writing when necessary.

(7) PHYSICAL FACILITIES.—The Administrator of the General Services Administration shall locate suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for the proper functioning of the Commission.

(f) POWERS OF COMMISSION.—

(1) HEARINGS.—The Commission may conduct public hearings or forums at the discretion of the Commission, at any time and place the Commission is able to secure facilities and witnesses, for the purpose of carrying out the duties of the Commission.

(2) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(3) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(g) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Commission shall submit a report to the President and Congress which shall contain a detailed statement of the recommendations, findings, and conclusions of the Commission.

(h) TERMINATION.—The Commission shall terminate on the date which is 30 days after the date the Commission submits its report to the President and to Congress under subsection (g).

(i) FUNDING.—There is authorized to be appropriated to the Commission such sums as are necessary to carry out the purposes of this section. Sums appropriated under this subsection shall be paid equally from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund under title XVIII of the Social Security Act (42 U.S.C. 1395i, 1395t).

SEC. 5022. MEDICARE PAYMENT ADVISORY COMMISSION.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1804 the following new section:

''MEDICARE PAYMENT ADVISORY COMMISSION

''SEC. 1805. (a) ESTABLISHMENT.—There is hereby established the Medicare Payment Advisory Commission (in this section referred to as the 'Commission').

''(b) DUTIES.—

''(1) REVIEW OF PAYMENT POLICIES AND ANNUAL REPORTS.—The Commission shall—

''(A) review payment policies under this title, including the topics described in paragraph (2);

''(B) make recommendations to Congress concerning such payment policies;

''(C) by not later than March 1 of each year (beginning with 1998), submit a report to Congress containing the results of such reviews and its recommendations concerning such policies; and

''(D) by not later than June 1 of each year (beginning with 1998), submit a report to Congress containing an examination of issues affecting the medicare program, including the implications of changes in health care delivery in the United States and in the market for health care services on the medicare program.

''(2) SPECIFIC TOPICS TO BE REVIEWED.—

''(A) MEDICARE CHOICE PROGRAM.—Specifically, the Commission shall review, with respect to the Medicare Choice program under part C, the following:

''(i) The methodology for making payment to plans under such program, including the making of differential payments and the distribution of differential updates among different payment areas.

''(ii) The mechanisms used to adjust payments for risk and the need to adjust such mechanisms to take into account health status of beneficiaries.

''(iii) The implications of risk selection both among Medicare Choice organizations and between the Medicare Choice option and the traditional medicare fee-for-service option.

''(iv) The development and implementation of mechanisms to assure the quality of care for those enrolled with Medicare Choice organizations.

''(v) The impact of the Medicare Choice program on access to care for medicare beneficiaries.

''(vi) Other major issues in implementation and further development of the Medicare Choice program.

''(B) TRADITIONAL MEDICARE FEE-FOR-SERVICE SYSTEM.—Specifically, the Commission shall review payment policies under parts A and B, including—

''(i) the factors affecting expenditures for services in different sectors, including the process for updating hospital, skilled nursing facility, physician, and other fees,

''(ii) payment methodologies, and

''(iii) their relationship to access and quality of care for medicare beneficiaries.

''(C) INTERACTION OF MEDICARE PAYMENT POLICIES WITH HEALTH CARE DELIVERY GENERALLY.—Specifically, the Commission shall review the effect of payment policies under this title on the delivery of health care services other than under this title and assess the implications of changes in health care delivery in the United States and in the general market for health care services on the medicare program.

''(3) COMMENTS ON CERTAIN SECRETARIAL REPORTS.—If the Secretary submits to Congress (or a committee of Congress) a report that is required by law and that relates to payment policies under this title, the Secretary shall transmit a copy of the report to the Commission. The Commission shall review the report and, not later than 6 months after the date of submittal of the Secretary's report to Congress, shall submit to the appropriate committees of Congress written comments on such report. Such comments may include such recommendations as the Commission deems appropriate.

''(4) AGENDA AND ADDITIONAL REVIEWS.—The Commission shall consult periodically with the chairmen and ranking minority members of the appropriate committees of Congress regarding the Commission's agenda and progress towards achieving the agenda. The Commission may conduct additional reviews, and submit additional reports to the appropriate committees of Congress, from time to time on such topics relating to the program under this title as may be requested by such chairmen and members and as the Commission deems appropriate.

''(5) AVAILABILITY OF REPORTS.—The Commission shall transmit to the Secretary a copy of each report submitted under this subsection and shall make such reports available to the public.

''(6) APPROPRIATE COMMITTEES OF CONGRESS.—For purposes of this section, the term 'appropriate committees of Congress' means the Committees on Ways and Means and Commerce of the House of Representatives and the Committee on Finance of the Senate.

''(c) MEMBERSHIP.—

''(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 15 members appointed by the Comptroller General.

''(2) QUALIFICATIONS.—

''(A) IN GENERAL.—The membership of the Commission shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, health facility management, health plans and integrated delivery systems, reimbursement of health facilities, allopathic and osteopathic physicians, and other providers of health services, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives.

''(B) INCLUSION.—The membership of the Commission shall include (but not be limited to) physicians and other health professionals, employers, third-party payers, individuals skilled in the conduct and interpretation of biomedical, health services, and health economics research and expertise in outcomes and effectiveness research and technology assessment. Such membership shall also include representatives of consumers and the elderly.

''(C) MAJORITY NONPROVIDERS.—Individuals who are directly involved in the provision, or management of the delivery, of items and services covered under this title shall not constitute a majority of the membership of the Commission.

''(D) ETHICAL DISCLOSURE.—The Comptroller General shall establish a system for public disclosure by members of the Commission of financial and other potential conflicts of interest relating to such members.

''(3) TERMS.—

''(A) IN GENERAL.—The terms of members of the Commission shall be for 3 years except that the Comptroller General shall designate staggered terms for the members first appointed.

''(B) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

''(4) COMPENSATION.—While serving on the business of the Commission (including traveltime), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from home and the member's regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of the Commission. Physicians serving as personnel of the Commission may be provided a physician comparability allowance by the Commission in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to the Commission in the same manner as it applies to the Tennessee Valley Authority. For purposes of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.

''(5) CHAIRMAN; VICE CHAIRMAN.—The Comptroller General shall designate a member of the Commission, at the time of appointment of the member, as Chairman and a member as Vice Chairman for that term of appointment.

''(6) MEETINGS.—The Commission shall meet at the call of the Chairman.

''(d) DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.—Subject to such review as the Comptroller General deems necessary to assure the efficient administration of the Commission, the Commission may—

''(1) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

''(2) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

''(3) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));

''(4) make advance, progress, and other payments which relate to the work of the Commission;

''(5) provide transportation and subsistence for persons serving without compensation; and

''(6) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.

''(e) POWERS.—

''(1) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of that department or agency shall furnish that information to the Commission on an agreed upon schedule.

''(2) DATA COLLECTION.—In order to carry out its functions, the Commission shall—

''(A) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section,

''(B) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate, and

''(C) adopt procedures allowing any interested party to submit information for the Commission's use in making reports and recommendations.

''(3) ACCESS OF GAO TO INFORMATION.—The Comptroller General shall have unrestricted access to all deliberations, records, and nonproprietary data of the Commission, immediately upon request.

''(4) PERIODIC AUDIT.—The Commission shall be subject to periodic audit by the Comptroller General.

''(f) AUTHORIZATION OF APPROPRIATIONS.—

''(1) REQUEST FOR APPROPRIATIONS.—The Commission shall submit requests for appropriations in the same manner as the Comptroller General submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.

''(2) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Sixty percent of such appropriation shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund.''.

(b) ABOLITION OF PROPAC AND PPRC.—

(1) PROPAC.—

(A) IN GENERAL.—Section 1886(e) (42 U.S.C. 1395ww(e)) is amended—

(i) by striking paragraphs (2) and (6); and

(ii) in paragraph (3), by striking ''(A) The Commission'' and all that follows through ''(B)''.

(B) CONFORMING AMENDMENT.—Section 1862 (42 U.S.C. 1395y) is amended by striking ''Prospective Payment Assessment Commission'' each place it appears in subsection (a)(1)(D) and subsection (i) and inserting ''Medicare Payment Advisory Commission''.

(2) PPRC.—

(A) IN GENERAL.—Title XVIII is amended by striking section 1845 (42 U.S.C. 1395w–1).

(B) ELIMINATION OF CERTAIN REPORTS.—Section 1848 (42 U.S.C. 1395w–4) is amended—

(i) by striking subparagraph (F) of subsection (d)(2),

(ii) by striking subparagraph (B) of subsection (f)(1), and

(iii) in subsection (f)(3), by striking ''Physician Payment Review Commission,''.

(C) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w–4) is amended by striking ''Physician Payment Review Commission'' and inserting ''Medicare Payment Advisory Commission'' each place it appears in subsections (c)(2)(B)(iii), (g)(6)(C), and (g)(7)(C).

(c) EFFECTIVE DATE; TRANSITION.—

(1) IN GENERAL.—The Comptroller General shall first provide for appointment of members to the Medicare Payment Advisory Commission (in this subsection referred to as ''MedPAC'') by not later than September 30, 1997.

(2) TRANSITION.—As quickly as possible after the date a majority of members of MedPAC are first appointed, the Comptroller General, in consultation with the Prospective Payment Assessment Commission (in this subsection referred to as ''ProPAC'') and the Physician Payment Review Commission (in this subsection referred to as ''PPRC''), shall provide for the termination of the ProPAC and the PPRC. As of the date of termination of the respective Commissions, the amendments made by paragraphs (1) and (2), respectively, of subsection (b) become effective. The Comptroller General, to the extent feasible, shall provide for the transfer to the MedPAC of assets and staff of the ProPAC and the PPRC, without any loss of benefits or seniority by virtue of such transfers. Fund balances available to the ProPAC or the PPRC for any period shall be available to the MedPAC for such period for like purposes.

(3) CONTINUING RESPONSIBILITY FOR REPORTS.—The MedPAC shall be responsible for the preparation and submission of reports required by law to be submitted (and which have not been submitted by the date of establishment of the MedPAC) by the ProPAC and the PPRC, and, for this purpose, any reference in law to either such Commission is deemed, after the appointment of the MedPAC, to refer to the MedPAC.

CHAPTER 4—MEDIGAP PROTECTIONS

SEC. 5031. MEDIGAP PROTECTIONS.

(a) GUARANTEEING ISSUE WITHOUT PREEXISTING CONDITIONS FOR CONTINUOUSLY COVERED INDIVIDUALS.—Section 1882(s) (42 U.S.C. 1395ss(s)) is amended—

(1) in paragraph (3), by striking ''paragraphs (1) and (2)'' and inserting ''this subsection'',

(2) by redesignating paragraph (3) as paragraph (4), and

(3) by inserting after paragraph (2) the following new paragraph:

''(3)(A) The issuer of a medicare supplemental policy—

''(i) may not deny or condition the issuance or effectiveness of a medicare supplemental policy described in subparagraph (C) that is offered and is available for issuance to new enrollees by such issuer;

''(ii) may not discriminate in the pricing of such policy, because of health status, claims experience, receipt of health care, or medical condition; and

''(iii) may not impose an exclusion of benefits based on a pre-existing condition under such policy,

in the case of an individual described in subparagraph (B) who seeks to enroll under the policy not later than 63 days after the date of the termination of enrollment described in such subparagraph and who submits evidence of the date of termination or disenrollment along with the application for such medicare supplemental policy.

''(B) An individual described in this subparagraph is an individual described in any of the following clauses:

''(i) The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under this title and the plan terminates or ceases to provide all such supplemental health benefits to the individual.

''(ii) The individual is enrolled with a Medicare Choice organization under a Medicare Choice plan under part C, and there are circumstances permitting discontinuance of the individual's election of the plan under section 1851(e)(4).

''(iii) The individual is enrolled with an eligible organization under a contract under section 1876, a similar organization operating under demonstration project authority, with an organization under an agreement under section 1833(a)(1)(A), or with an organization under a policy described in subsection (t), and such enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under section 1851(c)(4) and, in the case of a policy described in subsection (t), there is no provision under applicable State law for the continuation of coverage under such policy.

''(iv) The individual is enrolled under a medicare supplemental policy under this section and such enrollment ceases because—

''(I) of the bankruptcy or insolvency of the issuer or because of other involuntary termination of coverage or enrollment under such policy and there is no provision under applicable State law for the continuation of such coverage;

''(II) the issuer of the policy substantially violated a material provision of the policy; or

''(III) the issuer (or an agent or other entity acting on the issuer's behalf) materially misrepresented the policy's provisions in marketing the policy to the individual.

''(v) The individual—

''(I) was enrolled under a medicare supplemental policy under this section,

''(II) subsequently terminates such enrollment and enrolls, for the first time, with any Medicare Choice organization under a Medicare Choice plan under part C, any eligible organization under a contract under section 1876, any similar organization operating under demonstration project authority, any organization under an agreement under section 1833(a)(1)(A), or any policy described in subsection (t), and

''(III) the subsequent enrollment under subclause (II) is terminated by the enrollee during the first 12 months of such enrollment.

''(vi) The individual, upon first becoming eligible for medicare at age 65, enrolls in a Medicare Choice plan and within 12 months of such enrollment, disenrolls from such plan.

''(C)(i) Subject to clauses (ii), a medicare supplemental policy described in this subparagraph is a policy the benefits under which are comparable or lessor in relation to the benefits under the plan, policy, or contract described in the applicable clause of subparagraph (B).

''(ii) Only for purposes of an individual described in subparagraph (B)(vi), a medicare supplemental policy described in this subparagraph shall include any medicare supplemental policy.

''(D) At the time of an event described in subparagraph (B) because of which an individual ceases enrollment or loses coverage or benefits under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, the insurer offering the policy, or the administrator of the plan, respectively, shall notify the individual of the rights of the individual, and obligations of issuers of medicare supplemental policies, under subparagraph (A).''.

(b) LIMITATION ON IMPOSITION OF PRE-EXISTING CONDITION EXCLUSION DURING INITIAL OPEN ENROLLMENT PERIOD.—Section 1882(s)(2)(42 U.S.C. 1395ss(s)(2)) is amended—

(1) in subparagraph (B), by striking ''subparagraph (C)'' and inserting ''subparagraphs (C) and (D)'', and

(2) by adding at the end the following new subparagraph:

''(D) In the case of a policy issued during the 6-month period described in subparagraph (A) to an individual who is 65 years of age or older as of the date of issuance and who as of the date of the application for enrollment has a continuous period of creditable coverage (as defined in section 2701(c) of the Public Health Service Act) of—

''(i) at least 6 months, the policy may not exclude benefits based on a pre-existing condition; or

''(ii) less than 6 months, if the policy excludes benefits based on a preexisting condition, the policy shall reduce the period of any preexisting condition exclusion by the aggregate of the periods of creditable coverage (if any, as so defined) applicable to the individual as of the enrollment date.

The Secretary shall specify the manner of the reduction under clause (ii), based upon the rules used by the Secretary in carrying out section 2701(a)(3) of such Act.''.

(c) EXTENDING 6-MONTH INITIAL ENROLLMENT PERIOD TO NON-ELDERLY MEDICARE BENEFICIARIES.—Section 1882(s)(2)(A)(ii) of (42 U.S.C. 1395ss(s)(2)(A)) is amended by striking ''is submitted'' and all that follows and inserting the following: ''is submitted—

''(I) before the end of the 6-month period beginning with the first month as of the first day on which the individual is 65 years of age or older and is enrolled for benefits under part B; and

''(II) at the time the individual first becomes eligible for benefits under part A pursuant to section 226(b) and is enrolled for benefits under part B, before the end of the 6-month period beginning with the first month as of the first day on which the individual is so eligible and so enrolled.''.

(d) EFFECTIVE DATES.—

(1) GUARANTEED ISSUE.—The amendment made by subsection (a) shall take effect on July 1, 1998.

(2) LIMIT ON PREEXISTING CONDITION EXCLUSIONS.—The amendment made by subsection (b) shall apply to policies issued on or after July 1, 1998.

(3) NONELDERLY MEDICARE BENEFICIARIES.—

(A) IN GENERAL.—The amendment made by subsection (c) shall apply to policies issued on and after July 1, 1998.

(B) TRANSITION RULE.—In the case of an individual who first became eligible for benefits under part A of title XVIII of the Social Security Act pursuant to section 226(b) of such Act and enrolled for benefits under part B of such title before July 1, 1998, the 6-month period described in section 1882(s)(2)(A) of such Act shall begin on July 1, 1998. Before July 1, 1998, the Secretary of Health and Human Services shall notify any individual described in the previous sentence of their rights in connection with medicare supplemental policies under section 1882 of such Act, by reason of the amendment made by subsection (c).

(e) TRANSITION PROVISIONS.—

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC STANDARDS.—If, within 9 months after the date of the enactment of this Act, the National Association of Insurance Commissioners (in this subsection referred to as the ''NAIC'') modifies its NAIC Model regulation relating to section 1882 of the Social Security Act (referred to in such section as the 1991 NAIC Model Regulation, as modified pursuant to section 171(m)(2) of the Social Security Act Amendments of 1994 (Public Law 103–432) and as modified pursuant to section 1882(d)(3)(A)(vi)(IV) of the Social Security Act, as added by section 271(a) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191) to conform to the amendments made by this section, such revised regulation incorporating the modifications shall be considered to be the applicable NAIC model regulation (including the revised NAIC model regulation and the 1991 NAIC Model Regulation) for the purposes of such section.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the appropriate Regulation for the purposes of such section.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) 1 year after the date the NAIC or the Secretary first makes the modifications under paragraph (2) or (3), respectively.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 1999 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after July 1, 1999. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 5032. ADDITION OF HIGH DEDUCTIBLE MEDIGAP POLICY.

(a) IN GENERAL.—Section 1882(p) (42 U.S.C. 1395ss(p)) is amended by adding at the end the following:

''(11)(A) On and after the date specified in subparagraph (C)—

''(i) each State with an approved regulatory program, and

''(ii) in the case of a State without an approved regulatory program, the Secretary,

shall, in addition to the 10 policies allowed under paragraph (2)(C), allow at least 1 other policy described in subparagraph (B).

''(B)(i) A policy is described in this subparagraph if it consists of—

''(I) one of the 10 benefit packages described in paragraph (2)(C), and

''(II) a high deductible feature.

''(ii) For purposes of clause (i), a high deductible feature is one which requires the beneficiary of the policy to pay annual out-of-pocket expenses (other than premiums) of $1,500 before the policy begins payment of benefits.

''(C)(i) Subject to clause (ii), the date described in this subparagraph is one year after the date of the enactment of this paragraph.

''(ii) In the case of a State which the Secretary identifies as—

''(I) requiring State legislation (other than legislation appropriating funds) in order to meet the requirements of this paragraph, but

''(II) having a legislature which is not scheduled to meet in 1997 in a legislative session in which such legislation may be considered,

the date specified in this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1998. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.''.

(b) CONFORMING AMENDMENT.—Section 1882(p)(2)(C) (42 U.S.C. 1395ss(p)(2)(C)) is amended by inserting ''or (11)'' after ''paragraph (4)(B)''.

CHAPTER 5—DEMONSTRATIONS

Subchapter A—Medicare Choice Competitive Pricing Demonstration Project

PART I—IN GENERAL

SEC. 5041. MEDICARE CHOICE COMPETITIVE PRICING DEMONSTRATION PROJECT.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (in this subchapter referred to as the ''Secretary'') shall, beginning January 1, 1999, conduct demonstration projects in applicable areas (in this section referred to as the ''project'') for the purpose of—

(1) applying a pricing methodology for payments to Medicare Choice organizations under part C of title XVIII of the Social Security Act (as amended by section 5001 of this Act) that uses the competitive market approach described in section 5042;

(2) applying a benefit structure and beneficiary premium structure described in section 5043;

(3) applying the information and quality programs under part II; and

(4) evaluating the effects of the methodology and structures described in the preceding paragraphs on medicare fee-for-service spending under parts A and B of the Social Security Act in the project area.

(b) APPLICABLE AREA DEFINED.—

(1) IN GENERAL.—In subsection (a), the term ''applicable area'' means, as determined by the Secretary—

(A) 10 urban areas with respect to which less than 25 percent of medicare beneficiaries are enrolled with an eligible organization under section 1876 of the Social Security Act (42 U.S.C. 1395mm); and

(B) 3 rural areas not described in paragraph (1).

(2) TREATMENT AS MEDICARE CHOICE PAYMENT AREA.—For purposes of this subchapter and part C of title XVIII of the Social Security Act, any applicable area shall be treated as a Medicare Choice payment area (hereinafter referred to as the ''applicable Medicare Choice payment area'').

(c) TECHNICAL ADVISORY GROUP.—Upon the selection of an area for inclusion in the project, the Secretary shall appoint a technical advisory group, composed of representatives of Medicare Choice organizations, medicare beneficiaries, employers, and other persons in the area affected by the project who have technical expertise relative to the design and implementation of the project to advise the Secretary concerning how the project will be implemented in the area.

(d) EVALUATION.—

(1) IN GENERAL.—Not later than December 31, 2001, the Secretary shall submit to the President a report regarding the demonstration projects conducted under this section.

(2) CONTENTS OF REPORT.—The report described in paragraph (1) shall include the following:

(A) A description of the demonstration projects conducted under this section.

(B) An evaluation of the effectiveness of the demonstration projects conducted under this section and any legislative recommendations determined appropriate by the Secretary.

(C) Any other information regarding the demonstration projects conducted under this section that the Secretary determines to be appropriate.

(D) An evaluation as to whether the method of payment under section 5042 which was used in the demonstration projects for payment to Medicare Choice plans should be extended to the entire medicare population and if such evaluation determines that such method should not be extended, legislative recommendations to modify such method so that it may be applied to the entire medicare population.

(3) SUBMISSION TO CONGRESS.—The President shall submit the report under paragraph (2) to the Congress and if the President determines appropriate, any legislative recommendations for extending the project to the entire medicare population.

(e) WAIVER AUTHORITY.—The Secretary shall waive compliance with the requirements of titles XI, XVIII, and XIX of the Social Security Act (42 U.S.C. 1301 et seq., 1395 et seq., 1396 et seq.) to such extent and for such period as the Secretary determines is necessary to conduct demonstration projects.

SEC. 5042. DETERMINATION OF ANNUAL MEDICARE CHOICE CAPITATION RATES.

(a) IN GENERAL.—In the case of an applicable Medicare Choice payment area within which a project is being conducted under section 5041, the annual Medicare Choice capitation rate under part C of title XVIII of the Social Security Act for Medicare Choice plans within such area shall be the standardized payment amount determined under this section rather than the amount determined under section 1853 of such Act.

(b) DETERMINATION OF STANDARDIZED PAYMENT AMOUNT.—

(1) SUBMISSION AND CHARGING OF PREMIUMS.—

(A) IN GENERAL.—Not later than June 1 of each calendar year, each Medicare Choice organization offering one or more Medicare Choice plans in an applicable Medicare Choice payment area shall file with the Secretary, in a form and manner and at a time specified by the Secretary, a bid which contains the amount of the monthly premium for coverage under each such Medicare Choice plan.

(B) UNIFORM PREMIUM.—The premiums charged by a Medicare Choice plan sponsor under this part may not vary among individuals who reside in the same applicable Medicare Choice payment area.

(C) TERMS AND CONDITIONS OF IMPOSING PREMIUMS.—Each Medicare Choice organization shall permit the payment of premiums on a monthly basis.

(2) ANNOUNCEMENT OF STANDARDIZED PAYMENT AMOUNT.—

(A) AUTHORITY TO NEGOTIATE.—After bids are submitted under paragraph (1), the Secretary may negotiate with Medicare Choice organizations in order to modify such bids if the Secretary determined that the bids do not provide enough revenues to ensure the plan's actuarial soundness, are too high relative to the applicable Medicare Choice payment area, foster adverse selection, or otherwise require renegotiation under this paragraph.

(B) IN GENERAL.—Not later than July 31 of each calendar year (beginning with 1998), the Secretary shall determine, and announce in a manner intended to provide notice to interested parties, a standardized payment amount determined in accordance with this paragraph for the following calendar year for each applicable Medicare Choice payment area.

(3) CALCULATION OF PAYMENT AMOUNTS.—

(A) IN GENERAL.—The standardized payment amount for a calendar year after 1998 for any applicable Medicare Choice payment area shall be equal to the maximum premium determined for such area under subparagraph (B).

(B) MAXIMUM PREMIUM.—The maximum premium for any applicable Medicare Choice payment area shall be equal to the amount determined under subparagraph (C) for the payment area, but in no case shall such amount be greater than the sum of—

(i) the average per capita amount, as determined by the Secretary as appropriate for the population eligible to enroll in Medicare Choice plans in such payment area, for such calendar year that the Secretary would have expended for an individual in such payment area enrolled under the medicare fee-for-service program under parts A and B, plus

(ii) the amount equal to the actuarial value of deductibles, coinsurance, and copayments charged an individual for services provided under the medicare fee-for-service program (as determined by the Secretary).

(C) DETERMINATION OF AMOUNT.—

(i) IN GENERAL.—The Secretary shall determine for each applicable Medicare Choice payment area for each calendar year an amount equal to the average of the bids (weighted based on capacity) submitted to the Secretary under paragraph (1)(A) for that payment area.

(ii) DISREGARD CERTAIN PLANS.—In determining the amount under clause (i), the Secretary may disregard any plan that the Secretary determines would unreasonably distort the amount determined under such subparagraph.

(4) ADJUSTMENTS FOR PAYMENTS TO PLAN SPONSORS.—

(A) IN GENERAL.—For purposes of determining the amount of payment under part C of title XVIII of the Social Security Act to a Medicare Choice organization with respect to any Medicare Choice eligible individual enrolled in a Medicare Choice plan of the sponsor, the standardized payment amount for the applicable Medicare Choice payment area and the premium charged by the plan sponsor shall be adjusted with respect to such individual for such risk factors as age, disability status, gender, institutional status, health status, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such classes, if such changes will improve the determination of actuarial equivalence.

(B) RECOMMENDATIONS.—

(i) IN GENERAL.—In addition to any other duties required by law, the Physician Payment Review Commission and the Prospective Payment Assessment Commission (or their successors) shall each develop recommendations on—

(I) the risk factors that the Secretary should use in adjusting the standardized payment amount and premium under subparagraph (A), and

(II) the methodology that the Secretary should use in determining the risk factors to be used in adjusting the standardized payment amount and premium under subparagraph (A).

(ii) TIME.—The recommendations described in clause (i) shall be developed not later than January 1, 1999.

(iii) ANNUAL REPORT.—The Physician Payment Review Commission and the Prospective Payment Assessment Commission (or their successors) shall include the recommendations described in clause (i) in their respective annual reports to Congress.

(c) PAYMENTS TO PLAN SPONSORS.—

(1) MONTHLY PAYMENTS.—

(A) IN GENERAL.—Subject to paragraph (4), for each individual enrolled with a plan under this subchapter, the Secretary shall make monthly payments in advance to the Medicare Choice organization of the Medicare Choice plan with which the individual is enrolled in an amount equal to 1/12 of the amount determined under paragraph (2).

(B) RETROACTIVE ADJUSTMENTS.—The amount of payment under this paragraph may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled in the plan under this section and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

(2) AMOUNT OF PAYMENT TO MEDICARE CHOICE PLANS.—The amount determined under this paragraph with respect to any individual shall be equal to the sum of—

(A) the lesser of—

(i) the standardized payment amount for the applicable Medicare Choice payment area, as adjusted for such individual under subsection (a)(4), or

(ii) the premium charged by the plan for such individual, as adjusted for such individual under section (a)(4), minus

(B) the amount such individual paid to the plan pursuant to section 5043 (relating to 10 percent of the premium).

(3) PAYMENTS FROM TRUST FUNDS.—The payment to a Medicare Choice organization or to a Medicare Choice account under this section for a medicare-eligible individual shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines reflects the relative weight that benefits under parts A and B are representative of the actuarial value of the total benefits under this part.

(4) LIMITATION ON AMOUNTS AN OUT-OF-PLAN PHYSICIAN OR OTHER ENTITY MAY COLLECT.—A physician or other entity (other than a provider of services) that does not have a contract establishing payment amounts for services furnished to an individual enrolled under this subchapter with a Medicare Choice organization shall accept as payment in full for services that are furnished to such an individual the amounts that the physician or other entity could collect if the individual were not so enrolled. Any penalty or other provision of law that applies to such a payment with respect to an individual entitled to benefits under this title (but not enrolled with a Medicare Choice organization under this part) also applies with respect to an individual so enrolled.

(d) OFFICE OF COMPETITION.—

(1) ESTABLISHMENT.—There is established within the Department of Health and Human Services an office to be known as the 'Office of Competition'.

(2) DIRECTOR.—The Secretary shall appoint the Director of the Office of Competition.

(3) DUTIES.—

(A) IN GENERAL.—The Director shall administer this subchapter and so much of part C of title XVIII of the Social Security Act as relates to this subchapter.

(B) TRANSFER AUTHORITY.—The Secretary shall transfer such personnel, administrative support systems, assets, records, funds, and other resources in the Health Care Financing Administration to the Office of Competition as are used in the administration of section 1876 and as may be required to implement the provisions of this part promptly and efficiently.

(4) USE OF NON-FEDERAL ENTITIES.—The Secretary shall, to the maximum extent feasible, enter into contracts with appropriate non-Federal entities to carry out activities under this subchapter.

SEC. 5043. BENEFITS AND BENEFICIARY PREMIUMS.

(a) BENEFITS PROVIDED TO INDIVIDUALS.—

(1) BASIC BENEFIT PLAN.—Each Medicare Choice plan in an applicable Medicare Choice payment area shall provide to members enrolled under this subchapter, through providers and other persons that meet the applicable requirements of title XVIII of the Social Security Act and part A of title XI of such Act—

(A) those items and services covered under parts A and B of title XVIII of such Act which are available to individuals residing in such area, subject to nominal copayments as determined by the Secretary,

(B) prescription drugs, subject to such limits as established by the Secretary, and

(C) additional health services as the Secretary may approve.

(2) SUPPLEMENTAL BENEFITS.—

(A) IN GENERAL.—Each Medicare Choice plan may offer any of the optional supplemental benefit plans described in subparagraph (B) to an individual enrolled in the basic benefit plan offered by such organization under this subchapter for an additional premium amount. If

the supplemental benefits are offered only to individuals enrolled in the sponsor's plan under this subchapter, the additional premium amount shall be the same for all enrolled individuals in the applicable Medicare Choice payment area. Such benefits may be marketed and sold by the Medicare Choice organization outside of the enrollment process described in part C of title XVIII of the Social Security Act.

(B) OPTIONAL SUPPLEMENTAL BENEFIT PLANS DESCRIBED.—The Secretary shall provide for 2 optional supplemental benefit plans. Such plans shall include such standardized items and services that the Secretary determines must be provided to enrollees of such plans described in order to offer the plans to Medicare Choice eligible individuals.

(C) LIMITATION.—A Medicare Choice organization may not offer an optional benefit plan to a Medicare Choice eligible individual unless such individual is enrolled in a basic benefit plan offered by such organization.

(D) LIMITATION ON PREMIUM.—If a Medicare Choice organization provides to individuals enrolled in a Medicare Choice plan supplemental benefits described in subparagraph (A), the sum of—

(i) the annual premiums for such benefits, plus

(ii) the actuarial value of any deductibles, coinsurance, and copayments charged with respect to such benefits for the year,

shall not exceed the amount that would have been charged for a plan in the applicable Medicare Choice payment area which is not a Medicare Choice plan (adjusted in such manner as the Secretary may prescribe to reflect that only medicare beneficiaries are enrolled in such plan). The Secretary shall negotiate the limitation under this subparagraph with each plan to which this paragraph applies.

(3) OTHER RULES.—Rules similar to rules of paragraphs (3) and (4) of section 1852 of the Social Security Act (relating to national coverage determinations and secondary payor provisions) shall apply for purposes of this subchapter.

(b) PREMIUM REQUIREMENTS FOR BENEFICIARIES.—

(1) PREMIUM DIFFERENTIALS.—If a Medicare Choice eligible individual enrolls in a Medicare Choice plan under this subchapter, the individual shall be required to pay—

(A) 10 percent of the plan's premium;

(B) if the premium of the plan is higher than the standardized payment amount (as determined under section 5042), 100 percent of such difference; and

(C) an amount equal to cost-sharing under the medicare fee-for-service program, except that such amount shall not exceed the actuarial value of the deductibles and coinsurance under such program less the actual value of nominal copayments for benefits under such plan for basic benefits described in subsection (a)(1).

(2) PART B PREMIUM.—An individual enrolled in a Medicare Choice plan under this subchapter shall not be required to pay the premium amount (determined under section 1839 of the Social Security Act) under part B of title XVIII of such Act for so long as such individual is so enrolled.

PART II—INFORMATION AND QUALITY STANDARDS

Subpart A—Information

SEC. 5044. INFORMATION REQUIREMENTS.

(a) IN GENERAL.—The Secretary shall provide that in the case of a demonstration plan conducted under part I, the information and comparative reports described in this section shall be used in lieu of that provided under part C of title XVIII of the Social Security Act.

(b) SECRETARY'S MATERIALS; CONTENTS.—The notice and informational materials mailed by the Secretary under this part shall be written and formatted in the most easily understandable manner possible, and shall include, at a minimum, the following:

(1) GENERAL INFORMATION.—General information with respect to coverage under this part during the next calendar year, including—

(A) the part B premium rates that will be charged for part B coverage, and a statement of the fact that enrollees in demonstration plans are not required to pay such premium,

(B) the deductible, copayment, and coinsurance amounts for coverage under the traditional medicare program,

(C) a description of the coverage under the traditional medicare program and any changes in coverage under the program from the prior year,

(D) a description of the individual's medicare payment area, and the standardized medicare payment amount available with respect to such individual,

(E) information and instructions on how to enroll in a demonstration plan,

(F) the right of each demonstration plan sponsor by law to terminate or refuse to renew its contract and the effect the termination or nonrenewal of its contract may have on individuals enrolled with the demonstration plan under this part,

(G) appeal rights of enrollees, including the right to address grievances to the Secretary or the applicable external review entity, and

(H) the benefits offered by plans in basic benefit plans under section 1895H(a), and how those benefits differ from the benefits offered under parts A and B.

(2) COMPARATIVE REPORT.—A copy of the most recent comparative report (as established by the Secretary under subsection (c)) for the demonstration plans in the individual's medicare payment area.

(c) COMPARATIVE REPORT.—

(1) IN GENERAL.—The Secretary shall develop an understandable standardized comparative report on the demonstration plans offered by demonstration plan sponsors, that will assist demonstration eligible individuals in their decisionmaking regarding medical care and treatment by allowing such individuals to compare the demonstration plans that such individuals are eligible to enroll with. In developing such report the Secretary shall consult with outside organizations, including groups representing the elderly, demonstration plan sponsors, providers of services, and physicians and other health care professionals, in order to assist the Secretary in developing the report.

(2) REPORT.—The report described in paragraph (1) shall include a comparison for each demonstration plan of—

(A) the plan's medicare service area;

(B) coverage by the plan of emergency services and urgently needed care;

(C) the amount of any deductibles, coinsurance, or any monetary limits on benefits;

(D) the number of individuals who disenrolled from the plan within 3 months of enrollment during the previous fiscal year (excluding individuals whose disenrollment was due to death or moving outside of the plan's service area) stated as percentages of the total number of individuals in the plan;

(E) process, outcome, and enrollee satisfaction measures, as recommended by the Quality Advisory Institute as established under section 5044B;

(F) information on access and quality of services obtained from the analysis described in section 5044B;

(G) the procedures used by the plan to control utilization of services and expenditures, including any financial incentives;

(H) the number of applications during the previous fiscal year requesting that the plan cover or pay for certain medical services that were denied by the plan (and the number of such denials that were subsequently reversed by the plan), stated as a percentage of the total number of applications during such period requesting that the plan cover such services;

(I) the number of times during the previous fiscal year (after an appeal was filed with the Secretary) that the Secretary upheld or reversed a denial of a request that the plan cover certain medical services;

(J) the restrictions (if any) on payment for services provided outside the plan's health care provider network;

(K) the process by which services may be obtained through the plan's health care provider network;

(L) coverage for out-of-area services;

(M) any exclusions in the types of health care providers participating in the plan's health care provider network;

(N) whether the plan is, or has within the past two years been, out-of-compliance with any requirements of this part (as determined by the Secretary);

(O) the plan's premium price for the basic benefit plan submitted under part C of title XVIII of the Social Security Act, an indication of the difference between such premium price and the standardized medicare payment amount, and the portion of the premium an individual must pay out of pocket;

(P) whether the plan offers any of the optional supplemental benefit plans, and if so, the plan's premium price for such benefits; and

(Q) any additional information that the Secretary determines would be helpful for demonstration eligible individuals to compare the demonstration plans that such individuals are eligible to enroll with.

(3) ADDITIONAL INFORMATION.—The comparative report shall also include—

(A) a comparison of each demonstration plan to the fee-for-service program under parts A and B of title XVIII of the Social Security Act;

(B) an explanation of medicare supplemental policies under section 1882 of such Act and how to obtain specific information regarding such policies; and

(C) a phone number for each demonstration plan that will enable demonstration eligible individuals to call to receive a printed listing of all health care providers participating in the plan's health care provider network.

(4) UPDATE.—The Secretary shall, not less than annually, update each comparative report.

(5) DEFINITIONS.—In this subsection—

(A) HEALTH CARE PROVIDER.—The term ''health care provider'' means anyone licensed under State law to provide health care services under part A or B.

(B) NETWORK.—The term ''network'' means, with respect to a demonstration plan sponsor, the health care providers who have entered into a contract or agreement with the plan sponsor under which such providers are obligated to provide items, treatment, and services under this section to individuals enrolled with the plan sponsor under this part.

(C) OUT-OF-NETWORK.—The term ''out-of-network'' means services provided by health care providers who have not entered into a contract agreement with the demonstration plan sponsor under which such providers are obligated to provide items, treatment, and services under this section to individuals enrolled with the plan sponsor under this part.

(6) COST SHARING.—Each demonstration plan sponsor shall pay to the Secretary its pro rata share of the estimated costs incurred by the Secretary in carrying out the requirements of this section and section 4360 of the Omnibus Reconciliation Act of 1990. There are hereby appropriated to the Secretary the amount of the payments under this paragraph for purposes of defraying the cost described in the preceding sentence. Such amounts shall remain available until expended.

Subpart B—Quality in Demonstration Plans

SEC. 5044A. DEFINITIONS.

In this subpart:

(1) COMPARATIVE REPORT.—The term ''comparative report'' means the comparative report developed under section 5044.

(2) DIRECTOR.—The term ''Director'' means the Director of the Office of Competition within

the Department of Health and Human Services as established under part I.

(3) MEDICARE PROGRAM.—The term ''medicare program'' means the program of health care benefits provided under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(4) DEMONSTRATION PLAN.—The term ''demonstration plan'' means a plan established under part I.

(5) DEMONSTRATION PLAN SPONSOR.—The term ''demonstration plan sponsor'' means a sponsor of a demonstration plan.

SEC. 5044B. QUALITY ADVISORY INSTITUTE.

(a) ESTABLISHMENT.—There is established an Institute to be known as the ''Quality Advisory Institute'' (in this subpart referred to as the ''Institute'') to make recommendations to the Director concerning licensing and certification criteria and comparative measurement methods under this subpart.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Institute shall be composed of 5 members to be appointed by the Director from among individuals who have demonstrable expertise in—

(A) health care quality measurement;

(B) health plan certification criteria setting;

(C) the analysis of information that is useful to consumers in making choices regarding health coverage options, health plans, health care providers, and decisions regarding health treatments; and

(D) the analysis of health plan operations.

(2) TERMS AND VACANCIES.—The members of the Institute shall be appointed for 5-year terms with the terms of the initial members staggered as determined appropriate by the Director. Vacancies shall be filled in a manner provided for by the Director.

(c) DUTIES.—The Institute shall—

(1) not later than 1 year after the date on which all members of the Institute are appointed under subsection (b)(2), provide advice to the Director concerning the initial set of criteria for the certification of demonstration plans;

(2) analyze the use of the criteria for the certification of demonstration plans implemented by the Director under this subpart and recommend modifications in such criteria as needed;

(3) analyze the use of the comparative measurements implemented by the Director in developing comparative reports and recommend modifications in such measurements as needed;

(4) perform, or enter into contracts with other entities for the performance of, an analysis of access to services and clinical outcomes based on patient encounter data;

(5) enter into contracts with other entities for the development of such criteria and measurements and to otherwise carry out its duties under this section; and

(6) carry out any other activities determined appropriate by the Institute to carry out its duties under this section.

The analysis described in paragraph (4) should focus on conditions and procedures of significance to beneficiaries under the medicare program, as determined by the Institute, and should be designed, and the results summarized, in a manner that facilitates comparisons across health plans.

SEC. 5044C. DUTIES OF DIRECTOR.

(a) IN GENERAL.—The Director shall—

(1) adopt, adapt, or develop criteria in accordance with sections 5044F through 5044I to be used in the licensing of certifying entities and in the certification of demonstration plans, including any minimum criteria needed for the operation of demonstration plans during the transition period described in section 5044F(c);

(2) issue licenses to certifying entities that meet the criteria developed under paragraph (1) for the purpose of enabling such entities to certify demonstration plans in accordance with this subpart;

(3) develop comparative health care measures in addition to those implemented by the Director in developing comparative reports in order to guide consumer choice under the medicare program and to improve the delivery of quality health care under such program;

(4) develop procedures, consistent with section 5044A, for the dissemination of certification and comparative quality information provided to the Director;

(5) contract with an independent entity for the conduct of audits concerning certification and quality measurement and require that as part of the certification process performed by licensed certification entities that there include an onsite evaluation, using performance-based standards, of the providers of items and services under a demonstration plan;

(6) at least quarterly, meet jointly with the Agency for Health Care Policy and Research to review innovative health outcomes measures, new measurement processes, and other matters determined appropriate by the Director;

(7) at least annually, meet with the Institute concerning certification criteria;

(8) not later than January 1, 1999, and each January 1 thereafter, prepare and submit to demonstration plan sponsors and to Congress, a report concerning the activities of the Director for the previous year;

(9) advise the President and Congress concerning health insurance and health care provided under demonstration plans and make recommendations concerning measures that may be implemented to protect the health of all enrollees in demonstration plans; and

(10) carry out other activities determined appropriate by the Director.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the authority of the Director or the Secretary of Health and Human Services with respect to requirements other than those applied under this subpart with respect to demonstration plans.

SEC. 5044D. COMPLIANCE.

(a) IN GENERAL.—Not later than January 1, 1999, the Director shall ensure that a demonstration plan may not be offered unless it has been certified in accordance with this subpart.

(b) CONTRACTS OR REIMBURSEMENTS.—In carrying out subsection (a), the Director—

(1) may not enter into a contract with a demonstration plan sponsor for the provision of a demonstration plan unless the demonstration plan is certified in accordance with this subpart;

(2) may not reimburse a demonstration plan sponsor for items and services provided under a demonstration plan unless the demonstration plan is certified in accordance with this subpart; and

(3) shall, after providing notice to the demonstration plan sponsor operating a demonstration plan and an opportunity for such demonstration plan to be certified, and in accordance with any applicable grievance and appeals procedures under section 5044I, terminate any contract with a demonstration plan sponsor for the operation of a demonstration plan if such demonstration plan is not certified in accordance with this subpart.

SEC. 5044E. PAYMENTS FOR VALUE.

(a) ESTABLISHMENT OF PROGRAM.—The Director shall establish a program under which payments are made to various demonstration plans to reward such plans for meeting or exceeding quality targets.

(b) PERFORMANCE MEASURES.—In carrying out the program under subsection (a), the Director shall establish broad categories of quality targets and performance measures. Such targets and measures shall be designed to permit the Director to determine whether a demonstration plan is being operated in a manner consistent with this subpart.

(c) USE OF FUNDS.—

(1) IN GENERAL.—The Secretary shall withhold 0.50 percent from any payment that a demonstration plan sponsor receives with respect to an individual enrolled with such plan under part I.

(2) PAYMENTS.—The Director shall use amounts collected under paragraph (1) to make annual payments to those demonstration plans that have been determined by the Director to meet or exceed the quality targets and performance measures established under subsection (b). Any amounts collected under such paragraph for a fiscal year and remaining available after payments are made under subsection (d), shall be used for deficit reduction.

(d) AMOUNT OF PAYMENT.—

(1) FORMULA.—The amount of any payment made to a demonstration plan under this section shall be determined in accordance with a formula to be developed by the Director. The formula shall ensure that a payment made to a demonstration plan under this section be in an amount equal to—

(A) with respect to a demonstration plan that is determined to be in the first quintile, 1 percent of the amount allocated to the plan under this subpart;

(B) with respect to a demonstration plan that is determined to be in the second quintile, 0.75 percent of the amount allocated to the plan under this subpart;

(C) with respect to a demonstration plan that is determined to be in the third quintile, 0.50 percent of the amount allocated by the plan under this subpart; and

(D) with respect to a demonstration plan that is determined to be in the fourth quintile, 0.25 percent of the amount allocated by the plan under this subpart.

(2) NO PAYMENT.—A demonstration plan that is determined by the Director to be in the fifth quintile shall not be eligible to receive a payment under this section.

(3) DETERMINATION OF QUINTILES.—Not later than April 30 of each calendar year, the Director shall rank each demonstration plan based on the performance of the plan during the preceding year as determined using the quality targets and performance measures established under subsection (b). Such rankings shall be divided into quintiles with the first quintile containing the highest ranking plans and the fifth quintile containing the lowest ranking plans. Each such quintile shall contain plans that in the aggregate cover an equal number of beneficiaries as compared to another quintile.

SEC. 5044F. CERTIFICATION REQUIREMENT.

(a) IN GENERAL.—To be eligible to enter into a contract with the Director to enroll individuals in a demonstration plan, a demonstration plan sponsor shall participate in the certification process and have the demonstration plans offered by such plan sponsor certified in accordance with this subpart.

(b) EFFECT OF MERGERS OR PURCHASE.—

(1) CERTIFIED PLANS.—Where 2 or more demonstration plan sponsors offering certified demonstration plans are merged or where 1 such plan sponsor is purchased by another plan sponsor, the resulting plan sponsor may continue to operate and enroll individuals for coverage under the demonstration plan as if the demonstration plan involved were certified. The certification of any resulting demonstration plan shall be reviewed by the applicable certifying entity to ensure the continued compliance of the contract with the certification criteria.

(2) NONCERTIFIED PLANS.—The certification of a demonstration plan shall be terminated upon the merger of the demonstration plan sponsor involved or the purchase of the plan sponsor by another entity that does not offer any certified demonstration plans. Any demonstration plans offered through the resulting plan sponsor may reapply for certification after the completion of the merger or purchase.

(c) TRANSITION FOR NEW PLANS.—

(1) IN GENERAL.—A demonstration plan that has not provided health insurance coverage to individuals prior to the effective date of this Act

shall be permitted to contract with the Director and operate and enroll individuals under a demonstration plan without being certified for the 2-year period beginning on the date on which such demonstration plan sponsor enrolls the first individual in the demonstration plan. Such demonstration plan must be certified in order to continue to provide coverage under the contract after such period.

(2) LIMITATION.—A new demonstration plan described in paragraph (1) shall, during the period referred to in paragraph (1) prior to certification, comply with the minimum criteria developed by the Director under section 5044F(a)(1).

SEC. 5044G. LICENSING OF CERTIFICATION ENTITIES.

(a) IN GENERAL.—The Director shall develop procedures for the licensing of entities to certify demonstration plans under this subpart.

(b) REQUIREMENTS.—The procedures developed under subsection (a) shall ensure that—

(1) to be licensed under this section a certification entity shall apply the requirements of this subpart to demonstration plans seeking certification;

(2) a certification entity has procedures in place to suspend or revoke the certification of a demonstration plan that is failing to comply with the certification requirements; and

(3) the Director will give priority to licensing entities that are accrediting health plans that contract with the Director on the date of enactment of this Act.

SEC. 5044H. CERTIFICATION CRITERIA.

(a) ESTABLISHMENT.—The Director shall establish minimum criteria under this section to be used by licensed certifying entities in the certification of demonstration plans under this subpart.

(b) REQUIREMENTS.—Criteria established by the Director under subsection (a) shall require that, in order to be certified, a demonstration plan shall comply at a minimum with the following:

(1) QUALITY IMPROVEMENT PLAN.—The demonstration plan shall implement a total quality improvement plan that is designed to improve the clinical and administrative processes of the demonstration plan on an ongoing basis and demonstrate that improvements in the quality of items and services provided under the demonstration plan have occurred as a result of such improvement plan.

(2) PROVIDER CREDENTIALS.—The demonstration plan shall compile and annually provide to the licensed certifying entity documentation concerning the credentials of the hospitals, physicians, and other health care professionals reimbursed under the demonstration plan.

(3) COMPARATIVE INFORMATION.—The demonstration plan shall compile and provide, as requested by the Secretary of Health and Human Services, to the such Secretary the information necessary to develop a comparative report.

(4) ENCOUNTER DATA.—The demonstration plan shall maintain patient encounter data in accordance with standards established by the Institute, and shall provide these data, as requested by the Institute, to the Institute in support of conducting the analysis described in section 5044B(c)(4).

(5) OTHER REQUIREMENTS.—The demonstration plan shall comply with other requirements authorized under this subpart and implemented by the Director.

SEC. 5044I. GRIEVANCE AND APPEALS.

The Director shall develop grievance and appeals procedures under which a demonstration plan that is denied certification under this subpart may appeal such denial to the Director.

Subchapter B—Other Projects

SEC. 5045. MEDICARE ENROLLMENT DEMONSTRATION PROJECT.

(a) DEMONSTRATION PROJECT.—

(1) ESTABLISHMENT.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall implement a demonstration project (in this section referred to as the ''project'') for the purpose of evaluating the use of a third-party contractor to conduct the Medicare Choice plan enrollment and disenrollment functions, as described in part C of the Social Security Act (as added by section 5001 of this Act), in an area.

(2) CONSULTATION.—Before implementing the project under this section, the Secretary shall consult with affected parties on—

(A) the design of the project;

(B) the selection criteria for the third-party contractor; and

(C) the establishment of performance standards, as described in paragraph (3).

(3) PERFORMANCE STANDARDS.—

(A) IN GENERAL.—The Secretary shall establish performance standards for the accuracy and timeliness of the Medicare Choice plan enrollment and disenrollment functions performed by the third-party contractor.

(B) NONCOMPLIANCE.—If the Secretary determines that a third-party contractor is out of compliance with the performance standards established under subparagraph (A), such enrollment and disenrollment functions shall be performed by the Medicare Choice plan until the Secretary appoints a new third-party contractor.

(C) DISPUTE.—In the event that there is a dispute between the Secretary and a Medicare Choice plan regarding whether or not the third-party contractor is in compliance with the performance standards, such enrollment and disenrollment functions shall be performed by the Medicare Choice plan.

(b) REPORT TO CONGRESS.—The Secretary shall periodically report to Congress on the progress of the project conducted pursuant to this section.

(c) WAIVER AUTHORITY.—The Secretary shall waive compliance with the requirements of part C of the Social Security Act (as amended by section 5001 of this Act) to such extent and for such period as the Secretary determines is necessary to conduct the project.

(d) DURATION.—A demonstration project under this section shall be conducted for a 3-year period.

(e) SEPARATE FROM OTHER DEMONSTRATION PROJECTS.—A project implemented by the Secretary under this section shall not be conducted in conjunction with any other demonstration project.

SEC. 5046. MEDICARE COORDINATED CARE DEMONSTRATION PROJECT.

(a) DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall conduct demonstration projects for the purpose of evaluating methods, such as case management and other models of coordinated care, that—

(A) improve the quality of items and services provided to target individuals; and

(B) reduce expenditures under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) for items and services provided to target individuals.

(2) TARGET INDIVIDUAL DEFINED.—In this section, the term ''target individual'' means an individual that has a chronic illness, as defined and identified by the Secretary, and is enrolled under the fee-for-service program under parts A and B of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.; 1395j et seq.).

(b) PROGRAM DESIGN.—

(1) INITIAL DESIGN.—The Secretary shall evaluate best practices in the private sector of methods of coordinated care for a period of 1 year and design the demonstration project based on such evaluation.

(2) NUMBER AND PROJECT AREAS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall implement at least 9 demonstration projects, including—

(A) 6 projects in urban areas; and

(B) 3 projects in rural areas.

(3) EXPANSION OF PROJECTS; IMPLEMENTATION OF DEMONSTRATION PROJECT RESULTS.—

(A) EXPANSION OF PROJECTS.—If the initial report under subsection (c) contains an evaluation that demonstration projects—

(i) reduce expenditures under the medicare program; or

(ii) do not increase expenditures under the medicare program and increase the quality of health care services provided to target individuals and satisfaction of beneficiaries and health care providers;

the Secretary shall continue the existing demonstration projects and may expand the number of demonstration projects.

(B) IMPLEMENTATION OF DEMONSTRATION PROJECT RESULTS.—If a report under subsection (c) contains an evaluation as described in subparagraph (A), the Secretary may issue regulations to implement, on a permanent basis, the components of the demonstration project that are beneficial to the medicare program.

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 2 years after the Secretary implements the initial demonstration projects under this section, and biannually thereafter, the Secretary shall submit to Congress a report regarding the demonstration projects conducted under this section.

(2) CONTENTS OF REPORT.—The report in paragraph (1) shall include the following:

(A) A description of the demonstration projects conducted under this section.

(B) An evaluation of—

(i) the cost-effectiveness of the demonstration projects;

(ii) the quality of the health care services provided to target individuals under the demonstration projects; and

(iii) beneficiary and health care provider satisfaction under the demonstration project.

(C) Any other information regarding the demonstration projects conducted under this section that the Secretary determines to be appropriate.

(d) WAIVER AUTHORITY.—The Secretary shall waive compliance with the requirements of titles XI, XVIII, and XIX of the Social Security Act (42 U.S.C. 1301 et seq., 1395 et seq., 1396 et seq.) to such extent and for such period as the Secretary determines is necessary to conduct demonstration projects.

(e) FUNDING.—

(1) DEMONSTRATION PROJECTS.—

(A) IN GENERAL.—The Secretary shall provide for the transfer from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Insurance Trust Fund under title XVIII of the Social Security Act (42 U.S.C. 1395i, 1395t), in such proportions as the Secretary determines to be appropriate, of such funds as are necessary for the costs of carrying out the demonstration projects under this section.

(B) LIMITATION.—In conducting the demonstration project under this section, the Secretary shall ensure that the aggregate payments made by the Secretary do not exceed the amount which the Secretary would have paid if the demonstration projects under this section were not implemented.

(2) EVALUATION AND REPORT.—There are authorized to be appropriated such sums as are necessary for the purpose of developing and submitting the report to Congress under subsection (c).

SEC. 5047. ESTABLISHMENT OF MEDICARE REIMBURSEMENT DEMONSTRATION PROJECTS.

Title XVIII (42 U.S.C. 1395 et seq.) (as amended by section 5343) is amended by adding at the end the following:

''MEDICARE SUBVENTION DEMONSTRATION PROJECT FOR VETERANS

''SEC. 1896. (a) DEFINITIONS.—In this section:

''(1) ADMINISTERING SECRETARIES.—The term 'administering Secretaries' means the Secretary and the Secretary of Veterans Affairs acting jointly.

''(2) DEMONSTRATION PROJECT; PROJECT.—The terms 'demonstration project' and 'project' mean the demonstration project carried out under this section.

''(3) MILITARY RETIREE.—The term 'military retiree' means a member or former member of the Armed Forces who is entitled to retired pay.

''(4) TARGETED MEDICARE-ELIGIBLE VETERAN.—The term 'targeted medicare-eligible veteran' means an individual who—

''(A) is a veteran (as defined in section 101(2) of title 38, United States Code) and is described in section 1710(a)(3) of title 38, United States Code; and

''(B) is entitled to benefits under part A of this title and is enrolled under part B of this title.

''(5) TRUST FUNDS.—The term 'trust funds' means the Federal Hospital Insurance Trust Fund established in section 1817 and the Federal Supplementary Medical Insurance Trust Fund established in section 1841.

''(b) DEMONSTRATION PROJECT.—

''(1) IN GENERAL.—

''(A) ESTABLISHMENT.—The administering Secretaries are authorized to establish a demonstration project (under an agreement entered into by the administering Secretaries) under which the Secretary shall reimburse the Secretary of Veterans Affairs, from the trust funds, for medicare health care services furnished to certain targeted medicare-eligible veterans.

''(B) AGREEMENT.—The agreement entered into under subparagraph (A) shall include at a minimum—

''(i) a description of the benefits to be provided to the participants of the demonstration project established under this section;

''(ii) a description of the eligibility rules for participation in the demonstration project, including any criteria established under subsection (c) and any cost sharing under subsection (d);

''(iii) a description of how the demonstration project will satisfy the requirements under this title;

''(iv) a description of the sites selected under paragraph (2);

''(v) a description of how reimbursement and maintenance of effort requirements under subsection (l) will be implemented in the demonstration project; and

''(vi) a statement that the Secretary shall have access to all data of the Department of Veterans Affairs that the Secretary determines is necessary to conduct independent estimates and audits of the maintenance of effort requirement, the annual reconciliation, and related matters required under the demonstration project.

''(2) NUMBER OF SITES.—The administering Secretaries shall establish a plan for the selection of up to 12 medical centers under the jurisdiction of the Secretary of Veterans Affairs and located in geographically dispersed locations to participate in the project.

''(3) GENERAL CRITERIA.—The selection plan shall favor selection of those medical centers that are suited to serve targeted medicare-eligible individuals because—

''(A) there is a high potential demand by targeted medicare-eligible veterans for their services;

''(B) they have sufficient capability in billing and accounting to participate;

''(C) they have favorable indicators of quality of care, including patient satisfaction;

''(D) they deliver a range of services required by targeted medicare-eligible veterans; and

''(E) they meet other relevant factors identified in the plan.

''(4) MEDICAL CENTER NEAR CLOSED BASE.—The administering Secretaries shall endeavor to include at least 1 medical center that is in the same catchment area as a military medical facility which was closed pursuant to either of the following laws:

''(A) The Defense Base Closure and Realignment Act of 1990.

''(B) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act.

''(5) RESTRICTION.—No new facilities will be built or expanded with funds from the demonstration project.

''(6) DURATION.—The administering Secretaries shall conduct the demonstration project during the 3-year period beginning on January 1, 1998.

''(c) VOLUNTARY PARTICIPATION.—Participation of targeted medicare-eligible veterans in the demonstration project shall be voluntary, subject to the capacity of participating medical centers and the funding limitations specified in subsection (l), and shall be subject to such terms and conditions as the administering Secretaries may establish. In the case of a demonstration project at a medical center described in subsection (b)(3), targeted medicare-eligible veterans who are military retirees shall be given preference in participating in the project.

''(d) COST SHARING.—The Secretary of Veterans Affairs may establish cost-sharing requirements for veterans participating in the demonstration project. If such cost sharing requirements are established, those requirements shall be the same as the requirements that apply to targeted medicare-eligible patients at nongovernmental facilities.

''(e) CREDITING OF PAYMENTS.—A payment received by the Secretary of Veterans Affairs under the demonstration project shall be credited to the applicable Department of Veterans Affairs medical appropriation and (within that appropriation) to funds that have been allotted to the medical center that furnished the services for which the payment is made. Any such payment received during a fiscal year for services provided during a prior fiscal year may be obligated by the Secretary of Veterans Affairs during the fiscal year during which the payment is received.

''(f) AUTHORITY TO WAIVE CERTAIN MEDICARE REQUIREMENTS.—The Secretary may, to the extent necessary to carry out the demonstration project, waive any requirement under this title. If the Secretary waives any such requirement, the Secretary shall include a description of such waiver in the agreement described in subsection (b)(1)(B).

''(g) INSPECTOR GENERAL.—Nothing in the agreement entered into under subsection (b) shall limit the Inspector General of the Department of Health and Human Services from investigating any matters regarding the expenditure of funds under this title for the demonstration project, including compliance with the provisions of this title and all other relevant laws.

''(h) REPORT.—At least 30 days prior to the commencement of the demonstration project, the administering Secretaries shall submit a copy of the agreement entered into under subsection (b) to the committees of jurisdiction in Congress.

''(i) MANAGED HEALTH CARE PLANS.—(1) In carrying out the demonstration project, the Secretary of Veterans Affairs may establish and operate managed health care plans.

''(2) Any such plan shall be operated by or through a Department of Veterans Affairs medical center or group of medical centers and may include the provision of health care services through other facilities under the jurisdiction of the Secretary of Veterans Affairs as well as public and private entities under arrangements made between the Department and the other public or private entity concerned. Any such managed health care plan shall be established and operated in conformance with standards prescribed by the administering Secretaries.

''(3) The administering Secretaries shall prescribe the minimum health care benefits to be provided under such a plan to veterans enrolled in the plan. Those benefits shall include at least all health care services covered under the medicare program under this title.

''(4) The establishment of a managed health care plan under this section shall be counted as the selection of a medical center for purposes of applying the numerical limitation under subsection (b)(1).

''(j) MEDICAL CENTER REQUIREMENTS.—The Secretary of Veterans Affairs may establish a managed health care plan using 1 or more medical centers and other facilities only after the Secretary of Veterans Affairs submits to Congress a report setting forth a plan for the use of such centers and facilities. The plan may not be implemented until the Secretary of Veterans Affairs has received from the Inspector General of the Department of Veterans Affairs, and has forwarded to Congress, certification of each of the following:

''(1) The cost accounting system of the Veterans Health Administration (known as the Decision Support System) is operational and is providing reliable cost information on care delivered on an inpatient and outpatient basis at such centers and facilities.

''(2) The centers and facilities have operated in conformity with the eligibility reform amendments made by title I of the Veterans Health Care Act of 1996 for not less than 3 months.

''(3) The centers and facilities have developed a credible plan (on the basis of market surveys, data from the Decision Support System, actuarial analysis, and other appropriate methods and taking into account the level of payment under subsection (l) and the costs of providing covered services at the centers and facilities) to minimize, to the extent feasible, the risk that appropriated funds allocated to the centers and facilities will be required to meet the centers' and facilities' obligation to targeted medicare-eligible veterans under the demonstration project.

''(4) The centers and facilities collectively have available capacity to provide the contracted benefits package to a sufficient number of targeted medicare-eligible veterans.

''(5) The entity administering the health plan has sufficient systems and safeguards in place to minimize any risk that instituting the managed care model will result in reducing the quality of care delivered to enrollees in the demonstration project or to other veterans receiving care under paragraphs subsection (1) or (2) of section 1710(a) of title 38, United States Code.

''(k) RESERVES.—The Secretary of Veterans Affairs shall maintain such reserves as may be necessary to ensure against the risk that appropriated funds, allocated to medical centers and facilities participating in the demonstration project through a managed health care plan under this section, will be required to meet the obligations of those medical centers and facilities to targeted medicare-eligible veterans.

''(l) PAYMENTS BASED ON REGULAR MEDICARE PAYMENT RATES.—

''(1) PAYMENTS.—

''(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, the Secretary shall reimburse the Secretary of Veterans Affairs for services provided under the demonstration project at the following rates:

''(i) NONCAPITATION.—Except as provided in clause (ii) and subject to subparagraphs (B)(i) and (D), at a rate equal to 95 percent of the amounts that otherwise would be payable under this title on a noncapitated basis for such services if the medical center were not a Federal medical center, were participating in the program, and imposed charges for such services.

''(ii) CAPITATION.—Subject to subparagraphs (B)(ii) and (D), in the case of services provided to an enrollee under a managed health care plan established under subsection (i), at a rate equal to 95 percent of the amount paid to a Medicare Choice organization under part C with respect to such an enrollee.

In cases in which a payment amount may not otherwise be readily computed, the Secretaries shall establish rules for computing equivalent or comparable payment amounts.

''(B) EXCLUSION OF CERTAIN AMOUNTS.—

''(i) NONCAPITATION.—In computing the amount of payment under subparagraph (A)(i), the following shall be excluded:

(i) DISPROPORTIONATE SHARE HOSPITAL ADJUSTMENT.—Any amount attributable to an adjustment under subsection (d)(5)(F) of section 1886 of the Social Security Act (42 U.S.C. 1395ww).

(ii) DIRECT GRADUATE MEDICAL EDUCATION PAYMENTS.—Any amount attributable to a payment under subsection (h) of such section.

(iii) PERCENTAGE OF INDIRECT MEDICAL EDUCATION ADJUSTMENT.—40 percent of any amount attributable to the adjustment under subsection (d)(5)(B) of such section.

(iv) PERCENTAGE OF CAPITAL PAYMENTS.—67 percent of any amounts attributable to payments for capital-related costs under subsection (g) of such section.

''(ii) CAPITATION.—In the case of years before 2001, in computing the amount of payment under subparagraph (A)(ii), the payment rate shall be computed as though the amounts excluded under clause (i) had been excluded in the determination of the amount paid to a Medicare Choice organization under part C with respect to an enrollee.

''(C) PERIODIC PAYMENTS FROM MEDICARE TRUST FUNDS.—Payments under this subsection shall be made—

''(i) on a periodic basis consistent with the periodicity of payments under this title; and

''(ii) in appropriate part, as determined by the Secretary, from the trust funds.

''(D) ANNUAL LIMIT ON MEDICARE PAYMENTS.—The amount paid to the Department of Veterans Affairs under this subsection for any year for the demonstration project may not exceed $50,000,000.

''(2) REDUCTION IN PAYMENT FOR VA FAILURE TO MAINTAIN EFFORT.—

''(A) IN GENERAL.—In order to avoid shifting onto the medicare program under this title costs previously assumed by the Department of Veterans Affairs for the provision of medicare-covered services to targeted medicare-eligible veterans, the payment amount under this subsection for the project for a fiscal year shall be reduced by the amount (if any) by which—

''(i) the amount of the VA effort level for targeted veterans (as defined in subparagraph (B)) for the fiscal year ending in such year, is less than

''(ii) the amount of the VA effort level for targeted veterans for fiscal year 1997.

''(B) VA EFFORT LEVEL FOR TARGETED VETERANS DEFINED.—For purposes of subparagraph (A), the term 'VA effort level for targeted veterans' means, for a fiscal year, the amount, as estimated by the administering Secretaries, that would have been expended under the medicare program under this title for VA-provided medicare-covered services for targeted veterans (as defined in subparagraph (C)) for that fiscal year if benefits were available under the medicare program for those services. Such amount does not include expenditures attributable to services for which reimbursement is made under the demonstration project.

''(C) VA-PROVIDED MEDICARE-COVERED SERVICES FOR TARGETED VETERANS.—For purposes of subparagraph (B), the term 'VA-provided medicare-covered services for targeted veterans' means, for a fiscal year, items and services—

''(i) that are provided during the fiscal year by the Department of Veterans Affairs to targeted medicare-eligible veterans;

''(ii) that constitute hospital care and medical services under chapter 17 of title 38, United States Code; and

''(iii) for which benefits would be available under the medicare program under this title if they were provided other than by a Federal provider of services that does not charge for those services.

''(3) ASSURING NO INCREASE IN COST TO MEDICARE PROGRAM.—

''(A) MONITORING EFFECT OF DEMONSTRATION PROGRAM ON COSTS TO MEDICARE PROGRAM.—

''(i) IN GENERAL.—The Secretaries, in consultation with the Comptroller General, shall closely monitor the expenditures made under the medicare program for targeted medicare-eligible veterans during the period of the demonstration project compared to the expenditures that would have been made for such veterans during that period if the demonstration project had not been conducted.

''(ii) ANNUAL REPORT BY THE COMPTROLLER GENERAL.—Not later than December 31 of each year during which the demonstration project is conducted, the Comptroller General shall submit to the Secretaries and the appropriate committees of Congress a report on the extent, if any, to which the costs of the Secretary under the medicare program under this title increased during the preceding fiscal year as a result of the demonstration project.

''(B) REQUIRED RESPONSE IN CASE OF INCREASE IN COSTS.—

''(i) IN GENERAL.—If the administering Secretaries find, based on subparagraph (A), that the expenditures under the medicare program under this title increased (or are expected to increase) during a fiscal year because of the demonstration project, the administering Secretaries shall take such steps as may be needed—

''(I) to recoup for the medicare program the amount of such increase in expenditures; and

''(II) to prevent any such increase in the future.

''(ii) STEPS.—Such steps—

''(I) under clause (i)(I) shall include payment of the amount of such increased expenditures by the Secretary of Veterans Affairs from the current medical care appropriation of the Department of Veterans Affairs to the trust funds; and

''(II) under clause (i)(II) shall include suspending or terminating the demonstration project (in whole or in part) or lowering the amount of payment under paragraph (1)(A).

''(m) EVALUATION AND REPORTS.—

''(1) INDEPENDENT EVALUATION.—The administering Secretaries shall arrange for an independent entity with expertise in the evaluation of health services to conduct an evaluation of the demonstration project. The entity shall submit annual reports on the demonstration project to the administering Secretaries and to the committees of jurisdiction in the Congress. The first report shall be submitted not later than 12 months after the date on which the demonstration project begins operation, and the final report not later than 3½ years after that date. The evaluation and reports shall include an assessment, based on the agreement entered into under subsection (b), of the following:

''(A) The cost to the Department of Veterans Affairs of providing care to veterans under the project.

''(B) Compliance of participating medical centers with applicable measures of quality of care, compared to such compliance for other medicare-participating medical centers.

''(C) A comparison of the costs of medical centers' participation in the program with the reimbursements provided for services of such medical centers.

''(D) Any savings or costs to the medicare program under this title from the project.

''(E) Any change in access to care or quality of care for targeted medicare-eligible veterans participating in the project.

''(F) Any effect of the project on the access to care and quality of care for targeted medicare-eligible veterans not participating in the project and other veterans not participating in the project.

''(G) The provision of services under managed health care plans under subsection (l), including the circumstances (if any) under which the Secretary of Veterans Affairs uses reserves described in subsection (k) and the Secretary of Veterans Affairs' response to such circumstances (including the termination of managed health care plans requiring the use of such reserves).

''(H) Any effect that the demonstration project has on the enrollment in Medicare Choice organizations under part C of this title in the established site areas.

''(2) REPORT ON EXTENSION AND EXPANSION OF DEMONSTRATION PROJECT.—Not later than six months after the date of the submission of the penultimate report under paragraph (1), the administering Secretaries shall submit to Congress a report containing their recommendation as to—

''(A) whether to extend the demonstration project or make the project permanent;

''(B) whether to expand the project to cover additional sites and areas and to increase the maximum amount of reimbursement (or the maximum amount of reimbursement permitted for managed health care plans under this section) under the project in any year; and

''(C) whether the terms and conditions of the project should be continued (or modified) if the project is extended or expanded.

''MEDICARE SUBVENTION DEMONSTRATION PROJECT FOR MILITARY RETIREES

''SEC. 1897. (a) DEFINITIONS.—In this section:

''(1) ADMINISTERING SECRETARIES.—The term 'administering Secretaries' means the Secretary and the Secretary of Defense acting jointly.

''(2) DEMONSTRATION PROJECT; PROJECT.—The terms 'demonstration project' and 'project' mean the demonstration project carried out under this section.

''(3) DESIGNATED PROVIDER.—The term 'designated provider' has the meaning given that term in section 721(5) of the National Defense Authorization Act For Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2593; 10 U.S.C. 1073 note).

''(4) MEDICARE-ELIGIBLE MILITARY RETIREE OR DEPENDENT.—The term 'medicare-eligible military retiree or dependent' means an individual described in section 1074(b) or 1076(b) of title 10, United States Code, who—

''(A) would be eligible for health benefits under section 1086 of such title by reason of subsection (c)(1) of such section 1086 but for the operation of subsection (d) of such section 1086;

''(B)(i) is entitled to benefits under part A of this title; and

''(ii) if the individual was entitled to such benefits before July 1, 1996, received health care items or services from a health care facility of the uniformed services before that date, but after becoming entitled to benefits under part A of this title;

''(C) is enrolled for benefits under part B of this title; and

''(D) has attained age 65.

''(5) MEDICARE HEALTH CARE SERVICES.—The term 'medicare health care services' means items or services covered under part A or B of this title.

''(6) MILITARY TREATMENT FACILITY.—The term 'military treatment facility' means a facility referred to in section 1074(a) of title 10, United States Code.

''(7) TRICARE.—The term 'TRICARE' has the same meaning as the term 'TRICARE program' under section 711 of the National Defense Authorization Act for Fiscal Year 1996 (10 U.S.C. 1073 note).

''(5) TRUST FUNDS.—The term 'trust funds' means the Federal Hospital Insurance Trust Fund established in section 1817 and the Federal Supplementary Medical Insurance Trust Fund established in section 1841.

''(b) DEMONSTRATION PROJECT.—

''(1) IN GENERAL.—

''(A) ESTABLISHMENT.—The administering Secretaries are authorized to establish a demonstration project (under an agreement entered into by the administering Secretaries) under which the Secretary shall reimburse the Secretary of Defense, from the trust funds, for medicare health care services furnished to certain medicare-eligible military retirees or dependents.

''(B) AGREEMENT.—The agreement entered into under subparagraph (A) shall include at a minimum—

''(i) a description of the benefits to be provided to the participants of the demonstration project established under this section;

''(ii) a description of the eligibility rules for participation in the demonstration project, including any cost sharing requirements established under subsection (h);

''(iii) a description of how the demonstration project will satisfy the requirements under this title;

''(iv) a description of the sites selected under paragraph (2);

''(v) a description of how reimbursement and maintenance of effort requirements under subsection (j) will be implemented in the demonstration project; and

''(vi) a statement that the Secretary shall have access to all data of the Department of Defense that the Secretary determines is necessary to conduct independent estimates and audits of the maintenance of effort requirement, the annual reconciliation, and related matters required under the demonstration project.

''(2) IN GENERAL.—The project established under this section shall be conducted in no more than 6 sites, designated jointly by the administering Secretaries after review of all TRICARE regions.

''(3) RESTRICTION.—No new military treatment facilities will be built or expanded with funds from the demonstration project.

''(4) DURATION.—The administering Secretaries shall conduct the demonstration project during the 3-year period beginning on January 1, 1998.

''(c) CREDITING OF PAYMENTS.—A payment received by the Secretary of Defense under the demonstration project shall be credited to the applicable Department of Defense medical appropriation and (within that appropriation). Any such payment received during a fiscal year for services provided during a prior fiscal year may be obligated by the Secretary of Defense during the fiscal year during which the payment is received.

''(d) AUTHORITY TO WAIVE CERTAIN MEDICARE REQUIREMENTS.—The Secretary may, to the extent necessary to carry out the demonstration project, waive any requirement under this title. If the Secretary waives any such requirement, the Secretary shall include a description of such waiver in the agreement described in subsection (b).

''(e) INSPECTOR GENERAL.—Nothing in the agreement entered into under subsection (b) shall limit the Inspector General of the Department of Health and Human Services from investigating any matters regarding the expenditure of funds under this title for the demonstration project, including compliance with the provisions of this title and all other relevant laws.

''(f) REPORT.—At least 30 days prior to the commencement of the demonstration project, the administering Secretaries shall submit a copy of the agreement entered into under subsection (b) to the committees of jurisdiction in Congress.

''(g) VOLUNTARY PARTICIPATION.—Participation of medicare-eligible military retirees or dependents in the demonstration project shall be voluntary, subject to the capacity of participating military treatment facilities and designated providers and the funding limitations specified in subsection (j), and shall be subject to such terms and conditions as the administering Secretaries may establish.

''(h) COST-SHARING BY DEMONSTRATION ENROLLEES.—The Secretary of Defense may establish cost-sharing requirements for medicare-eligible military retirees and dependents who enroll in the demonstration project consistent with part C of this title.

''(i) TRICARE HEALTH CARE PLANS.—

''(1) TRICARE PROGRAM ENROLLMENT FEE WAIVER.—The Secretary of Defense shall waive the enrollment fee applicable to any medicare-eligible military retiree or dependent enrolled in the managed care option of the TRICARE program for any period for which reimbursement is made under this section with respect to such retiree or dependent.

''(2) MODIFICATION OF TRICARE CONTRACTS.—In carrying out the demonstration project, the Secretary of Defense is authorized to amend existing TRICARE contracts in order to provide the medicare health care services to the medicare-eligible military retirees and dependents enrolled in the demonstration project.

''(3) HEALTH CARE BENEFITS.—The administering Secretaries shall prescribe the minimum health care benefits to be provided under such a plan to medicare-eligible military retirees or dependents enrolled in the plan. Those benefits shall include at least all medicare health care services covered under this title.

''(j) PAYMENTS BASED ON REGULAR MEDICARE PAYMENT RATES.—

''(1) PAYMENTS.—

''(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, the Secretary shall reimburse the Secretary of Defense for services provided under the demonstration project at the following rates:

''(i) NONCAPITATION.—Except as provided in clause (ii) and subject to subparagraphs (B)(i) and (D), at a rate equal to 95 percent of the amounts that otherwise would be payable under this title on a noncapitated basis for such services if the military treatment facility or designated provider were not a Federal medical center, were participating in the program, and imposed charges for such services.

''(ii) CAPITATION.—Subject to subparagraphs (B)(ii) and (D), in the case of services provided to an enrollee under a managed health care plan established under subsection (i), at a rate equal to 95 percent of the amount paid to a Medicare Choice organization under part C with respect to such an enrollee.

In cases in which a payment amount may not otherwise be readily computed, the Secretaries shall establish rules for computing equivalent or comparable payment amounts.

''(B) EXCLUSION OF CERTAIN AMOUNTS.—

''(i) NONCAPITATION.—In computing the amount of payment under subparagraph (A)(i), the following shall be excluded:

''(I) SPECIAL PAYMENTS.—Any amount attributable to an adjustment under subparagraphs (B) and (F) of section 1886(d)(5) and subsection (h) of such section.

''(II) PERCENTAGE OF CAPITAL PAYMENTS.—An amount determined by the administering Secretaries for amounts attributable to payments for capital-related costs under subsection (g) of such section.

''(ii) CAPITATION.—In the case of years before 2001, in computing the amount of payment under subparagraph (A)(ii), the payment rate shall be computed as though the amounts excluded under clause (i) had been excluded in the determination of the amount paid to a Medicare Choice organization under part C with respect to an enrollee.

''(C) PERIODIC PAYMENTS FROM MEDICARE TRUST FUNDS.—Payments under this subsection shall be made—

''(i) on a periodic basis consistent with the periodicity of payments under this title; and

''(ii) in appropriate part, as determined by the Secretary, from the trust funds.

''(D) CAP ON AMOUNT.—The aggregate amount to be reimbursed under this paragraph pursuant to the agreement entered into between the administering Secretaries under subsection (b) shall not exceed a total of—

''(i) $55,000,000 for calendar year 1998;

''(ii) $65,000,000 for calendar year 1999; and

''(iii) $75,000,000 for calendar year 2000.

''(2) ASSURING NO INCREASE IN COST TO MEDICARE PROGRAM.—

''(A) MONITORING EFFECT OF DEMONSTRATION PROGRAM ON COSTS TO MEDICARE PROGRAM.—

''(i) IN GENERAL.—The Secretaries, in consultation with the Comptroller General, shall closely monitor the expenditures made under the medicare program for medicare-eligible military retirees or dependents during the period of the demonstration project compared to the expenditures that would have been made for such medicare-eligible military retirees or dependents during that period if the demonstration project had not been conducted. The agreement entered into by the administering Secretaries under subsection (b) shall require any participating military treatment facility to maintain the level of effort for space available care to medicare-eligible military retirees or dependents.

''(ii) ANNUAL REPORT BY THE COMPTROLLER GENERAL.—Not later than December 31 of each year during which the demonstration project is conducted, the Comptroller General shall submit to the Secretaries and the appropriate committees of Congress a report on the extent, if any, to which the costs of the Secretary under the medicare program under this title increased during the preceding fiscal year as a result of the demonstration project.

''(B) REQUIRED RESPONSE IN CASE OF INCREASE IN COSTS.—

''(i) IN GENERAL.—If the administering Secretaries find, based on subparagraph (A), that the expenditures under the medicare program under this title increased (or are expected to increase) during a fiscal year because of the demonstration project, the administering Secretaries shall take such steps as may be needed—

''(I) to recoup for the medicare program the amount of such increase in expenditures; and

''(II) to prevent any such increase in the future.

''(ii) STEPS.—Such steps—

''(I) under clause (i)(I) shall include payment of the amount of such increased expenditures by the Secretary of Defense from the current medical care appropriation of the Department of Defense to the trust funds; and

''(II) under clause (i)(II) shall include suspending or terminating the demonstration project (in whole or in part) or lowering the amount of payment under paragraph (1)(A).

''(k) EVALUATION AND REPORTS.—

''(1) INDEPENDENT EVALUATION.—The administering Secretaries shall arrange for an independent entity with expertise in the evaluation of health services to conduct an evaluation of the demonstration project. The entity shall submit annual reports on the demonstration project to the administering Secretaries and to the committees of jurisdiction in the Congress. The first report shall be submitted not later than 12 months after the date on which the demonstration project begins operation, and the final report not later than 3½ years after that date. The evaluation and reports shall include an assessment, based on the agreement entered into under subsection (b), of the following:

''(A) The number of medicare-eligible military retirees and dependents opting to participate in the demonstration project instead of receiving health benefits through another health insurance plan (including benefits under this title).

''(B) Compliance by the Department of Defense with the requirements under this title.

''(C) The cost to the Department of Defense of providing care to medicare-eligible military retirees and dependents under the demonstration project.

''(D) Compliance by the Department of Defense with the standards of quality required of entities that furnish medicare health care services.

''(E) An analysis of whether, and in what manner, easier access to the uniformed services treatment system affects the number of medicare-eligible military retirees and dependents receiving medicare health care services.

''(F) Any savings or costs to the medicare program under this title resulting from the demonstration project.

''(G) An assessment of the access to care and quality of care for medicare-eligible military retirees and dependents under the demonstration project.

''(H) Any impact of the demonstration project on the access to care for medicare-eligible military retirees and dependents who did not enroll in the demonstration project and for other individuals entitled to benefits under this title.

''(I) Any impact of the demonstration project on private health care providers.

''(J) Any impact of the demonstration project on access to care for active duty military personnel and their dependents.

''(K) A list of the health insurance plans and programs that were the primary payers for medicare-eligible military retirees and dependents during the year prior to their participation in the demonstration project and the distribution of their previous enrollment in such plans and programs.

''(L) An identification of cost-shifting (if any) between the medicare program under this title and the Defense health program as a result of the demonstration project and a description of the nature of any such cost-shifting.

''(M) An analysis of how the demonstration project affects the overall accessibility of the uniformed services treatment system and the amount of space available for point-of-service care, and a description of the unintended effects (if any) upon the normal treatment priority system.

''(N) A description of the difficulties (if any) experienced by the Department of Defense in managing the demonstration project.

''(O) A description of the effects of the demonstration project on military treatment facility readiness and training and the probable effects of the project on overall Department of Defense medical readiness and training.

''(P) A description of the effects that the demonstration project, if permanent, would be expected to have on the overall budget of the Defense health program, the budgets of individual military treatment facilities and designated providers, and on the budget of the medicare program under this title.

''(Q) An analysis of whether the demonstration project affects the cost to the Department of Defense of prescription drugs or the accessibility, availability, and cost of such drugs to demonstration program beneficiaries.

''(R) Any additional elements specified in the agreement entered into under subsection (b).

''(2) REPORT ON EXTENSION AND EXPANSION OF DEMONSTRATION PROJECT.—Not later than six months after the date of the submission of the penultimate report under paragraph (1), the administering Secretaries shall submit to Congress a report containing their recommendation as to—

''(A) whether to extend the demonstration project or make the project permanent;

''(B) whether to expand the project to cover additional sites and areas and to increase the maximum amount of reimbursement (or the maximum amount of reimbursement permitted for managed health care plans under this section) under the project in any year; and

''(C) whether the terms and conditions of the project should be continued (or modified) if the project is extended or expanded.''.

CHAPTER 6—TAX TREATMENT OF HOSPITALS PARTICIPATING IN PROVIDER-SPONSORED ORGANIZATIONS

SEC. 5049. TAX TREATMENT OF HOSPITALS WHICH PARTICIPATE IN PROVIDER-SPONSORED ORGANIZATIONS.

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) TREATMENT OF HOSPITALS PARTICIPATING IN PROVIDER-SPONSORED ORGANIZATIONS.—An organization shall not fail to be treated as organized and operated exclusively for a charitable purpose for purposes of subsection (c)(3) solely because a hospital which is owned and operated by such organization participates in a provider-sponsored organization (as defined in section 1853(e) of the Social Security Act), whether or not the provider-sponsored organization is exempt from tax. For purposes of subsection (c)(3), any person with a material financial interest in such a provider-sponsored organization shall be treated as a private shareholder or individual with respect to the hospital.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

Subtitle B—Prevention Initiatives

SEC. 5101. ANNUAL SCREENING MAMMOGRAPHY FOR WOMEN OVER AGE 39.

(a) IN GENERAL.—Section 1834(c)(2)(A) (42 U.S.C. 1395m(c)(2)(A)) is amended by striking clauses (iii), (iv), and (v) and inserting the following:

''(iii) in the case of a woman over 39 years of age, payment may not be made under this part for screening mammography performed within 11 months following the month in which a previous screening mammography was performed.''.

(b) WAIVER OF COINSURANCE.—

(1) IN GENERAL.—Section 1834(c)(1)(C) (42 U.S.C. 1395m(c)(1)(C)) is amended by striking ''80 percent of''.

(2) WAIVER OF COINSURANCE IN OUTPATIENT HOSPITAL SETTINGS.—The third sentence of section 1866(a)(2)(A) (42 U.S.C. 1395cc(a)(2)(A)) is amended by inserting after ''1861(s)(10)(A)'' the following: '', with respect to screening mammography (as defined in section 1861(jj),''.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) apply to items and services furnished on or after January 1, 1998.

SEC. 5102. COVERAGE OF COLORECTAL SCREENING.

(a) IN GENERAL.—Section 1861 (42 U.S.C. 1395x) is amended—

(1) in subsection (s)(2)—

(A) by striking ''and'' at the end of subparagraphs (N) and (O); and

(B) by inserting after subparagraph (O) the following:

''(P) colorectal cancer screening tests (as defined in subsection (oo)); and''; and

(2) by adding at the end the following:

''Colorectal Cancer Screening Test

''(oo)(1)(A) The term 'colorectal cancer screening test' means a procedure furnished to an individual that the Secretary prescribes in regulations as appropriate for the purpose of early detection of colorectal cancer, taking into account availability, effectiveness, costs, changes in technology and standards of medical practice, and such other factors as the Secretary considers appropriate.

''(B) The Secretary shall consult with appropriate organizations in prescribing regulations under subparagraph (A).''.

(b) FREQUENCY AND PAYMENT LIMITS.—Section 1834 (42 U.S.C. 1395m) is amended by inserting after subsection (c) the following new subsection:

''(d) FREQUENCY AND PAYMENT LIMITS FOR COLORECTAL CANCER SCREENING TESTS.—

''(1) IN GENERAL.—The Secretary shall prescribe regulations that—

''(A) establish frequency limits for colorectal cancer screening tests that take into account the risk status of an individual and that are consistent with frequency limits for similar or related services; and

''(B) establish payment limits (including limits on charges of nonparticipating physicians) for colorectal cancer screening tests that are consistent with payment limits for similar or related services.

''(2) REVISIONS.—The Secretary shall periodically review and, to the extent the Secretary considers appropriate, revise the frequency and payment limits established under paragraph (1).

''(3) FACTORS TO DETERMINE INDIVIDUALS AT RISK.—In establishing criteria for determining whether an individual is at risk for purposes of this subsection, the Secretary shall take into consideration family history, prior experience of cancer, a history of chronic digestive disease condition, and the presence of any appropriate recognized gene markers for colorectal cancer.

''(4) CONSULTATION.—In establishing and revising frequency and payment limits under this subsection, the Secretary shall consult with appropriate organizations.''.

(c) CONFORMING AMENDMENTS.—(1) Paragraphs (1)(D) and (2)(D) of section 1833(a) (42 U.S.C. 1395l(a)) are each amended by inserting ''or section 1834(d)'' after ''subsection (h)(1)''.

(2) Section 1833(h)(1)(A) (42 U.S.C. 1395l(h)(1)(A)) is amended by striking ''The Secretary'' and inserting ''Subject to section 1834(d), the Secretary''.

(3) Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (E), by striking ''and'' at the end,

(ii) in subparagraph (F), by striking the semicolon at the end and inserting '', and'', and

(iii) by adding at the end the following new subparagraph:

''(G) in the case of colorectal cancer screening tests, which are performed more frequently than is covered under section 1834(d);''; and

(B) in paragraph (7), by striking ''paragraph (1)(B) or under paragraph (1)(F)'' and inserting ''subparagraph (B), (F), or (G) of paragraph (1)''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

(2) REGULATIONS.—The Secretary of Health and Human Services shall issue final regulations described in sections 1861(oo) and 1834(d) of the Social Security Act (as added by this section) within 3 months after the date of enactment of this Act.

SEC. 5103. DIABETES SCREENING TESTS.

(a) DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES.—

(1) IN GENERAL.—Section 1861(s) (42 U.S.C. 1395x(s)), as amended by section 5102, is amended—

(A) in subsection (s)(2)—

(i) by striking ''and'' at the end of subparagraph (P);

(ii) by inserting ''and'' at the end of subparagraph (Q); and

(iii) by adding at the end the following:

''(R) diabetes outpatient self-management training services (as defined in subsection (pp));'', and

(B) by adding at the end the following:

''Diabetes Outpatient Self-Management Training Services

''(pp)(1) The term 'diabetes outpatient self-management training services' means educational and training services furnished to an individual with diabetes by a certified provider (as described in paragraph (2)(A)) in an outpatient setting by an individual or entity that meets the quality standards described in paragraph (2)(B), but only if the physician who is managing the individual's diabetic condition certifies that the services are needed under a comprehensive plan of care related to the individual's diabetic condition to provide the individual with necessary skills and knowledge (including skills related to the self-administration of injectable drugs) to participate in the management of the individual's condition.

''(2) In paragraph (1)—

''(A) a 'certified provider' is a physician, or other individual or entity designated by the Secretary, that, in addition to providing diabetes outpatient self-management training services, provides other items or services for which payment may be made under this title; and

''(B) a physician, or other such individual or entity, meets the quality standards described in this subparagraph if the physician, or individual or entity, meets quality standards established by the Secretary, except that the physician, or other individual or entity, shall be deemed to have met such standards if the physician or other individual or entity—

''(i) meets applicable standards originally established by the National Diabetes Advisory Board and subsequently revised by organizations who participated in the establishment of standards by such Board, or

''(ii) is recognized by an organization that represents individuals (including individuals under this title) with diabetes as meeting standards for furnishing the services.''.

(2) CONSULTATION WITH ORGANIZATIONS IN ESTABLISHING PAYMENT AMOUNTS FOR SERVICES PROVIDED BY PHYSICIANS.—In establishing payment amounts under section 1848 of the Social Security Act for physicians' services consisting of diabetes outpatient self-management training services, the Secretary of Health and Human Services shall consult with appropriate organizations, including such organizations representing individuals or medicare beneficiaries with diabetes, in determining the relative value for such services under section 1848(c)(2) of such Act.

(b) BLOOD-TESTING STRIPS FOR INDIVIDUALS WITH DIABETES.—

(1) INCLUDING STRIPS AND MONITORS AS DURABLE MEDICAL EQUIPMENT.—The first sentence of section 1861(n) (42 U.S.C. 1395x(n)) is amended by inserting before the semicolon the following: '', and includes blood-testing strips and blood glucose monitors for individuals with diabetes without regard to whether the individual has Type I or Type II diabetes or to the individual's use of insulin (as determined under standards established by the Secretary in consultation with the appropriate organizations)''.

(2) 10 PERCENT REDUCTION IN PAYMENTS FOR TESTING STRIPS.—Section 1834(a)(2)(B)(iv) (42 U.S.C. 1395m(a)(2)(B)(iv)) is amended by adding before the period the following: ''(reduced by 10 percent, in the case of a blood glucose testing strip furnished after 1997 for an individual with diabetes)''.

(c) ESTABLISHMENT OF OUTCOME MEASURES FOR BENEFICIARIES WITH DIABETES.—

(1) IN GENERAL.—The Secretary of Health and Human Services, in consultation with appropriate organizations, shall establish outcome measures, including glysolated hemoglobin (past 90-day average blood sugar levels), for purposes of evaluating the improvement of the health status of medicare beneficiaries with diabetes mellitus.

(2) RECOMMENDATIONS FOR MODIFICATIONS TO SCREENING BENEFITS.—Taking into account information on the health status of medicare beneficiaries with diabetes mellitus as measured under the outcome measures established under subparagraph (A), the Secretary shall from time to time submit recommendations to Congress regarding modifications to the coverage of services for such beneficiaries under the medicare program.

(d) EFFECTIVE DATE.—The amendments made by this section apply to items and services furnished on or after January 1, 1998.

SEC. 5104. COVERAGE OF BONE MASS MEASUREMENTS.

(a) IN GENERAL.—Section 1861 (42 U.S.C. 1395x) is amended—

(1) in subsection (s)—

(A) in paragraph (12)(C), by striking ''and'' at the end;

(B) by striking the period at the end of paragraph (14) and inserting ''; and'';

(C) by redesignating paragraphs (15) and (16) as paragraphs (16) and (17), respectively; and

(D) by inserting after paragraph (14) the following:

''(15) bone mass measurement (as defined in subsection (oo)).''; and

(2) by inserting after subsection (pp), as added by section 5103, the following:

''Bone Mass Measurement

''(gg)(1) The term 'bone mass measurement' means a radiologic or radioscopic procedure or other Food and Drug Administration approved technology performed on a qualified individual (as defined in paragraph (2)) for the purpose of identifying bone mass, detecting bone loss, or determining bone quality, and includes a physician's interpretation of the results of the procedure.

''(2) For purposes of paragraph (1), the term 'qualified individual' means an individual who is (in accordance with regulations prescribed by the Secretary)—

''(A) an estrogen-deficient woman at clinical risk for osteoporosis and who is considering treatment;

''(B) an individual with vertebral abnormalities;

''(C) an individual receiving long-term glucocorticoid steroid therapy;

''(D) an individual with primary hyperparathyroidism; or

''(E) an individual being monitored to assess the response to or efficacy of an approved osteoporosis drug therapy.''.

(b) CONFORMING AMENDMENTS.—Sections 1864(a), 1865(a), 1902(a)(9)(C), and 1915(a)(1)(B)(ii)(I) (42 U.S.C. 1395aa(a), 1395bb(a), 1396a(a)(9)(C), and 1396n(a)(1)(B)(ii)(I)) are amended by striking ''paragraphs (15) and (16)'' each place such term appears and inserting ''paragraphs (16) and (17)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bone mass measurements performed on or after January 1, 1998.

SEC. 5105. STUDY ON MEDICAL NUTRITION THERAPY SERVICES.

(a) STUDY.—The Secretary of Health and Human Services shall request the National Academy of Sciences, in conjunction with the United States Preventive Services Task Force, to analyze the expansion or modification of the preventive benefits provided to medicare beneficiaries under title XVIII of the Social Security Act to include medical nutrition therapy services by a registered dietitian.

(b) REPORT.—

(1) INITIAL REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report on the findings of the analysis conducted under subsection (a) to the Committee on Ways and Means and the Committee on Commerce of the House of Representatives and the Committee on Finance of the Senate.

(2) CONTENTS.—Such report shall include specific findings with respect to the expansion or modification of coverage of medical nutrition therapy services by a registered dietitian for medicare beneficiaries regarding—

(A) cost to the medicare system;

(B) savings to the medicare system;

(C) clinical outcomes; and

(D) short and long term benefits to the medicare system.

(3) FUNDING.—From funds appropriated to the Department of Health and Human Services for fiscal years 1998 and 1999, the Secretary shall provide for such funding as may be necessary for the conduct of the analysis by the National Academy of Sciences under this section.

Subtitle C—Rural Initiatives

SEC. 5151. SOLE COMMUNITY HOSPITALS.

Section 1886(b)(3)(C) (42 U.S.C. 1395ww(b)(3)(C)) is amended—

(1) in clause (i), by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively;

(2) by redesignating clauses (i), (ii), (iii), and (iv) as subclauses (I), (II), (III), and (IV), respectively;

(3) by striking ''(C) In'' and inserting ''(C)(i) Subject to clause (ii), in''; and

(4) by striking the last sentence and inserting the following:

''(ii)(I) There shall be substituted for the base cost reporting period described in clause (i)(I) a hospital's cost reporting period (if any) beginning during fiscal year 1987 if such substitution results in an increase in the target amount for the hospital.

''(II) Beginning with discharges occurring in fiscal year 1998, there shall be substituted for the base cost reporting period described in clause (i)(I) either—

''(aa) the allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for the hospital's cost reporting period (if any) beginning during fiscal year 1994 increased (in a compounded manner) by the applicable percentage increases applied to the hospital under this paragraph for discharges occurring in fiscal years 1995, 1996, 1997, and 1998, or

''(bb) the allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for the hospital's cost reporting period (if any) beginning during fiscal year 1995 increased (in a compounded manner) by the applicable percentage increase applied to the hospital under this paragraph for discharges occurring in fiscal years 1995, 1996, 1997, and 1998,

if such substitution results in an increase in the target amount for the hospital.''.

SEC. 5152. MEDICARE-DEPENDENT, SMALL RURAL HOSPITAL PAYMENT EXTENSION.

(a) SPECIAL TREATMENT EXTENDED.—

(1) PAYMENT METHODOLOGY.—Section 1886(d)(5)(G) (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(A) in clause (i), by striking ''October 1, 1994,'' and inserting ''October 1, 1994, or beginning on or after October 1, 1997, and before October 1, 2001,''; and

(B) in clause (ii)(II), by striking ''October 1, 1994,'' and inserting ''October 1, 1994, or beginning on or after October 1, 1997, and before October 1, 2001,''.

(2) EXTENSION OF TARGET AMOUNT.—Section 1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is amended—

(A) in the matter preceding clause (i), by striking ''September 30, 1994,'' and inserting ''September 30, 1994, and for cost reporting periods beginning on or after October 1, 1997, and before October 1, 2001,'';

(B) in clause (ii), by striking ''and'' at the end;

(C) in clause (iii), by striking the period at the end and inserting '', and''; and

(D) by adding after clause (iii) the following new clause:

''(iv) with respect to discharges occurring during fiscal year 1998 through fiscal year 2000, the target amount for the preceding year increased by the applicable percentage increase under subparagraph (B)(iv).''.

(3) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—Section 13501(e)(2) of OBRA–93 (42 U.S.C. 1395ww note) is amended by striking ''or fiscal year 1994'' and inserting '', fiscal year 1994, fiscal year 1998, fiscal year 1999, or fiscal year 2000''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to discharges occurring on or after October 1, 1997.

SEC. 5153. MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

(a) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—Section 1820 (42 U.S.C. 1395i–4) is amended to read as follows:

''MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM

''SEC. 1820. (a) ESTABLISHMENT.—Any State that submits an application in accordance with subsection (b) may establish a medicare rural hospital flexibility program described in subsection (c).

''(b) APPLICATION.—A State may establish a medicare rural hospital flexibility program described in subsection (c) if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing—

''(1) assurances that the State—

''(A) has developed, or is in the process of developing, a State rural health care plan that—

''(i) provides for the creation of 1 or more rural health networks (as defined in subsection (d)) in the State;

''(ii) promotes regionalization of rural health services in the State; and

''(iii) improves access to hospital and other health services for rural residents of the State; and

''(B) has developed the rural health care plan described in subparagraph (A) in consultation with the hospital association of the State, rural hospitals located in the State, and the State Office of Rural Health (or, in the case of a State in the process of developing such plan, that assures the Secretary that the State will consult with its State hospital association, rural hospitals located in the State, and the State Office of Rural Health in developing such plan);

''(2) assurances that the State has designated (consistent with the rural health care plan described in paragraph (1)(A)), or is in the process of so designating, rural nonprofit or public hospitals or facilities located in the State as critical access hospitals; and

''(3) such other information and assurances as the Secretary may require.

''(c) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM DESCRIBED.—

''(1) IN GENERAL.—A State that has submitted an application in accordance with subsection (b), may establish a medicare rural hospital flexibility program that provides that—

''(A) the State shall develop at least 1 rural health network (as defined in subsection (d)) in the State; and

''(B) at least 1 facility in the State shall be designated as a critical access hospital in accordance with paragraph (2).

''(2) STATE DESIGNATION OF FACILITIES.—

''(A) IN GENERAL.—A State may designate 1 or more facilities as a critical access hospital in accordance with subparagraph (B).

''(B) CRITERIA FOR DESIGNATION AS CRITICAL ACCESS HOSPITAL.—A State may designate a facility as a critical access hospital if the facility—

''(i) is a nonprofit or public hospital and is located in a county (or equivalent unit of local government) in a rural area (as defined in section 1886(d)(2)(D)) that—

''(I) is located more than a 35-mile drive from a hospital, or another facility described in this subsection; or

''(II) is certified by the State as being a necessary provider of health care services to residents in the area;

''(ii) makes available 24-hour emergency care services that a State determines are necessary for ensuring access to emergency care services in each area served by a critical access hospital;

''(iii) provides not more than 15 acute care inpatient beds (meeting such standards as the Secretary may establish) for providing inpatient care for a period not to exceed 96 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions), except that a peer review organization or equivalent entity may, on request, waive the 96-hour restriction on a case-by-case basis;

''(iv) meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

''(I) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open and fully staffed, except insofar as the facility is required to make available emergency care services as determined under clause (ii) and must have nursing services available on a 24-hour basis, but need not otherwise staff the facility except when an inpatient is present;

''(II) the facility may provide any services otherwise required to be provided by a full-time, on site dietitian, pharmacist, laboratory technician, medical technologist, and radiological technologist on a part-time, off site basis under arrangements as defined in section 1861(w)(1); and

''(III) the inpatient care described in clause (iii) may be provided by a physician's assistant, nurse practitioner, or clinical nurse specialist subject to the oversight of a physician who need not be present in the facility; and

''(v) meets the requirements of section 1861(aa)(2)(I).

''(d) DEFINITION OF RURAL HEALTH NETWORK.—

''(1) IN GENERAL.—In this section, the term 'rural health network' means, with respect to a State, an organization consisting of—

''(A) at least 1 facility that the State has designated or plans to designate as a critical access hospital; and

''(B) at least 1 hospital that furnishes acute care services.

''(2) AGREEMENTS.—

''(A) IN GENERAL.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to each item described in subparagraph (B) with at least 1 hospital that is a member of the network.

''(B) ITEMS DESCRIBED.—The items described in this subparagraph are the following:

''(i) Patient referral and transfer.

''(ii) The development and use of communications systems including (where feasible)—

''(I) telemetry systems; and

''(II) systems for electronic sharing of patient data.

''(iii) The provision of emergency and nonemergency transportation among the facility and the hospital.

''(C) CREDENTIALING AND QUALITY ASSURANCE.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to credentialing and quality assurance with at least—

''(i) 1 hospital that is a member of the network;

''(ii) 1 peer review organization or equivalent entity; or

''(iii) 1 other appropriate and qualified entity identified in the State rural health care plan.

''(e) CERTIFICATION BY THE SECRETARY.—The Secretary shall certify a facility as a critical access hospital if the facility—

''(1) is located in a State that has established a medicare rural hospital flexibility program in accordance with subsection (c);

''(2) is designated as a critical access hospital by the State in which it is located; and

''(3) meets such other criteria as the Secretary may require.

''(f) PERMITTING MAINTENANCE OF SWING BEDS.—Nothing in this section shall be construed to prohibit a critical access hospital from entering into an agreement with the Secretary under section 1883 under which the facility's inpatient hospital facilities are used for the furnishing of extended care services.

''(g) GRANTS.—

''(1) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—The Secretary may award grants to States that have submitted applications in accordance with subsection (b) for—

''(A) engaging in activities relating to planning and implementing a rural health care plan;

''(B) engaging in activities relating to planning and implementing rural health networks; and

''(C) designating facilities as critical access hospitals.

''(2) RURAL EMERGENCY MEDICAL SERVICES.—

''(A) IN GENERAL.—The Secretary may award grants to States that have submitted applications in accordance with subparagraph (B) for the establishment or expansion of a program for the provision of rural emergency medical services.

''(B) APPLICATION.—An application is in accordance with this subparagraph if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing the assurances described in subparagraphs (A)(ii), (A)(iii), and (B) of subsection (b)(1) and paragraph (3) of that subsection.

''(h) GRANDFATHERING OF CERTAIN FACILITIES.—

''(1) IN GENERAL.—Any medical assistance facility operating in Montana and any rural primary care hospital designated by the Secretary under this section prior to the date of the enactment of the Balanced Budget Act of 1997 shall be deemed to have been certified by the Secretary under subsection (e) as a critical access hospital if such facility or hospital is otherwise eligible to be designated by the State as a critical access hospital under subsection (c).

''(2) CONTINUATION OF MEDICAL ASSISTANCE FACILITY AND RURAL PRIMARY CARE HOSPITAL TERMS.—Notwithstanding any other provision of this title, with respect to any medical assistance facility or rural primary care hospital described in paragraph (1), any reference in this title to a 'critical access hospital' shall be deemed to be a reference to a 'medical assistance facility' or 'rural primary care hospital'.

''(i) WAIVER OF CONFLICTING PART A PROVISIONS.—The Secretary is authorized to waive such provisions of this part and part D as are necessary to conduct the program established under this section.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Hospital Insurance Trust Fund for making grants to all States under subsection (g), $25,000,000 in each of the fiscal years 1998 through 2002.''.

(b) REPORT ON ALTERNATIVE TO 96-HOUR RULE.—Not later than January 1, 1998, the Administrator of the Health Care Financing Administration shall submit to Congress a report on the feasibility of, and administrative requirements necessary to establish an alternative for certain medical diagnoses (as determined by the Administrator) to the 96-hour limitation for inpatient care in critical access hospitals required by section 1820(c)(2)(B)(iii) of the Social Security Act (42 U.S.C. 1395i–4), as added by subsection (a) of this section.

(c) CONFORMING AMENDMENTS RELATING TO RURAL PRIMARY CARE HOSPITALS AND CRITICAL ACCESS HOSPITALS.—

(1) IN GENERAL.—Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) and title XVIII of that Act (42 U.S.C. 1395 et seq.) are each amended by striking ''rural primary care'' each place it appears and inserting ''critical access''.

(2) DEFINITIONS.—Section 1861(mm) of the Social Security Act (42 U.S.C. 1395x(mm)) is amended to read as follows:

''CRITICAL ACCESS HOSPITAL; CRITICAL ACCESS HOSPITAL SERVICES

''(mm)(1) The term 'critical access hospital' means a facility certified by the Secretary as a critical access hospital under section 1820(e).

''(2) The term 'inpatient critical access hospital services' means items and services, furnished to an inpatient of a critical access hospital by such facility, that would be inpatient hospital services if furnished to an inpatient of a hospital by a hospital.

''(3) The term 'outpatient critical access hospital services' means medical and other health services furnished by a critical access hospital on an outpatient basis.''.

(3) PART A PAYMENT.—Section 1814 of the Social Security Act (42 U.S.C. 1395f) is amended—

(A) in subsection (a)(8), by striking ''72'' and inserting ''96''; and

(B) by amending subsection (l) to read as follows:

''Payment for Inpatient Critical Access Hospital Services

''(l) The amount of payment under this part for inpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.''.

(4) PAYMENT CONTINUED TO DESIGNATED EACHS.—Section 1886(d)(5)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(A) in clause (iii)(III), by inserting ''as in effect on September 30, 1997'' before the period at the end; and

(B) in clause (v)—

(i) by inserting ''as in effect on September 30, 1997'' after ''1820(i)(1)''; and

(ii) by striking ''1820(g)'' and inserting ''1820(d)''.

(5) PART B PAYMENT.—Section 1834(g) of the Social Security Act (42 U.S.C. 1395m(g)) is amended to read as follows:

''(g) PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for outpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1997.

SEC. 5154. PROHIBITING DENIAL OF REQUEST BY RURAL REFERRAL CENTERS FOR RECLASSIFICATION ON BASIS OF COMPARABILITY OF WAGES.

(a) IN GENERAL.—Section 1886(d)(10)(D) (42 U.S.C. 1395ww(d)(10)(D)) is amended—

(1) by redesignating clause (iii) as clause (iv); and

(2) by inserting after clause (ii) the following new clause:

''(iii) Under the guidelines published by the Secretary under clause (i), in the case of a hospital which has ever been classified by the Secretary as a rural referral center under paragraph (5)(C), the Board may not reject the application of the hospital under this paragraph on the basis of any comparison between the average hourly wage of the hospital and the average hourly wage of hospitals in the area in which it is located.''.

(b) CONTINUING TREATMENT OF PREVIOUSLY DESIGNATED CENTERS.—

(1) IN GENERAL.—Any hospital classified as a rural referral center by the Secretary of Health and Human Services under section 1886(d)(5)(C) of the Social Security Act for fiscal year 1991 shall be classified as such a rural referral center for fiscal year 1998 and each subsequent fiscal year.

(2) BUDGET NEUTRALITY.—The provisions of section 1886(d)(8)(D) of the Social Security Act shall apply to reclassifications made pursuant to paragraph (1) in the same manner as such provisions apply to a reclassification under section 1886(d)(10) of such Act.

SEC. 5155. RURAL HEALTH CLINIC SERVICES.

(a) PER-VISIT PAYMENT LIMITS FOR PROVIDER-BASED CLINICS.—

(1) EXTENSION OF LIMIT.—

(A) IN GENERAL.—The matter in section 1833(f) (42 U.S.C. 1395l(f)) preceding paragraph (1) is amended by striking ''independent rural health clinics'' and inserting ''rural health clinics (other than such clinics in rural hospitals with less than 50 beds)''.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) applies to services furnished after 1997.

(2) TECHNICAL CLARIFICATION.—Section 1833(f)(1) (42 U.S.C. 1395l(f)(1)) is amended by inserting ''per visit'' after ''$46''.

(b) ASSURANCE OF QUALITY SERVICES.—

(1) IN GENERAL.—Subparagraph (I) of the first sentence of section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended to read as follows:

''(I) has a quality assessment and performance improvement program, and appropriate procedures for review of utilization of clinic services, as the Secretary may specify,''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on January 1, 1998.

(c) WAIVER OF CERTAIN STAFFING REQUIREMENTS LIMITED TO CLINICS IN PROGRAM.—

(1) IN GENERAL.—Section 1861(aa)(7)(B)) (42 U.S.C. 1395x(aa)(7)(B)) is amended by inserting before the period '', or if the facility has not yet been determined to meet the requirements (including subparagraph (J) of the first sentence of paragraph (2)) of a rural health clinic.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) applies to waiver requests made after 1997.

(d) REFINEMENT OF SHORTAGE AREA REQUIREMENTS.—

(1) DESIGNATION REVIEWED TRIENNIALLY.—Section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended in the second sentence, in the matter in clause (i) preceding subclause (I)—

(A) by striking ''and that is designated'' and inserting ''and that, within the previous 3-year period, has been designated''; and

(B) by striking ''or that is designated'' and inserting ''or designated''.

(2) AREA MUST HAVE SHORTAGE OF HEALTH CARE PRACTITIONERS.—Section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)), as amended by paragraph (1), is further amended in the second sentence, in the matter in clause (i) preceding subclause (I)—

(A) by striking the comma after ''personal health services''; and

(B) by inserting ''and in which there are insufficient numbers of needed health care practitioners (as determined by the Secretary),'' after ''Bureau of the Census)''.

(3) PREVIOUSLY QUALIFYING CLINICS GRANDFATHERED ONLY TO PREVENT SHORTAGE.—

(A) IN GENERAL.—Section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended in the third sentence by inserting before the period ''if it is determined, in accordance with criteria established by the Secretary in regulations, to be essential to the delivery of primary care services that would otherwise be unavailable in the geographic area served by the clinic''.

(B) PAYMENT FOR CERTAIN PHYSICIAN ASSISTANT SERVICES.—

(i) IN GENERAL.—With respect to any regulations issued to implement section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) (as amended by subparagraph (A)), the Secretary of Health and Human Services shall include in such regulations provisions providing for the direct payment to the physician assistant for any physician assistant services as described in clause (ii).

(ii) SERVICES DESCRIBED.—Services described in this clause are physician assistant services provided at a rural health clinic that is principally owned, as determined by the Secretary, by a physician assistant—

(I) as of the date of enactment of this Act; and

(II) continuously from such date through the date on which such services are provided.

(iii) SUNSET.—The provisions of this subparagraph shall not apply after January 1, 2003.

(4) EFFECTIVE DATES; IMPLEMENTING REGULATIONS.—

(A) IN GENERAL.—Except as otherwise provided, the amendments made by the preceding paragraphs take effect on January 1 of the first calendar year beginning at least 1 month after enactment of this Act.

(B) CURRENT RURAL HEALTH CLINICS.—The amendments made by the preceding paragraphs take effect, with respect to entities that are rural health clinics under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) on the date of enactment of this Act, on January 1 of the second calendar year following the calendar year specified in subparagraph (A).

(C) GRANDFATHERED CLINICS.—

(i) IN GENERAL.—The amendment made by paragraph (3) shall take effect on the effective date of regulations issued by the Secretary under clause (ii).

(ii) REGULATIONS.—The Secretary shall issue final regulations implementing paragraph (3) that shall take effect no later than January 1 of the third calendar year beginning at least 1 month after the date of enactment of this Act.

SEC. 5156. MEDICARE REIMBURSEMENT FOR TELEHEALTH SERVICES.

(a) IN GENERAL.—Not later than July 1, 1998, the Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall make payments from the Federal Supplementary Medical Insurance Trust Fund under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) in accordance with the methodology described in subsection (b) for professional consultation via telecommunications systems with a health care provider furnishing a service for which payment may be made under such part to a beneficiary under the medicare program residing in a county in a rural area (as defined in section 1886(d)(2)(D) of such Act (42 U.S.C. 1395ww(d)(2)(D))) that is designated as a health professional shortage area under section 332(a)(1)(A) of the Public Health Service Act (42 U.S.C. 254e(a)(1)(A)) or a rural county that is not adjacent to a Metropolitan Statistical Area, notwithstanding that the individual health care provider providing the professional consultation is not at the same location as the health care provider furnishing the service to that beneficiary.

(b) METHODOLOGY FOR DETERMINING AMOUNT OF PAYMENTS.—Taking into account the findings of the report required under section 192 of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 1988), the findings of the report required under paragraph (c), and any other findings related to the clinical efficacy and cost-effectiveness of telehealth applications, the Secretary shall establish a methodology for determining the amount of payments made under subsection (a) within the following parameters:

(1) The payment shall include a bundled payment to be shared between the referring health care provider and the consulting health care provider. The amount of such bundled payment shall not be greater than the current fee schedule of the consulting health care provider for the health care services provided.

(2) The payment shall not include any reimbursement for any line charges or any facility fees.

(c) SUPPLEMENTAL REPORT.—Not later than January 1, 1998, the Secretary shall submit a report to Congress which shall contain a detailed analysis of—

(1) how telemedicine and telehealth systems are expanding access to health care services;

(2) the clinical efficacy and cost-effectiveness of telemedicine and telehealth applications;

(3) the quality of telemedicine and telehealth services delivered; and

(4) the reasonable cost of telecommunications charges incurred in practicing telemedicine and telehealth in rural, frontier, and underserved areas.

(d) EXPANSION OF TELEHEALTH SERVICES FOR CERTAIN MEDICARE BENEFICIARIES.—

(1) IN GENERAL.—Not later than January 1, 1999, the Secretary shall submit a report to Congress that examines the possibility of making payments from the Federal Supplementary Medical Insurance Trust Fund under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) for professional consultation via telecommunications systems with a health care provider furnishing a service for which payment may be made under such part to a beneficiary described in paragraph (2), notwithstanding that the individual health care provider providing the professional consultation is not at the same location as the health care provider furnishing the service to that beneficiary.

(2) BENEFICIARY DESCRIBED.—A beneficiary described in this paragraph is a beneficiary under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) who does not reside in a rural area (as so defined) that is designated as a health professional shortage area under section 332(a)(1)(A) of the Public Health Service Act (42 U.S.C. 254e(a)(1)(A)), who is homebound or nursing homebound, and for whom being transferred for health care services imposes a serious hardship.

(3) REPORT.—The report described in paragraph (1) shall contain a detailed statement of the potential costs to the medicare program of

making the payments described in that paragraph using various reimbursement schemes.

SEC. 5157. TELEMEDICINE, INFORMATICS, AND EDUCATION DEMONSTRATION PROJECT.

(a) PURPOSE AND AUTHORIZATION.—

(1) IN GENERAL.—Not later than 9 months after the date of enactment of this section, the Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall conduct a demonstration project described in paragraph (2).

(2) DESCRIPTION OF PROJECT.—The demonstration project described in this paragraph is a single demonstration project to study the use of eligible health care provider telemedicine networks to implement high-capacity computing and advanced networks to improve primary care (and prevent health care complications), improve access to specialty care, and provide educational and training support to rural practitioners.

(3) WAIVER AUTHORITY.—The Secretary shall waive compliance with the requirements of titles XI, XVIII, and XIX of the Social Security Act (42 U.S.C. 1301 et seq., 1395 et seq., 1396 et seq.) to such extent and for such period as the Secretary determines is necessary to conduct the demonstration project.

(4) DURATION OF PROJECT.—The project shall be conducted for a 5-year period.

(b) OBJECTIVES OF PROJECT.—The objectives of the demonstration project conducted under this section shall include the following:

(1) The improvement of patient access to primary and specialty care and the reduction of inappropriate hospital visits in order to improve patient quality-of-life and reduce overall health care costs.

(2) The development of a curriculum to train and development of standards for required credentials and licensure of health professionals (particularly primary care health professionals) in the use of medical informatics and telecommunications.

(3) The demonstration of the application of advanced technologies such as video-conferencing from a patient's home and remote monitoring of a patient's medical condition.

(4) The development of standards in the application of telemedicine and medical informatics.

(5) The development of a model for cost-effective delivery of primary and related care in both a managed care environment and in a fee-for-service environment.

(c) ELIGIBLE HEALTH CARE PROVIDER TELEMEDICINE NETWORK DEFINED.—In this section, the term ''eligible health care provider telemedicine network'' means a consortium that—

(1) includes—

(A) at least 1 tertiary care hospital with an existing telemedicine network with an existing relationship with a medical school; and

(B) not more than 6 facilities, including at least 3 rural referral centers, in rural areas; and

(2) meets the following requirements:

(A) The consortium is located in a region that is predominantly rural.

(B) The consortium submits to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the use the consortium would make of any amounts received under the demonstration project and the source and amount of non-Federal funds used in the project.

(C) The consortium guarantees that it will be responsible for payment for all costs of the project that are not paid under this section and that the maximum amount of payment that may be made to the consortium under this section shall not exceed the amount specified in subsection (d)(3).

(d) COVERAGE AS MEDICARE PART B SERVICES.—

(1) IN GENERAL.—Subject to the succeeding provisions of this section, services for medicare beneficiaries furnished under the demonstration project shall be considered to be services covered under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j).

(2) PAYMENTS.—

(A) IN GENERAL.—Subject to paragraph (3), payment for services provided under this section shall be made at a rate of 50 percent of the costs that are reasonable and related to the provision of such services. In computing such costs, the Secretary shall include costs described in subparagraph (B), but may not include costs described in subparagraph (C).

(B) COSTS THAT MAY BE INCLUDED.—The costs described in this subparagraph are the permissible costs (as recognized by the Secretary) for the following:

(i) The acquisition of telemedicine equipment for use in patients' homes (but only in the case of patients located in medically underserved areas).

(ii) Curriculum development and training of health professionals in medical informatics and telemedicine.

(iii) Payment of telecommunications costs including salaries, maintenance of equipment, and costs of telecommunications between patients' homes and the eligible network and between the network and other entities under the arrangements described in subsection (c).

(iv) Payments to practitioners and providers under the medicare programs.

(C) OTHER COSTS.—The costs described in this subparagraph include the following:

(i) The purchase or installation of transmission equipment (other than such equipment used by health professionals to deliver medical informatics services under the project).

(ii) The establishment or operation of a telecommunications common carrier network.

(iii) Construction that is limited to minor renovations related to the installation of equipment.

(3) LIMITATION AND FUNDS.—The Secretary shall make the payments under the demonstration project conducted under this section from the Federal Supplementary Medical Insurance Trust Fund, established under section 1841 of the Social Security Act (42 U.S.C. 1395t), except that the total amount of the payments that may be made by the Secretary under this section shall not exceed $27,000,000.

Subtitle D—Anti-Fraud and Abuse Provisions and Improvements in Protecting Program Integrity

CHAPTER 1—REVISIONS TO SANCTIONS FOR FRAUD AND ABUSE

SEC. 5201. AUTHORITY TO REFUSE TO ENTER INTO MEDICARE AGREEMENTS WITH INDIVIDUALS OR ENTITIES CONVICTED OF FELONIES.

(a) MEDICARE PART A.—Section 1866(b)(2) (42 U.S.C. 1395cc(b)(2)) is amended—

(1) in subparagraph (B), by striking ''or'' at the end;

(2) in subparagraph (C), by striking the period at the end and inserting '', or''; and

(3) by adding at the end the following:

''(D) has ascertained that the provider has been convicted of a felony under Federal or State law for an offense that the Secretary determines is inconsistent with the best interests of program beneficiaries.''.

(b) MEDICARE PART B.—Section 1842 (42 U.S.C. 1395u) is amended by adding at the end the following:

''(s) The Secretary may refuse to enter into an agreement with a physician or supplier under subsection (h), or may terminate or refuse to renew such agreement, in the event that such physician or supplier has been convicted of a felony under Federal or State law for an offense which the Secretary determines is inconsistent with the best interests of program beneficiaries.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and apply to the entry and renewal of contracts on or after such date.

SEC. 5202. EXCLUSION OF ENTITY CONTROLLED BY FAMILY MEMBER OF A SANCTIONED INDIVIDUAL.

(a) IN GENERAL.—Section 1128 (42 U.S.C. 1320a–7) is amended—

(1) in subsection (b)(8)(A)—

(A) in clause (i), by striking ''or'' at the end;

(B) in clause (ii), by striking the dash at the end and inserting ''; or''; and

(C) by inserting after clause (ii) the following:

''(iii) who was described in clause (i) but is no longer so described because of a transfer of ownership or control interest, in anticipation of (or following) a conviction, assessment, or exclusion described in subparagraph (B) against the person, to an immediate family member (as defined in subsection (j)(1)) or a member of the household of the person (as defined in subsection (j)(2)) who continues to maintain an interest described in such clause—''; and

(2) by adding at the end the following:

''(j) DEFINITION OF IMMEDIATE FAMILY MEMBER AND MEMBER OF HOUSEHOLD.—For purposes of subsection (b)(8)(A)(iii):

''(1) The term 'immediate family member' means, with respect to a person—

''(A) the husband or wife of the person;

''(B) the natural or adoptive parent, child, or sibling of the person;

''(C) the stepparent, stepchild, stepbrother, or stepsister of the person;

''(D) the father-, mother-, daughter-, son-, brother-, or sister-in-law of the person;

''(E) the grandparent or grandchild of the person; and

''(F) the spouse of a grandparent or grandchild of the person.

''(2) The term 'member of the household' means, with respect to any person, any individual sharing a common abode as part of a single family unit with the person, including domestic employees and others who live together as a family unit, but not including a roomer or boarder.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date that is 45 days after the date of the enactment of this Act.

SEC. 5203. IMPOSITION OF CIVIL MONEY PENALTIES.

(a) CIVIL MONEY PENALTIES FOR PERSONS THAT CONTRACT WITH EXCLUDED INDIVIDUALS.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(1) in paragraph (4), by striking ''or'' at the end;

(2) in paragraph (5), by adding ''or'' at the end; and

(3) by inserting after paragraph (5) the following:

''(6) arranges or contracts (by employment or otherwise) with an individual or entity that the person knows or should know is excluded from participation in a Federal health care program (as defined in section 1128B(f)), for the provision of items or services for which payment may be made under such a program;''.

(b) CIVIL MONEY PENALTIES FOR SERVICES ORDERED OR PRESCRIBED BY AN EXCLUDED INDIVIDUAL OR ENTITY.—Section 1128A(a)(1) (42 U.S.C. 1320a–7a(a)(1)) is amended—

(1) in subparagraph (D)—

(A) by inserting '', ordered, or prescribed by such person'' after ''other item or service furnished'';

(B) by inserting ''(pursuant to this title or title XVIII)'' after ''period in which the person was excluded'';

(C) by striking ''pursuant to a determination by the Secretary'' and all that follows through ''the provisions of section 1842(j)(2)''; and

(D) by striking ''or'' at the end;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

''(E) is for a medical or other item or service ordered or prescribed by a person excluded pursuant to this title or title XVIII from the program under which the claim was made, and the

person furnishing such item or service knows or should know of such exclusion, or''.

(c) CIVIL MONEY PENALTIES FOR KICKBACKS.—

(1) PERMITTING SECRETARY TO IMPOSE CIVIL MONEY PENALTY.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by subsection (a), is amended—

(A) in paragraph (5), by striking ''or'' at the end;

(B) in paragraph (6), by adding ''or'' at the end; and

(C) by adding after paragraph (6) the following:

''(7) commits an act described in paragraph (1) or (2) of section 1128B(b);''.

(2) DESCRIPTION OF CIVIL MONEY PENALTY APPLICABLE.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by paragraph (1), is amended in the matter following paragraph (7)—

(A) by striking ''occurs).'' and inserting ''occurs; or in cases under paragraph (7), $50,000 for each such act).''; and

(B) by inserting after ''of such claim'' the following: ''(or, in cases under paragraph (7), damages of not more than 3 times the total amount of remuneration offered, paid, solicited, or received, without regard to whether a portion of such remuneration was offered, paid, solicited, or received for a lawful purpose)''.

(d) EFFECTIVE DATES.—

(1) CONTRACTS WITH EXCLUDED PERSONS.—The amendments made by subsection (a) shall apply to arrangements and contracts entered into after the date of the enactment of this Act.

(2) SERVICES ORDERED OR PRESCRIBED.—The amendments made by subsection (b) shall apply to items and services furnished, ordered, or prescribed after the date of the enactment of this Act.

(3) KICKBACKS.—The amendments made by subsection (c) shall apply to acts taken after the date of the enactment of this Act.

CHAPTER 2—IMPROVEMENTS IN PROTECTING PROGRAM INTEGRITY

SEC. 5211. DISCLOSURE OF INFORMATION, SURETY BONDS, AND ACCREDITATION.

(a) DISCLOSURE OF INFORMATION, SURETY BOND, AND ACCREDITATION REQUIREMENT FOR SUPPLIERS OF DURABLE MEDICAL EQUIPMENT.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by inserting after paragraph (15) the following:

''(16) DISCLOSURE OF INFORMATION, SURETY BOND, AND ACCREDITATION.—The Secretary shall not provide for the issuance (or renewal) of a provider number for a supplier of durable medical equipment, for purposes of payment under this part for durable medical equipment furnished by the supplier, unless the supplier provides the Secretary on a continuing basis—

''(A) with—

''(i) full and complete information as to the identity of each person with an ownership or control interest (as defined in section 1124(a)(3)) in the supplier or in any subcontractor (as defined by the Secretary in regulations) in which the supplier directly or indirectly has a 5 percent or more ownership interest; and

''(ii) to the extent determined to be feasible under regulations of the Secretary, the name of any disclosing entity (as defined in section 1124(a)(2)) with respect to which a person with such an ownership or control interest in the supplier is a person with such an ownership or control interest in the disclosing entity;

''(B) with a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000; and

''(C) at the discretion of the Secretary, with evidence of compliance with the applicable conditions or requirements of this title through an accreditation survey conducted by a national accreditation body under section 1865(b).

The Secretary may waive the requirement of a bond under subparagraph (B) in the case of a supplier that provides a comparable surety bond under State law.''.

(b) SURETY BOND REQUIREMENT FOR HOME HEALTH AGENCIES.—

(1) IN GENERAL.—Section 1861(o) (42 U.S.C. 1395x(o)) is amended—

(A) in paragraph (7), by inserting ''and including providing the Secretary on a continuing basis with a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000'' after ''financial security of the program''; and

(B) by adding at the end the following: ''The Secretary may waive the requirement of a surety bond under paragraph (7) in the case of an agency or organization that provides a comparable surety bond under State law.''.

(2) CONFORMING AMENDMENTS.—Section 1861(v)(1)(H) (42 U.S.C. 1395x(v)(1)(H)) is amended—

(A) in clause (i), by striking ''the financial security requirement'' and inserting ''the financial security and surety bond requirements''; and

(B) in clause (ii), by striking ''the financial security requirement described in subsection (o)(7) applies'' and inserting ''the financial security and surety bond requirements described in subsection (o)(7) apply''.

(3) REFERENCE TO CURRENT DISCLOSURE REQUIREMENT.—For additional provisions requiring home health agencies to disclose information on ownership and control interests, see section 1124 of the Social Security Act (42 U.S.C. 1320a–3).

(c) AUTHORIZING APPLICATION OF DISCLOSURE AND SURETY BOND REQUIREMENTS TO AMBULANCE SERVICES AND CERTAIN CLINICS.—Section 1834(a)(16) (42 U.S.C. 1395m(a)(16)), as added by subsection (a), is amended by adding at the end the following flush sentence:

The Secretary, in the Secretary's discretion, may impose the requirements of the previous sentence with respect to some or all classes of suppliers of ambulance services described in section 1861(s)(7) and clinics that furnish medical and other health services (other than physicians' services) under this part.''.

(d) APPLICATION TO COMPREHENSIVE OUTPATIENT REHABILITATION FACILITIES (CORFS).—Section 1861(cc)(2) (42 U.S.C. 1395x(cc)(2)) is amended—

(1) in subparagraph (I), by inserting before the period at the end the following: ''and providing the Secretary on a continuing basis with a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000''; and

(2) by adding at the end the following flush sentence:

''The Secretary may waive the requirement of a bond under subparagraph (I) in the case of a facility that provides a comparable surety bond under State law.''.

(e) APPLICATION TO REHABILITATION AGENCIES.—Section 1861(p) (42 U.S.C. 1395x(p)) is amended—

(1) in paragraph (4)(A)(v), by inserting after ''as the Secretary may find necessary,'' the following: ''and provides the Secretary, to the extent required by the Secretary, on a continuing basis with a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000,'', and

(2) by adding at the end the following: ''The Secretary may waive the requirement of a bond under paragraph (4)(A)(v) in the case of a clinic or agency that provides a comparable surety bond under State law.''.

(f) EFFECTIVE DATES.—

(1) SUPPLIERS OF DURABLE MEDICAL EQUIPMENT.—The amendment made by subsection (a) shall apply to suppliers of durable medical equipment with respect to such equipment furnished on or after January 1, 1998.

(2) HOME HEALTH AGENCIES.—The amendments made by subsection (b) shall apply to home health agencies with respect to services furnished on or after January 1, 1998. The Secretary of Health and Human Services shall modify participation agreements under section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) with respect to home health agencies to provide for implementation of such amendments on a timely basis.

(3) OTHER AMENDMENTS.—The amendments made by subsections (c) through (e) shall take effect on the date of the enactment of this Act and may be applied with respect to items and services furnished on or after the date specified in paragraph (1).

SEC. 5212. PROVISION OF CERTAIN IDENTIFICATION NUMBERS.

(a) REQUIREMENTS TO DISCLOSE EMPLOYER IDENTIFICATION NUMBERS (EINS) AND SOCIAL SECURITY ACCOUNT NUMBERS (SSNS).—Section 1124(a)(1) (42 U.S.C. 1320a–3(a)(1)) is amended by inserting before the period at the end the following: ''and supply the Secretary with the both the employer identification number (assigned pursuant to section 6109 of the Internal Revenue Code of 1986) and social security account number (assigned under section 205(c)(2)(B)) of the disclosing entity, each person with an ownership or control interest (as defined in subsection (a)(3)), and any subcontractor in which the entity directly or indirectly has a 5 percent or more ownership interest''.

(b) OTHER MEDICARE PROVIDERS.—Section 1124A (42 U.S.C. 1320a–3a) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''and'' at the end;

(B) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(3) including the employer identification number (assigned pursuant to section 6109 of the Internal Revenue Code of 1986) and social security account number (assigned under section 205(c)(2)(B)) of the disclosing part B provider and any person, managing employee, or other entity identified or described under paragraph (1) or (2).''; and

(2) in subsection (c)(1), by inserting ''(or, for purposes of subsection (a)(3), any entity receiving payment)'' after ''on an assignment-related basis''.

(c) VERIFICATION BY SOCIAL SECURITY ADMINISTRATION (SSA).—Section 1124A (42 U.S.C. 1320a–3a), as amended by subsection (b), is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

''(c) VERIFICATION.—

''(1) TRANSMITTAL BY HHS.—The Secretary shall transmit—

''(A) to the Commissioner of Social Security information concerning each social security account number (assigned under section 205(c)(2)(B)), and

''(B) to the Secretary of the Treasury information concerning each employer identification number (assigned pursuant to section 6109 of the Internal Revenue Code of 1986),

supplied to the Secretary pursuant to subsection (a)(3) or section 1124(c) to the extent necessary for verification of such information in accordance with paragraph (2).

''(2) VERIFICATION.—The Commissioner of Social Security and the Secretary of the Treasury shall verify the accuracy of, or correct, the information supplied by the Secretary to such official pursuant to paragraph (1), and shall report such verifications or corrections to the Secretary.

''(3) FEES FOR VERIFICATION.—The Secretary shall reimburse the Commissioner and Secretary of the Treasury, at a rate negotiated between the Secretary and such official, for the costs incurred by such official in performing the verification and correction services described in this subsection.''.

(d) REPORT.—The Secretary of Health and Human Services shall submit to Congress a report on steps the Secretary has taken to assure the confidentiality of social security account numbers that will be provided to the Secretary under the amendments made by this section.

(e) EFFECTIVE DATES.—

(1) DISCLOSURE REQUIREMENTS.—The amendment made by subsection (a) shall apply to the application of conditions of participation, and entering into and renewal of contracts and agreements, occurring more than 90 days after the date of submission of the report under subsection (d).

(2) OTHER PROVIDERS.—The amendments made by subsection (b) shall apply to payment for items and services furnished more than 90 days after the date of submission of such report.

SEC. 5213. APPLICATION OF CERTAIN PROVISIONS OF THE BANKRUPTCY CODE.

(a) RESTRICTED APPLICABILITY OF BANKRUPTCY STAY, DISCHARGE, AND PREFERENTIAL TRANSFER PROVISIONS TO MEDICARE AND MEDICAID DEBTS.—Part A of title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1143 the following:

''APPLICATION OF CERTAIN PROVISIONS OF THE BANKRUPTCY CODE

''SEC. 1144. (a) MEDICARE AND MEDICAID-RELATED ACTIONS NOT STAYED BY BANKRUPTCY PROCEEDINGS.—The commencement or continuation of any action against a debtor under this title or title XVIII or XIX (other than an action with respect to health care services for the debtor under title XVIII), including any action or proceeding to exclude or suspend the debtor from program participation, assess civil money penalties, recoup or set off overpayments, or deny or suspend payment of claims shall not be subject to the provisions of section 362(a) of title 11, United States Code.

''(b) CERTAIN MEDICARE- AND MEDICAID-RELATED DEBT NOT DISCHARGEABLE IN BANKRUPTCY.—A debt owed to the United States or to a State for an overpayment under title XVIII or XIX (other than an overpayment for health care services for the debtor under title XVIII) resulting from the fraudulent actions of the debtor, or for a penalty, fine, or assessment under this title or title XVIII or XIX, shall not be dischargeable under any provision of title 11, United States Code.

''(c) REPAYMENT OF CERTAIN DEBTS CONSIDERED FINAL.—Payments made to repay a debt to the United States or to a State with respect to items or services provided, or claims for payment made, under title XVIII or XIX (including repayment of an overpayment (other than an overpayment for health care services for the debtor under title XVIII) resulting from the fraudulent actions of the debtor), or to pay a penalty, fine, or assessment under this title or title XVIII or XIX, shall be considered final and not preferential transfers under section 547 of title 11, United States Code.''.

(b) MEDICARE RULES APPLICABLE TO BANKRUPTCY PROCEEDINGS.—Title XVIII (42 U.S.C. 1395 et seq.) is amended by adding at the end the following:

''APPLICATION OF PROVISIONS OF THE BANKRUPTCY CODE

''SEC. 1894. (a) USE OF MEDICARE STANDARDS AND PROCEDURES.—Notwithstanding any provision of title 11, United States Code, or any other provision of law, in the case of claims by a debtor in bankruptcy for payment under this title, the determination of whether the claim is allowable and of the amount payable, shall be made in accordance with the provisions of this title and title XI and implementing regulations.

''(b) NOTICE TO CREDITOR OF BANKRUPTCY PETITIONER.—In the case of a debt owed to the United States with respect to items or services provided, or claims for payment made, under this title (including a debt arising from an overpayment or a penalty, fine, or assessment under title XI or this title), the notices to the creditor of bankruptcy petitions, proceedings, and relief required under title 11, United States Code (including under section 342 of that title and section 2002(j) of the Federal Rules of Bankruptcy Procedure), shall be given to the Secretary. Provision of such notice to a fiscal agent of the Secretary shall not be considered to satisfy this requirement.

''(c) TURNOVER OF PROPERTY TO THE BANKRUPTCY ESTATE.—For purposes of section 542(b) of title 11, United States Code, a claim for payment under this title shall not be considered to be a matured debt payable to the estate of a debtor until such claim has been allowed by the Secretary in accordance with procedures under this title.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bankruptcy petitions filed after the date of the enactment of this Act.

SEC. 5214. REPLACEMENT OF REASONABLE CHARGE METHODOLOGY BY FEE SCHEDULES.

(a) IN GENERAL.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended in the matter preceding subparagraph (A) by striking ''the reasonable charges for the services'' and inserting ''the lesser of the actual charges for the services and the amounts determined by the applicable fee schedules developed by the Secretary for the particular services''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(A) in subparagraph (A), by striking ''reasonable charges for'' and inserting ''payment bases otherwise applicable to'';

(B) in subparagraph (B), by striking ''reasonable charges'' and inserting ''fee schedule amounts''; and

(C) by inserting after subparagraph (F) the following: ''(G) with respect to services described in clause (i) or (ii) of section 1861(s)(2)(K) (relating to physician assistants and nurse practitioners), the amounts paid shall be 80 percent of the lesser of the actual charge for the services and the applicable amount determined under subclause (I) or (II) of section 1842(b)(12)(A)(ii),''.

(2) Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(A) in subparagraph (B), in the matter preceding clause (i), by striking ''(C), (D),'' and inserting ''(D)''; and

(B) by striking subparagraph (C).

(3) Section 1833(l) (42 U.S.C. 1395l(l)) is amended—

(A) in paragraph (3)—

(i) by striking subparagraph (B); and

(ii) by striking ''(3)(A)'' and inserting ''(3)''; and

(B) by striking paragraph (6).

(4) Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended by striking ''paragraphs (8) and (9)'' and all that follows through ''section 1848(i)(3).'' and inserting ''section 1842(b)(8) to covered items and suppliers of such items and payments under this subsection as such provisions would otherwise apply to physicians' services and physicians.''.

(5) Section 1834(g)(1)(A)(ii) (42 U.S.C. 1395m(g)(1)(A)(ii)) is amended in the heading by striking ''REASONABLE CHARGES FOR PROFESSIONAL'' and inserting ''PROFESSIONAL''.

(6) Section 1842(a) (42 U.S.C. 1395u(a)) is amended—

(A) in the matter preceding paragraph (1), by striking ''reasonable charge'' and inserting ''fee schedule''; and

(B) in paragraph (1)(A), by striking ''reasonable charge'' and inserting ''other''.

(7) Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(A) in subparagraph (B)—

(i) in the matter preceding clause (i), by striking ''where payment'' and all that follows through ''made—'' and inserting ''where payment under this part for a service is on a basis other than a cost basis, such payment will (except as otherwise provided in section 1870(f)) be made—''; and

(ii) by striking clause (ii)(I) and inserting the following: ''(I) the amount determined by the applicable payment basis under this part is the full charge for the service,''; and

(B) by striking the second, third, fourth, fifth, sixth, eighth, and ninth sentences.

(8) Section 1842(b)(4) (42 U.S.C. 1395u(b)(4)) is amended to read as follows:

''(4) In the case of an enteral or parenteral pump that is furnished on a rental basis during a period of medical need—

''(A) monthly rental payments shall not be made under this part for more than 15 months during that period, and

''(B) after monthly rental payments have been made for 15 months during that period, payment under this part shall be made for maintenance and servicing of the pump in amounts that the Secretary determines to be reasonable and necessary to ensure the proper operation of the pump.''.

(9) Section 6112(b) (42 U.S.C. 1395m note; Public Law 101–239) of OBRA—1989 is repealed.

(10) Section 1842(b)(7) (42 U.S.C. 1395u(b)(7)) is amended—

(A) in subparagraph (D)(i), in the matter preceding subclause (I), by striking '', to the extent that such payment is otherwise allowed under this paragraph,'';

(B) in subparagraph (D)(ii), by striking ''subparagraph'' and inserting ''paragraph'';

(C) by striking ''(7)(A) In the case of'' and all that follows through subparagraph (C);

(D) by striking ''(D)(i)'' and inserting ''(7)(A)'';

(E) by redesignating clauses (ii) and (iii) as subparagraphs (B) and (C), respectively; and

(F) by redesignating subclauses (I), (II), and (III) of subparagraph (A) (as redesignated by subparagraph (D) of this paragraph) as clauses (i), (ii), and (iii), respectively.

(11) Section 1842(b)(9) (42 U.S.C. 1395u(b)(9)) is repealed.

(12) Section 1842(b)(10) (42 U.S.C. 1395u(b)(10)) is repealed.

(13) Section 1842(b)(11) (42 U.S.C. 1395u(b)(11)) is amended—

(A) by striking subparagraphs (B) through (D);

(B) by striking ''(11)(A)'' and inserting ''(11)''; and

(C) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively.

(14) Section 1842(b)(12)(A)(ii) (42 U.S.C. 1395u(b)(12)(A)(ii)) is amended—

(A) in the matter preceding subclause (I), by striking ''prevailing charges determined under paragraph (3)'' and inserting ''the amounts determined under section 1833(a)(1)(G)''; and

(B) in subclause (II), by striking ''prevailing charge rate'' and all that follows up to the period and inserting ''fee schedule amount specified in section 1848 for such services performed by physicians''.

(15) Paragraphs (14) through (17) of section 1842(b) (42 U.S.C. 1395u(b)) are repealed.

(16) Section 1842(b) (42 U.S.C. 1395u(b)) is amended—

(A) in paragraph (18)(A), by striking ''reasonable charge or''; and

(B) by redesignating paragraph (18) as paragraph (14).

(17) Section 1842(j)(1) (42 U.S.C. 1395u(j)) is amended to read as follows:

''(j)(1) See subsections (k), (l), (m), (n), and (p) as to the cases in which sanctions may be applied under paragraph (2).''.

(18) Section 1842(j)(4) (42 U.S.C. 1395u(j)(4)) is amended by striking ''under paragraph (1)''.

(19) Section 1842(n)(1)(A) (42 U.S.C. 1395u(n)(1)(A)) is amended by striking ''reasonable charge (or other applicable limit)'' and inserting ''other applicable limit''.

(20) Section 1842(q) (42 U.S.C. 1395u(q)) is amended—

(A) by striking paragraph (1)(B); and

(B) by striking ''(q)(1)(A)'' and inserting ''(q)(1)''.

(21) Section 1845(b)(1) (42 U.S.C. 1395w–1(b)(1)) is amended by striking ''adjustments to the reasonable charge levels for physicians' services recognized under section 1842(b) and''.

(22) Section 1848(i)(3) (42 U.S.C. 1395w–4(i)(3)) is repealed.

(23) Section 1866(a)(2)(A)(ii) (42 U.S.C. 1395cc(a)(2)(A)(ii)) is amended by striking ''reasonable charges'' and all that follows through ''provider)'' and inserting ''amount customarily charged for the items and services by the provider''.

(24) Section 1881(b)(3)(A) (42 U.S.C. 1395rr(b)(3)(A)) is amended by striking ''a reasonable charge'' and all that follows through ''section 1848)'' and inserting ''the basis described in section 1848''.

(25) Section 9340 of OBRA—1986 (42 U.S.C. 1395u note; Public Law 99-509) is repealed.

(c) EFFECTIVE DATES.—The amendments made by this section to the extent such amendments substitute fee schedules for reasonable charges, shall apply to particular services as of the date specified by the Secretary of Health and Human Services.

(d) INITIAL BUDGET NEUTRALITY.—The Secretary, in developing a fee schedule for particular services (under the amendments made by this section), shall set amounts for the first year period to which the fee schedule applies at a level so that the total payments under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) for those services for that year period shall be approximately equal to the estimated total payments if those amendments had not been made.

SEC. 5215. APPLICATION OF INHERENT REASONABLENESS TO ALL PART B SERVICES OTHER THAN PHYSICIANS' SERVICES.

(a) IN GENERAL.—Section 1842(b)(8) (42 U.S.C. 1395u(b)(8)) is amended to read as follows:

''(8) The Secretary shall describe by regulation the factors to be used in determining the cases (of particular items or services) in which the application of this part (other than to physicians' services paid under section 1848) results in the determination of an amount that, because of its being grossly excessive or grossly deficient, is not inherently reasonable, and provide in those cases for the factors to be considered in establishing an amount that is realistic and equitable.''.

(b) CONFORMING AMENDMENT.—Section 1834(a)(10) (42 U.S.C. 1395m(a)(10)(B)) is amended—

(1) by striking subparagraph (B); and

(2) by redesignating subparagraph (C) as subparagraph (B).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5216. REQUIREMENT TO FURNISH DIAGNOSTIC INFORMATION.

(a) INCLUSION OF NON-PHYSICIAN PRACTITIONERS IN REQUIREMENT TO PROVIDE DIAGNOSTIC CODES FOR PHYSICIAN SERVICES.—Paragraphs (1) and (2) of section 1842(p) (42 U.S.C. 1395u(p)) are each amended by inserting ''or practitioner specified in subsection (b)(18)(C)'' after ''by a physician''.

(b) REQUIREMENT TO PROVIDE DIAGNOSTIC INFORMATION WHEN ORDERING CERTAIN ITEMS OR SERVICES FURNISHED BY ANOTHER ENTITY.—Section 1842(p) (42 U.S.C. 1395u(p)), is amended by adding at the end the following:

''(4) In the case of an item or service defined in paragraph (3), (6), (8), or (9) of subsection 1861(s) ordered by a physician or a practitioner specified in subsection (b)(18)(C), but furnished by another entity, if the Secretary (or fiscal agent of the Secretary) requires the entity furnishing the item or service to provide diagnostic or other medical information for payment to be made to the entity, the physician or practitioner shall provide that information to the entity at the time that the item or service is ordered by the physician or practitioner.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 5217. REPORT BY GAO ON OPERATION OF FRAUD AND ABUSE CONTROL PROGRAM.

Section 1817(k)(6) (42 U.S.C. 1395i(k)(6)) is amended by inserting ''June 1, 1998, and'' after ''Not later than''.

SEC. 5218. COMPETITIVE BIDDING.

(a) GENERAL RULE.—Part B of title XVIII (42 U.S.C. 1395j et seq.) is amended by inserting after section 1846 the following:

''SEC. 1847. COMPETITIVE ACQUISITION OF ITEMS AND SERVICES.

''(a) ESTABLISHMENT OF BIDDING AREAS.—

''(1) IN GENERAL.—The Secretary shall establish competitive acquisition areas for contract award purposes for the furnishing under this part after 1997 of the items and services described in subsection (c). The Secretary may establish different competitive acquisition areas under this subsection for different classes of items and services.

''(2) CRITERIA FOR ESTABLISHMENT.—The competitive acquisition areas established under paragraph (1) shall be chosen based on the availability and accessibility of entities able to furnish items and services, and the probable savings to be realized by the use of competitive bidding in the furnishing of items and services in the area.

''(b) AWARDING OF CONTRACTS IN AREAS.—

''(1) IN GENERAL.—The Secretary shall conduct a competition among individuals and entities supplying items and services described in subsection (c) for each competitive acquisition area established under subsection (a) for each class of items and services.

''(2) CONDITIONS FOR AWARDING CONTRACT.—The Secretary may not award a contract to any entity under the competition conducted pursuant to paragraph (1) to furnish an item or service unless the Secretary finds that the entity meets quality standards specified by the Secretary, and subject to paragraph (3), that the total amounts to be paid under the contract are expected to be less than the total amounts that would otherwise be paid.

''(3) LIMIT ON AMOUNT OF PAYMENT.—The Secretary may not under a contract awarded under this section provide for payment for an item or service in an amount in excess of the applicable fee schedule under this part for similar or related items or services. The preceding sentence shall not apply if the Secretary determines that an amount in excess of such amount is warranted by reason of technological innovation, quality improvement, or similar reasons, except that the total amount paid under the contract shall not exceed the limit under paragraph (2).

''(4) CONTENTS OF CONTRACT.—A contract entered into with an entity under the competition conducted pursuant to paragraph (1) is subject to terms and conditions that the Secretary may specify.

''(5) LIMIT ON NUMBER OF CONTRACTORS.—The Secretary may limit the number of contractors in a competitive acquisition area to the number needed to meet projected demand for items and services covered under the contracts.

''(c) SERVICES DESCRIBED.—The items and services to which this section applies are all items and services covered under this part (except for physician services as defined by 1861(r)) that the Secretary may specify.''.

(b) ITEMS AND SERVICES TO BE FURNISHED ONLY THROUGH COMPETITIVE ACQUISITION.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) by striking ''or'' at the end of paragraph (14),

(2) by striking the period at the end of paragraph (15) and inserting ''; or'', and

(3) by inserting after paragraph (15) the following:

''(16) where the expenses are for an item or service furnished in a competitive acquisition area (as established by the Secretary under section 1847(a)) by an entity other than an entity with which the Secretary has entered into a contract under section 1847(b) for the furnishing of such an item or service in that area, unless the Secretary finds that the expenses were incurred in a case of urgent need, or in other circumstances specified by the Secretary.''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) apply to items and services furnished after December 31, 1997.

SEC. 5219. IMPROVING INFORMATION TO MEDICARE BENEFICIARIES.

(a) CLARIFICATION OF REQUIREMENT TO PROVIDE EXPLANATION OF MEDICARE BENEFITS.—Section 1804 of the Social Security Act (42 U.S.C. 1395b–2) is amended by adding at the end the following new subsection:

''(c)(1) The Secretary shall provide a statement which explains the benefits provided under this title with respect to each item or service for which payment may be made under this title which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to such item or service.

''(2) Each explanation of benefits provided under paragraph (1) shall include—

''(A) a statement which indicates that because errors do occur and because medicare fraud, waste and abuse is a significant problem, beneficiaries should carefully check the statement for accuracy and report any errors or questionable charges by calling the toll-free phone number described in subparagraph (C);

''(B) a statement of the beneficiary's right to request an itemized bill (as provided in section 1128A(n)); and

''(C) a toll-free telephone number for reporting errors, questionable charges or other acts that would constitute medicare fraud, waste, or abuse, which may be the same number as described in subsection (b).''.

(b) REQUEST FOR ITEMIZED BILL FOR MEDICARE ITEMS AND SERVICES.—

(1) IN GENERAL.—Section 1128A of the Social Security Act (42 U.S.C. 1320a–7a) is amended by adding at the end the following new subsection:

''(m) WRITTEN REQUEST FOR ITEMIZED BILL.—

''(1) IN GENERAL.—A beneficiary may submit a written request for an itemized bill for medical or other items or services provided to such beneficiary by any person (including an organization, agency, or other entity) that receives payment under title XVIII for providing such items or services to such beneficiary.

''(2) 30-DAY PERIOD TO RECEIVE BILL.—

''(A) IN GENERAL.—Not later than 30 days after the date on which a request under paragraph (1) has been received, a person described in such paragraph shall furnish an itemized bill describing each medical or other item or service provided to the beneficiary requesting the itemized bill.

''(B) PENALTY.—Whoever knowingly fails to furnish an itemized bill in accordance with subparagraph (A) shall be subject to a civil fine of not more than $100 for each such failure.

''(3) REVIEW OF ITEMIZED BILL.—

''(A) IN GENERAL.—Not later than 90 days after the receipt of an itemized bill furnished under paragraph (1), a beneficiary may submit a written request for a review of the itemized bill to the appropriate fiscal intermediary or carrier with a contract under section 1816 or 1842.

''(B) SPECIFIC ALLEGATIONS.—A request for a review of the itemized bill shall identify—

''(i) specific medical or other items or services that the beneficiary believes were not provided as claimed, or

''(ii) any other billing irregularity (including duplicate billing).

''(4) FINDINGS OF FISCAL INTERMEDIARY OR CARRIER.—Each fiscal intermediary or carrier with a contract under section 1816 or 1842 shall, with respect to each written request submitted to the fiscal intermediary or carrier under paragraph (3), determine whether the itemized bill identifies specific medical or other items or services that were not provided as claimed or any other billing irregularity (including duplicate

billing) that has resulted in unnecessary payments under the title XVIII.

''(5) RECOVERY OF AMOUNTS.—The Secretary shall require fiscal intermediaries and carriers to take all appropriate measures to recover amounts unnecessarily paid under title XVIII with respect to a bill described in paragraph (4).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to medical or other items or services provided on or after January 1, 1998.

SEC. 5220. PROHIBITING UNNECESSARY AND WASTEFUL MEDICARE PAYMENTS FOR CERTAIN ITEMS.

Section 1861(v) of the Social Security Act is amended by adding at the end the following new paragraph:

''(8) ITEMS UNRELATED TO PATIENT CARE.—Reasonable costs do not include costs for the following—

''(i) entertainment;

''(ii) gifts or donations;

''(iii) costs for fines and penalties resulting from violations of Federal, State, or local laws; and

''(iv) education expenses for spouses or other dependents of providers of services, their employees or contractors.''.

SEC. 5221. REDUCING EXCESSIVE BILLINGS AND UTILIZATION FOR CERTAIN ITEMS.

Section 1834(a)(15) of the Social Security Act (42 U.S.C. 1395m(a)(15)) is amended by striking ''Secretary may'' both places it appears and inserting ''Secretary shall''.

SEC. 5222. IMPROVING INFORMATION TO MEDICARE BENEFICIARIES.

(a) CLARIFICATION OF REQUIREMENT TO PROVIDE EXPLANATION OF MEDICARE BENEFITS.—Section 1804 of the Social Security Act (42 U.S.C. 1395b–2) is amended by adding at the end the following new subsection:

''(c)(1) The Secretary shall provide a statement which explains the benefits provided under this title with respect to each item or service for which payment may be made under this title which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to such item or service.

''(2) Each explanation of benefits provided under paragraph (1) shall include—

''(A) a statement which indicates that because errors do occur and because medicare fraud, waste and abuse is a significant problem, beneficiaries should carefully check the statement for accuracy and report any errors or questionable charges by calling the toll-free phone number described in subparagraph (C);

''(B) a statement of the beneficiary's right to request an itemized bill (as provided in section 1128A(n)); and

''(C) a toll-free telephone number for reporting errors, questionable charges or other acts that would constitute medicare fraud, waste, or abuse, which may be the same number as described in subsection (b).''.

(b) REQUEST FOR ITEMIZED BILL FOR MEDICARE ITEMS AND SERVICES.—

(1) IN GENERAL.—Section 1128A of the Social Security Act (42 U.S.C. 1320a–7a) is amended by adding at the end the following new subsection:

''(m) WRITTEN REQUEST FOR ITEMIZED BILL.—

''(1) IN GENERAL.—A beneficiary may submit a written request for an itemized bill for medical or other items or services provided to such beneficiary by any person (including an organization, agency, or other entity) that receives payment under title XVIII for providing such items or services to such beneficiary.

''(2) 30-DAY PERIOD TO RECEIVE BILL.—

''(A) IN GENERAL.—Not later than 30 days after the date on which a request under paragraph (1) has been received, a person described in such paragraph shall furnish an itemized bill describing each medical or other item or service provided to the beneficiary requesting the itemized bill.

''(B) PENALTY.—Whoever knowingly fails to furnish an itemized bill in accordance with subparagraph (A) shall be subject to a civil fine of not more than $100 for each such failure.

''(3) REVIEW OF ITEMIZED BILL.—

''(A) IN GENERAL.—Not later than 90 days after the receipt of an itemized bill furnished under paragraph (1), a beneficiary may submit a written request for a review of the itemized bill to the appropriate fiscal intermediary or carrier with a contract under section 1816 or 1842.

''(B) SPECIFIC ALLEGATIONS.—A request for a review of the itemized bill shall identify—

''(i) specific medical or other items or services that the beneficiary believes were not provided as claimed, or

''(ii) any other billing irregularity (including duplicate billing).

''(4) FINDINGS OF FISCAL INTERMEDIARY OR CARRIER.—Each fiscal intermediary or carrier with a contract under section 1816 or 1842 shall, with respect to each written request submitted to the fiscal intermediary or carrier under paragraph (3), determine whether the itemized bill identifies specific medical or other items or services that were not provided as claimed or any other billing irregularity (including duplicate billing) that has resulted in unnecessary payments under the title XVIII.

''(5) RECOVERY OF AMOUNTS.—The Secretary shall require fiscal intermediaries and carriers to take all appropriate measures to recover amounts unnecessarily paid under title XVIII with respect to a bill described in paragraph (4).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to medical or other items or services provided on or after January 1, 1998.

SEC. 5223. PROHIBITING UNNECESSARY AND WASTEFUL MEDICARE PAYMENTS FOR CERTAIN ITEMS.

Notwithstanding any other provision of law, including any regulation or payment policy, the following categories of charges shall not be reimbursable under title XVIII of the Social Security Act:

(1) Entertainment costs, including the costs of tickets to sporting and other entertainment events.

(2) Gifts or donations.

(3) Personal use of motor vehicles.

(4) Costs for fines and penalties resulting from violations of Federal, State, or local laws.

(5) Tuition or other education fees for spouses or dependents of providers of services, their employees, or contractors.

SEC. 5224. REDUCING EXCESSIVE BILLINGS AND UTILIZATION FOR CERTAIN ITEMS.

Section 1834(a)(15) of the Social Security Act (42 U.S.C. 1395m(a)(15)) is amended by striking ''Secretary may'' both places it appears and inserting ''Secretary shall''.

SEC. 5225. IMPROVED CARRIER AUTHORITY TO REDUCE EXCESSIVE MEDICARE PAYMENTS.

Section 1834(i) of the Social Security Act (42 U.S.C. 1395m(i)) is amended by adding at the end the following new paragraph:

''(3) GROSSLEY EXCESSIVE PAYMENT AMOUNTS.—Notwithstanding paragraph (1), the Secretary may apply the provisions of section 1842(b)(8) to payments under this subsection.''.

SEC. 5226. ITEMIZATION OF SURGICAL DRESSING BILLS SUBMITTED BY HOME HEALTH AGENCIES.

Section 1834(i)(2) (42 U.S.C. 1395m(i)(2)) is amended to read as follows:

''(2) EXCEPTION.—Paragraph (1) shall not apply to surgical dressings that are furnished as an incident to a physician's professional service.''.

CHAPTER 3—CLARIFICATIONS AND TECHNICAL CHANGES

SEC. 5231. OTHER FRAUD AND ABUSE RELATED PROVISIONS.

(a) REFERENCE CORRECTION.—(1) Section 1128D(b)(2)(D) (42 U.S.C. 1320a–7d(b)(2)(D)), as added by section 205 of the Health Insurance Portability and Accountability Act of 1996, is amended by striking ''1128B(b)'' and inserting ''1128A(b)''.

(2) Section 1128E(g)(3)(C) (42 U.S.C. 1320a–7e(g)(3)(C)) is amended by striking ''Veterans' Administration'' and inserting ''Department of Veterans Affairs''.

(b) LANGUAGE IN DEFINITION OF CONVICTION.—Section 1128E(g)(5) (42 U.S.C. 1320a–7e(g)(5)), as inserted by section 221(a) of the Health Insurance Portability and Accountability Act of 1996, is amended by striking ''paragraph (4)'' and inserting ''paragraphs (1) through (4)''.

(c) IMPLEMENTATION OF EXCLUSIONS.—Section 1128 (42 U.S.C. 1320a–7) is amended—

(1) in subsection (a), by striking ''any program under title XVIII and shall direct that the following individuals and entities be excluded from participation in any State health care program (as defined in subsection (h))'' and inserting ''any Federal health care program (as defined in section 1128B(f))''; and

(2) in subsection (b), by striking ''any program under title XVIII and may direct that the following individuals and entities be excluded from participation in any State health care program'' and inserting ''any Federal health care program (as defined in section 1128B(f))''.

(d) SANCTIONS FOR FAILURE TO REPORT.—Section 1128E(b) (42 U.S.C. 1320a–7e(b)), as inserted by section 221(a) of the Health Insurance Portability and Accountability Act of 1996, is amended by adding at the end the following:

''(6) SANCTIONS FOR FAILURE TO REPORT.—

''(A) HEALTH PLANS.—Any health plan that fails to report information on an adverse action required to be reported under this subsection shall be subject to a civil money penalty of not more than $25,000 for each such adverse action not reported. Such penalty shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1128A are imposed and collected under that section.

''(B) GOVERNMENTAL AGENCIES.—The Secretary shall provide for a publication of a public report that identifies those Government agencies that have failed to report information on adverse actions as required to be reported under this subsection.''.

(e) CLARIFICATION OF TREATMENT OF CERTAIN WAIVERS AND PAYMENTS OF PREMIUMS.—

(1) Section 1128A(i)(6) (42 U.S.C. 1320a–7a(i)(6)) is amended—

(A) in subparagraph (A)(iii)—

(i) in subclause (I), by adding ''or'' at the end;

(ii) in subclause (II), by striking ''or'' at the end; and

(iii) by striking subclause (III);

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D); and

(C) by inserting after subparagraph (A) the following:

''(B) any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;''.

(2) Section 1128A(i)(6) (42 U.S.C. 1320a–7a(i)(6)), is amended—

(A) in subparagraph (C), as redesignated by paragraph (1), by striking ''or'' at the end;

(B) in subparagraph (D), as so redesignated, by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(D) the waiver of deductible and coinsurance amounts pursuant to medicare supplemental policies under section 1882(t).''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall be effective as if included in the enactment of the Health Insurance Portability and Accountability Act of 1996.

(2) FEDERAL HEALTH PROGRAM.—The amendments made by subsection (c) shall take effect on the date of the enactment of this Act.

(3) SANCTION FOR FAILURE TO REPORT.—The amendment made by subsection (d) shall apply to failures occurring on or after the date of the enactment of this Act.

(4) CLARIFICATION.—The amendments made by subsection (e)(2) shall take effect on the date of the enactment of this Act.

Subtitle E—Prospective Payment Systems

CHAPTER 1—PROVISIONS RELATING TO PART A

SEC. 5301. PROSPECTIVE PAYMENT FOR INPATIENT REHABILITATION HOSPITAL SERVICES.

(a) IN GENERAL.—Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

''(j) PROSPECTIVE PAYMENT FOR INPATIENT REHABILITATION SERVICES.—

''(1) PAYMENT DURING TRANSITION PERIOD.—

''(A) IN GENERAL.—Notwithstanding section 1814(b), but subject to the provisions of section 1813, the amount of the payment with respect to the operating and capital costs of inpatient hospital services of a rehabilitation hospital or a rehabilitation unit (in this subsection referred to as a 'rehabilitation facility'), in a cost reporting period beginning on or after October 1, 2000, and before October 1, 2003, is equal to the sum of—

''(i) the TEFRA percentage (as defined in subparagraph (C)) of the amount that would have been paid under part A of this title with respect to such costs if this subsection did not apply, and

''(ii) the prospective payment percentage (as defined in subparagraph (C)) of the product of (I) the per unit payment rate established under this subsection for the fiscal year in which the payment unit of service occurs, and (II) the number of such payment units occurring in the cost reporting period.

''(B) FULLY IMPLEMENTED SYSTEM.—Notwithstanding section 1814(b), but subject to the provisions of section 1813, the amount of the payment with respect to the operating and capital costs of inpatient hospital services of a rehabilitation facility for a payment unit in a cost reporting period beginning on or after October 1, 2003, is equal to the per unit payment rate established under this subsection for the fiscal year in which the payment unit of service occurs.

''(C) TEFRA AND PROSPECTIVE PAYMENT PERCENTAGES SPECIFIED.—For purposes of subparagraph (A), for a cost reporting period beginning—

''(i) on or after October 1, 2000, and before October 1, 2001, the 'TEFRA percentage' is 75 percent and the 'prospective payment percentage' is 25 percent;

''(ii) on or after October 1, 2001, and before October 1, 2002, the 'TEFRA percentage' is 50 percent and the 'prospective payment percentage' is 50 percent; and

''(iii) on or after October 1, 2002, and before October 1, 2003, the 'TEFRA percentage' is 25 percent and the 'prospective payment percentage' is 75 percent.

''(D) PAYMENT UNIT.—For purposes of this subsection, the term 'payment unit' means a discharge, day of inpatient hospital services, or other unit of payment defined by the Secretary.

''(2) PATIENT CASE MIX GROUPS.—

''(A) ESTABLISHMENT.—The Secretary shall establish—

''(i) classes of patients of rehabilitation facilities (each in this subsection referred to as a 'case mix group'), based on such factors as the Secretary deems appropriate, which may include impairment, age, related prior hospitalization, comorbidities, and functional capability of the patient; and

''(ii) a method of classifying specific patients in rehabilitation facilities within these groups.

''(B) WEIGHTING FACTORS.—For each case mix group the Secretary shall assign an appropriate weighting which reflects the relative facility resources used with respect to patients classified within that group compared to patients classified within other groups.

''(C) ADJUSTMENTS FOR CASE MIX.—

''(i) IN GENERAL.—The Secretary shall from time to time adjust the classifications and weighting factors established under this paragraph as appropriate to reflect changes in treatment patterns, technology, case mix, number of payment units for which payment is made under this title, and other factors which may affect the relative use of resources. Such adjustments shall be made in a manner so that changes in aggregate payments under the classification system are a result of real changes and are not a result of changes in coding that are unrelated to real changes in case mix.

''(ii) ADJUSTMENT.—Insofar as the Secretary determines that such adjustments for a previous fiscal year (or estimates that such adjustments for a future fiscal year) did (or are likely to) result in a change in aggregate payments under the classification system during the fiscal year that are a result of changes in the coding or classification of patients that do not reflect real changes in case mix, the Secretary shall adjust the per payment unit payment rate for subsequent years so as to discount the effect of such coding or classification changes.

''(D) DATA COLLECTION.—The Secretary is authorized to require rehabilitation facilities that provide inpatient hospital services to submit such data as the Secretary deems necessary to establish and administer the prospective payment system under this subsection.

''(3) PAYMENT RATE.—

''(A) IN GENERAL.—The Secretary shall determine a prospective payment rate for each payment unit for which such rehabilitation facility is entitled to receive payment under this title. Subject to subparagraph (B), such rate for payment units occurring during a fiscal year shall be based on the average payment per payment unit under this title for inpatient operating and capital costs of rehabilitation facilities using the most recent data available (as estimated by the Secretary as of the date of establishment of the system) adjusted—

''(i) by updating such per-payment-unit amount to the fiscal year involved by the weighted average of the applicable percentage increases provided under subsection (b)(3)(B)(ii) (for cost reporting periods beginning during the fiscal year) covering the period from the midpoint of the period for such data through the midpoint of fiscal year 2000 and by an increase factor (described in subparagraph (C)) specified by the Secretary for subsequent fiscal years up to the fiscal year involved;

''(ii) by reducing such rates by a factor equal to the proportion of payments under this subsection (as estimated by the Secretary) based on prospective payment amounts which are additional payments described in paragraph (4) (relating to outlier and related payments) or paragraph (7);

''(iii) for variations among rehabilitation facilities by area under paragraph (6);

''(iv) by the weighting factors established under paragraph (2)(B); and

''(v) by such other factors as the Secretary determines are necessary to properly reflect variations in necessary costs of treatment among rehabilitation facilities.

''(B) BUDGET NEUTRAL RATES.—The Secretary shall establish the prospective payment amounts under this subsection for payment units during fiscal years 2001 through 2004 at levels such that, in the Secretary's estimation, the amount of total payments under this subsection for such fiscal years (including any payment adjustments pursuant to paragraph (7)) shall be equal to 99 percent of the amount of payments that would have been made under this title during the fiscal years for operating and capital costs of rehabilitation facilities had this subsection not been enacted. In establishing such payment amounts, the Secretary shall consider the effects of the prospective payment system established under this subsection on the total number of payment units from rehabilitation facilities and other factors described in subparagraph (A).

''(C) INCREASE FACTOR.—For purposes of this subsection for payment units in each fiscal year (beginning with fiscal year 2001), the Secretary shall establish an increase factor. Such factor shall be based on an appropriate percentage increase in a market basket of goods and services comprising services for which payment is made under this subsection, which may be the market basket percentage increase described in subsection (b)(3)(B)(iii).

''(4) OUTLIER AND SPECIAL PAYMENTS.—

''(A) OUTLIERS.—

''(i) IN GENERAL.—The Secretary may provide for an additional payment to a rehabilitation facility for patients in a case mix group, based upon the patient being classified as an outlier based on an unusual length of stay, costs, or other factors specified by the Secretary.

''(ii) PAYMENT BASED ON MARGINAL COST OF CARE.—The amount of such additional payment under clause (i) shall be determined by the Secretary and shall approximate the marginal cost of care beyond the cutoff point applicable under clause (i).

''(iii) TOTAL PAYMENTS.—The total amount of the additional payments made under this subparagraph for payment units in a fiscal year may not exceed 5 percent of the total payments projected or estimated to be made based on prospective payment rates for payment units in that year.

''(B) ADJUSTMENT.—The Secretary may provide for such adjustments to the payment amounts under this subsection as the Secretary deems appropriate to take into account the unique circumstances of rehabilitation facilities located in Alaska and Hawaii.

''(5) PUBLICATION.—The Secretary shall provide for publication in the Federal Register, on or before September 1 before each fiscal year (beginning with fiscal year 2001, of the classification and weighting factors for case mix groups under paragraph (2) for such fiscal year and a description of the methodology and data used in computing the prospective payment rates under this subsection for that fiscal year.

''(6) AREA WAGE ADJUSTMENT.—The Secretary shall adjust the proportion (as estimated by the Secretary from time to time) of rehabilitation facilities' costs which are attributable to wages and wage-related costs, of the prospective payment rates computed under paragraph (3) for area differences in wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the rehabilitation facility compared to the national average wage level for such facilities. Not later than October 1, 2001 (and at least every 36 months thereafter), the Secretary shall update the factor under the preceding sentence on the basis of a survey conducted by the Secretary (and updated as appropriate) of the wages and wage-related costs incurred in furnishing rehabilitation services. Any adjustments or updates made under this paragraph for a fiscal year shall be made in a manner that assures that the aggregated payments under this subsection in the fiscal year are not greater or less than those that would have been made in the year without such adjustment.

''(7) ADDITIONAL ADJUSTMENTS.—The Secretary may provide by regulation for—

''(A) an additional payment to take into account indirect costs of medical education and the special circumstances of hospitals that serve a significantly disproportionate number of low-income patients in a manner similar to that provided under subparagraphs (B) and (F), respectively, of subsection (d)(5); and

''(B) such other exceptions and adjustments to payment amounts under this subsection in a manner similar to that provided under subsection (d)(5)(I) in relation to payments under subsection (d).

''(8) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of the establishment of—

''(A) case mix groups, of the methodology for the classification of patients within such groups, and of the appropriate weighting factors thereof under paragraph (2),

''(B) the prospective payment rates under paragraph (3),

''(C) outlier and special payments under paragraph (4),

''(D) area wage adjustments under paragraph (6), and

''(E) additional adjustments under paragraph (7).''.

(b) CONFORMING AMENDMENTS.—Section 1886(b) (42 U.S.C. 1395ww(b)) is amended—

(1) in paragraph (1), by inserting ''and other than a rehabilitation facility described in subsection (j)(1)'' after ''subsection (d)(1)(B)'', and

(2) in paragraph (3)(B)(i), by inserting ''and subsection (j)'' after ''For purposes of subsection (d)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to cost reporting periods beginning on or after October 1, 2000, except that the Secretary of Health and Human Services may require the submission of data under section 1886(j)(2)(D) of the Social Security Act (as added by subsection (a)) on and after the date of the enactment of this section.

SEC. 5302. STUDY AND REPORT ON PAYMENTS FOR LONG-TERM CARE HOSPITALS.

(a) STUDY.—The Secretary of Health and Human Services shall—

(1) collect data to develop, establish, administer and evaluate a case-mix adjusted prospective payment system for hospitals described in section 1886(d)(1)(B)(iv) (42 U.S.C. 1395ww(d)(1)(B)(iv)); and

(2) develop a legislative proposal for establishing and administering such a payment system that includes an adequate patient classification system that reflects the differences in patient resource use and costs among such hospitals.

(b) REPORT.—Not later than October 1, 1999, the Secretary of Health and Human Services shall submit the proposal described in subsection (a)(2) to the appropriate committees of Congress.

CHAPTER 2—PROVISIONS RELATING TO PART B

Subchapter A—Payment for Hospital Outpatient Department Services

SEC. 5311. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS (FDO) FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) ELIMINATION OF FDO FOR AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

(1) by striking ''of 80 percent''; and

(2) by striking the period at the end and inserting the following: '', less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).''.

(b) ELIMINATION OF FDO FOR RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n)(1)(B)(i) (42 U.S.C. 1395l(n)(1)(B)(i)) is amended—

(1) by striking ''of 80 percent'', and

(2) by inserting before the period at the end the following: '', less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring on or after October 1, 1997.

SEC. 5312. EXTENSION OF REDUCTIONS IN PAYMENTS FOR COSTS OF HOSPITAL OUTPATIENT SERVICES.

(a) REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS.—Section 1861(v)(1)(S)(ii)(I) (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by striking ''through 1998'' and inserting ''through 1999 and during fiscal year 2000 before January 1, 2000''.

(b) REDUCTION IN PAYMENTS FOR OTHER COSTS.—Section 1861(v)(1)(S)(ii)(II) (42 U.S.C. 1395x(v)(1)(S)(ii)(II)) is amended by striking ''through 1998'' and inserting ''through 1999 and during fiscal year 2000 before January 1, 2000''.

SEC. 5313. PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES.

(a) IN GENERAL.—Section 1833 (42 U.S.C. 1395l) is amended by adding at the end the following:

''(t) PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES.—

''(1) IN GENERAL.—With respect to hospital outpatient services designated by the Secretary (in this section referred to as 'covered OPD services') and furnished during a year beginning with 1999, the amount of payment under this part shall be determined under a prospective payment system established by the Secretary in accordance with this subsection.

''(2) SYSTEM REQUIREMENTS.—Under the payment system—

''(A) the Secretary shall develop a classification system for covered OPD services;

''(B) the Secretary may establish groups of covered OPD services, within the classification system described in subparagraph (A), so that services classified within each group are comparable clinically and with respect to the use of resources;

''(C) the Secretary shall, using data on claims from 1997 and using data from the most recent available cost reports, establish relative payment weights for covered OPD services (and any groups of such services described in subparagraph (B)) based on median hospital costs and shall determine projections of the frequency of utilization of each such service (or group of services) in 1999;

''(D) the Secretary shall determine a wage adjustment factor to adjust the portion of payment and coinsurance attributable to labor-related costs for relative differences in labor and labor-related costs across geographic regions in a budget neutral manner;

''(E) the Secretary shall establish other adjustments as determined to be necessary to ensure equitable payments, such as outlier adjustments or adjustments for certain classes of hospitals; and

''(F) the Secretary shall develop a method for controlling unnecessary increases in the volume of covered OPD services.

''(3) CALCULATION OF BASE AMOUNTS.—

''(A) AGGREGATE AMOUNTS THAT WOULD BE PAYABLE IF DEDUCTIBLES WERE DISREGARDED.—The Secretary shall estimate the total amounts that would be payable from the Trust Fund under this part for covered OPD services in 1999, determined without regard to this subsection, as though the deductible under section 1833(b) did not apply, and as though the coinsurance described in section 1866(a)(2)(A)(ii) (as in effect before the date of the enactment of this subsection) continued to apply.

''(B) UNADJUSTED COPAYMENT AMOUNT.—

''(i) IN GENERAL.—For purposes of this subsection, subject to clause (ii), the 'unadjusted copayment amount' applicable to a covered OPD service (or group of such services) is 20 percent of the national median of the charges for the service (or services within the group) furnished during 1997, updated to 1999 using the Secretary's estimate of charge growth during the period.

''(ii) ADJUSTMENTS WHEN FULLY PHASED IN.—If the pre-deductible payment percentage for a covered OPD service (or group of such services) furnished in a year would be equal to or exceed 80 percent, then the unadjusted copayment amount shall be 25 percent of amount determined under subparagraph (D)(i).

''(iii) RULES FOR NEW SERVICES.—The Secretary shall establish rules for establishment of an unadjusted copayment amount for a covered OPD service not furnished during 1997, based upon its classification within a group of such services.

''(C) CALCULATION OF CONVERSION FACTORS.—

''(i) FOR 1999.—

''(I) IN GENERAL.—The Secretary shall establish a 1999 conversion factor for determining the medicare pre-deductible OPD fee payment amounts for each covered OPD service (or group of such services) furnished in 1999. Such conversion factor shall be established—

''(aa) on the basis of the weights and frequencies described in paragraph (2)(C), and

''(bb) in such manner that the sum of the products determined under subclause (II) for each service or group equals the total project amount described in subparagraph (A).

''(II) PRODUCT.—The Secretary shall determine for each service or group the product of the medicare pre-deductible OPD fee payment amount (taking into account appropriate adjustments described in paragraphs (2)(D) and (2)(E)) and the frequencies for such service or group.

''(ii) SUBSEQUENT YEARS.—Subject to paragraph (8)(B), the Secretary shall establish a conversion factor for covered OPD services furnished in subsequent years in an amount equal to the conversion factor established under this subparagraph and applicable to such services furnished in the previous year increased by the OPD payment increase factor specified under clause (iii) for the year involved.

''(iii) OPD PAYMENT INCREASE FACTOR.—For purposes of this subparagraph, the 'OPD payment increase factor' for services furnished in a year is equal to the sum of—

''(I) the market basket percentage increase applicable under section 1886(b)(3)(B)(iii) to hospital discharges occurring during the fiscal year ending in such year, plus

''(II) in the case of a covered OPD service (or group of such services) furnished in a year in which the pre-deductible payment percentage would not exceed 80 percent, 3.5 percentage points.

In applying the previous sentence for years beginning with 2000, the Secretary may substitute for the market basket percentage increase under subclause (I) an annual percentage increase that is computed and applied with respect to covered OPD services furnished in a year in the same manner as the market basket percentage increase is determined and applied to inpatient hospital services for discharges occurring in a fiscal year.

''(D) PRE-DEDUCTIBLE PAYMENT PERCENTAGE.—The pre-deductible payment percentage for a covered OPD service (or group of such services) furnished in a year is equal to the ratio of—

''(i) the conversion factor established under subparagraph (C) for the year, multiplied by the weighting factor established under paragraph (2)(C) for the service (or group), to

''(ii) the sum of the amount determined under clause (i) and the unadjusted copayment amount determined under subparagraph (B) for such service or group.

''(E) CALCULATION OF MEDICARE OPD FEE SCHEDULE AMOUNTS.—The Secretary shall compute a medicare OPD fee schedule amount for each covered OPD service (or group of such services) furnished in a year, in an amount equal to the product of—

''(i) the conversion factor computed under subparagraph (C) for the year, and

''(ii) the relative payment weight (determined under paragraph (2)(C)) for the service or group.

''(4) MEDICARE PAYMENT AMOUNT.—The amount of payment made from the Trust Fund under this part for a covered OPD service (and such services classified within a group) furnished in a year is determined as follows:

''(A) FEE SCHEDULE AND COPAYMENT AMOUNT.—Add (i) the medicare OPD fee schedule amount (computed under paragraph (3)(E)) for the service or group and year, and (ii) the

unadjusted copayment amount (determined under paragraph (3)(B)) for the service or group.

''(B) SUBTRACT APPLICABLE DEDUCTIBLE.—Reduce the sum under subparagraph (A) by the amount of the deductible under section 1833(b), to the extent applicable.

''(C) APPLY PAYMENT PROPORTION TO REMAINDER.—Multiply the amount determined under subparagraph (B) by the pre-deductible payment percentage (as determined under paragraph (3)(D)) for the service or group and year involved.

''(D) LABOR-RELATED ADJUSTMENT.—The amount of payment is the product determined under subparagraph (C) with the labor-related portion of such product adjusted for relative differences in the cost of labor and other factors determined by the Secretary, as computed under paragraph (2)(D).

''(5) COPAYMENT AMOUNT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the copayment amount under this subsection is determined as follows:

''(i) UNADJUSTED COPAYMENT.—Compute the amount by which the amount described in paragraph (4)(B) exceeds the amount of payment determined under paragraph (4)(C).

''(ii) LABOR ADJUSTMENT.—The copayment amount is the difference determined under clause (i) with the labor-related portion of such difference adjusted for relative differences in the cost of labor and other factors determined by the Secretary, as computed under paragraphs (2)(D). The adjustment under this clause shall be made in a manner that does not result in any change in the aggregate copayments made in any year if the adjustment had not been made.

''(B) ELECTION TO OFFER REDUCED COPAYMENT AMOUNT.—The Secretary shall establish a procedure under which a hospital, before the beginning of a year (beginning with 1999), may elect to reduce the copayment amount otherwise established under subparagraph (A) for some or all covered OPD services to an amount that is not less than 25 percent of the medicare OPD fee schedule amount (computed under paragraph (3)(E)) for the service involved, adjusted for relative differences in the cost of labor and other factors determined by the Secretary, as computed under subparagraphs (D) and (E) of paragraph (2). Under such procedures, such reduced copayment amount may not be further reduced or increased during the year involved and the hospital may disseminate information on the reduction of copayment amount effected under this subparagraph.

''(C) NO IMPACT ON DEDUCTIBLES.—Nothing in this paragraph shall be construed as affecting a hospital's authority to waive the charging of a deductible under section 1833(b).

''(6) PERIODIC REVIEW AND ADJUSTMENTS COMPONENTS OF PROSPECTIVE PAYMENT SYSTEM.—

''(A) PERIODIC REVIEW.—The Secretary may periodically review and revise the groups, the relative payment weights, and the wage and other adjustments described in paragraph (2) to take into account changes in medical practice, changes in technology, the addition of new services, new cost data, and other relevant information and factors.

''(B) BUDGET NEUTRALITY ADJUSTMENT.—If the Secretary makes adjustments under subparagraph (A), then the adjustments for a year may not cause the estimated amount of expenditures under this part for the year to increase or decrease from the estimated amount of expenditures under this part that would have been made if the adjustments had not been made.

''(C) UPDATE FACTOR.—If the Secretary determines under methodologies described in subparagraph (2)(F) that the volume of services paid for under this subsection increased beyond amounts established through those methodologies, the Secretary may appropriately adjust the update to the conversion factor otherwise applicable in a subsequent year.

''(7) SPECIAL RULE FOR AMBULANCE SERVICES.—The Secretary shall pay for hospital outpatient services that are ambulance services on the basis described in the matter in subsection (a)(1) preceding subparagraph (A).

''(8) SPECIAL RULES FOR CERTAIN HOSPITALS.—In the case of hospitals described in section 1886(d)(1)(B)(v)—

''(A) the system under this subsection shall not apply to covered OPD services furnished before January 1, 2000; and

''(B) the Secretary may establish a separate conversion factor for such services in a manner that specifically takes into account the unique costs incurred by such hospitals by virtue of their patient population and service intensity.

''(9) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of—

''(A) the development of the classification system under paragraph (2), including the establishment of groups and relative payment weights for covered OPD services, of wage adjustment factors, other adjustments, and methods described in paragraph (2)(F);

''(B) the calculation of base amounts under paragraph (3);

''(C) periodic adjustments made under paragraph (6); and

''(D) the establishment of a separate conversion factor under paragraph (8)(B).''.

(b) COINSURANCE.—Section 1866(a)(2)(A)(ii) (42 U.S.C. 1395cc(a)(2)(A)(ii)) is amended by adding at the end the following: ''In the case of items and services for which payment is made under part B under the prospective payment system established under section 1833(t), clause (ii) of the first sentence shall be applied by substituting for 20 percent of the reasonable charge, the applicable copayment amount established under section 1833(t)(5).''.

(c) TREATMENT OF REDUCTION IN COPAYMENT AMOUNT.—Section 1128A(i)(6) (42 U.S.C. 1320a–7a(i)(6)) is amended—

(1) by striking ''or'' at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting ''; or'', and

(3) by adding at the end the following new subparagraph:

''(D) a reduction in the copayment amount for covered OPD services under section 1833(t)(5)(B).''.

(d) CONFORMING AMENDMENTS.—

(1) APPROVED ASC PROCEDURES PERFORMED IN HOSPITAL OUTPATIENT DEPARTMENTS.—

(A)(i) Section 1833(i)(3)(A) (42 U.S.C. 1395l(i)(3)(A)) is amended—

(I) by inserting ''before January 1, 1999'' after ''furnished'', and

(II) by striking ''in a cost reporting period''.

(ii) The amendment made by clause (i) shall apply to services furnished on or after January 1, 1999.

(B) Section 1833(a)(4) (42 U.S.C. 1395l(a)(4)) is amended by inserting ''or subsection (t)'' before the semicolon.

(2) RADIOLOGY AND OTHER DIAGNOSTIC PROCEDURES.—

(A) Section 1833(n)(1)(A) (42 U.S.C. 1395l(n)(1)(A)) is amended by inserting ''and before January 1, 1999'' after ''October 1, 1988,'' and after ''October 1, 1989,''.

(B) Section 1833(a)(2)(E) (42 U.S.C. 1395l(a)(2)(E)) is amended by inserting ''or , for services or procedures performed on or after January 1, 1999, subsection (t)'' before the semicolon.

(3) OTHER HOSPITAL OUTPATIENT SERVICES.—Section 1833(a)(2)(B) (42 U.S.C. 1395l(a)(2)(B)) is amended—

(A) in clause (i), by inserting ''furnished before January 1, 1999,'' after ''(i)'',

(B) in clause (ii), by inserting ''before January 1, 1999,'' after ''furnished'',

(C) by redesignating clause (iii) as clause (iv), and

(D) by inserting after clause (ii), the following new clause:

''(iii) if such services are furnished on or after January 1, 1999, the amount determined under subsection (t), or''.

Subchapter B—Ambulance Services

SEC. 5321. PAYMENTS FOR AMBULANCE SERVICES.

(a) INTERIM REDUCTIONS.—

(1) PAYMENTS DETERMINED ON REASONABLE COST BASIS.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

''(V) In determining the reasonable cost of ambulance services (as described in subsection (s)(7)) provided during a fiscal year (beginning with fiscal year 1998 and ending with fiscal year 2002), the Secretary shall not recognize any costs in excess of costs recognized as reasonable for ambulance services provided during the previous fiscal year (after application of this subparagraph), increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with the midpoint of the fiscal year involved reduced in the case of fiscal year 1998 by 1.0 percentage point.''.

(2) PAYMENTS DETERMINED ON REASONABLE CHARGE BASIS.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

''(19) For purposes of section 1833(a)(1), the reasonable charge for ambulance services (as described in section 1861(s)(7)) provided during a fiscal year (beginning with fiscal year 1998 and ending with fiscal year 2002) may not exceed the reasonable charge for such services provided during the previous fiscal year (after application of this paragraph), increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with the midpoint of the year involved reduced in the case of fiscal year 1998 by 1.0 percentage point.''.

(b) ESTABLISHMENT OF PROSPECTIVE FEE SCHEDULE.—

(1) PAYMENT IN ACCORDANCE WITH FEE SCHEDULE.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(A) by striking ''and (P)'' and inserting ''(P)''; and

(B) by striking the semicolon at the end and inserting the following: '', and (Q) with respect to ambulance service, the amounts paid shall be 80 percent of the lesser of the actual charge for the services or the amount determined by a fee schedule established by the Secretary under section 1834(k);''.

(2) ESTABLISHMENT OF SCHEDULE.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

''(k) ESTABLISHMENT OF FEE SCHEDULE FOR AMBULANCE SERVICES.—

''(1) IN GENERAL.—The Secretary shall establish a fee schedule for payment for ambulance services under this part through a negotiated rulemaking process described in title 5, United States Code, and in accordance with the requirements of this subsection.

''(2) CONSIDERATIONS.—In establishing such fee schedule, the Secretary shall—

''(A) establish mechanisms to control increases in expenditures for ambulance services under this part;

''(B) establish definitions for ambulance services which link payments to the type of services provided;

''(C) consider appropriate regional and operational differences;

''(D) consider adjustments to payment rates to account for inflation and other relevant factors; and

''(E) phase in the application of the payment rates under the fee schedule in an efficient and fair manner.

''(3) SAVINGS.—In establishing such fee schedule, the Secretary shall—

''(A) ensure that the aggregate amount of payments made for ambulance services under this part during 1999 does not exceed the aggregate amount of payments which would have

been made for such services under this part during such year if the amendments made by section 5321 of the Balanced Budget Act of 1997 had not been made; and

''(B) set the payment amounts provided under the fee schedule for services furnished in 2000 and each subsequent year at amounts equal to the payment amounts under the fee schedule for service furnished during the previous year, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year reduced (but not below zero) by 1.0 percentage points.

''(4) CONSULTATION.—In establishing the fee schedule for ambulance services under this subsection, the Secretary shall consult with various national organizations representing individuals and entities who furnish and regulate ambulance services and share with such organizations relevant data in establishing such schedule.

''(5) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869 or otherwise of the amounts established under the fee schedule for ambulance services under this subsection, including matters described in paragraph (2).

''(6) RESTRAINT ON BILLING.—The provisions of subparagraphs (A) and (B) of section 1842(b)(18) shall apply to ambulance services for which payment is made under this subsection in the same manner as they apply to services provided by a practitioner described in section 1842(b)(18)(C).''.

(3) EFFECTIVE DATE.—The amendments made by this section apply to ambulance services furnished on or after January 1, 1999.

(c) AUTHORIZING PAYMENT FOR PARAMEDIC INTERCEPT SERVICE PROVIDERS IN RURAL COMMUNITIES.—In promulgating regulations to carry out section 1861(s)(7) of the Social Security Act (42 U.S.C. 1395x(s)(7)) with respect to the coverage of ambulance service, the Secretary of Health and Human Services may include coverage of advanced life support services (in this subsection referred to as ''ALS intercept services'') provided by a paramedic intercept service provider in a rural area if the following conditions are met:

(1) The ALS intercept services are provided under a contract with one or more volunteer ambulance services and are medically necessary based on the health condition of the individual being transported.

(2) The volunteer ambulance service involved—

(A) is certified as qualified to provide ambulance service for purposes of such section,

(B) provides only basic life support services at the time of the intercept, and

(C) is prohibited by State law from billing for any services.

(3) The entity supplying the ALS intercept services—

(A) is certified as qualified to provide such services under the medicare program under title XVIII of the Social Security Act, and

(B) bills all recipients who receive ALS intercept services from the entity, regardless of whether or not such recipients are medicare beneficiaries.

CHAPTER 3—PROVISIONS RELATING TO PARTS A AND B

Subchapter A—Payments to Skilled Nursing Facilities

SEC. 5331. EXTENSION OF COST LIMITS.

The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended by striking ''subsection'' the last place it appears and all that follows and inserting ''subsection, except that the limits effective for cost reporting periods beginning on or after October 1, 1997, shall be based on the limits effective for cost reporting periods beginning on or after October 1, 1996.''.

SEC. 5332. PROSPECTIVE PAYMENT FOR SKILLED NURSING FACILITY SERVICES.

(a) IN GENERAL.—Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

''(e) PROSPECTIVE PAYMENT.—

''(1) PAYMENT PROVISION.—Notwithstanding any other provision of this title, subject to paragraph (7), the amount of the payment for all costs (as defined in paragraph (2)(B)) of covered skilled nursing facility services (as defined in paragraph (2)(A)) for each day of such services furnished—

''(A) in a cost reporting period during the transition period (as defined in paragraph (2)(E)), is equal to the sum of—

''(i) the non-Federal percentage of the facility-specific per diem rate (computed under paragraph (3)), and

''(ii) the Federal percentage of the adjusted Federal per diem rate (determined under paragraph (4)) applicable to the facility; and

''(B) after the transition period is equal to the adjusted Federal per diem rate applicable to the facility.

''(2) DEFINITIONS.—For purposes of this subsection:

''(A) COVERED SKILLED NURSING FACILITY SERVICES.—

''(i) IN GENERAL.—The term 'covered skilled nursing facility services'—

''(I) means post-hospital extended care services as defined in section 1861(i) for which benefits are provided under part A; and

''(II) includes all items and services (other than services described in clause (ii)) for which payment may be made under part B and which are furnished to an individual who is a resident of a skilled nursing facility during the period in which the individual is provided covered post-hospital extended care services.

''(ii) SERVICES EXCLUDED.—Services described in this clause are physicians' services, services described by clauses (i) through (iii) of section 1861(s)(2)(K), certified nurse-midwife services, qualified psychologist services, services of a certified registered nurse anesthetist, items and services described in subparagraphs in (F) and (O) of section 1861(s)(2), and, only with respect to services furnished during 1998, the transportation costs of electrocardiogram equipment for electrocardiogram tests services (HCPCS Code R0076). Services described in this clause do not include any physical, occupational, or speech-language therapy services regardless of whether or not the services are furnished by, or under the supervision of, a physician or other health care professional.

''(B) ALL COSTS.—The term 'all costs' means routine service costs, ancillary costs, and capital-related costs of covered skilled nursing facility services, but does not include costs associated with approved educational activities.

''(C) NON-FEDERAL PERCENTAGE; FEDERAL PERCENTAGE.—For—

''(i) the first cost reporting period (as defined in subparagraph (D)) of a facility, the 'non-Federal percentage' is 75 percent and the 'Federal percentage' is 25 percent;

''(ii) the next cost reporting period of such facility, the 'non-Federal percentage' is 50 percent and the 'Federal percentage' is 50 percent; and

''(iii) the subsequent cost reporting period of such facility, the 'non-Federal percentage' is 25 percent and the 'Federal percentage' is 75 percent.

''(D) FIRST COST REPORTING PERIOD.—The term 'first cost reporting period' means, with respect to a skilled nursing facility, the first cost reporting period of the facility beginning on or after July 1, 1998.

''(E) TRANSITION PERIOD.—

''(i) IN GENERAL.—The term 'transition period' means, with respect to a skilled nursing facility, the 3 cost reporting periods of the facility beginning with the first cost reporting period.

''(ii) TREATMENT OF NEW SKILLED NURSING FACILITIES.—In the case of a skilled nursing facility that does not have a settled cost report for a cost reporting period before July 1, 1998, payment for such services shall be made under this subsection as if all services were furnished after the transition period.

''(3) DETERMINATION OF FACILITY SPECIFIC PER DIEM RATES.—The Secretary shall determine a facility-specific per diem rate for each skilled nursing facility for a cost reporting period as follows:

''(A) DETERMINING BASE PAYMENTS.—The Secretary shall determine, on a per diem basis, the total of—

''(i) the allowable costs of extended care services for the facility for cost reporting periods beginning in 1995 with appropriate adjustments (as determined by the Secretary) to non-settled cost reports, and

''(ii) an estimate of the amounts that would be payable under part B (disregarding any applicable deductibles, coinsurance and copayments) for covered skilled nursing facility services described in paragraph (2)(A)(i)(II) furnished during such period to an individual who is a resident of the facility, regardless of whether or not the payment was made to the facility or to another entity.

''(B) UPDATE TO COST REPORTING PERIODS THROUGH 1998.—The Secretary shall update the amount determined under subparagraph (A), for each cost reporting period after the cost reporting period described in subparagraph (A)(i) and up to the first cost reporting period by a factor equal to the skilled nursing facility market basket percentage increase.

''(C) UPDATING TO APPLICABLE COST REPORTING PERIOD.—The Secretary shall further update such amount for each cost reporting period beginning with the first cost reporting period and up to and including the cost reporting period involved by a factor equal to the skilled nursing facility market basket percentage increase.

''(D) CERTAIN DEMONSTRATION PROJECTS.—In the case of a facility participating in the Nursing Home Case-Mix and Quality Demonstration (RUGS–III), the Secretary shall determine the facility specific per diem rate for any year after 1997 by computing the base period payments by using the RUGS–III rate received by the facility for 1997, increased by a factor equal to the skilled nursing facility market basket percentage increase.

''(4) FEDERAL PER DIEM RATE.—

''(A) DETERMINATION OF HISTORICAL PER DIEM FOR FACILITIES.—For each skilled nursing facility that received payments for post-hospital extended care services during a cost reporting period beginning in fiscal year 1995 and that was subject to (and not exempted from) the per diem limits referred to in paragraph (1) or (2) of subsection (a) (and facilities described in subsection (d)), the Secretary shall estimate, on a per diem basis for such cost reporting period, the total of—

''(i) subject to subparagraph (I), the allowable costs of extended care services for the facility for cost reporting periods beginning in 1995 with appropriate adjustments (as determined by the Secretary) to non-settled cost reports, and

''(ii) an estimate of the amounts that would be payable under part B (disregarding any applicable deductibles, coinsurance and copayments) for covered skilled nursing facility services described in paragraph (2)(A)(i)(II) furnished during such period to an individual who is a resident of the facility, regardless of whether or not the payment was made to the facility or to another entity.

''(B) UPDATE TO COST REPORTING PERIODS THROUGH 1998.—The Secretary shall update the amount determined under subparagraph (A), for each cost reporting period after the cost reporting period described in subparagraph (A)(i) and up to the first cost reporting period by a factor equal to the skilled nursing facility market basket percentage increase reduced (on an annualized basis) by 1 percentage point.

''(C) COMPUTATION OF STANDARDIZED PER DIEM RATE.—The Secretary shall standardize

the amount updated under subparagraph (B) for each facility by—

''(i) adjusting for variations among facility by area in the average facility wage level per diem, and

''(ii) adjusting for variations in case mix per diem among facilities.

''(D) COMPUTATION OF WEIGHTED AVERAGE PER DIEM RATE.—The Secretary shall compute a weighted average per diem rate by computing an average of the standardized amounts computed under subparagraph (C), weighted for each facility by the number of days of extended care services furnished during the cost reporting period referred to in subparagraph (A). The Secretary may compute and apply such average separately for facilities located in urban and rural areas (as defined in section 1886(d)(2)(D)).

''(E) UPDATING.—

''(i) FISCAL YEAR 1999.—For fiscal year 1999, the Secretary shall compute for each skilled nursing facility an unadjusted Federal per diem rate equal to the weighted average per diem rate computed under subparagraph (D) and applicable to the facility increased by skilled nursing facility market basket percentage change for the fiscal year involved.

''(ii) SUBSEQUENT FISCAL YEARS.—For each subsequent fiscal year the Secretary shall compute for each skilled nursing facility an unadjusted Federal per diem rate equal to the Federal per diem rate computed under this subparagraph for the previous fiscal year and applicable to the facility increased by the skilled nursing facility market basket percentage change for the fiscal year involved.

''(F) ADJUSTMENT FOR CASE MIX CREEP.—Insofar as the Secretary determines that such adjustments under subparagraph (G)(i) for a previous fiscal year (or estimates that such adjustments for a future fiscal year) did (or are likely to) result in a change in aggregate payments under this subsection during the fiscal year that are a result of changes in the coding or classification of residents that do not reflect real changes in case mix, the Secretary may adjust unadjusted Federal per diem rates for subsequent years so as to discount the effect of such coding or classification changes.

''(G) APPLICATION TO SPECIFIC FACILITIES.—The Secretary shall compute for each skilled nursing facility for each fiscal year (beginning with fiscal year 1998) an adjusted Federal per diem rate equal to the unadjusted Federal per diem rate determined under subparagraph (E), as adjusted under subparagraph (F), and as further adjusted as follows:

''(i) ADJUSTMENT FOR CASE MIX.—The Secretary shall provide for an appropriate adjustment to account for case mix. Such adjustment shall be based on a resident classification system, established by the Secretary, that accounts for the relative resource utilization of different patient types. The case mix adjustment shall be based on resident assessment data and other data that the Secretary considers appropriate.

''(ii) ADJUSTMENT FOR GEOGRAPHIC VARIATIONS IN LABOR COSTS.—The Secretary shall adjust the portion of such per diem rate attributable to wages and wage-related costs for the area in which the facility is located compared to the national average of such costs using an appropriate wage index as determined by the Secretary. Such adjustment shall be done in a manner that does not result in aggregate payments under this subsection that are greater or less than those that would otherwise be made if such adjustment had not been made.

''(H) PUBLICATION OF INFORMATION ON PER DIEM RATES.—The Secretary shall provide for publication in the Federal Register, before the July 1 preceding each fiscal year (beginning with fiscal year 1999), of—

''(i) the unadjusted Federal per diem rates to be applied to days of covered skilled nursing facility services furnished during the fiscal year,

''(ii) the case mix classification system to be applied under subparagraph (G)(i) with respect to such services during the fiscal year, and

''(iii) the factors to be applied in making the area wage adjustment under subparagraph (G)(ii) with respect to such services.

''(I) EXCLUSION OF EXCEPTION PAYMENTS FROM DETERMINATION OF HISTORICAL PER DIEM.—In determining allowable costs under subparagraph (A)(i), the Secretary shall not take into account any payments described in subsection (c).

''(5) SKILLED NURSING FACILITY MARKET BASKET INDEX AND PERCENTAGE.—For purposes of this subsection:

''(A) SKILLED NURSING FACILITY MARKET BASKET INDEX.—The Secretary shall establish a skilled nursing facility market basket index that reflects changes over time in the prices of an appropriate mix of goods and services included in covered skilled nursing facility services.

''(B) SKILLED NURSING FACILITY MARKET BASKET PERCENTAGE.—The term 'skilled nursing facility market basket percentage' means, for a fiscal year or other annual period and as calculated by the Secretary, the percentage change in the skilled nursing facility market basket index (established under subparagraph (A)) from the midpoint of the prior fiscal year (or period) to the midpoint of the fiscal year (or other period) involved.

''(6) SUBMISSION OF RESIDENT ASSESSMENT DATA.—A skilled nursing facility shall provide the Secretary, in a manner and within the timeframes prescribed by the Secretary, the resident assessment data necessary to develop and implement the rates under this subsection. For purposes of meeting such requirement, a skilled nursing facility may submit the resident assessment data required under section 1819(b)(3), using the standard instrument designated by the State under section 1819(e)(5).

''(7) TRANSITION FOR MEDICARE SWING BED HOSPITALS.—

''(A) IN GENERAL.—The Secretary shall determine an appropriate manner in which to apply this subsection to the facilities described in subparagraph (B), taking into account the purposes of this subsection, and shall provide that at the end of the transition period (as defined in paragraph (2)(E)) such facilities shall be paid only under this subsection. Payment shall not be made under this subsection to such facilities for cost reporting periods beginning before such date (not earlier than July 1, 1999) as the Secretary specifies.

''(B) FACILITIES DESCRIBED.—The facilities described in this subparagraph are facilities that have in effect an agreement described in section 1883, for which payment is made for the furnishing of extended care services on a reasonable cost basis under section 1814(l) (as in effect on and after such date).

''(8) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of—

''(A) the establishment of Federal per diem rates under paragraph (4), including the computation of the standardized per diem rates under paragraph (4)(C), adjustments and corrections for case mix under paragraphs (4)(F) and (4)(G)(i), and adjustments for variations in labor-related costs under paragraph (4)(G)(ii); and

''(B) the establishment of transitional amounts under paragraph (7).''.

(b) CONSOLIDATED BILLING.—

(1) FOR SNF SERVICES.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(A) by striking ''or'' at the end of paragraph (15),

(B) by striking the period at the end of paragraph (16) and inserting ''; or'', and

(C) by inserting after paragraph (16) the following new paragraph:

''(17) which are covered skilled nursing facility services described in section 1888(e)(2)(A)(i)(II) and which are furnished to an individual who is a resident of a skilled nursing facility by an entity other than the skilled nursing facility, unless the services are furnished under arrangements (as defined in section 1861(w)(1)) with the entity made by the skilled nursing facility, or such services are furnished by a physician described in section 1861(r)(1).''.

(2) REQUIRING PAYMENT FOR ALL PART B ITEMS AND SERVICES TO BE MADE TO FACILITY.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended—

(A) by striking ''and (D)'' and inserting ''(D)''; and

(B) by striking the period at the end and inserting the following: '', and (E) in the case of an item or service (other than services described in section 1888(e)(2)(A)(ii)) furnished to an individual who (at the time the item or service is furnished) is a resident of a skilled nursing facility, payment shall be made to the facility (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).''.

(3) PAYMENT RULES.—Section 1888(e) (42 U.S.C. 1395yy(e)), as added by subsection (a), is amended by adding at the end the following:

''(9) PAYMENT FOR CERTAIN SERVICES.—

''(A) IN GENERAL.—In the case of an item or service furnished by a skilled nursing facility (or by others under arrangement with them made by a skilled nursing facility or under any other contracting or consulting arrangement or otherwise) for which payment would otherwise (but for this paragraph) be made under part B in an amount determined in accordance with section 1833(a)(2)(B), the amount of the payment under such part shall be based on the part B methodology applicable to the item or service, except that for items and services that would be included in a facility's cost report if not for this section, the facility may continue to use a cost report for reimbursement purposes until the prospective payment system established under this section is implemented.

''(B) THERAPY AND PATHOLOGY SERVICES.—Payment for physical therapy, occupational therapy, respiratory therapy, and speech language pathology services shall reflect new salary equivalency guidelines calculated pursuant to section 1861(v)(5) when finalized through the regulatory process.

''(10) REQUIRED CODING.—No payment may be made under part B for items and services (other than services described in paragraph (2)(A)(ii)) furnished to an individual who is a resident of a skilled nursing facility unless the claim for such payment includes a code (or codes) under a uniform coding system specified by the Secretary that identifies the items or services delivered.''.

(4) CONFORMING AMENDMENTS.—

(A) Section 1819(b)(3)(C)(i) (42 U.S.C. 1395i–3(b)(3)(C)(i)) is amended by striking ''Such'' and inserting ''Subject to the timeframes prescribed by the Secretary under section 1888(t)(6), such''.

(B) Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)) is amended by striking ''(2);'' and inserting ''(2) and section 1842(b)(6)(E);''.

(C) Section 1833(a)(2)(B) (42 U.S.C. 1395l(a)(2)(B)) is amended by inserting ''or section 1888(e)(9)'' after ''section 1886''.

(D) Section 1861(h) (42 U.S.C 1395x(h)) is amended—

(i) in the opening paragraph, by striking ''paragraphs (3) and (6)'' and inserting ''paragraphs (3), (6), and (7)'', and

(ii) in paragraph (7), after ''skilled nursing facilities'', by inserting '', or by others under arrangements with them made by the facility''.

(E) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)) is amended—

(i) by redesignating clauses (i) and (ii) as subclauses (I) and (II) respectively,

(ii) by inserting ''(i)'' after ''(H)'', and

(iii) by adding after clause (i), as so redesignated, the following new clause:

''(ii) in the case of skilled nursing facilities which provide covered skilled nursing facility services—

''(I) that are furnished to an individual who is a resident of the skilled nursing facility, and

''(II) for which the individual is entitled to have payment made under this title,

to have items and services (other than services described in section 1888(e)(2)(A)(ii)) furnished by the skilled nursing facility or otherwise under arrangements (as defined in section 1861(w)(1)) made by the skilled nursing facility,''.

(c) MEDICAL REVIEW PROCESS.—In order to ensure that medicare beneficiaries are furnished appropriate services in skilled nursing facilities, the Secretary of Health and Human Services shall establish and implement a thorough medical review process to examine the effects of the amendments made by this section on the quality of covered skilled nursing facility services furnished to medicare beneficiaries. In developing such a medical review process, the Secretary shall place a particular emphasis on the quality of non-routine covered services and physicians' services for which payment is made under title XVIII of the Social Security Act for which payment is made under section 1848 of such Act.

(d) EFFECTIVE DATE.—The amendments made by this section are effective for cost reporting periods beginning on or after July 1, 1998; except that the amendments made by subsection (b) shall apply to items and services furnished on or after July 1, 1998.

Subchapter B—Home Health Services and Benefits

PART I—PAYMENTS FOR HOME HEALTH SERVICES

SEC. 5341. RECAPTURING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES FOR HOME HEALTH SERVICES.

(a) BASING UPDATES TO PER VISIT COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following:

''(iv) In establishing limits under this subparagraph for cost reporting periods beginning after September 30, 1997, the Secretary shall not take into account any changes in the home health market basket, as determined by the Secretary, with respect to cost reporting periods which began on or after July 1, 1994, and before July 1, 1996.''.

(b) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by subsection (a) in making any exemptions and exceptions pursuant to section 1861(v)(1)(L)(ii) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)(ii)).

SEC. 5342. INTERIM PAYMENTS FOR HOME HEALTH SERVICES.

(a) REDUCTIONS IN COST LIMITS.—Section 1861(v)(1)(L)(i) (42 U.S.C. 1395x(v)(1)(L)(i)) is amended—

(1) by moving the indentation of subclauses (I) through (III) 2-ems to the left;

(2) in subclause (I), by inserting ''of the mean of the labor-related and nonlabor per visit costs for freestanding home health agencies'' before the comma at the end;

(3) in subclause (II), by striking '', or'' and inserting ''of such mean,'';

(4) in subclause (III)—

(A) by inserting ''and before October 1, 1997,'' after ''July 1, 1987'', and

(B) by striking the period at the end and inserting ''of such mean, or''; and

(5) by striking the matter following subclause (III) and inserting the following:

''(IV) October 1, 1997, 105 percent of the median of the labor-related and nonlabor per visit costs for freestanding home health agencies.''.

(b) DELAY IN UPDATES.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by inserting '', or on or after July 1, 1997, and before October 1, 1997'' after ''July 1, 1996''.

(c) ADDITIONS TO COST LIMITS.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)), as amended by section 5341(a), is amended by adding at the end the following:

''(v) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1997, the Secretary shall provide for an interim system of limits. Payment shall be the lower of—

''(I) costs determined under the preceding provisions of this subparagraph, or

''(II) an agency-specific per beneficiary annual limitation calculated from the agency's 12-month cost reporting period ending on or after January 1, 1994, and on or before December 31, 1994, based on reasonable costs (including non-routine medical supplies), updated by the home health market basket index.

The per beneficiary limitation in subclause (II) shall be multiplied by the agency's unduplicated census count of patients (entitled to benefits under this title) for the cost reporting period subject to the limitation to determine the aggregate agency-specific per beneficiary limitation.

''(vi) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1997, the following rules apply:

''(I) For new providers and those providers without a 12-month cost reporting period ending in calendar year 1994, the per beneficiary limitation shall be equal to the median of these limits (or the Secretary's best estimates thereof) applied to other home health agencies as determined by the Secretary. A home health agency that has altered its corporate structure or name shall not be considered a new provider for this purpose.

''(II) For beneficiaries who use services furnished by more than one home health agency, the per beneficiary limitations shall be prorated among the agencies.''.

(d) DEVELOPMENT OF CASE MIX SYSTEM.—The Secretary of Health and Human Services shall expand research on a prospective payment system for home health agencies under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) that ties prospective payments to a unit of service, including an intensive effort to develop a reliable case mix adjuster that explains a significant amount of the variances in costs.

(e) SUBMISSION OF DATA FOR CASE MIX SYSTEM.—Effective for cost reporting periods beginning on or after October 1, 1997, the Secretary of Health and Human Services may require all home health agencies to submit additional information that the Secretary considers necessary for the development of a reliable case mix system.

SEC. 5343. PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 5011, is amended by adding at the end the following new section:

''PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES

''SEC. 1895. (a) IN GENERAL.—Notwithstanding section 1861(v), the Secretary shall provide, for cost reporting periods beginning on or after October 1, 1999, for payments for home health services in accordance with a prospective payment system established by the Secretary under this section.

''(b) SYSTEM OF PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES.—

''(1) IN GENERAL.—The Secretary shall establish under this subsection a prospective payment system for payment for all costs of home health services. Under the system under this subsection all services covered and paid on a reasonable cost basis under the medicare home health benefit as of the date of the enactment of the this section, including medical supplies, shall be paid for on the basis of a prospective payment amount determined under this subsection and applicable to the services involved. In implementing the system, the Secretary may provide for a transition (of not longer than 4 years) during which a portion of such payment is based on agency-specific costs, but only if such transition does not result in aggregate payments under this title that exceed the aggregate payments that would be made if such a transition did not occur.

''(2) UNIT OF PAYMENT.—In defining a prospective payment amount under the system under this subsection, the Secretary shall consider an appropriate unit of service and the number, type, and duration of visits provided within that unit, potential changes in the mix of services provided within that unit and their cost, and a general system design that provides for continued access to quality services.

''(3) PAYMENT BASIS.—

''(A) INITIAL BASIS.—

''(i) IN GENERAL.—Under such system the Secretary shall provide for computation of a standard prospective payment amount (or amounts). Such amount (or amounts) shall initially be based on the most current audited cost report data available to the Secretary and shall be computed in a manner so that the total amounts payable under the system for fiscal year 2000 shall be equal to the total amount that would have been made if the system had not been in effect but if the reduction in limits described in clause (ii) had been in effect. Such amount shall be standardized in a manner that eliminates the effect of variations in relative case mix and wage levels among different home health agencies in a budget neutral manner consistent with the case mix and wage level adjustments provided under paragraph (4)(A). Under the system, the Secretary may recognize regional differences or differences based upon whether or not the services or agency are in an urbanized area.

''(ii) REDUCTION.—The reduction described in this clause is a reduction by 15 percent in the cost limits and per beneficiary limits described in section 1861(v)(1)(L), as those limits are in effect on September 30, 1999.

''(B) ANNUAL UPDATE.—

''(i) IN GENERAL.—The standard prospective payment amount (or amounts) shall be adjusted for each fiscal year (beginning with fiscal year 2001) in a prospective manner specified by the Secretary by the home health market basket percentage increase applicable to the fiscal year involved.

''(ii) HOME HEALTH MARKET BASKET PERCENTAGE INCREASE.—For purposes of this subsection, the term 'home health market basket percentage increase' means, with respect to a fiscal year, a percentage (estimated by the Secretary before the beginning of the fiscal year) determined and applied with respect to the mix of goods and services included in home health services in the same manner as the market basket percentage increase under section 1886(b)(3)(B)(iii) is determined and applied to the mix of goods and services comprising inpatient hospital services for the fiscal year.

''(C) ADJUSTMENT FOR OUTLIERS.—The Secretary shall reduce the standard prospective payment amount (or amounts) under this paragraph applicable to home health services furnished during a period by such proportion as will result in an aggregate reduction in payments for the period equal to the aggregate increase in payments resulting from the application of paragraph (5) (relating to outliers).

''(4) PAYMENT COMPUTATION.—

''(A) IN GENERAL.—The payment amount for a unit of home health services shall be the applicable standard prospective payment amount adjusted as follows:

''(i) CASE MIX ADJUSTMENT.—The amount shall be adjusted by an appropriate case mix adjustment factor (established under subparagraph (B)).

''(ii) AREA WAGE ADJUSTMENT.—The portion of such amount that the Secretary estimates to be attributable to wages and wage-related costs shall be adjusted for geographic differences in such costs by an area wage adjustment factor

(established under subparagraph (C)) for the area in which the services are furnished or such other area as the Secretary may specify.

''(B) ESTABLISHMENT OF CASE MIX ADJUSTMENT FACTORS.—The Secretary shall establish appropriate case mix adjustment factors for home health services in a manner that explains a significant amount of the variation in cost among different units of services.

''(C) ESTABLISHMENT OF AREA WAGE ADJUSTMENT FACTORS.—The Secretary shall establish area wage adjustment factors that reflect the relative level of wages and wage-related costs applicable to the furnishing of home health services in a geographic area compared to the national average applicable level. Such factors may be the factors used by the Secretary for purposes of section 1886(d)(3)(E).

''(5) OUTLIERS.—The Secretary may provide for an addition or adjustment to the payment amount otherwise made in the case of outliers because of unusual variations in the type or amount of medically necessary care. The total amount of the additional payments or payment adjustments made under this paragraph with respect to a fiscal year may not exceed 5 percent of the total payments projected or estimated to be made based on the prospective payment system under this subsection in that year.

''(6) PRORATION OF PROSPECTIVE PAYMENT AMOUNTS.—If a beneficiary elects to transfer to, or receive services from, another home health agency within the period covered by the prospective payment amount, the payment shall be prorated between the home health agencies involved.

''(c) REQUIREMENTS FOR PAYMENT INFORMATION.—With respect to home health services furnished on or after October 1, 1998, no claim for such a service may be paid under this title unless—

''(1) the claim has the unique identifier for the physician who prescribed the services or made the certification described in section 1814(a)(2) or 1835(a)(2)(A); and

''(2) in the case of a service visit described in paragraph (1), (2), (3), or (4) of section 1861(m), the claim has information (coded in an appropriate manner) on the length of time of the service visit, as measured in 15 minute increments.

''(d) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of—

''(1) the establishment of a transition period under subsection (b)(1);

''(2) the definition and application of payment units under subsection (b)(2);

''(3) the computation of initial standard prospective payment amounts under subsection (b)(3)(A) (including the reduction described in clause (ii) of such subsection);

''(4) the adjustment for outliers under subsection (b)(3)(C);

''(5) case mix and area wage adjustments under subsection (b)(4);

''(6) any adjustments for outliers under subsection (b)(5); and

''(7) the amounts or types of exceptions or adjustments under subsection (b)(7).''.

(b) ELIMINATION OF PERIODIC INTERIM PAYMENTS FOR HOME HEALTH AGENCIES.—Section 1815(e)(2) (42 U.S.C. 1395g(e)(2)) is amended—

(1) by inserting ''and'' at the end of subparagraph (C),

(2) by striking subparagraph (D), and

(3) by redesignating subparagraph (E) as subparagraph (D).

(c) CONFORMING AMENDMENTS.—

(1) PAYMENTS UNDER PART A.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended in the matter preceding paragraph (1) by striking ''and 1886'' and inserting ''1886, and 1895''.

(2) TREATMENT OF ITEMS AND SERVICES PAID UNDER PART B.—

(A) PAYMENTS UNDER PART B.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(i) by amending subparagraph (A) to read as follows:

''(A) with respect to home health services (other than a covered osteoporosis drug) (as defined in section 1861(kk)), the amount determined under the prospective payment system under section 1895;'';

(ii) by striking ''and'' at the end of subparagraph (E);

(iii) by adding ''and'' at the end of subparagraph (F); and

(iv) by adding at the end the following new subparagraph:

''(G) with respect to items and services described in section 1861(s)(10)(A), the lesser of—

''(i) the reasonable cost of such services, as determined under section 1861(v), or

''(ii) the customary charges with respect to such services,

or, if such services are furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this provision), free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2);''.

(B) REQUIRING PAYMENT FOR ALL ITEMS AND SERVICES TO BE MADE TO AGENCY.—

(i) IN GENERAL.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) (as amended by section 5332(b)(2)) is amended—

(I) by striking ''and (E)'' and inserting ''(E)''; and

(II) by striking the period at the end and inserting the following: '', and (F) in the case of home health services furnished to an individual who (at the time the item or service is furnished) is under a plan of care of a home health agency, payment shall be made to the agency (without regard to whether or not the item or service was furnished by the agency, by others under arrangement with them made by the agency, or when any other contracting or consulting arrangement, or otherwise).''.

(ii) CONFORMING AMENDMENT.—Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)) (as amended by section 5332(b)(4)(B)) is amended by striking ''section 1842(b)(6)(E);'' and inserting ''subparagraphs (E) and (F) of section 1842(b)(6);''.

(C) EXCLUSIONS FROM COVERAGE.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 5332(b)(1), is amended—

(i) by striking ''or'' at the end of paragraph (16);

(ii) by striking the period at the end of paragraph (17) and inserting ''or''; and

(iii) by inserting after paragraph (17) the following:

''(18) where such expenses are for home health services furnished to an individual who is under a plan of care of the home health agency if the claim for payment for such services is not submitted by the agency.''.

(d) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall apply to cost reporting periods beginning on or after October 1, 1999.

(e) CONTINGENCY.—If the Secretary of Health and Human Services for any reason does not establish and implement the prospective payment system for home health services described in section 1895(b) of the Social Security Act (as added by subsection (a)) for cost reporting periods described in subsection (d), for such cost reporting periods the Secretary shall provide for a reduction by 15 percent in the cost limits and per beneficiary limits described in section 1861(v)(1)(L) of such Act, as those limits would otherwise be in effect on September 30, 1999.

SEC. 5344. PAYMENT BASED ON LOCATION WHERE HOME HEALTH SERVICE IS FURNISHED.

(a) CONDITIONS OF PARTICIPATION.—Section 1891 (42 U.S.C. 1395bbb) is amended by adding at the end the following:

''(g) PAYMENT ON BASIS OF LOCATION OF SERVICE.—A home health agency shall submit claims for payment for home health services under this title only on the basis of the geographic location at which the service is furnished, as determined by the Secretary.''.

(b) WAGE ADJUSTMENT.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking ''agency is located'' and inserting ''service is furnished''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to cost reporting periods beginning on or after October 1, 1997.

PART II—HOME HEALTH BENEFITS

SEC. 5361. MODIFICATION OF PART A HOME HEALTH BENEFIT FOR INDIVIDUALS ENROLLED UNDER PART B.

(a) IN GENERAL.—Section 1812 (42 U.S.C. 1395d) is amended—

(1) in subsection (a)(3), by striking ''home health services'' and inserting ''for individuals not enrolled in part B, home health services, and for individuals so enrolled, part A home health services (as defined in subsection (g))'';

(2) by redesignating subsection (g) as subsection (h); and

(3) by inserting after subsection (f) the following new subsection:

''(g)(1) For purposes of this section, the term 'part A home health services' means—

''(A) for services furnished during each year beginning with 1998 and ending with 2003, home health services subject to the transition reduction applied under paragraph (2)(C) for services furnished during the year, and

''(B) for services furnished on or after January 1, 2004, post-institutional home health services for up to 100 visits during a home health spell of illness.

''(2) For purposes of paragraph (1)(A), the Secretary shall specify, before the beginning of each year beginning with 1998 and ending with 2003, a transition reduction in the home health services benefit under this part as follows:

''(A) The Secretary first shall estimate the amount of payments that would have been made under this part for home health services furnished during the year if—

''(i) part A home health services were all home health services, and

''(ii) part A home health services were limited to services described in paragraph (1)(B).

''(B)(i) The Secretary next shall compute a transfer reduction amount equal to the appropriate proportion (specified under clause (ii)) of the amount by which the amount estimated under subparagraph (A)(i) for the year exceeds the amount estimated under subparagraph (A)(ii) for the year.

''(ii) For purposes of clause (i), the 'appropriate proportion' is equal to—

''(I) 1/7 for 1998,

''(II) 2/7 for 1999,

''(III) 3/7 for 2000,

''(IV) 4/7 for 2001,

''(V) 5/7 for 2002, and

''(VI) 6/7 for 2003.

''(C) The Secretary shall establish a transition reduction by specifying such a visit limit (during a home health spell of illness) or such a post-institutional limitation on home health services furnished under this part during the year as the Secretary estimates will result in a reduction in the amount of payments that would otherwise be made under this part for home health services furnished during the year equal to the transfer amount computed under subparagraph (B)(i) for the year.

''(3) Payment under this part for home health services furnished an individual enrolled under part B—

''(A) during a year beginning with 1998 and ending with 2003, may not be made for services that are not within the visit limit or other limitation specified by the Secretary under the transition reduction under paragraph (3)(C) for services furnished during the year; or

''(B) on or after January 1, 2004, may not be made for home health services that are not post-institutional home health services or for post-institutional furnished to the individual after

such services have been furnished to the individual for a total of 100 visits during a home health spell of illness.''.

(b) POST-INSTITUTIONAL HOME HEALTH SERVICES DEFINED.—Section 1861 (42 U.S.C. 1395x), as amended by sections 5102(a) and 5103(a), is amended by adding at the end the following:

''Post-Institutional Home Health Services; Home Health Spell of Illness

''(qq)(1) The term 'post-institutional home health services' means home health services furnished to an individual—

''(A) after discharge from a hospital or rural primary care hospital in which the individual was an inpatient for not less than 3 consecutive days before such discharge if such home health services were initiated within 14 days after the date of such discharge; or

''(B) after discharge from a skilled nursing facility in which the individual was provided post-hospital extended care services if such home health services were initiated within 14 days after the date of such discharge.

''(2) The term 'home health spell of illness' with respect to any individual means a period of consecutive days—

''(A) beginning with the first day (not included in a previous home health spell of illness) (i) on which such individual is furnished post-institutional home health services, and (ii) which occurs in a month for which the individual is entitled to benefits under part A, and

''(B) ending with the close of the first period of 60 consecutive days thereafter on each of which the individual is neither an inpatient of a hospital or rural primary care hospital nor an inpatient of a facility described in section 1819(a)(1) or subsection (y)(1) nor provided home health services.''.

(c) MAINTAINING APPEAL RIGHTS FOR HOME HEALTH SERVICES.—Section 1869(b)(2)(B) (42 U.S.C. 1395ff(b)(2)(B)) is amended by inserting ''(or $100 in the case of home health services)'' after ''$500''.

(d) MAINTAINING SEAMLESS ADMINISTRATION THROUGH FISCAL INTERMEDIARIES.—Section 1842(b)(2) (42 U.S.C. 1395u(b)(2)) is amended by adding at the end the following:

''(E) With respect to the payment of claims for home health services under this part that, but for the amendments made by section 5361, would be payable under part A instead of under this part, the Secretary shall continue administration of such claims through fiscal intermediaries under section 1816.''.

(e) EFFECTIVE DATE.—The amendments made by this section apply to services furnished on or after January 1, 1998. For the purpose of applying such amendments, any home health spell of illness that began, but did not end, before such date shall be considered to have begun as of such date.

SEC. 5362. IMPOSITION OF $5 COPAYMENT FOR PART B HOME HEALTH SERVICES.

(a) IN GENERAL.—Section 1833(a)(2)(A) (42 U.S.C. 1395l(a)(2)(A)) (as amended by section 5343(c)(2)) is amended by striking ''1895'' and inserting ''1895, less a copayment amount equal to $5 per visit, not to exceed a total annual copayment amount equal to the inpatient hospital deductible determined under section 1813 for the calendar year in which such service is furnished''.

(b) PROVIDER CHARGES.—Section 1866(a)(2)(A)(i) (42 U.S.C. 1395cc(a)(2)(A)(i)) is amended—

(1) by striking ''deduction or coinsurance'' and inserting ''deduction, coinsurance, or copayment''; and

(2) by striking ''section 1833(b)'' and inserting ''subsection (a)(2)(A) or (b) of section 1833''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1997.

SEC. 5363. CLARIFICATION OF PART-TIME OR INTERMITTENT NURSING CARE.

(a) IN GENERAL.—Section 1861(m) (42 U.S.C. 1395x(m)) is amended by adding at the end the following: ''For purposes of paragraphs (1) and (4), the term 'part-time or intermittent services' means skilled nursing and home health aide services furnished any number of days per week as long as they are furnished (combined) less than 8 hours each day and 28 or fewer hours each week (or, subject to review on a case-by-case basis as to the need for care, less than 8 hours each day and 35 or fewer hours per week). For purposes of sections 1814(a)(2)(C) and 1835(a)(2)(A), 'intermittent' means skilled nursing care that is either provided or needed on fewer than 7 days each week, or less than 8 hours of each day for periods of 21 days or less (with extensions in exceptional circumstances when the need for additional care is finite and predictable).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to services furnished on or after October 1, 1997.

SEC. 5364. STUDY ON DEFINITION OF HOMEBOUND.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study of the criteria that should be applied, and the method of applying such criteria, in the determination of whether an individual is homebound for purposes of qualifying for receipt of benefits for home health services under the medicare program. Such criteria shall include the extent and circumstances under which a person may be absent from the home but nonetheless qualify.

(b) REPORT.—Not later than October 1, 1998, the Secretary shall submit a report to the Congress on the study conducted under subsection (a). The report shall include specific recommendations on such criteria and methods.

SEC. 5365. NORMATIVE STANDARDS FOR HOME HEALTH CLAIMS DENIALS.

(a) IN GENERAL.—Section 1862(a)(1) (42 U.S.C. 1395y(a)(1)), as amended by section 5102(c), is amended—

(1) by striking ''and'' at the end of subparagraph (F),

(2) by striking the semicolon at the end of subparagraph (G) and inserting '', and'', and

(3) by inserting after subparagraph (G) the following new subparagraph:

''(H) the frequency and duration of home health services which are in excess of normative guidelines that the Secretary shall establish by regulation;''.

(b) NOTIFICATION.—The Secretary of Health and Human Services may establish a process for notifying a physician in cases in which the number of home health service visits furnished under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) pursuant to a prescription or certification of the physician significantly exceeds such threshold (or thresholds) as the Secretary specifies. The Secretary may adjust such threshold to reflect demonstrated differences in the need for home health services among different beneficiaries.

(c) EFFECTIVE DATE.—The amendments made by this section apply to services furnished on or after October 1, 1997.

SEC. 5366. INCLUSION OF COST OF SERVICE IN EXPLANATION OF MEDICARE BENEFITS.

(a) IN GENERAL.—Section 1842(h)(7) of the Social Security Act (42 U.S.C. 1395u(h)(7)) is amended—

(1) in subparagraph (C), by striking ''and'' at the end;

(2) in subparagraph (D), by striking the period at the end and inserting '', and''; and

(3) by adding at the end the following:

''(E) in the case of home health services furnished to an individual enrolled under this part, the total amount that the home health agency or other provider of such services billed for such services.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to explanation of benefits provided on and after October 1, 1997.

Subtitle F—Provisions Relating to Part A

CHAPTER 1—PAYMENT OF PPS HOSPITALS

SEC. 5401. PPS HOSPITAL PAYMENT UPDATE.

(a) IN GENERAL.—Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(1) in subclause (XII)—

(A) by inserting ''and the period beginning on October 1, 1997, and ending on December 31, 1997,'' after ''fiscal year 1997,''; and

(B) by striking ''and'' at the end; and

(2) by striking subclause (XIII) and inserting the following:

''(XIII) for calendar year 1998 for hospitals in all areas, the market basket percentage increase minus 2.5 percentage points,

''(XIV) for calendar year 1999 for hospitals in all areas, the market basket percentage increase minus 1.3 percentage points,

''(XV) for calendar years 2000 through 2002 for hospitals in all areas, the market basket percentage increase minus 1.0 percentage points, and

''(XVI) for calendar year 2003 and each subsequent calendar year for hospitals in all areas, the market basket percentage increase.''.

(b) RULE OF CONSTRUCTION.—Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

''(j) PPS CALENDAR YEAR PAYMENTS.—Notwithstanding any other provision of this title, any updates or payment amounts determined under this section shall on and after December 31, 1998, take effect and be applied on a calendar year basis. With respect to any cost reporting periods that relate to any such updates or payment amounts, the Secretary shall revise such cost reporting periods to ensure that on and after December 31, 1998, such cost reporting periods relate to updates and payment amounts made under this section on a calendar year basis in the same manner as such cost reporting periods applied to updates and payment amounts under this section on the day before the date of enactment of this subsection.''.

SEC. 5402. CAPITAL PAYMENTS FOR PPS HOSPITALS.

(a) MAINTAINING SAVINGS FROM TEMPORARY REDUCTION IN PPS CAPITAL RATES.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended by adding at the end the following: ''In addition to the reduction described in the preceding sentence, for discharges occurring on or after October 1, 1997, the Secretary shall apply the budget neutrality adjustment factor used to determine the Federal capital payment rate in effect on September 30, 1995 (as described in section 412.352 of title 42 of the Code of Federal Regulations), to (i) the unadjusted standard Federal capital payment rate (as described in section 412.308(c) of that title, as in effect on September 30, 1997), and (ii) the unadjusted hospital-specific rate (as described in section 412.328(e)(1) of that title, as in effect on September 30, 1997).''.

(b) SYSTEM EXCEPTION PAYMENTS FOR TRANSITIONAL CAPITAL.—

(1) IN GENERAL.—Section 1886(g)(l) (42 U.S.C. 1395ww(g)(1)) is amended—

(A) by redesignating subparagraph (C) as subparagraph (F), and

(B) by inserting after subparagraph (B) the following:

''(C) The exceptions under the system provided by the Secretary under subparagraph (B)(iii) shall include the provision of exception payments under the special exceptions process provided under section 412.348(g) of title 42, Code of Federal Regulations (as in effect on September 1, 1995), except that the Secretary shall revise such process, effective for discharges occurring after September 30, 1997, as follows:

''(i) Eligible hospital requirements, as described in section 412.348(g)(1) of title 42, Code of Federal Regulations, shall apply except that subparagraph (ii) shall be revised to require that hospitals located in an urban area with at least 300 beds shall be eligible under such process and

that such a hospital shall be eligible without regard to its disproportionate patient percentage under subsection (d)(5)(F) or whether it qualifies for additional payment amounts under such subsection.

''(ii) Project size requirements, as described in section 412.348(g)(5) of title 42, Code of Federal Regulations, shall apply except that subparagraph (ii) shall be revised to require that the project costs of a hospital are at least 150 percent of its operating cost during the first 12 month cost reporting period beginning on or after October 1, 1991.

''(iii) The minimum payment level for qualifying hospitals shall be 85 percent.

''(iv) A hospital shall be considered to meet the requirement that it complete the project involved no later than the end of the last cost reporting period of the hospital beginning before October l, 2001, if—

''(I) the hospital has obtained a certificate of need for the project approved by the State or a local planning authority by September 1, 1995; and

''(II) by September 1, 1995, the hospital has expended on the project at least $750,000 or 10 percent of the estimated cost of the project.

''(v) Offsetting amounts, as described in section 412.348(g)(8)(ii) of title 42, Code of Federal Regulations, shall apply except that subparagraph (B) of such section shall be revised to require that the additional payment that would otherwise be payable for the cost reporting period shall be reduced by the amount (if any) by which the hospital's current year medicare capital payments (excluding, if applicable, 75 percent of the hospital's capital-related disproportionate share payments) exceeds its medicare capital costs for such year.

''(D)(i) The Secretary shall reduce the Federal capital and hospital rates up to $50,000,000 for a calendar year to ensure that the application of subparagraph (C) does not result in an increase in the total amount that would have been paid under this subsection in the fiscal year if such subparagraph did not apply.

''(ii) Payments made pursuant to the application of subparagraph (C) shall not be considered for purposes of calculating total estimated payments under section 412.348(h), title 42, Code of Federal Regulations.

''(E) The Secretary shall provide for publication in the Federal Register each year (beginning with 1999) of a description of the distributional impact of the application of subparagraph (C) on hospitals which receive, and do not receive, an exception payment under such subparagraph.''.

(2) CONFORMING AMENDMENT.—Section 1886(g)(1)(B)(iii) (42 U.S.C. 1395ww(g)(1)(B)(iii)) is amended by striking ''may provide'' and inserting ''shall provide (in accordance with subparagraph (C))''.

CHAPTER 2—PAYMENT OF PPS EXEMPT HOSPITALS

SEC. 5421. PAYMENT UPDATE.

(a) IN GENERAL.—Section 1886(b)(3)(B)(ii) (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(1) by striking ''and'' at the end of subclause (V);

(2) by redesignating subclause (VI) as subclause (VIII); and

(3) by inserting after subclause (V), the following subclauses:

''(VI) for fiscal years 1998 through 2001, is 0 percent;

''(VII) for fiscal year 2002, is the market basket percentage increase minus 3.0 percentage points, and''.

(b) NO EFFECT OF PAYMENT REDUCTION ON EXCEPTIONS AND ADJUSTMENTS.—Section 1886(b)(4)(A)(ii) (42 U.S.C. 1395ww(b)(4)(A)(ii)) is amended by adding at the end the following new sentence: ''In making such reductions, the Secretary shall treat the applicable update factor described in paragraph (3)(B)(vi) for a fiscal year as being equal to the market basket percentage for that year.''.

SEC. 5422. REDUCTIONS TO CAPITAL PAYMENTS FOR CERTAIN PPS-EXEMPT HOSPITALS AND UNITS.

Section 1886(g) (42 U.S.C. 1395ww(g)) is amended by adding at the end the following new paragraph:

''(4) In determining the amount of the payments that are attributable to portions of cost reporting periods occurring during fiscal years 1998 through 2002 and that may be made under this title with respect to capital-related costs of inpatient hospital services of a hospital which is described in clause (i), (ii), or (iv) of subsection (d)(1)(B) or a unit described in the matter after clause (v) of such subsection, the Secretary shall reduce the amounts of such payments otherwise determined under this title by 15 percent.''.

SEC. 5423. CAP ON TEFRA LIMITS.

Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)) is amended—

(1) in subparagraph (A) by striking ''subparagraphs (C), (D), and (E)'' and inserting ''subparagraph (C) and succeeding subparagraphs'', and

(2) by adding at the end the following:

''(F)(i) Except as provided in clause (ii), in the case of a hospital or unit that is within a class of hospital described in clause (iii), for cost reporting periods beginning on or after October 1, 1997, and before October 1, 2002, such target amount may not be greater than the 75th percentile of the target amounts for such hospitals within such class for cost reporting periods beginning during that fiscal year (determined without regard to clause (ii)).

''(ii) In the case of a hospital or unit—

''(I) that is within a class of hospital described in clause (iii); and

''(II) whose operating costs of inpatient hospital services recognized under this title for the most recent cost reporting period for which information is available are less than the target amount for the hospital or unit under clause (i) (determined without regard to this clause) for its cost reporting period beginning on or after October 1, 1997, and before October 1, 1998,

clause (i) shall be applied for cost reporting periods beginning on or after October 1, 1997, and before October 1, 2002, by substituting for the dollar limit on the target amounts established under such clause for such period a dollar limit that is equal to the greater of 90 percent of such dollar limit or the operating costs of the hospital or unit determined under subclause (II).

''(iii) For purposes of this subparagraph, each of the following shall be treated as a separate class of hospital:

''(I) Hospitals described in clause (i) of subsection (d)(1)(B) and psychiatric units described in the matter following clause (v) of such subsection.

''(II) Hospitals described in clause (ii) of such subsection and rehabilitation units described in the matter following clause (v) of such subsection.

''(III) Hospitals described in clause (iv) of such subsection.''.

SEC. 5424. CHANGE IN BONUS AND RELIEF PAYMENTS.

(a) CHANGE IN BONUS PAYMENT.—Section 1886(b)(1)(A) (42 U.S.C. 1395ww(b)(1)(A)) is amended by striking all that follows ''plus—'' and inserting the following:

''(i) in the case of a hospital with a target amount that is less than 135 percent of the median of the target amounts for hospitals in the same class of hospital, the lesser of 40 percent of the amount by which the target amount exceeds the amount of the operating costs or 4 percent of the target amount;

''(ii) in the case of a hospital with a target amount that equals or exceeds 135 of such median but is less than 150 percent of such median, the lesser of 30 percent of the amount by which the target amount exceeds the amount of the operating costs or 3 percent of the target amount; and

''(iii) in the case of a hospital with a target amount that equals or exceeds 150 of such median, the lesser of 20 percent of the amount by which the target amount exceeds the amount of the operating costs or 2 percent of the target amount; or''.

(b) CHANGE IN RELIEF PAYMENTS.—Section 1886(b)(1) (42 U.S.C. 1395ww(b)(1)) is amended—

(1) in subparagraph (B)—

(A) by striking ''greater than the target amount'' and inserting ''greater than 110 percent of the target amount'',

(B) by striking ''exceed the target amount'' and inserting ''exceed 110 percent of the target amount'',

(C) by striking ''10 percent'' and inserting ''20 percent'', and

(D) by redesignating such subparagraph as subparagraph (C); and

(2) by inserting after subparagraph (A) the following new subparagraph:

''(B) are greater than the target amount but do not exceed 110 percent of the target amount, the amount of the payment with respect to those operating costs payable under part A on a per discharge basis shall equal the target amount; or''.

SEC. 5425. TARGET AMOUNTS FOR REHABILITATION HOSPITALS, LONG-TERM CARE HOSPITALS, AND PSYCHIATRIC HOSPITALS.

Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i), by striking ''and (E)'' and inserting ''(E), (F), and (G)''; and

(2) by adding at the end the following new subparagraphs:

''(F) In the case of a rehabilitation hospital (or unit thereof) (as described in clause (ii) of subsection (d)(1)(B)), for cost reporting periods beginning on or after October 1, 1997—

''(i) in the case of a hospital which first receives payments under this section before October 1, 1997, the target amount determined under subparagraph (A) for such hospital or unit for a cost reporting period beginning during a fiscal year shall not be less than 50 percent of the national mean of the target amounts determined under such subparagraph for all such hospitals for cost reporting periods beginning during such fiscal year (determined without regard to this subparagraph); and

''(ii) in the case of a hospital which first receives payments under this section on or after October 1, 1997, such target amount may not be greater than 110 percent of the national mean of the target amounts for such hospitals (and units thereof) for cost reporting periods beginning during fiscal year 1991.

''(G) In the case of a hospital which has an average inpatient length of stay of greater than 25 days (as described in clause (iv) of subsection (d)(1)(B)), for cost reporting periods beginning on or after October 1, 1997—

''(i) in the case of a hospital which first receives payments under this section as a hospital that is not a subsection (d) hospital or a subsection (d) Puerto Rico hospital before October 1, 1997, the target amount determined under subparagraph (A) for such hospital for a cost reporting period beginning during a fiscal year shall not be less than 50 percent of the national mean of the target amounts determined under such subparagraph for all such hospitals for cost reporting periods beginning during such fiscal year (determined without regard to this subparagraph); and

''(ii) in the case of any other hospital which first receives payment under this section on or after October 1, 1997, such target amount may not be greater than 110 percent of such national mean of the target amounts for such hospitals for cost reporting periods beginning during fiscal year 1991.

''(H) In the case of a psychiatric hospital (as defined in section 1861(f)), for cost reporting periods beginning on or after October 1, 1997—

''(i) in the case of a hospital which first receives payments under this section before October 1, 1997, the target amount determined under

subparagraph (A) for such hospital for a cost reporting period beginning during a fiscal year shall not be less than 50 percent of the national mean of the target amounts determined under such subparagraph for all such hospitals for cost reporting periods beginning during such fiscal year (determined without regard to this subparagraph); and

''(ii) in the case of any other hospital which first receives payment under this section on or after October 1, 1997, such target amount may not be greater than 110 percent of such national mean of the target amounts for such hospitals for cost reporting periods beginning during fiscal year 1991.''.

SEC. 5426. TREATMENT OF CERTAIN LONG-TERM CARE HOSPITALS LOCATED WITHIN OTHER HOSPITALS.

(a) IN GENERAL.—Section 1886(d)(1)(B) (42 U.S.C. 1395ww(d)(1)(B)) is amended by adding at the end the following new sentence: ''A hospital that was classified by the Secretary on or before September 30, 1995, as a hospital described in clause (iv) shall continue to be so classified notwithstanding that it is located in the same building as, or on the same campus as, another hospital.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to discharges occurring on or after October 1, 1995.

SEC. 5426A. REBASING.

Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)), as amended by section 5423, is amended by adding at the end the following:

''(G)(i) In the case of a hospital (or unit described in the matter following clause (v) of subsection (d)(1)(B)) that received payment under this subsection for inpatient hospital services furnished before January 1, 1990, that is within a class of hospital described in clause (iii), and that elects (in a form and manner determined by the Secretary) this subparagraph to apply to the hospital, the target amount for the hospital's 12-month cost reporting period beginning during fiscal year 1998 is equal to the average described in clause (ii).

''(ii) The average described in this clause for a hospital or unit shall be determined by the Secretary as follows:

''(I) The Secretary shall determine the allowable operating costs for inpatient hospital services for the hospital or unit for each of the 5 cost reporting periods for which the Secretary has the most recent settled cost reports as of the date of the enactment of this subparagraph.

''(II) The Secretary shall increase the amount determined under subclause (I) for each cost reporting period by the applicable percentage increase under subparagraph (B)(ii) for each subsequent cost reporting period up to the cost reporting period described in clause (i).

''(III) The Secretary shall identify among such 5 cost reporting periods the cost reporting periods for which the amount determined under subclause (II) is the highest, and the lowest.

''(IV) The Secretary shall compute the averages of the amounts determined under subclause (II) for the 3 cost reporting periods not identified under subclause (III).

''(iii) For purposes of this subparagraph, each of the following shall be treated as a separate class of hospital:

''(I) Hospitals described in clause (i) of subsection (d)(1)(B) and psychiatric units described in the matter following clause (v) of such subsection.

''(II) Hospitals described in clause (ii) of such subsection and rehabilitation units described in the matter following clause (v) of such subsection.

''(III) Hospitals described in clause (iii) of such subsection.

''(IV) Hospitals described in clause (iv) of such subsection.

''(V) Hospitals described in clause (v) of such subsection.''.

SEC. 5427. ELIMINATION OF EXEMPTIONS; REPORT ON EXCEPTIONS AND ADJUSTMENTS.

(a) ELIMINATION OF EXEMPTIONS.—

(1) IN GENERAL.—Section 1886(b)(4)(A)(i) (42 U.S.C. 1395ww(b)(4)(A)(i)) is amended by striking ''exemption from, or an exception and adjustment to,'' and inserting ''an exception and adjustment to'' each place it appears.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to hospitals that first qualify as a hospital described in clause (i), (ii), or (iv) of section 1886(d)(1)(B) (42 U.S.C. 1395ww(d)(1)(B)) on or after October 1, 1997.

(b) REPORT.—The Secretary of Health and Human Services shall publish annually in the Federal Register a report describing the total amount of payments made to hospitals by reason of section 1886(b)(4) of the Social Security Act (42 U.S.C. 1395ww(b)(4)), as amended by subsection (a), for cost reporting periods ending during the previous fiscal year.

SEC. 5428. TECHNICAL CORRECTION RELATING TO SUBSECTION (d) HOSPITALS.

(a) IN GENERAL.—Section 1886(d)(1) (42 U.S.C. 1395ww(d)(1)) is amended—

(1) in subparagraph (B)(v)—

(A) by inserting ''(I)'' after ''(v)''; and

(B) by striking the semicolon at the end and inserting '', or''; and

(C) by adding at the end the following:

''(II) a hospital that—

''(aa) was recognized as a comprehensive cancer center or clinical cancer research center by the National Cancer Institute of the National Institutes of Health as of April 20, 1983, or is able to demonstrate, for any six-month period, that at least 50 percent of its total discharges have a principal diagnosis that reflects a finding of neoplastic disease, as defined in subparagraph (E);

''(bb) applied on or before December 31, 1990, for classification as a hospital involved extensively in treatment for or research on cancer under this clause (as in effect on the day before the date of the enactment of this subclause), but was not approved for such classification; and

''(cc) is located in a State which, as of December 19, 1989, was not operating a demonstration project under section 1814(b);''; and

(2) by adding at the end the following:

''(E) For purposes of subparagraph (B)(v)(II)(aa), the term 'principal diagnosis that reflects a finding of neoplastic disease' means the condition established after study to be chiefly responsible for occasioning the admission of a patient to a hospital, except that only discharges with ICD–9–CM principal diagnosis codes of 140 through 239, V58.0, V58.1, V66.1, V66.2, or 990 will be considered to reflect such a principal diagnosis.''.

(b) PAYMENTS.—Any classification by reason of section 1886(d)(1)(B)(v)(II) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)(v)(II)) (as added by subsection (a)) shall apply to all cost reporting periods beginning on or after January 1, 1991. Any payments owed to a hospital as a result of such section (as so amended) shall be made expeditiously, but in no event later than 1 year after the date of enactment of this Act.

SEC. 5429. CERTAIN CANCER HOSPITALS.

(a) IN GENERAL.—Section 1886(d)(1) (42 U.S.C. 1395ww(d)(1)), as amended by section 5428, is amended—

(1) in subparagraph (B)(v), by striking the semicolon at the end of subclause (II)(cc) and inserting the following: '', or'', and by adding at the end the following:

''(III) a hospital—

''(aa) that was classified under subsection (iv) beginning on or before December 31, 1990, and through December 31, 1995; and

''(bb) throughout the period described in item (aa) and currently has greater than 49 percent of its total patient discharges with a principal diagnosis that reflects a finding of neoplastic disease;''; and

(2) by adding at the end the following:

''(F) In the case of a hospital that is classified under subparagraph (B)(v)(III), no rebasing is permitted by such hospital and such hospital shall use the base period in effect at the time of such hospital's December 31, 1995, cost report.''.

CHAPTER 3—GRADUATE MEDICAL EDUCATION PAYMENTS

Subchapter A—Direct Medical Education

SEC. 5441. LIMITATION ON NUMBER OF RESIDENTS AND ROLLING AVERAGE FTE COUNT.

Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)) is amended by adding after subparagraph (E) the following:

''(F) LIMITATION ON NUMBER OF RESIDENTS IN ALLOPATHIC AND OSTEOPATHIC MEDICINE.—Except as provided in subparagraph (H), such rules shall provide that for purposes of a cost reporting period beginning on or after October 1, 1997, the total number of full-time equivalent residents before application of weighting factors (as determined under this paragraph) with respect to a hospital's approved medical residency training program in the fields of allopathic medicine and osteopathic medicine may not exceed the number of full-time equivalent residents with respect to such programs for the hospital's most recent cost reporting period ending on or before December 31, 1996.

''(G) COUNTING INTERNS AND RESIDENTS FOR 1998 AND SUBSEQUENT YEARS.—

''(i) IN GENERAL.—For cost reporting periods beginning on or after October 1, 1997, subject to the limit described in subparagraph (F) and except as provided in subparagraph (H), the total number of full-time equivalent residents for determining a hospital's graduate medical education payment shall equal the average of the full-time equivalent resident counts for the cost reporting period and the preceding two cost reporting periods.

''(ii) ADJUSTMENT FOR SHORT PERIODS.—If any cost reporting period beginning on or after October 1, 1997, is not equal to twelve months, the Secretary shall make appropriate modifications to ensure that the average full-time equivalent resident counts pursuant to clause (ii) are based on the equivalent of full twelve-month cost reporting periods.

''(iii) TRANSITION RULE FOR 1998.—In the case of a hospital's first cost reporting period beginning on or after October 1, 1997, clause (i) shall be applied by using the average for such period and the preceding cost reporting period.

''(H) SPECIAL RULES FOR NEW FACILITIES.—

''(i) IN GENERAL.—If a hospital is an applicable facility under clause (iii) for any year with respect to any approved medical residency training program described in subsection (h)—

''(I) subject to the applicable annual limit under clause (ii), the Secretary may provide an additional amount of full-time equivalent residents which may be taken into account with respect to such program under subparagraph (F) for cost reporting periods beginning during such year, and

''(II) the averaging rules under subparagraph (G) shall not apply for such year.

''(ii) APPLICABLE ANNUAL LIMIT.—The total of additional full-time equivalent residents which the Secretary may authorize under clause (i) for all applicable facilities for any year shall not exceed the amount which would result in the number of full-time equivalent residents with respect to approved medical residency training programs in the fields of allopathic and osteopathic medicine for all hospitals exceeding such number for the preceding year. In allocating such additional residents, the Secretary shall give special consideration to facilities that meet the needs of underserved rural areas.

''(iii) APPLICABLE FACILITY.—For purposes of this subparagraph, a hospital shall be treated as an applicable facility with respect to an approved medical residency training program only during the first 5 years during which such program is in existence. A hospital shall not be

treated as such a facility if the 5-year period described in the preceding sentence ended on or before December 31, 1996.

''(iv) COORDINATION WITH LIMIT.—For purposes of applying subparagraph (F), the number of full-time equivalent residents of an applicable facility with respect to any approved medical residency training program in the fields of allopathic and osteopathic medicine for the facility's most recent cost reporting period ending on or before December 31, 1996, shall be increased by the number of such residents allocated to such facility under clause (i).''.

SEC. 5442. PERMITTING PAYMENT TO NONHOSPITAL PROVIDERS.

(a) IN GENERAL.—Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following:

''(j) PAYMENT TO NONHOSPITAL PROVIDERS.—

''(1) IN GENERAL.—For cost reporting periods beginning on or after October 1, 1997, the Secretary may establish rules for payment to qualified nonhospital providers for their direct costs of medical education, if those costs are incurred in the operation of an approved medical residency training program described in subsection (h). Such rules shall specify the amounts, form, and manner in which payments will be made and the portion of such payments that will be made from each of the trust funds under this title.

''(2) QUALIFIED NONHOSPITAL PROVIDERS.—For purposes of this subsection, the term 'qualified nonhospital providers' means—

''(A) a federally qualified health center, as defined in section 1861(aa)(4);

''(B) a rural health clinic, as defined in section 1861(aa)(2); and

''(C) such other providers (other than hospitals) as the Secretary determines to be appropriate.''.

(b) PROHIBITION ON DOUBLE PAYMENTS.—Section 1886(h)(3)(B) (42 U.S.C. 1395ww(h)(3)(B)) is amended by adding at the end the following:

''The Secretary shall reduce the aggregate approved amount to the extent payment is made under subsection (j) for residents included in the hospital's count of full-time equivalent residents.''.

SEC. 5443. MEDICARE SPECIAL REIMBURSEMENT RULE FOR PRIMARY CARE COMBINED RESIDENCY PROGRAMS.

(a) IN GENERAL.—Section 1886(h)(5)(G) of the Social Security Act (42 U.S.C. 1395ww(h)(5)(G)) is amended—

(1) in clause (i), by striking ''and (iii)'' and inserting '', (iii), and (iv)''; and

(2) by adding at the end the following:

''(iv) SPECIAL RULE FOR PRIMARY CARE COMBINED RESIDENCY PROGRAMS.—(I) In the case of a resident enrolled in a combined medical residency training program in which all of the individual programs (that are combined) are for training a primary care resident (as defined in subparagraph (H)), the period of board eligibility shall be the minimum number of years of formal training required to satisfy the requirements for initial board eligibility in the longest of the individual programs plus one additional year.

''(II) A resident enrolled in a combined medical residency training program that includes an obstetrics and gynecology program qualifies for the period of board eligibility under subclause (I) if the other programs such resident combines with such obstetrics and gynecology program are for training a primary care resident.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to combined medical residency training programs in effect on or after January 1, 1998.

Subchapter B—Indirect Medical Education

SEC. 5446. INDIRECT GRADUATE MEDICAL EDUCATION PAYMENTS.

(a) MULTIYEAR TRANSITION REGARDING PERCENTAGES.—

(1) IN GENERAL.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended to read as follows:

''(ii) For purposes of clause (i)(II), the indirect teaching adjustment factor is equal to c (((1+r) to the nth power) − 1), where 'r' is the ratio of the hospital's full-time equivalent interns and residents to beds and 'n' equals .405. For discharges occurring—

''(I) on or after May 1, 1986, and before October 1, 1997, 'c' is equal to 1.89;

''(II) during fiscal year 1998, 'c' is equal to 1.72;

''(III) during fiscal year 1999, 'c' is equal to 1.6;

''(IV) during fiscal year 2000, 'c' is equal to 1.47; and

''(V) on or after October 1, 2000, 'c' is equal to 1.35.''.

(2) NO RESTANDARDIZATION OF PAYMENT AMOUNTS REQUIRED.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended by adding at the end the following: ''except that the Secretary shall not take into account any reduction in the amount of additional payments under paragraph (5)(B)(ii) resulting from the amendment made by section 5446(a)(1) of the Balanced Budget Act of 1997,''.

(b) LIMITATION.—

(1) IN GENERAL.—Section 1886(d)(5)(B) (42 U.S.C. 1395ww(d)(5)(B)) is amended by adding after clause (iv) the following:

''(v) In determining the adjustment with respect to a hospital for discharges occurring on or after October 1, 1997, the total number of full-time equivalent interns and residents in either a hospital or nonhospital setting may not exceed the number of such full-time equivalent interns and residents in the hospital with respect to the hospital's most recent cost reporting period ending on or before December 31, 1996.

''(vi) For purposes of clause (ii)—

''(I) 'r' may not exceed the ratio of the number of interns and residents as determined under clause (v) with respect to the hospital for its most recent cost reporting period ending on or before December 31, 1996, to the hospital's available beds (as defined by the Secretary) during that cost reporting period, and

''(II) for the hospital's cost reporting periods beginning on or after October 1, 1997, subject to the limits described in clauses (iv) and (v), the total number of full-time equivalent residents for payment purposes shall equal the average of the actual full-time equivalent resident count for the cost reporting period and the preceding two cost reporting periods.

In the case of the first cost reporting period beginning on or after October 1, 1997, subclause (II) shall be applied by using the average for such period and the preceding cost reporting period.

''(vii)(I) If a hospital is an applicable facility under subclause (III) for any year with respect to any approved medical residency training program described in subsection (h)—

''(aa) subject to the applicable annual limit under subclause (II), the Secretary may provide an additional amount of full-time equivalent interns and residents which may be taken into account with respect to such program under clauses (v) and (vi) for cost reporting periods beginning during such year, and

''(bb) the averaging rules under clause (vi)(II) shall not apply for such year.

''(II) The total of additional full-time equivalent interns and residents which the Secretary may authorize under subclause (I) for all applicable facilities for any year shall not exceed the amount which would result in the number of full-time equivalent interns or residents for all hospitals exceeding such number for the preceding year. In allocating such additional residents, the Secretary shall give special consideration to facilities that meet the needs of underserved rural areas.

''(III) For purposes of this clause, a hospital shall be treated as an applicable facility with respect to an approved medical residency training program only during the first 5 years during which such program is in existence. A hospital shall not be treated as such a facility if the 5-year period described in the preceding sentence ended on or before December 31, 1996.

''(IV) For purposes of applying clause (v), the number of full-time equivalent residents of an applicable facility with respect to any approved medical residency training program for the facility's most recent cost reporting period ending on or before December 31, 1996, shall be increased by the number of such residents allocated to such facility under subclause (I).

''(viii) If any cost reporting period beginning on or after October 1, 1997, is not equal to twelve months, the Secretary shall make appropriate modifications to ensure that the average full-time equivalent residency count pursuant to subclause (II) of clause (vi) is based on the equivalent of full twelve-month cost reporting periods.''.

(2) PAYMENT FOR INTERNS AND RESIDENTS PROVIDING OFF-SITE SERVICES.—Section 1886(d)(5)(B)(iv) (42 U.S.C. 1395ww(d)(5)(B)(iv)) is amended to read as follows:

''(iv) Effective for discharges occurring on or after October 1, 1997, all the time spent by an intern or resident in patient care activities under an approved medical residency training program at an entity in a nonhospital setting shall be counted towards the determination of full-time equivalency if the hospital incurs all, or substantially all, of the costs for the training program in that setting.''.

Subchapter C—Graduate Medical Education Payments for Managed Care Enrollees

SEC. 5451. DIRECT AND INDIRECT MEDICAL EDUCATION PAYMENTS TO HOSPITALS FOR MANAGED CARE ENROLLEES.

(a) PAYMENTS TO HOSPITALS FOR DIRECT COSTS OF GRADUATE MEDICAL EDUCATION.—Section 1886(h)(3) (42 U.S.C. 1395ww(h)(3)) is amended by adding after subparagraph (C) the following:

''(D) PAYMENT FOR MEDICARE CHOICE ENROLLEES.—

''(i) IN GENERAL.—For portions of cost reporting periods occurring on or after January 1, 1998, the Secretary shall provide for an additional payment amount under this subsection for services furnished to individuals who are enrolled under a risk-sharing contract with an eligible organization under section 1876 and who are entitled to part A or with a Medicare Choice organization under part C. The amount of such a payment shall equal the applicable percentage of the product of—

''(I) the aggregate approved amount (as defined in subparagraph (B)) for that period; and

''(II) the fraction of the total number of inpatient-bed days (as established by the Secretary) during the period which are attributable to such enrolled individuals.

''(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is—

''(I) 25 percent in 1998,

''(II) 50 percent in 1999,

''(III) 75 percent in 2000, and

''(IV) 100 percent in 2001 and subsequent years.

''(iii) SPECIAL RULE FOR HOSPITALS UNDER REIMBURSEMENT SYSTEM.—The Secretary shall establish rules for the application of this subparagraph to a hospital reimbursed under a reimbursement system authorized under section 1814(b)(3) in the same manner as it would apply to the hospital if it were not reimbursed under such section.''.

(b) PAYMENT TO HOSPITALS OF INDIRECT MEDICAL EDUCATION COSTS.—Section 1886(d) (42 U.S.C. 1395ww(d)) is amended by adding at the end the following:

''(11) ADDITIONAL PAYMENTS FOR MANAGED CARE SAVINGS.—

''(A) IN GENERAL.—For portions of cost reporting periods occurring on or after January 1, 1998, the Secretary shall provide for an additional payment amount for each applicable discharge of any subsection (d) hospital (or any

hospital reimbursed under a reimbursement system authorized under section 1814(b)(3)) that has an approved medical residency training program.

''(B) APPLICABLE DISCHARGE.—For purposes of this paragraph, the term 'applicable discharge' means the discharge of any individual who is enrolled under a risk-sharing contract with an eligible organization under section 1876 and who is entitled to benefits under part A or any individual who is enrolled with a Medicare Choice organization under part C.

''(C) DETERMINATION OF AMOUNT.—The amount of the payment under this paragraph with respect to any applicable discharge shall be equal to the applicable percentage (as defined in subsection (h)(3)(D)(ii)) of the estimated average per discharge amount that would otherwise have been paid under paragraph (1)(A) if the individuals had not been enrolled as described in subparagraph (B).''.

SEC. 5452. DEMONSTRATION PROJECT ON USE OF CONSORTIA.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall establish a demonstration project under which, instead of making payments to teaching hospitals pursuant to section 1886(h) of the Social Security Act, the Secretary shall make payments under this section to each consortium that meets the requirements of subsection (b).

(b) QUALIFYING CONSORTIA.—For purposes of subsection (a), a consortium meets the requirements of this subsection if the consortium is in compliance with the following:

(1) The consortium consists of an approved medical residency training program in a teaching hospital and one or more of the following entities:

(A) A school of allopathic medicine or osteopathic medicine.

(B) Another teaching hospital, which may be a children's hospital.

(C) Another approved medical residency training program.

(D) A federally qualified health center.

(E) A medical group practice.

(F) A managed care entity.

(G) An entity furnishing outpatient services.

(I) Such other entity as the Secretary determines to be appropriate.

(2) The members of the consortium have agreed to participate in the programs of graduate medical education that are operated by the entities in the consortium.

(3) With respect to the receipt by the consortium of payments made pursuant to this section, the members of the consortium have agreed on a method for allocating the payments among the members.

(4) The consortium meets such additional requirements as the Secretary may establish.

(c) AMOUNT AND SOURCE OF PAYMENT.—The total of payments to a qualifying consortium for a fiscal year pursuant to subsection (a) shall not exceed the amount that would have been paid under section 1886(h) of the Social Security Act for the teaching hospital (or hospitals) in the consortium. Such payments shall be made in such proportion from each of the trust funds established under title XVIII of such Act as the Secretary specifies.

CHAPTER 4—OTHER HOSPITAL PAYMENTS

SEC. 5461. DISPROPORTIONATE SHARE PAYMENTS TO HOSPITALS FOR MANAGED CARE AND MEDICARE CHOICE ENROLLEES.

Section 1886(d) (42 U.S.C. 1395ww(d)) (as amended by section 5451) is amended by adding at the end the following:

''(12) ADDITIONAL PAYMENTS FOR MANAGED CARE AND MEDICARE CHOICE SAVINGS.—

''(A) IN GENERAL.—For portions of cost reporting periods occurring on or after January 1, 1998, the Secretary shall provide for an additional payment amount for each applicable discharge of—

(i) any subsection (d) hospital that is a disproportionate share hospital (as described in paragraph (5)(F)(i)); or

(ii) any hospital reimbursed under a reimbursement system authorized under section 1814(b)(3)) if such hospital would qualify as a disproportionate share hospital were it not so reimbursed.

''(B) APPLICABLE DISCHARGE.—For purposes of this paragraph, the term 'applicable discharge' means the discharge of any individual who is enrolled under a risk-sharing contract with an eligible organization under section 1876 and who is entitled to benefits under part A or any individual who is enrolled with a Medicare Choice organization under part C.

''(C) DETERMINATION OF AMOUNT.—The amount of the payment under this paragraph with respect to any applicable discharge shall be equal to the applicable percentage (as defined in subsection (h)(3)(D)(ii)) of the estimated average per discharge amount that would otherwise have been paid under paragraph (1)(A) if the individuals had not been enrolled as described in subparagraph (B).''.

SEC. 5462. REFORM OF DISPROPORTIONATE SHARE PAYMENTS TO HOSPITALS SERVING VULNERABLE POPULATIONS.

(a) IN GENERAL.—Section 1886(d)(5)(F) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(1) in clause (i), by inserting ''and before December 31, 1998,'' after ''May, 1, 1986,'';

(2) in clause (ii), by striking ''The amount'' and inserting ''Subject to clauses (ix) and (x), the amount''; and

(3) by adding at the end the following:

''(ix) In the case of discharges occurring on or after October 1, 1997, and before December 31, 1998, the additional payment amount otherwise determined under clause (ii) shall be reduced by 4 percent.

''(x)(I) In the case of discharges occurring during calendar years 1999 and succeeding calendar years, the additional payment amount shall be determined in accordance with the formula established under subclause (II).

''(II) Not later than January 1, 1999, the Secretary shall establish a formula for determining additional payment amounts under this subparagraph. In determining such formula the Secretary shall—

''(aa) establish a single threshold for costs incurred by hospitals in serving low-income patients,

''(bb) consider the costs described in subclause (III), and

''(cc) ensure that such formula complies with the requirement described in subclause (IV).

''(III) The costs described in this subclause are as follows:

''(aa) The costs incurred by the hospital during a period (as determined by the Secretary) of furnishing inpatient and outpatient hospital services to individuals who are entitled to benefits under part A of this title and are entitled to supplemental security income benefits under title XVI (excluding any supplementation of those benefits by a State under section 1616).

''(bb) The costs incurred by the hospital during a period (as so determined) of furnishing inpatient and outpatient hospital services to individuals who are eligible for medical assistance under the State plan under title XIX and are not entitled to benefits under part A of this title (including individuals enrolled in a health maintenance organization (as defined in section 1903(m)(1)(A)) or any other managed care plan under such title, individuals who are eligible for medical assistance under such title pursuant to a waiver approved by the Secretary under section 1115, and individuals who are eligible for medical assistance under the State plan under title XIX (regardless of whether the State has provided reimbursement for any such assistance provided under such title)).

''(cc) The costs incurred by the hospital during a period (as so determined) of furnishing inpatient and outpatient hospital services to individuals who are not described in item (aa) or (bb) and who do not have health insurance coverage (or any other source of third party payment for such services) and for which the hospital did not receive compensation.

''(IV)(aa) The requirement described in this subclause is that for each calendar year for which the formula established under this clause applies, the additional payment amount determined for such calendar year under such formula shall not exceed an amount equal to the additional payment amount that, in the absence of such formula, would have been determined under this subparagraph, reduced by the applicable percentage for such calendar year.

''(bb) For purposes of subclause (aa), the applicable percentage for—

''(AA) calendar year 1999 is 8 percent;

''(BB) calendar year 2000 is 12 percent;

''(CC) calendar year 2001 is 16 percent;

''(DD) calendar year 2002 is 20 percent;

''(EE) calendar year 2003 and subsequent calendar years, is 0 percent''.

(b) DATA COLLECTION.—

(1) IN GENERAL.—In developing the formula under section 1886(g)(5)(F)(x) of the Social Security Act (42 U.S.C. 1395ww(g)(5)(F)(x)), as added by subsection (a), and in implementing the provisions of and amendments made by this section, the Secretary of Health and Human Services may require any subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B))) receiving additional payments by reason of section 1886(d)(5)(F) of that Act (42 U.S.C. 1395ww(d)(5)(F)) (as amended by subsection (a) of this section) to submit to the Secretary any information that the Secretary determines is necessary to implement the provisions of and amendments made by this section.

(2) FAILURE TO COMPLY.—Any subsection (d) hospital (as so defined) that fails to submit to the Secretary of Health and Human Services any information requested under paragraph (1), shall be deemed ineligible for an additional payment amount under section 1886(d)(5)(F) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)) (as amended by subsection (a) of this section).

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to discharges occurring on and after October 1, 1997.

SEC. 5463. MEDICARE CAPITAL ASSET SALES PRICE EQUAL TO BOOK VALUE.

(a) IN GENERAL.—Section 1861(v)(1)(O) (42 U.S.C. 1395x(v)(1)(O)) is amended—

(1) in clause (i)—

(A) by striking ''and (if applicable) a return on equity capital'';

(B) by striking ''hospital or skilled nursing facility'' and inserting ''provider of services'';

(C) by striking ''clause (iv)'' and inserting ''clause (iii)''; and

(D) by striking ''the lesser of the allowable acquisition cost'' and all that follows and inserting ''the historical cost of the asset, as recognized under this title, less depreciation allowed, to the owner of record as of the date of enactment of the Balanced Budget Act of 1997 (or, in the case of an asset not in existence as of that date, the first owner of record of the asset after that date).'';

(2) by striking clause (ii); and

(3) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to changes of ownership that occur after the third month beginning after the date of enactment of this section.

SEC. 5464. ELIMINATION OF IME AND DSH PAYMENTS ATTRIBUTABLE TO OUTLIER PAYMENTS.

(a) INDIRECT MEDICAL EDUCATION.—Section 1886(d)(5)(B)(i)(I) (42 U.S.C. 1395ww(d)(5)(B)(i)(I)) is amended by inserting '', for cases qualifying for additional payment under subparagraph (A)(i),'' before ''the amount paid to the hospital under subparagraph (A)''.

(b) DISPROPORTIONATE SHARE ADJUSTMENTS.—Section 1886(d)(5)(F)(ii)(I) (42 U.S.C. 1395ww(d)(5)(F)(ii)(I)) is amended by inserting '', for cases qualifying for additional payment under subparagraph (A)(i),'' before ''the amount paid to the hospital under subparagraph (A)''.

(c) COST OUTLIER PAYMENTS.—Section 1886(d)(5)(A)(ii) (42 U.S.C. 1395ww(d)(5)(A)(ii)) is amended by striking ''exceed the applicable DRG prospective payment rate'' and inserting ''exceed the sum of the applicable DRG prospective payment rate plus any amounts payable under subparagraphs (B) and (F) of subsection (d)(5)''.

(d) EFFECTIVE DATE.—The amendments made by this section apply to discharges occurring after September 30, 1997.

SEC. 5465. TREATMENT OF TRANSFER CASES.

(a) TRANSFERS TO PPS EXEMPT HOSPITALS AND SKILLED NURSING FACILITIES.—Section 1886(d)(5)(I) (42 U.S.C. 1395ww(d)(5)(I)) is amended by adding at the end the following new clause:

''(iii) In carrying out this subparagraph, the Secretary shall treat the term 'transfer case' as including the case of an individual who, immediately upon discharge from, and pursuant to the discharge planning process (as defined in section 1861(ee)) of, a subsection (d) hospital—

''(I) is admitted as an inpatient to a hospital or hospital unit that is not a subsection (d) hospital for the receipt of inpatient hospital services; or

''(II) is admitted to a skilled nursing facility or facility described in section 1861(y)(1) for the receipt of extended care services.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to discharges occurring on or after October 1, 1997.

SEC. 5466. REDUCTIONS IN PAYMENTS FOR ENROLLEE BAD DEBT.

Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

''(T) In determining such reasonable costs for hospitals, the amount of bad debts otherwise treated as allowable costs which are attributable to the deductibles and coinsurance amounts under this title shall be reduced—

''(i) for cost reporting periods beginning on or after October 1, 1997 and on or before December 31, 1998, by 25 percent of such amount otherwise allowable,

''(ii) for cost reporting periods beginning during calendar year 1999, by 40 percent of such amount otherwise allowable, and

''(iii) for cost reporting periods beginning during a subsequent calendar year, by 50 percent of such amount otherwise allowable.''.

SEC. 5467. FLOOR ON AREA WAGE INDEX.

(a) IN GENERAL.—For purposes of section 1886(d)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(E)) for discharges occurring on or after October 1, 1997, the area wage index applicable under such section to any hospital which is not located in a rural area (as defined in section 1886(d)(2)(D) of such Act (42 U.S.C. 1395ww(d)(2)(D)) may not be less than the average of the area wage indices applicable under such section to hospitals located in rural areas in the State in which the hospital is located.

(b) IMPLEMENTATION.—The Secretary of Health and Human Services shall adjust the area wage indices referred to in subsection (a) for hospitals not described in such subsection in a manner which assures that the aggregate payments made under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) in a fiscal year for the operating costs of inpatient hospital services are not greater or less than those which would have been made in the year if this section did not apply.

(c) EXCLUSION OF CERTAIN WAGES.—In the case of a hospital that is owned by a municipality and that was reclassified as an urban hospital under section 1886(d)(10) of the Social Security Act for fiscal year 1996, in calculating the hospital's average hourly wage for purposes of geographic reclassification under such section for fiscal year 1998, the Secretary of Health and Human Services shall exclude the general service wages and hours of personnel associated with a skilled nursing facility that is owned by the hospital of the same municipality and that is physically separated from the hospital to the extent that such wages and hours of such personnel are not shared with the hospital and are separately documented. A hospital that applied for and was denied reclassification as an urban hospital for fiscal year 1998, but that would have received reclassification had the exclusion required by this section been applied to it, shall be reclassified as an urban hospital for fiscal year 1998.

SEC. 5468. INCREASE BASE PAYMENT RATE TO PUERTO RICO HOSPITALS.

Section 1886(d)(9)(A) (42 U.S.C. 1395ww(d)(9)(A)) is amended—

(1) in the matter preceding clause (i), by striking ''in a fiscal year beginning on or after October 1, 1987,'',

(2) in clause (i), by striking ''75 percent'' and inserting ''for discharges beginning on or after October 1, 1997, 50 percent (and for discharges between October 1, 1987, and September 30, 1997, 75 percent)'', and

(3) in clause (ii), by striking ''25 percent'' and inserting ''for discharges beginning in a fiscal year beginning on or after October 1, 1997, 50 percent (and for discharges between October 1, 1987 and September 30, 1997, 25 percent)''.

SEC. 5469. PERMANENT EXTENSION OF HEMOPHILIA PASS-THROUGH.

Effective October 1, 1997, section 6011(d) of OBRA–1989 (as amended by section 13505 of OBRA–1993) is amended by striking ''and shall expire September 30, 1994''.

SEC. 5470. COVERAGE OF SERVICES IN RELIGIOUS NONMEDICAL HEALTH CARE INSTITUTIONS UNDER THE MEDICARE AND MEDICAID PROGRAMS.

(a) MEDICARE COVERAGE.—

(1) IN GENERAL.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) (as amended by section 5361) is amended—

(1) in the sixth sentence of subsection (e)—

(A) by striking ''includes'' and all that follows up to ''but only'' and inserting ''includes a religious nonmedical health care institution (as defined in subsection (rr)(1)),'', and

(B) by inserting ''consistent with section 1821'' before the period;

(2) in subsection (y)—

(A) by amending the heading to read as follows:

''Extended Care in Religious Nonmedical Health Care Institutions'',

(B) in paragraph (1), by striking ''includes'' and all that follows up to ''but only'' and inserting ''includes a religious nonmedical health care institution (as defined in subsection (rr)(1)),'', and

(C) by inserting ''consistent with section 1821'' before the period; and

(3) by adding at the end the following:

''Religious Nonmedical Health Care Institution

''(rr)(1) The term 'religious nonmedical health care institution' means an institution that—

''(A) is described in subsection (c)(3) of section 501 of the Internal Revenue Code of 1986 and is exempt from taxes under subsection (a) of such section;

''(B) is lawfully operated under all applicable Federal, State, and local laws and regulations;

''(C) provides only nonmedical nursing items and services exclusively to patients who choose to rely solely upon a religious method of healing and for whom the acceptance of medical health services would be inconsistent with their religious beliefs;

''(D) provides such nonmedical items and services exclusively through nonmedical nursing personnel who are experienced in caring for the physical needs of such patients;

''(E) provides such nonmedical items and services to inpatients on a 24-hour basis;

''(F) on the basis of its religious beliefs, does not provide through its personnel or otherwise medical items and services (including any medical screening, examination, diagnosis, prognosis, treatment, or the administration of drugs) for its patients;

''(G) is not a part of, or owned by, or under common ownership with, or affiliated through ownership with, a health care facility that provides medical services;

''(H) has in effect a utilization review plan which—

''(i) provides for the review of admissions to the institution, of the duration of stays therein, of cases of continuous extended duration, and of the items and services furnished by the institution,

''(ii) requires that such reviews be made by an appropriate committee of the institution that includes the individuals responsible for overall administration and for supervision of nursing personnel at the institution,

''(iii) provides that records be maintained of the meetings, decisions, and actions of such committee, and

''(iv) meets such other requirements as the Secretary finds necessary to establish an effective utilization review plan;

''(I) provides the Secretary with such information as the Secretary may require to implement section 1821, to monitor quality of care, and to provide for coverage determinations; and

''(J) meets such other requirements as the Secretary finds necessary in the interest of the health and safety of individuals who are furnished services in the institution.

''(2) If the Secretary finds that the accreditation of an institution by a State, regional, or national agency or association provides reasonable assurances that any or all of the requirements of paragraph (1) are met or exceeded, the Secretary shall, to the extent the Secretary deems it appropriate, treat such institution as meeting the condition or conditions with respect to which the Secretary made such finding.

''(3)(A)(i) In administering this subsection and section 1821, the Secretary shall not require any patient of a religious nonmedical health care institution to undergo any medical screening, examination, diagnosis, prognosis, or treatment or to accept any other medical health care service, if such patient (or legal representative of the patient) objects thereto on religious grounds.

''(ii) Clause (i) shall not be construed as preventing the Secretary from requiring under section 1821(a)(2) the provision of sufficient information regarding an individual's condition as a condition for receipt of benefits under part A for services provided in such an institution.

''(B)(i) In administering this subsection and section 1821, the Secretary shall not subject a religious nonmedical health care institution to any medical supervision, regulation, or control, insofar as such supervision, regulation, or control would be contrary to the religious beliefs observed by the institution.

''(ii) Clause (i) shall not be construed as preventing the Secretary from reviewing items and services billed by the institution to the extent the Secretary determines such review to be necessary to determine whether such items and services were not covered under part A, are excessive, or are fraudulent.''.

(2) CONDITIONS OF COVERAGE.—Part A of title XVIII of the Social Security Act is amended by adding at the end the following new section:

''CONDITIONS FOR COVERAGE OF RELIGIOUS NONMEDICAL HEALTH CARE INSTITUTIONAL SERVICES

''SEC. 1821. (a) IN GENERAL.—Subject to subsections (c) and (d), payment under this part may be made for inpatient hospital services or post-hospital extended care services furnished an individual in a religious nonmedical health care institution only if—

''(1) the individual has an election in effect for such benefits under subsection (b); and

''(2) the individual has a condition such that the individual would qualify for benefits under this part for inpatient hospital services or extended care services, respectively, if the individual were an inpatient or resident in a hospital or skilled nursing facility that was not such an institution.

''(b) ELECTION.—

''(1) IN GENERAL.—An individual may make an election under this subsection in a form and manner specified by the Secretary consistent with this subsection. Unless otherwise provided, such an election shall take effect immediately upon its execution. Such an election, once made, shall continue in effect until revoked.

''(2) FORM.—The election form under this subsection shall include the following:

''(A) A statement, signed by the individual (or such individual's legal representative), that—

''(i) the individual is conscientiously opposed to acceptance of nonexcepted medical treatment; and

''(ii) the individual's acceptance of nonexcepted medical treatment would be inconsistent with the individual's sincere religious beliefs.

''(B) A statement that the receipt of non-excepted medical services shall constitute a revocation of the election and may limit further receipt of services described in subsection (a).

''(3) REVOCATION.—An election under this subsection by an individual may be revoked in a form and manner specified by the Secretary and shall be deemed to be revoked if the individual receives medicare reimbursable non-excepted medical treatment, regardless of whether or not benefits for such treatment are provided under this title.

''(4) LIMITATION ON SUBSEQUENT ELECTIONS.—Once an individual's election under this subsection has been made and revoked twice—

''(A) the next election may not become effective until the date that is 1 year after the date of most recent previous revocation, and

''(B) any succeeding election may not become effective until the date that is 5 years after the date of the most recent previous revocation.

''(5) EXCEPTED MEDICAL TREATMENT.—For purposes of this subsection:

''(A) EXCEPTED MEDICAL TREATMENT.—The term 'excepted medical treatment' means medical care or treatment (including medical and other health services)—

''(i) for the setting of fractured bones,

''(ii) received involuntarily, or

''(iii) required under Federal or State law or law of a political subdivision of a State.

''(B) NON-EXCEPTED MEDICAL TREATMENT.—The term 'nonexcepted medical treatment' means medical care or treatment (including medical and other health services) other than excepted medical treatment.

''(c) MONITORING AND SAFEGUARD AGAINST EXCESSIVE EXPENDITURES.—

''(1) ESTIMATE OF EXPENDITURES.—Before the beginning of each fiscal year (beginning with fiscal year 2000), the Secretary shall estimate the level of expenditures under this part for services described in subsection (a)for that fiscal year.

''(2) ADJUSTMENT IN PAYMENTS.—

''(A) PROPORTIONAL ADJUSTMENT.—If the Secretary determines that the level estimated under paragraph (1) for a fiscal year will exceed the trigger level (as defined in subparagraph (C)) for that fiscal year, the Secretary shall, subject to subparagraph (B), provide for such a proportional reduction in payment amounts under this part for services described in subsection (a) for the fiscal year involved as will assure that such level (taking into account any adjustment under subparagraph (B)) does not exceed the trigger level for that fiscal year.

''(B) ALTERNATIVE ADJUSTMENTS.—The Secretary may, instead of making some or all of the reduction described in subparagraph (A), impose such other conditions or limitations with respect to the coverage of covered services (including limitations on new elections of coverage and new facilities) as may be appropriate to reduce the level of expenditures described in paragraph (1) to the trigger level.

''(C) TRIGGER LEVEL.—For purposes of this subsection, subject to adjustment under paragraph (3)(B), the 'trigger level' for—

''(i) fiscal year 1998, is $20,000,000, or

''(ii) a succeeding fiscal year is the amount specified under this subparagraph for the previous fiscal year increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) for the 12-month period ending with July preceding the beginning of the fiscal year.

''(D) PROHIBITION OF ADMINISTRATIVE AND JUDICIAL REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of the estimation of expenditures under subparagraph (A) or the application of reduction amounts under subparagraph (B).

''(E) EFFECT ON BILLING.—Notwithstanding any other provision of this title, in the case of a reduction in payment provided under this subsection for services of a religious nonmedical health care institution provided to an individual, the amount that the institution is otherwise permitted to charge the individual for such services is increased by the amount of such reduction.

''(3) MONITORING EXPENDITURE LEVEL.—

''(A) IN GENERAL.—The Secretary shall monitor the expenditure level described in paragraph (2)(A) for each fiscal year (beginning with fiscal year 1999).

''(B) ADJUSTMENT IN TRIGGER LEVEL.—If the Secretary determines that such level for a fiscal year exceeded, or was less than, the trigger level for that fiscal year, then the trigger level for the succeeding fiscal year shall be reduced, or increased, respectively, by the amount of such excess or deficit.

''(d) SUNSET.—If the Secretary determines that the level of expenditures described in subsection (c)(1) for 3 consecutive fiscal years (with the first such year being not earlier than fiscal year 2002) exceeds the trigger level for such expenditures for such years (as determined under subsection (c)(2)), benefits shall be paid under this part for services described in subsection (a) and furnished on or after the first January 1 that occurs after such 3 consecutive years only with respect to an individual who has an election in effect under subsection (b) as of such January 1 and only during the duration of such election.

''(e) ANNUAL REPORT.—At the beginning of each fiscal year (beginning with fiscal year 1999), the Secretary shall submit to the Committees on Ways and Means of the House of Representatives and the Committee on Finance of the Senate an annual report on coverage and expenditures for services described in subsection (a) under this part and under State plans under title XIX. Such report shall include—

''(1) level of expenditures described in subsection (c)(1) for the previous fiscal year and estimated for the fiscal year involved;

''(2) trends in such level; and

''(3) facts and circumstances of any significant change in such level from the level in previous fiscal years.''.

(b) MEDICAID.—

(1) The third sentence of section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended by striking all that follows ''shall not apply'' and inserting ''to a religious nonmedical health care institution (as defined in section 1861(rr)(1)).''.

(2) Section 1908(e)(1) of such Act (42 U.S.C. 1396g–1(e)(1)) is amended by striking all that follows ''does not include'' and inserting ''a religious nonmedical health care institution (as defined in section 1861(rr)(1)).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 1122(h) of such Act (42 U.S.C. 1320a–1(h)) is amended by striking all that follows ''shall not apply to'' and inserting ''a religious nonmedical health care institution (as defined in section 1861(rr)(1)).''.

(2) Section 1162 of such Act (42 U.S.C. 1320c–11) is amended—

(A) by amending the heading to read as follows:

''EXEMPTIONS FOR RELIGIOUS NONMEDICAL HEALTH CARE INSTITUTIONS''; and

(B) by striking all that follows ''shall not apply with respect to a'' and inserting ''religious nonmedical health care institution (as defined in section 1861(rr)(1)).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to items and services furnished on or after such date. By not later than July 1, 1998, the Secretary of Health and Human Services shall first issue regulations to carry out such amendments. Such regulations may be issued so they are effective on an interim basis pending notice and opportunity for public comment. For periods before the effective date of such regulations, such regulations shall recognize elections entered into in good faith in order to comply with the requirements of section 1821(b) of the Social Security Act.

CHAPTER 5—PAYMENTS FOR HOSPICE SERVICES

SEC. 5481. PAYMENT FOR HOME HOSPICE CARE BASED ON LOCATION WHERE CARE IS FURNISHED.

(a) IN GENERAL.—Section 1814(i)(2) (42 U.S.C. 1395f(i)(2)) is amended by adding at the end the following:

''(D) A hospice program shall submit claims for payment for hospice care furnished in an individual's home under this title only on the basis of the geographic location at which the service is furnished, as determined by the Secretary.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to cost reporting periods beginning on or after October 1, 1997.

SEC. 5482. HOSPICE CARE BENEFITS PERIODS.

(a) RESTRUCTURING OF BENEFIT PERIOD.—Section 1812 (42 U.S.C. 1395d) is amended in subsections (a)(4) and (d)(1), by striking '', a subsequent period of 30 days, and a subsequent extension period'' and inserting ''and an unlimited number of subsequent periods of 60 days each''.

(b) CONFORMING AMENDMENTS.—(1) Section 1812 (42 U.S.C. 1395d) is amended in subsection (d)(2)(B) by striking ''90- or 30-day period or a subsequent extension period'' and inserting ''90-day period or a subsequent 60-day period''.

(2) Section 1814(a)(7)(A) (42 U.S.C. 1395f(a)(7)(A)) is amended—

(A) in clause (i), by inserting ''and'' at the end;

(B) in clause (ii)—

(i) by striking ''30-day'' and inserting ''60-day''; and

(ii) by striking '', and'' at the end and inserting a period; and

(C) by striking clause (iii).

SEC. 5483. OTHER ITEMS AND SERVICES INCLUDED IN HOSPICE CARE.

Section 1861(dd)(1) (42 U.S.C. 1395x(dd)(1)) is amended—

(1) in subparagraph (G), by striking ''and'' at the end;

(2) in subparagraph (H), by striking the period at the end and inserting '', and''; and

(3) by inserting after subparagraph (H) the following:

''(I) any other item or service which is specified in the plan and for which payment may otherwise be made under this title.''.

SEC. 5484. CONTRACTING WITH INDEPENDENT PHYSICIANS OR PHYSICIAN GROUPS FOR HOSPICE CARE SERVICES PERMITTED.

Section 1861(dd)(2) (42 U.S.C. 1395x(dd)(2)) is amended—

(1) in subparagraph (A)(ii)(I), by striking ''(F),''; and

(2) in subparagraph (B)(i), by inserting ''or, in the case of a physician described in subclause (I), under contract with'' after ''employed by''.

SEC. 5485. WAIVER OF CERTAIN STAFFING REQUIREMENTS FOR HOSPICE CARE PROGRAMS IN NON-URBANIZED AREAS.

Section 1861(dd)(5) (42 U.S.C. 1395x(dd)(5)) is amended—

(1) in subparagraph (B), by inserting ''or (C)'' after ''subparagraph (A)'' each place it appears; and

(2) by adding at the end the following:

''(C) The Secretary may waive the requirements of paragraph clauses (i) and (ii) of paragraph (2)(A) for an agency or organization with respect to the services described in paragraph (1)(B) and, with respect to dietary counseling, paragraph (1)(H), if such agency or organization—

''(i) is located in an area which is not an urbanized area (as defined by the Bureau of the Census), and

''(ii) demonstrates to the satisfaction of the Secretary that the agency or organization has been unable, despite diligent efforts, to recruit appropriate personnel.''.

SEC. 5486. LIMITATION ON LIABILITY OF BENEFICIARIES FOR CERTAIN HOSPICE COVERAGE DENIALS.

Section 1879 (42 U.S.C. 1395pp) is amended—

(1) in subsection (a), in the matter following paragraph (2), by inserting ''and except as provided in subsection (i),'' after ''to the extent permitted by this title,'';

(2) in subsection (g)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting such subparagraphs appropriately;

(B) by striking ''is,'' and inserting ''is—'';

(C) by making the remaining text of subsection (g) (as amended) that follows ''is—'' a new paragraph (1) and indenting that paragraph appropriately;

(D) by striking the period at the end and inserting ''; and''; and

(E) by adding at the end the following:

''(2) with respect to the provision of hospice care to an individual, a determination that the individual is not terminally ill.''; and

(3) by adding at the end the following:

''(i) In any case involving a coverage denial with respect to hospice care described in subsection (g)(2), only the individual that received such care shall, notwithstanding such determination, be indemnified for any payments that the individual made to a provider or other person for such care that would, but for such denial, otherwise be paid to the individual under part A or B of this title.''.

SEC. 5487. EXTENDING THE PERIOD FOR PHYSICIAN CERTIFICATION OF AN INDIVIDUAL'S TERMINAL ILLNESS.

Section 1814(a)(7)(A)(i) (42 U.S.C. 1395f(a)(7)(A)(i)) is amended, in the matter following subclause (II), by striking '', not later than 2 days after hospice care is initiated (or, if each certify verbally not later than 2 days after hospice care is initiated, not later than 8 days after such care is initiated)'' and inserting ''at the beginning of the period''.

SEC. 5488. EFFECTIVE DATE.

Except as otherwise provided in this chapter, the amendments made by this chapter apply to benefits provided on or after the date of the enactment of this chapter, regardless of whether or not an individual has made an election under section 1812(d) of the Social Security Act (42 U.S.C. 1395d(d)) before such date.

Subtitle G—Provisions Relating to Part B Only

CHAPTER 1—PAYMENTS FOR PHYSICIANS AND OTHER HEALTH CARE PROVIDERS

SEC. 5501. ESTABLISHMENT OF SINGLE CONVERSION FACTOR FOR 1998.

(a) IN GENERAL.—Section 1848(d)(1) (42 U.S.C. 1395w–4(d)(1)) is amended to read as follows:

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—The conversion factor for each year shall be the conversion factor established under this subsection for the previous year, adjusted by the update established under paragraph (3) for the year involved.

''(B) SPECIAL RULE FOR 1998.—The single conversion factor for 1998 shall be the conversion factor for primary care services for 1997, increased by the Secretary's estimate of the weighted average of the 3 separate updates that would otherwise occur but for the enactment of chapter 1 of subtitle G of title V of the Balanced Budget Act of 1997.

''(C) PUBLICATION.—The Secretary shall, during the last 15 days of October of each year, publish the conversion factor which will apply to physicians' services for the following year and the update determined under paragraph (3) for such year.''.

(b) CONFORMING AMENDMENT.—Section 1848(i)(1)(C) (42 U.S.C. 1395w–4(i)(1)(C)) is amended by striking ''conversion factors'' and inserting ''the conversion factor''.

SEC. 5502. ESTABLISHING UPDATE TO CONVERSION FACTOR TO MATCH SPENDING UNDER SUSTAINABLE GROWTH RATE.

(a) UPDATE.—

(1) IN GENERAL.—Section 1848(d)(3) (42 U.S.C. 1395w–4(d)(3)) is amended to read as follows:

''(3) UPDATE.—

''(A) IN GENERAL.—Unless otherwise provided by law, subject to subparagraph (D) and the budget-neutrality factor determined by the Secretary under subsection (c)(2)(B)(ii), the update to the single conversion factor established in paragraph (1)(B) for a year beginning with 1999 is equal to the product of—

''(i) 1 plus the Secretary's estimate of the percentage increase in the MEI (as defined in section 1842(i)(3)) for the year (divided by 100), and

''(ii) 1 plus the Secretary's estimate of the update adjustment factor for the year (divided by 100),

minus 1 and multiplied by 100.

''(B) UPDATE ADJUSTMENT FACTOR.—For purposes of subparagraph (A)(ii), the 'update adjustment factor' for a year is equal to the quotient (as estimated by the Secretary) of—

''(i) the difference between (I) the sum of the allowed expenditures for physicians' services (as determined under subparagraph (C)) for the period beginning July 1, 1997, and ending on June 30 of the year involved, and (II) the amount of actual expenditures for physicians' services furnished during the period beginning July 1, 1997, and ending on June 30 of the preceding year; divided by

''(ii) the actual expenditures for physicians' services for the 12-month period ending on June 30 of the preceding year, increased by the sustainable growth rate under subsection (f) for the fiscal year which begins during such 12-month period.

''(C) DETERMINATION OF ALLOWED EXPENDITURES.—For purposes of this paragraph, the allowed expenditures for physicians' services for the 12-month period ending with June 30 of—

''(i) 1997 is equal to the actual expenditures for physicians' services furnished during such 12-month period, as estimated by the Secretary; or

''(ii) a subsequent year is equal to the allowed expenditures for physicians' services for the previous year, increased by the sustainable growth rate under subsection (f) for the fiscal year which begins during such 12-month period.

''(D) RESTRICTION ON VARIATION FROM MEDICARE ECONOMIC INDEX.—Notwithstanding the amount of the update adjustment factor determined under subparagraph (B) for a year, the update in the conversion factor under this paragraph for the year may not be—

''(i) greater than 100 times the following amount: (1.03 + (MEI percentage/100)) −1; or

''(ii) less than 100 times the following amount: (0.93 + (MEI percentage/100)) −1,

where 'MEI percentage' means the Secretary's estimate of the percentage increase in the MEI (as defined in section 1842(i)(3)) for the year involved.''.

(b) ELIMINATION OF REPORT.—Section 1848(d) (42 U.S.C. 1395w–4(d)) is amended by striking paragraph (2).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the update for years beginning with 1999.

SEC. 5503. REPLACEMENT OF VOLUME PERFORMANCE STANDARD WITH SUSTAINABLE GROWTH RATE.

(a) IN GENERAL.—Section 1848(f) (42 U.S.C. 1395w–4(f)) is amended by striking paragraphs (2) through (5) and inserting the following:

''(2) SPECIFICATION OF GROWTH RATE.—The sustainable growth rate for all physicians' services for a fiscal year (beginning with fiscal year 1998) shall be equal to the product of—

''(A) 1 plus the Secretary's estimate of the weighted average percentage increase (divided by 100) in the fees for all physicians' services in the fiscal year involved,

''(B) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than Medicare Choice plan enrollees) from the previous fiscal year to the fiscal year involved,

''(C) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from the previous fiscal year to the fiscal year involved, and

''(D) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in the fiscal year (compared with the previous fiscal year) which will result from changes in law and regulations, determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services resulting from changes in the update to the conversion factor under subsection (d)(3),

minus 1 and multiplied by 100.

''(3) DEFINITIONS.—In this subsection:

''(A) SERVICES INCLUDED IN PHYSICIANS' SERVICES.—The term 'physicians' services' includes other items and services (such as clinical diagnostic laboratory tests and radiology services), specified by the Secretary, that are commonly performed or furnished by a physician or in a physician's office, but does not include services furnished to a Medicare Choice plan enrollee.

''(B) MEDICARE CHOICE PLAN ENROLLEE.—The term 'Medicare Choice plan enrollee' means, with respect to a fiscal year, an individual enrolled under this part who has elected to receive benefits under this title for the fiscal year through a Medicare Choice plan offered under part C, and also includes an individual who is receiving benefits under this part through enrollment with an eligible organization with a risk-sharing contract under section 1876.''.

(b) CONFORMING AMENDMENTS.—So much of section 1848(f) (42 U.S.C. 1395w–4(f)) as precedes paragraph (2) is amended to read as follows:

''(f) SUSTAINABLE GROWTH RATE.—

''(1) PUBLICATION.—The Secretary shall cause to have published in the Federal Register the sustainable growth rate for each fiscal year beginning with fiscal year 1998. Such publication shall occur in the last 15 days of October of the year in which the fiscal year begins, except that such rate for fiscal year 1998 shall be published not later than January 1, 1998.''.

SEC. 5504. PAYMENT RULES FOR ANESTHESIA SERVICES.

(a) IN GENERAL.—Section 1848(d)(1) (42 U.S.C. 1395w–4(d)(1)), as amended by section 5501, is amended—

(A) in subparagraph (B), striking ''The single'' and inserting ''Except as provided in subparagraph (C), the single'';

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following new subparagraph:

''(C) SPECIAL RULES FOR ANESTHESIA SERVICES.—The separate conversion factor for anesthesia services for a year shall be equal to 46 percent of the single conversion factor established for other physicians' services, except as adjusted for changes in work, practice expense, or malpractice relative value units.''.

(b) CLASSIFICATION OF ANESTHESIA SERVICES.—The first sentence of section 1848(j)(1) (42 U.S.C. 1395w–4(j)(1)) is amended—

(1) by striking ''and including anesthesia services''; and

(2) by inserting before the period the following: ''(including anesthesia services)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1998.

SEC. 5505. IMPLEMENTATION OF RESOURCE-BASED METHODOLOGIES.

(a) ADJUSTMENTS TO RELATIVE VALUE UNITS FOR 1998.—Section 1848(c)(2) (42 U.S.C. 1395w–4(c)(2)) is amended by adding at the end the following new subparagraph:

''(G) ADJUSTMENTS IN RELATIVE VALUE UNITS FOR 1998.—

''(i) IN GENERAL.—The Secretary shall—

''(I) reduce the practice expense relative value units applied to any services described in clause (ii) furnished in 1998 to a number equal to 110 percent of the number of work relative value units, and

''(II) increase the practice expense relative value units for office visit procedure codes during 1998 by a uniform percentage which the Secretary estimates will result in an aggregate increase in payments for such services equal to the aggregate decrease in payments by reason of subclause (I).

''(ii) SERVICES COVERED.—For purposes of clause (i), the services described in this clause are physicians' services that are not described in clause (iii) and for which—

''(I) there are work relative value units, and

''(II) the number of practice expense relative value units (determined for 1998) exceeds 110 percent of the number of work relative value units (determined for such year).

''(iii) EXCLUDED SERVICES.—For purposes of clause (ii), the services described in this clause are services which the Secretary determines at least 75 percent of which are provided under this title in an office setting.''.

(b) DELAY OF IMPLEMENTATION TO 1999; PHASEIN OF IMPLEMENTATION.—Section 1848(c)(2) (42 U.S.C. 1395w–4(c)(2)), as amended by subsection (a), is amended—

(1) in subparagraph (C)(ii)—

(A) by striking ''1998'' each place it appears and inserting ''1999'', and

(B) by inserting '', to the extent provided under subparagraph (H),'' after ''based'' in the matter following subclause (II), and

(2) by adding at the end the following new subparagraph:

''(H) 3-YEAR ADDITIONAL PHASEIN OF RESOURCE-BASED PRACTICE EXPENSE UNITS.—Notwithstanding subparagraph (C)(ii), the Secretary shall implement the resource-based practice expense unit methodology described in such subparagraph ratably over the 3-year period beginning with 1999 such that such methodology is fully implemented for 2001 and succeeding years.''.

(c) REVIEW BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall review and evaluate the proposed rule on resource-based methodology for practice expenses issued by the Health Care Financing Administration. The Comptroller General shall, within 6 months of the date of the enactment of this Act, report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of its evaluation, including an analysis of—

(1) the adequacy of the data used in preparing the rule,

(2) categories of allowable costs,

(3) methods for allocating direct and indirect expenses,

(4) the potential impact of the rule on beneficiary access to services, and

(5) any other matters related to the appropriateness of resource-based methodology for practice expenses.

The Comptroller General shall consult with representatives of physicians' organizations with respect to matters of both data and methodology.

(d) CONSULTATION.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall assemble a group of physicians with expertise in both surgical and nonsurgical areas (including primary care physicians and academics), accounting experts, and the chair of the Prospective Payment Review Commission (or its successor) to solicit their individual views on whether sufficient data exist to allow the Health Care Financing Administration to proceed with implementation of the rule described in subsection (c). After hearing the views of individual members of the group, the Secretary shall determine whether sufficient data exists to proceed with practice expense relative value determination and shall report on such views of the individual members to the committees described in subsection (c), including any recommendations for modifying such rule.

(2) ACTION.—If the Secretary determines under paragraph (1) that insufficient data exists or that the rule described in subsection (c) needs to be revised, the Secretary shall provide for additional data collection and such other actions to correct any deficiencies.

(e) APPLICATION OF RESOURCE-BASED METHODOLOGY TO MALPRACTICE RELATIVE VALUE UNITS.—Section 1848(c)(2)(C)(iii) (42 U.S.C. 1395w–4(c)(2)(C)(iii)) is amended—

(1) by inserting ''for years before 1999'' before ''equal'', and

(2) by striking the period at the end and inserting a comma and by adding at the end the following flush matter:

''and for years beginning with 1999 based on the malpractice expense resources involved in furnishing the service''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning on and after January 1, 1998.

(2) MALPRACTICE.—The amendments made by subsection (e) shall apply to years beginning on and after January 1, 1999.

SEC. 5506. INCREASED MEDICARE REIMBURSEMENT FOR NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS.

(a) REMOVAL OF RESTRICTIONS ON SETTINGS.—

(1) IN GENERAL.—Clause (ii) of section 1861(s)(2)(K) (42 U.S.C. 1395x(s)(2)(K)) is amended to read as follows:

''(ii) services which would be physicians' services if furnished by a physician (as defined in subsection (r)(1)) and which are performed by a nurse practitioner or clinical nurse specialist (as defined in subsection (aa)(5)) working in collaboration (as defined in subsection (aa)(6)) with a physician (as defined in subsection (r)(1)) which the nurse practitioner or clinical nurse specialist is legally authorized to perform by the State in which the services are performed, and such services and supplies furnished as an incident to such services as would be covered under subparagraph (A) if furnished incident to a physician's professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services;''.

(2) CONFORMING AMENDMENTS.—(A) Section 1861(s)(2)(K) of such Act (42 U.S.C. 1395x(s)(2)(K)) is further amended—

(i) in clause (i), by inserting ''and such services and supplies furnished as incident to such services as would be covered under subparagraph (A) if furnished incident to a physician's professional service; and'' after ''are performed,''; and

(ii) by striking clauses (iii) and (iv).

(B) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is amended by striking ''clauses (i) or (iii) of subsection (s)(2)(K)'' and inserting ''subsection (s)(2)(K)''.

(C) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking ''section 1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)'' and inserting ''section 1861(s)(2)(K)''.

(D) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)) is amended by striking ''section 1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)'' and inserting ''section 1861(s)(2)(K)''.

(E) Section 1888(e)(2)(A)(ii) (42 U.S.C. 1395yy(e)(2)(A)(ii)), as added by section 5301(a), is amended by striking ''through (iii)'' and inserting ''and (ii)''.

(b) INCREASED PAYMENT.—

(1) FEE SCHEDULE AMOUNT.—Clause (O) of section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended to read as follows: ''(O) with respect to services described in section 1861(s)(2)(K)(ii) (relating to nurse practitioner or clinical nurse specialist services), the amounts paid shall be equal to 80 percent of (i) the lesser of the actual charge or 85 percent of the fee schedule amount provided under section 1848, or (ii) in the case of services as an assistant at surgery, the lesser of the actual charge or 85 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistant at surgery; and''.

(2) CONFORMING AMENDMENTS.—(A) Section 1833(r) (42 U.S.C. 1395l(r)) is amended—

(i) in paragraph (1), by striking ''section 1861(s)(2)(K)(iii) (relating to nurse practitioner or clinical nurse specialist services provided in a rural area)'' and inserting ''section 1861(s)(2)(K)(ii) (relating to nurse practitioner or clinical nurse specialist services)'';

(ii) by striking paragraph (2);

(iii) in paragraph (3), by striking ''section 1861(s)(2)(K)(iii)'' and inserting ''section 1861(s)(2)(K)(ii)''; and

(iv) by redesignating paragraph (3) as paragraph (2).

(B) Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended, in the matter preceding clause (i), by striking ''clauses (i), (ii), or (iv) of section 1861(s)(2)(K) (relating to a physician assistants and nurse practitioners)'' and inserting ''section 1861(s)(2)(K)(i) (relating to physician assistants)''.

(c) DIRECT PAYMENT FOR NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS.—

(1) IN GENERAL.—Section 1832(a)(2)(B)(iv) (42 U.S.C. 1395k(a)(2)(B)(iv)) is amended by striking ''provided in a rural area (as defined in section 1886(d)(2)(D))'' and inserting ''but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services''.

(2) CONFORMING AMENDMENT.—Section 1842(b)(6)(C) (42 U.S.C. 1395u(b)(6)(C)) is amended—

(A) by striking ''clauses (i), (ii), or (iv)'' and inserting ''clause (i)''; and

(B) by striking ''or nurse practitioner''.

(d) DEFINITION OF CLINICAL NURSE SPECIALIST CLARIFIED.—Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)) is amended—

(1) by inserting ''(A)'' after ''(5)'';

(2) by striking ''The term 'physician assistant'' and all that follows through ''who performs'' and inserting ''The term 'physician assistant' and the term 'nurse practitioner' mean, for purposes of this title, a physician assistant or nurse practitioner who performs''; and

(3) by adding at the end the following new subparagraph:

''(B) The term 'clinical nurse specialist' means, for purposes of this title, an individual who—

''(i) is a registered nurse and is licensed to practice nursing in the State in which the clinical nurse specialist services are performed; and

''(ii) holds a master's degree in a defined clinical area of nursing from an accredited educational institution.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished and supplies provided on and after January 1, 1998.

SEC. 5507. INCREASED MEDICARE REIMBURSEMENT FOR PHYSICIAN ASSISTANTS.

(a) REMOVAL OF RESTRICTION ON SETTINGS.—Section 1861(s)(2)(K)(i) (42 U.S.C. 1395x(s)(2)(K)(i)), as amended by the section 5506, is amended—

(1) by striking ''(I) in a hospital'' and all that follows through ''shortage area,'', and

(2) by adding at the end the following: ''but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services,''.

(b) INCREASED PAYMENT.—Paragraph (12) of section 1842(b) (42 U.S.C. 1395u(b)), as amended by section 5506(b)(2)(B), is amended to read as follows:

''(12) With respect to services described in section 1861(s)(2)(K)(i)—

''(A) payment under this part may only be made on an assignment-related basis; and

''(B) the amounts paid under this part shall be equal to 80 percent of (i) the lesser of the actual charge or 85 percent of the fee schedule amount provided under section 1848 for the same service provided by a physician who is not a specialist; or (ii) in the case of services as an assistant at surgery, the lesser of the actual charge or 85 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistant at surgery.''.

(c) REMOVAL OF RESTRICTION ON EMPLOYMENT RELATIONSHIP.—Section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended by adding at the end the following new sentence: ''For purposes of clause (C) of the first sentence of this paragraph, an employment relationship may include any independent contractor arrangement, and employer status shall be determined in accordance with the law of the State in which the services described in such clause are performed.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished and supplies provided on and after January 1, 1998.

CHAPTER 2—OTHER PAYMENT PROVISIONS

SEC. 5521. REDUCTION IN UPDATES TO PAYMENT AMOUNTS FOR CLINICAL DIAGNOSTIC LABORATORY TESTS; STUDY ON LABORATORY SERVICES.

(a) CHANGE IN UPDATE.—Section 1833(h)(2)(A)(ii) (42 U.S.C. 1395l(h)(2)(A)(ii)) is amended by striking ''and'' at the end of subclause (III), by striking the period at the end of subclause (IV) and inserting '', and'', and by adding at the end the following:

''(V) the annual adjustment in the fee schedules determined under clause (i) for each of the years 1998 through 2002 shall be reduced (but not below zero) by 2.0 percentage points.''.

(b) LOWERING CAP ON PAYMENT AMOUNTS.—Section 1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)) is amended—

(1) in clause (vi), by striking ''and'' at the end;

(2) in clause (vii)—

(A) by inserting ''and before January 1, 1998,'' after ''1995,'', and

(B) by striking the period at the end and inserting '', and''; and

(3) by adding at the end the following new clause:

''(viii) after December 31, 1997, is equal to 74 percent of such median.''.

(c) STUDY AND REPORT ON CLINICAL LABORATORY SERVICES.—

(1) IN GENERAL.—The Secretary shall request the Institute of Medicine of the National Academy of Sciences to conduct a study of payments under part B of title XVIII of the Social Security Act for clinical laboratory services. The study shall include a review of the adequacy of the current methodology and recommendations regarding alternative payment systems. The study shall also analyze and discuss the relationship between such payment systems and access to high quality laboratory services for medicare beneficiaries, including availability and access to new testing methodologies.

(2) REPORT TO CONGRESS.—The Secretary shall, not later than 2 years after the date of enactment of this section, report to the appropriate committees of Congress the results of the study described in paragraph (1), including any recommendations for legislation.

SEC. 5522. IMPROVEMENTS IN ADMINISTRATION OF LABORATORY SERVICES BENEFIT.

(a) SELECTION OF REGIONAL CARRIERS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall—

(A) divide the United States into no more than 5 regions, and

(B) designate a single carrier for each such region,

for the purpose of payment of claims under part B of title XVIII of the Social Security Act with respect to clinical diagnostic laboratory services furnished on or after such date (not later than January 1, 1999) as the Secretary specifies.

(2) DESIGNATION.—In designating such carriers, the Secretary shall consider, among other criteria—

(A) a carrier's timeliness, quality, and experience in claims processing, and

(B) a carrier's capacity to conduct electronic data interchange with laboratories and data matches with other carriers.

(3) SINGLE DATA RESOURCE.—The Secretary shall select one of the designated carriers to serve as a central statistical resource for all claims information relating to such clinical diagnostic laboratory services handled by all the designated carriers under such part.

(4) ALLOCATION OF CLAIMS.—The allocation of claims for clinical diagnostic laboratory services to particular designated carriers shall be based on whether a carrier serves the geographic area where the laboratory specimen was collected or other method specified by the Secretary.

(5) TEMPORARY EXCEPTION.—Paragraph (1) shall not apply with respect to clinical diagnostic laboratory services furnished by independent physician offices until such time as the Secretary determines that such offices would not be unduly burdened by the application of billing responsibilities with respect to more than one carrier.

(b) ADOPTION OF UNIFORM POLICIES FOR CLINICAL LABORATORY BENEFITS.—

(1) IN GENERAL.—Not later than July 1, 1998, the Secretary shall first adopt, consistent with paragraph (2), uniform coverage, administration, and payment policies for clinical diagnostic laboratory tests under part B of title XVIII of the Social Security Act, using a negotiated rulemaking process under subchapter III of chapter 5 of title 5, United States Code.

(2) CONSIDERATIONS IN DESIGN OF UNIFORM POLICIES.—The policies under paragraph (1) shall be designed to promote program integrity and uniformity and simplify administrative requirements with respect to clinical diagnostic laboratory tests payable under such part in connection with the following:

(A) Beneficiary information required to be submitted with each claim or order for laboratory services.

(B) Physicians' obligations regarding documentation requirements and recordkeeping.

(C) Procedures for filing claims and for providing remittances by electronic media.

(D) The documentation of medical necessity.

(E) Limitation on frequency of coverage for the same tests performed on the same individual.

(3) CHANGES IN LABORATORY POLICIES PENDING ADOPTION OF UNIFORM POLICY.—During the period that begins on the date of the enactment of this Act and ends on the date the Secretary first implements uniform policies pursuant to regulations promulgated under this subsection, a carrier under such part may implement changes relating to requirements for the submission of a claim for clinical diagnostic laboratory tests.

(4) USE OF INTERIM POLICIES.—After the date the Secretary first implements such uniform policies, the Secretary shall permit any carrier to develop and implement interim policies of the type described in paragraph (1), in accordance with guidelines established by the Secretary, in cases in which a uniform national policy has not been established under this subsection and there is a demonstrated need for a policy to respond to aberrant utilization or provision of unnecessary services. Except as the Secretary specifically permits, no policy shall be implemented under this paragraph for a period of longer than 2 years.

(5) INTERIM NATIONAL GUIDELINES.—After the date the Secretary first designates regional carriers under subsection (a), the Secretary shall establish a process under which designated carriers can collectively develop and implement interim national guidelines of the type described in paragraph (1). No such policy shall be implemented under this paragraph for a period of longer than 2 years.

(6) BIENNIAL REVIEW PROCESS.—Not less often than once every 2 years, the Secretary shall solicit and review comments regarding changes in the uniform policies established under this subsection. As part of such biennial review process, the Secretary shall specifically review and consider whether to incorporate or supersede interim, regional, or national policies developed under paragraph (4) or (5). Based upon such review, the Secretary may provide for appropriate changes in the uniform policies previously adopted under this subsection.

(7) REQUIREMENT AND NOTICE.—The Secretary shall ensure that any guidelines adopted under paragraph (3), (4), or (5) shall apply to all laboratory claims payable under part B of title XVIII of the Social Security Act, and shall provide for advance notice to interested parties and a 45-day period in which such parties may submit comments on the proposed change.

(c) INCLUSION OF LABORATORY REPRESENTATIVE ON CARRIER ADVISORY COMMITTEES.—The Secretary shall direct that any advisory committee established by such a carrier, to advise with respect to coverage, administration or payment policies under part B of title XVIII of the Social Security Act, shall include an individual to represent the interest and views of independent clinical laboratories and such other laboratories as the Secretary deems appropriate. Such individual shall be selected by such committee from among nominations submitted by national and local organizations that represent independent clinical laboratories.

SEC. 5523. PAYMENTS FOR DURABLE MEDICAL EQUIPMENT.

(a) REDUCTION IN PAYMENT AMOUNTS FOR ITEMS OF DURABLE MEDICAL EQUIPMENT.—

(1) FREEZE IN UPDATE FOR COVERED ITEMS.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended to read as follows:

''(14) COVERED ITEM UPDATE.—In this subsection—

''(A) IN GENERAL.—The term 'covered item update' means, with respect to any year, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

''(B) REDUCTION FOR CERTAIN YEARS.—In the case of each of the years 1998 through 2002, the covered item update under subparagraph (A) shall be reduced (but not below zero) by 2.0 percentage points.''.

(2) UPDATE FOR ORTHOTICS AND PROSTHETICS.—Section 1834(h)(4)(A) (42 U.S.C. 1395m(h)(4)(A)) is amended to read as follows:

''(A) the term 'applicable percentage increase' means, with respect to any year, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year, except that in each of the years 1998 through 2000, such increase shall be reduced (but not below zero) by 2.0 percentage points;''.

(3) EFFECTIVE DATE.—The amendments made by this subsection applies to items furnished on and after January 1, 1998.

(b) REDUCTION IN INCREASE FOR PARENTERAL AND ENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT.—The reasonable charge under part B of title XVIII of the Social Security Act for parenteral and enteral nutrients, supplies, and equipment furnished during each of the years 1998 through 2002, shall not exceed the reasonable charge for such items furnished during the previous year (after application of this subsection), increased by the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period ending with June of the previous year reduced (but not below zero) by 2.0 percentage points.

SEC. 5524. OXYGEN AND OXYGEN EQUIPMENT.

(a) IN GENERAL.—Section 1834(a)(9)(B) (42 U.S.C. 1395m(a)(9)(B)) is amended—

(1) by striking ''and'' at the end of clause (iii);

(2) in clause (iv)—

(A) by striking ''a subsequent year'' and inserting ''1995, 1996, and 1997'', and

(B) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new clauses:

''(v) in 1998, 75 percent of the amount determined under this subparagraph for 1997;

''(vi) in 1999, 62.5 percent of the amount determined under this subparagraph for 1997; and

''(vii) for each subsequent year, the amount determined under this subparagraph for the preceding year increased by the covered item update for such subsequent year.''.

(b) UPGRADED DURABLE MEDICAL EQUIPMENT.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by inserting after paragraph (15) the following new paragraph:

''(16) CERTAIN UPGRADED ITEMS.—

''(A) INDIVIDUAL'S RIGHT TO CHOOSE UPGRADED ITEM.—Notwithstanding any other provision of law, effective on the date on which the Secretary issues regulations under subparagraph (C), an individual may purchase or rent from a supplier an item of upgraded durable medical equipment for which payment would be made under this subsection if the item were a standard item.

''(B) PAYMENTS TO SUPPLIER.—In the case of the purchase or rental of an upgraded item under subparagraph (A)—

''(i) the supplier shall receive payment under this subsection with respect to such item as if such item were a standard item; and

''(ii) the individual purchasing or renting the item shall pay the supplier an amount equal to the difference between the supplier's charge and the amount under clause (i).

In no event may the supplier's charge for an upgraded item exceed the applicable fee schedule amount (if any) for such item.

''(C) CONSUMER PROTECTION SAFEGUARDS.—The Secretary shall issue regulations providing for consumer protection standards with respect to the furnishing of upgraded equipment under subparagraph (A). Such regulations shall provide for—

''(i) determination of fair market prices with respect to an upgraded item;

''(ii) full disclosure of the availability and price of standard items and proof of receipt of such disclosure information by the beneficiary before the furnishing of the upgraded item;

''(iii) conditions of participation for suppliers in the simplified billing arrangement;

''(iv) sanctions of suppliers who are determined to engage in coercive or abusive practices, including exclusion; and

''(v) such other safeguards as the Secretary determines are necessary.''.

(c) ESTABLISHMENT OF CLASSES FOR PAYMENT.—Section 1848(a)(9) (42 U.S.C. 1395m(a)(9)) is amended by adding at the end the following:

''(D) AUTHORITY TO CREATE CLASSES.—

''(i) IN GENERAL.—Subject to clause (ii), the Secretary may establish separate classes for any item of oxygen and oxygen equipment and separate national limited monthly payment rates for each of such classes.

''(ii) BUDGET NEUTRALITY.—The Secretary may take actions under clause (i) only to the extent such actions do not result in expenditures for any year to be more or less than the expenditures which would have been made if such actions had not been taken.''.

(d) STANDARDS AND ACCREDITATION.—The Secretary shall as soon as practicable establish service standards and accreditation requirements for persons seeking payment under part B of title XVIII of the Social Security Act for the providing of oxygen and oxygen equipment to beneficiaries within their homes.

(e) ACCESS TO HOME OXYGEN EQUIPMENT.—

(1) STUDY.—The Comptroller General of the United States shall study issues relating to access to home oxygen equipment and shall, within 6 months after the date of the enactment of this Act, report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study, including recommendations (if any) for legislation.

(2) PEER REVIEW EVALUATION.—The Secretary of Health and Human Services shall arrange for peer review organizations established under section 1154 of the Social Security Act to evaluate access to, and quality of, home oxygen equipment.

(f) DEMONSTRATION PROJECT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall, in consultation with appropriate organizations, initiate a demonstration project in which the Secretary utilizes a competitive bidding process for the furnishing of home oxygen equipment to medicare beneficiaries under title XVIII of the Social Security Act.

(g) EFFECTIVE DATE.—

(1) OXYGEN.—The amendments made by subsection (a) shall apply to items furnished on and after January 1, 1998.

(2) OTHER PROVISIONS.—The amendments made by this section other than subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 5525. UPDATES FOR AMBULATORY SURGICAL SERVICES.

Section 1833(i)(2)(C) (42 U.S.C. 1395l(i)(2)(C)) is amended by inserting at the end the following: ''In each of the fiscal years 1998 through 2002, the increase under this subparagraph shall be reduced (but not below zero) by 2.0 percentage points.''.

SEC. 5526. REIMBURSEMENT FOR DRUGS AND BIOLOGICALS.

(a) IN GENERAL.—Section 1842 (42 U.S.C. 1395u) is amended by inserting after subsection (n) the following new subsection:

''(o)(1) If a physician's, supplier's, or any other person's bill or request for payment for services includes a charge for a drug or biological for which payment may be made under this part and the drug or biological is not paid on a cost or prospective payment basis as otherwise provided in this part, the amount payable for the drug or biological is equal to 95 percent of the average wholesale price, as specified by the Secretary.

''(2)(A) In the case of a drug or biological for which payment was under this part on May 1, 1997, the amount determined under paragraph (1) for any drug or biological shall not exceed—

''(i) in the case of 1998, the amount of the payment under this part on May 1, 1997, and

''(ii) in the case of 1999 and each succeeding year, the amount determined under this subparagraph for the previous year, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

''(B) In the case of a drug or biological not described in subparagraph (A), the amount determined under paragraph (1) for any year following the first year for which payment is made under this part for such drug or biological shall not exceed the amount payable under this part (after application of this subparagraph) for the previous year, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

''(3) If payment for a drug or biological is made to a licensed pharmacy approved to dispense drugs or biologicals under this part, the Secretary shall pay a dispensing fee (less the applicable deductible and insurance amounts) to the pharmacy, as the Secretary determines appropriate.

''(4) The Secretary shall conduct such studies or surveys as are necessary to determine the average wholesale price (and such other price as the Secretary determines appropriate) of any drug or biological for purposes of paragraph (1). The Secretary shall, not later than 6 months after the date of the enactment of this subsection, report to the appropriate committees of Congress the results of the studies and surveys conducted under this paragraph.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to drugs and biologicals furnished on or after January 1, 1998.

CHAPTER 3—PART B PREMIUM AND RELATED PROVISIONS

SEC. 5541. PART B PREMIUM.

(a) IN GENERAL.—Section 1839(a)(3) (42 U.S.C. 1395r(a)(3)) is amended by striking the first 3 sentences and inserting the following: ''The Secretary, during September of each year, shall determine and promulgate a monthly premium rate for the succeeding calendar year that is equal to 50 percent of the monthly actuarial rate for enrollees age 65 and over, determined according to paragraph (1), for that succeeding calendar year.''.

(b) CONFORMING AND TECHNICAL AMENDMENTS.—

(1) SECTION 1839.—Section 1839 (42 U.S.C. 1395r) is amended—

(A) in subsection (a)(2), by striking ''(b) and (e)'' and inserting ''(b), (c), and (f)'',

(B) in the last sentence of subsection (a)(3)—

(i) by inserting ''rate'' after ''premium'', and

(ii) by striking ''and the derivation of the dollar amounts specified in this paragraph'',

(C) by striking subsection (e), and

(D) by redesignating subsection (g) as subsection (e) and inserting that subsection after subsection (d).

(2) SECTION 1844.—Subparagraphs (A)(i) and (B)(i) of section 1844(a)(1) (42 U.S.C. 1395w(a)(1)) are each amended by striking ''or 1839(e), as the case may be''.

SEC. 5542. INCOME-RELATED REDUCTION IN MEDICARE SUBSIDY.

(a) IN GENERAL.—Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following:

''(h)(1) Notwithstanding the previous subsections of this section, in the case of an individual whose modified adjusted gross income for a taxable year ending with or within a calendar year (as initially determined by the Secretary in accordance with paragraph (3)) exceeds the threshold amount described in paragraph (5)(B), the Secretary shall increase the amount of the monthly premium for months in the calendar year by an amount equal to the difference between—

''(A) 200 percent of the monthly actuarial rate for enrollees age 65 and over as determined under subsection (a)(1) for that calendar year; and

''(B) the total of the monthly premiums paid by the individual under this section (determined without regard to subsection (b)) during such calendar year.

''(2) In the case of an individual described in paragraph (1) whose modified adjusted gross income exceeds the threshold amount by less than

$50,000, the amount of the increase in the monthly premium applicable under paragraph (1) shall be an amount which bears the same ratio to the amount of the increase described in paragraph (1) (determined without regard to this paragraph) as such excess bears to $50,000.

''(3) The Secretary shall make an initial determination of the amount of an individual's modified adjusted gross income for a taxable year ending with or within a calendar year for purposes of this subsection as follows:

''(A) Not later than September 1 of the year preceding the year, the Secretary shall provide notice to each individual whom the Secretary finds (on the basis of the individual's actual modified adjusted gross income for the most recent taxable year for which such information is available or other information provided to the Secretary by the Secretary of the Treasury) will be subject to an increase under this subsection that the individual will be subject to such an increase, and shall include in such notice the Secretary's estimate of the individual's modified adjusted gross income for the year.

''(B) If, during the 30-day period beginning on the date notice is provided to an individual under subparagraph (A), the individual provides the Secretary with information on the individual's anticipated modified adjusted gross income for the year, the amount initially determined by the Secretary under this paragraph with respect to the individual shall be based on the information provided by the individual.

''(C) If an individual does not provide the Secretary with information under subparagraph (B), the amount initially determined by the Secretary under this paragraph with respect to the individual shall be the amount included in the notice provided to the individual under subparagraph (A).

''(4)(A) If the Secretary determines (on the basis of final information provided by the Secretary of the Treasury) that the amount of an individual's actual modified adjusted gross income for a taxable year ending with or within a calendar year is less than or greater than the amount initially determined by the Secretary under paragraph (3), the Secretary shall increase or decrease the amount of the individual's monthly premium under this section (as the case may be) for months during the following calendar year by an amount equal to 1/12 of the difference between—

''(i) the total amount of all monthly premiums paid by the individual under this section during the previous calendar year; and

''(ii) the total amount of all such premiums which would have been paid by the individual during the previous calendar year if the amount of the individual's modified adjusted gross income initially determined under paragraph (3) were equal to the actual amount of the individual's modified adjusted gross income determined under this paragraph.

''(B)(i) In the case of an individual for whom the amount initially determined by the Secretary under paragraph (3) is based on information provided by the individual under subparagraph (B) of such paragraph, if the Secretary determines under subparagraph (A) that the amount of the individual's actual modified adjusted gross income for a taxable year is greater than the amount initially determined under paragraph (3), the Secretary shall increase the amount otherwise determined for the year under subparagraph (A) by interest in an amount equal to the sum of the amounts determined under clause (ii) for each of the months described in clause (ii).

''(ii) Interest shall be computed for any month in an amount determined by applying the underpayment rate established under section 6621 of the Internal Revenue Code of 1986 (compounded daily) to any portion of the difference between the amount initially determined under paragraph (3) and the amount determined under subparagraph (A) for the period beginning on the first day of the month beginning after the individual provided information to the Secretary under subparagraph (B) of paragraph (3) and ending 30 days before the first month for which the individual's monthly premium is increased under this paragraph.

''(iii) Interest shall not be imposed under this subparagraph if the amount of the individual's modified adjusted gross income provided by the individual under subparagraph (B) of paragraph (3) was not less than the individual's modified adjusted gross income determined on the basis of information shown on the return of tax imposed by chapter 1 of the Internal Revenue Code of 1986 for the taxable year involved.

''(C) In the case of an individual who is not enrolled under this part for any calendar year for which the individual's monthly premium under this section for months during the year would be increased pursuant to subparagraph (A) if the individual were enrolled under this part for the year, the Secretary may take such steps as the Secretary considers appropriate to recover from the individual the total amount by which the individual's monthly premium for months during the year would have been increased under subparagraph (A) if the individual were enrolled under this part for the year.

''(D) In the case of a deceased individual for whom the amount of the monthly premium under this section for months in a year would have been decreased pursuant to subparagraph (A) if the individual were not deceased, the Secretary shall make a payment to the individual's surviving spouse (or, in the case of an individual who does not have a surviving spouse, to the individual's estate) in an amount equal to the difference between—

''(i) the total amount by which the individual's premium would have been decreased for all months during the year pursuant to subparagraph (A); and

''(ii) the amount (if any) by which the individual's premium was decreased for months during the year pursuant to subparagraph (A).

''(5) In this subsection, the following definitions apply:

''(A) The term 'modified adjusted gross income' means adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986)—

''(i) determined without regard to sections 135, 911, 931, and 933 of such Code, and

''(ii) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax under such Code.

''(B) The term 'threshold amount' means—

''(i) except as otherwise provided in this paragraph, $50,000,

''(ii) $75,000, in the case of a joint return (as defined in section 7701(a)(38) of such Code), and

''(iii) zero in the case of a taxpayer who—

''(I) is married at the close of the taxable year but does not file a joint return (as so defined) for such year, and

''(II) does not live apart from his spouse at all times during the taxable year.

''(6)(A) The Secretary shall transfer amounts received pursuant to this subsection to the Federal Hospital Insurance Trust Fund.

''(B) In applying section 1844(a), amounts attributable to clause (i) shall not be counted in determining the dollar amount of the premium per enrollee under paragraph (1)(A) or (1)(B).''.

(b) CONFORMING AMENDMENTS.—(1) Section 1839 (42 U.S.C. 1395r) is amended—

(A) in subsection (a)(2), by inserting ''or section subsection (h)'' after ''subsections (b) and (e)'';

(B) in subsection (a)(3) of section 1839(a), by inserting ''or subsection (h)'' after ''subsection (e)'';

(C) in subsection (b), inserting ''(and as increased under subsection (h))'' after ''subsection (a) or (e)''; and

(D) in subsection (f), by striking ''if an individual'' and inserting the following: ''if an individual (other than an individual subject to an increase in the monthly premium under this section pursuant to subsection (h))''.

(2) Section 1840(c) (42 U.S.C. 1395r(c)) is amended by inserting ''or an individual determines that the estimate of modified adjusted gross income used in determining whether the individual is subject to an increase in the monthly premium under section 1839 pursuant to subsection (h) of such section (or in determining the amount of such increase) is too low and results in a portion of the premium not being deducted,'' before ''he may''.

(c) REPORTING REQUIREMENTS FOR SECRETARY OF THE TREASURY.—

(1) IN GENERAL.—Subsection (l) of section 6103 of the Internal Revenue Code of 1986 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph:

''(16) DISCLOSURE OF RETURN INFORMATION TO CARRY OUT INCOME-RELATED REDUCTION IN MEDICARE PART B PREMIUM.—

''(A) IN GENERAL.—The Secretary may, upon written request from the Secretary of Health and Human Services, disclose to officers and employees of the Health Care Financing Administration return information with respect to a taxpayer who is required to pay a monthly premium under section 1839 of the Social Security Act. Such return information shall be limited to—

''(i) taxpayer identity information with respect to such taxpayer,

''(ii) the filing status of such taxpayer,

''(iii) the adjusted gross income of such taxpayer,

''(iv) the amounts excluded from such taxpayer's gross income under sections 135 and 911,

''(v) the interest received or accrued during the taxable year which is exempt from the tax imposed by chapter 1 to the extent such information is available, and

''(vi) the amounts excluded from such taxpayer's gross income by sections 931 and 933 to the extent such information is available.

''(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Health Care Financing Administration only for the purposes of, and to the extent necessary in, establishing the appropriate monthly premium under section 1839 of the Social Security Act.''.

(2) CONFORMING AMENDMENT.—Paragraphs (3)(A) and (4) of section 6103(p) of such Code are each amended by striking ''or (15)'' each place it appears and inserting ''(15), or (16)''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to the monthly premium under section 1839 of the Social Security Act for months beginning with January 1998.

(2) INFORMATION FOR PRIOR YEARS.—The Secretary of Health and Human Services may request information under section 6013(l)(16) of the Social Security Act (as added by subsection (c)) for taxable years beginning after December 31, 1994.

SEC. 5543. DEMONSTRATION PROJECT ON INCOME-RELATED PART B DEDUCTIBLE.

(a) ESTABLISHMENT OF PROJECT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall conduct a demonstration project (in this section referred to as the ''project'') in which individuals otherwise responsible for an income-related premium by reason of section 1839(h) of the Social Security Act (42 U.S.C. 1395r(h)) (as added by section 5542 of this Act) would instead be responsible for an income-related deductible using the same income limits and administrative procedures provided for in such section 1839(h).

(2) SITES.—The Secretary shall conduct the project in a representative number of sites and

shall include a sufficient number of individuals in the project to ensure that the project produces statistically satisfactory findings.

(3) PARTICIPATION.—

(A) IN GENERAL.—Participation in the project shall be on a voluntary basis.

(B) MEDIGAP.—No individual shall be eligible to participate in the project if such individual is covered under a medicare supplemental policy under section 1882 of the Social Security Act (42 U.S.C. 1395ss).

(4) CONSULTATION.—In conducting the project, the Secretary shall consult with appropriate organizations and experts.

(5) DURATION.—The project shall be conducted for a period not to exceed 5 years.

(b) WAIVER AUTHORITY.—The Secretary shall waive compliance with the requirements of titles XI, XVIII, and XIX of the Social Security Act (42 U.S.C. 1301 et seq., 1395 et seq., 1396 et seq.) to such extent and for such period as the Secretary determines is necessary to conduct the project.

(c) REPORTS TO CONGRESS.—

(1) IN GENERAL.—Not later than 2 and 5 years after the date of enactment of this Act, and biannually thereafter, the Secretary shall submit to Congress a report regarding the project.

(2) CONTENTS OF REPORT.—The reports in paragraph (1) shall include the following:

(A) A description of the demonstration projects conducted under this section.

(B) A description of the utilization and health care status of individuals participating in the project.

(C) Any other information regarding the project that the Secretary determines to be appropriate.

SEC. 5544. LOW-INCOME MEDICARE BENEFICIARY BLOCK GRANT PROGRAM.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 5047, is amended by adding at the end the following:

''LOW-INCOME MEDICARE BENEFICIARY BLOCK GRANT PROGRAM

''SEC. 1898. (a) ESTABLISHMENT.—The Secretary shall establish a program to award block grants to States for the payment of medicare cost sharing described in section 1905(p)(3)(A)(ii) on behalf of eligible low-income medicare beneficiaries.

''(b) APPLICATION.—To be eligible to receive a block grant under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(c) PAYMENTS.—

''(1) AMOUNT OF GRANT.—From amounts appropriated under subsection (d) for a fiscal year, the Secretary shall award a grant to each State with an application approved under subsection (b), in an amount that bears the same ratio to such amounts as the total number of eligible low-income medicare beneficiaries in the State bears to the total number of eligible low-income medicare beneficiaries in all States.

''(2) 100 PERCENT FMAP.—Notwithstanding section 1905(b), the Federal medical assistance percentage for any State that receives a grant under this section shall be 100 percent.

''(d) APPROPRIATIONS.—

''(1) IN GENERAL.—The Secretary is authorized to transfer from the Federal Supplementary Medical Insurance Trust Fund under section 1841 for the purpose of carrying out this section, an amount equal to $200,000,000 in fiscal year 1998, $250,000,000 in fiscal year 1999, $300,000,000 in fiscal year 2000, $350,000,000 in fiscal year 2001, and $400,000,000 in fiscal year 2002, to remain available without fiscal year limitation.

''(2) STATE ENTITLEMENT.—This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided in accordance with the provisions of this section.

''(e) DEFINITIONS.—In this section:

''(1) ELIGIBLE LOW-INCOME MEDICARE BENEFICIARY.—The term 'eligible low-income medicare beneficiary' means an individual who is described in section 1902(a)(10)(E)(iii) but whose family income is greater than or equal to 120 percent of the poverty line and does not exceed 150 percent of the poverty line for a family of the size involved.

''(2) STATE.—The term 'State' means each of the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.''.

Subtitle H—Provisions Relating to Parts A and B

CHAPTER 1—SECONDARY PAYOR PROVISIONS

SEC. 5601. EXTENSION AND EXPANSION OF EXISTING REQUIREMENTS.

(a) DATA MATCH.—

(1) ELIMINATION OF MEDICARE SUNSET.—Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) ELIMINATION OF INTERNAL REVENUE CODE SUNSET.—Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(b) APPLICATION TO DISABLED INDIVIDUALS IN LARGE GROUP HEALTH PLANS.—

(1) IN GENERAL.—Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is amended—

(A) in clause (i), by striking ''clause (iv)'' and inserting ''clause (iii)'';

(B) by striking clause (iii); and

(C) by redesignating clause (iv) as clause (iii).

(2) CONFORMING AMENDMENTS.—Paragraphs (1) through (3) of section 1837(i) (42 U.S.C. 1395p(i)) and the second sentence of section 1839(b) (42 U.S.C. 1395r(b)) are each amended by striking ''1862(b)(1)(B)(iv)'' each place it appears and inserting ''1862(b)(1)(B)(iii)''.

(c) INDIVIDUALS WITH END STAGE RENAL DISEASE.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) in the last sentence by striking ''October 1, 1998'' and inserting ''the date of enactment of the Balanced Budget Act of 1997''; and

(2) by adding at the end the following: ''Effective for items and services furnished on or after the date of enactment of the Balanced Budget Act of 1997, (with respect to periods beginning on or after the date that is 18 months prior to such date), clauses (i) and (ii) shall be applied by substituting '30-month' for '12-month' each place it appears.''.

SEC. 5602. IMPROVEMENTS IN RECOVERY OF PAYMENTS.

(a) PERMITTING RECOVERY AGAINST THIRD PARTY ADMINISTRATORS OF PRIMARY PLANS.—Section 1862(b)(2)(B)(ii) (42 U.S.C. 1395y(b)(2)(B)(ii)) is amended—

(1) by striking ''under this subsection to pay'' and inserting ''(directly, as a third-party administrator, or otherwise) to make payment''; and

(2) by adding at the end the following: ''The United States may not recover from a third-party administrator under this clause in cases where the third-party administrator would not be able to recover the amount at issue from the employer or group health plan for whom it provides administrative services due to the insolvency or bankruptcy of the employer or plan.''.

(b) EXTENSION OF CLAIMS FILING PERIOD.—Section 1862(b)(2)(B) (42 U.S.C. 1395y(b)(2)(B)) is amended by adding at the end the following:

''(v) CLAIMS-FILING PERIOD.—Notwithstanding any other time limits that may exist for filing a claim under an employer group health plan, the United States may seek to recover conditional payments in accordance with this subparagraph where the request for payment is submitted to the entity required or responsible under this subsection to pay with respect to the item or service (or any portion thereof) under a primary plan within the 3-year period beginning on the date on which the item or service was furnished.''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to items and services furnished on or after the date of enactment of this Act.

CHAPTER 2—OTHER PROVISIONS

SEC. 5611. CONFORMING AGE FOR ELIGIBILITY UNDER MEDICARE TO RETIREMENT AGE FOR SOCIAL SECURITY BENEFITS.

(a) ENTITLEMENT TO HOSPITAL INSURANCE BENEFITS.—Section 226 (42 U.S.C. 426) is amended by striking ''age 65'' each place such term appears and inserting ''retirement age''.

(b) HOSPITAL INSURANCE BENEFITS FOR THE AGED.—Section 1811 (42 U.S.C. 1395c) is amended by striking ''age 65'' each place such term appears and inserting ''retirement age (as such term is defined in section 216(l)(1))''.

(c) HOSPITAL INSURANCE BENEFITS FOR UNINSURED ELDERLY INDIVIDUALS NOT OTHERWISE ELIGIBLE.—Section 1818 (42 U.S.C. 1395i–2) is amended—

(1) in subsection (a)(1), by striking ''age of 65'' and inserting ''retirement age (as such term is defined in section 216(l)(1))'';

(2) in subsection (d)(1), by striking ''age 65'' and inserting ''retirement age (as such term is defined in section 216(l)(1))''; and

(3) in subsection (d)(3), by striking ''65'' and inserting ''retirement age (as such term is defined in section 216(l)(1))''.

(d) HOSPITAL INSURANCE BENEFITS FOR DISABLED INDIVIDUALS WHO HAVE EXHAUSTED OTHER ENTITLEMENT.—Section 1818A(a)(1) (42 U.S.C. 1395i–2a(a)(1)) is amended by striking ''the age of 65'' and inserting ''retirement age (as such term is defined in section 216(l)(1))''.

(e) ELIGIBILITY FOR PART B BENEFITS.—

(1) IN GENERAL.—Section 1836 (42 U.S.C. 1395o) is amended by striking ''age 65'' each place such term appears and inserting ''retirement age (as such term is defined in section 216(l)(1))''.

(2) ENROLLMENT PERIODS.—Section 1837 (42 U.S.C. 1395p) is amended by striking ''age 65'' and ''the age of 65'' each place such terms appear and inserting ''retirement age (as such term is defined in section 216(l)(1))''.

(3) COVERAGE PERIOD.—Section 1838(c) (42 U.S.C. 1395q(c)) is amended by striking ''the age of 65'' and inserting ''retirement age (as such term is defined in section 216(l)(1))''.

(4) AMOUNTS OF PREMIUMS.—Section 1839 (42 U.S.C. 1395r) is amended by striking ''age 65'' and ''the age of 65'' each place such terms appear and inserting ''retirement age (as such term is defined in section 216(l)(1))''.

(f) APPROPRIATIONS TO COVER GOVERNMENT CONTRIBUTIONS AND CONTINGENCY RESERVE.—Section 1844(a)(1) (42 U.S.C. 1395w) is amended by striking ''age 65'' each place such term appears and inserting ''retirement age''.

(g) MEDICARE SECONDARY PAYER.—Section 1862(b) (42 U.S.C. 1395y(b)) is amended by striking ''age 65'' each place such term appears and inserting ''retirement age (as such term is defined in section 216(l)(1))''.

(h) MEDICARE SUPPLEMENTAL POLICIES.—Section 1882(s)(2)(A) (42 U.S.C. 1395ss(s)(2)(A)) is amended by striking ''65 years of age'' and inserting ''retirement age (as such term is defined in section 216(l)(1))''.

SEC. 5612. INCREASED CERTIFICATION PERIOD FOR CERTAIN ORGAN PROCUREMENT ORGANIZATIONS.

Section 1138(b)(1)(A)(ii) (42 U.S.C. 1320b–8(b)(1)(A)(ii)) is amended by striking ''two years'' and inserting ''2 years (3 years if the Secretary determines appropriate for an organization on the basis of its past practices)''.

SEC. 5613. FACILITATING THE USE OF PRIVATE CONTRACTS UNDER THE MEDICARE PROGRAM.

(a) IN GENERAL.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by inserting after section 1804 of such Act (42 U.S.C. 1395b–2) the following:

''CLARIFICATION OF PRIVATE CONTRACTS FOR HEALTH SERVICES

''SEC. 1805. (a) IN GENERAL.—Nothing in this title shall prohibit a physician or another health care professional who does not provide items or services under the program under this title from entering into a private contract with a medicare beneficiary for health services for which no claim for payment is to be submitted under this title.

''(b) LIMITATION ON ACTUAL CHARGE NOT APPLICABLE.—Section 1848(g) shall not apply with respect to a health service provided to a medicare beneficiary under a contract described in subsection (a).

''(c) DEFINITION OF MEDICARE BENEFICIARY.—In this section, the term 'medicare beneficiary' means an individual who is entitled to benefits under part A or enrolled under part B.

''(d) REPORT.—Not later than October 1, 2001, the Administrator of the Health Care Financing Administration shall submit a report to Congress on the effect on the program under this title of private contracts entered into under this section. Such report shall include—

''(1) analyses regarding—

''(A) the fiscal impact of such contracts on total Federal expenditures under this title and on out-of-pocket expenditures by medicare beneficiaries for health services under this title; and

''(B) the quality of the health services provided under such contracts; and

''(2) recommendations as to whether medicare beneficiaries should continue to be able to enter private contracts under this section and if so, what legislative changes, if any should be made to improve such contracts.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to contracts entered into on and after October 1, 1997.

Subtitle I—Miscellaneous Provisions

SEC. 5651. INCLUSION OF STANLY COUNTY, N.C. IN A LARGE URBAN AREA UNDER MEDICARE PROGRAM.

(a) IN GENERAL.—For purposes of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)), the large urban area of Charlotte-Gastonia-Rock Hill-North Carolina-South Carolina may be deemed to include Stanly County, North Carolina.

(b) EFFECTIVE DATE.—This section shall apply with respect to discharges occurring on or after October 1, 1997.

SEC. 5652. MEDICARE ANTI-DUPLICATION PROVISION.

(a) In section 1395ss(d)(3)(A)(v) of title 42, United States Code, insert ''(a)'' before ''For'', and after the first sentence insert:

''(b) For purposes of this subparagraph, a health insurance policy (which may be a contract with a health maintenance organization) is not considered to 'duplicate' health benefits under this title or title XIX or under another health insurance policy if it—

''(1) provides comprehensive health care benefits that replace the benefits provided by another health insurance policy,

''(2) is being provided to an individual entitled to benefits under part A or enrolled under part B on the basis of section 226(b), and

''(3) coordinates against items and services available or paid for under this title or title XIX, provided that payments under this title or title XIX shall not be treated as payments under such policy in determining annual or lifetime benefit limits.''.

(b) In section 1395ss(d)(3)(A)(v) of title 42, United States Code, insert ''(c)'' before ''For purposes of this clause''.

DIVISION 2—MEDICAID AND CHILDREN'S HEALTH INSURANCE INITIATIVES

Subtitle I—Medicaid

CHAPTER 1—MEDICAID SAVINGS

Subchapter A—Managed Care Reforms

SEC. 5701. STATE OPTION FOR MANDATORY MANAGED CARE.

(a) IN GENERAL.—Title XIX is amended—

(1) by inserting after the title heading the following:

''PART A—GENERAL PROVISIONS''; and

(2) by adding at the end the following new part:

''PART B—PROVISIONS RELATING TO MANAGED CARE

''SEC. 1941. BENEFICIARY CHOICE; ENROLLMENT.

''(a) STATE OPTIONS FOR ENROLLMENT OF BENEFICIARIES IN MANAGED CARE ARRANGEMENTS.—

''(1) IN GENERAL.—Subject to the succeeding provisions of this part and notwithstanding paragraphs (1), (10)(B), and (23)(A) of section 1902(a), a State may require an individual who is eligible for medical assistance under the State plan under this title and who is not a special needs individual (as defined in subsection (e)) to enroll with a managed care entity (as defined in section 1950(a)(1)) as a condition of receiving such assistance (and, with respect to assistance furnished by or under arrangements with such entity, to receive such assistance through the entity), if the following provisions are met:

''(A) ENTITY MEETS REQUIREMENTS.—The entity meets the applicable requirements of this part.

''(B) CONTRACT WITH STATE.—The entity enters into a contract with the State to provide services for the benefit of individuals eligible for benefits under this title under which prepaid payments to such entity are made on an actuarially sound basis. Such contract shall specify benefits the provision (or arrangement) for which the entity is responsible.

''(C) CHOICE OF COVERAGE.—

''(i) IN GENERAL.—The State permits an individual to choose a managed care entity from managed care organizations and primary care case managers who meet the requirements of this part but not less than from—

''(I) 2 medicaid managed care organizations,

''(II) a medicaid managed care organization and a primary care case manager, or

''(III) a primary care case manager as long as an individual may choose between 2 primary care case managers.

''(ii) STATE OPTION.—At the option of the State, a State shall be considered to meet the requirements of clause (i) in the case of an individual residing in a rural area, if the State—

''(I) requires the individual to enroll with a medicaid managed care organization or a primary care case manager if such organization or entity permits the individual to receive such assistance through not less than 2 physicians or case managers (to the extent that at least 2 physicians or case managers are available to provide such assistance in the area), and

''(II) permits the individual to obtain such assistance from any other provider in appropriate circumstances (as established by the State under regulations of the Secretary).

''(iii) RELIGIOUS CHOICE.—The State, in permitting an individual to choose a managed care entity under clause (i) shall permit the individual to have access to appropriate religiously-affiliated long-term care facilities that are not pervasively sectarian and that provide comparable non-sectarian medical care. With respect to such access, the State shall permit an individual to select a facility that is not a part of the network of the managed care entity if such network does not provide access to appropriate faith-based facilities. Such facility that provides care under this clause shall accept the terms and conditions offered by the managed care entity to other providers in the network. No facility may be compelled to admit an individual if the medical director of that facility believes that the facility cannot provide the specific nursing care and services an enrollee requires.

''(D) CHANGES IN ENROLLMENT.—The State—

''(i) provides the individual with the opportunity to change enrollment among managed care entities once annually and notifies the individual of such opportunity not later than 60 days prior to the first date on which the individual may change enrollment, and

''(ii) permits individuals to terminate their enrollment as provided under paragraph (2).

''(E) ENROLLMENT PRIORITIES.—The State establishes a method for establishing enrollment priorities in the case of a managed care entity that does not have sufficient capacity to enroll all such individuals seeking enrollment under which individuals already enrolled with the entity are given priority in continuing enrollment with the entity.

''(F) DEFAULT ENROLLMENT PROCESS.—The State establishes a default enrollment process which meets the requirements described in paragraph (3) and under which any such individual who does not enroll with a managed care entity during the enrollment period specified by the State shall be enrolled by the State with such an entity in accordance with such process.

''(G) SANCTIONS.—The State establishes the sanctions provided for in section 1949.

''(H) INDIAN ENROLLMENT.—No individual who is an Indian (as defined in section 4 of the Indian Health Care Improvement Act of 1976) is required to enroll in any entity that is not one of the following (and only if such entity is participating under the plan):

''(i) The Indian Health Service.

''(ii) An Indian health program operated by an Indian tribe or tribal organization pursuant to a contract, grant, cooperative agreement, or compact with the Indian Health Service pursuant to the Indian Self-Determination Act (25 U.S.C. 450 et seq.).

''(iii) An urban Indian health program operated by an urban Indian organization pursuant to a grant or contract with the Indian Health Service pursuant to title V of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

''(2) TERMINATION OF ENROLLMENT.—

''(A) IN GENERAL.—The State, enrollment broker, and managed care entity (if any) shall permit an individual eligible for medical assistance under the State plan under this title who is enrolled with the entity to terminate such enrollment for cause at any time, and without cause during the 90-day period beginning on the date the individual receives notice of enrollment and at least every 12 months thereafter, and shall notify each such individual of the opportunity to terminate enrollment under these conditions.

''(B) FRAUDULENT INDUCEMENT OR COERCION AS GROUNDS FOR CAUSE.—For purposes of subparagraph (A), an individual terminating enrollment with a managed care entity on the grounds that the enrollment was based on fraudulent inducement or was obtained through coercion or pursuant to the imposition against the managed care entity of the sanction described in section 1949(b)(3) shall be considered to terminate such enrollment for cause.

''(C) NOTICE OF TERMINATION.—

''(i) NOTICE TO STATE.—

''(I) BY INDIVIDUALS.—Each individual terminating enrollment with a managed care entity under subparagraph (A) shall do so by providing notice of the termination to an office of the State agency administering the State plan under this title, the State or local welfare agency, or an office of a managed care entity.

''(II) BY ORGANIZATIONS.—Any managed care entity which receives notice of an individual's termination of enrollment with such entity through receipt of such notice at an office of a managed care entity shall provide timely notice of the termination to the State agency administering the State plan under this title.

''(ii) NOTICE TO PLAN.—The State agency administering the State plan under this title or the State or local welfare agency which receives notice of an individual's termination of enrollment with a managed care entity under clause (i) shall provide timely notice of the termination to such entity.

''(3) DEFAULT ENROLLMENT PROCESS REQUIREMENTS.—The requirements of a default enrollment process established by a State under paragraph (1)(F) are as follows:

''(A) The process shall provide that the State may not enroll individuals with a managed care entity which is not in compliance with the applicable requirements of this part.

''(B) The process shall provide (consistent with subparagraph (A)) for enrollment of such an individual with a medicaid managed care organization—

''(i) that maintains existing provider-individual relationships or that has entered into contracts with providers (such as Federally qualified health centers, rural health clinics, hospitals that qualify for disproportionate share hospital payments under section 1886(d)(5)(F), and hospitals described in section 1886(d)(1)(B)(iii)) that have traditionally served beneficiaries under this title, and

''(ii) if there is no provider described in clause (i), in a manner that provides for an equitable distribution of individuals among all qualified managed care entities available to enroll individuals through such default enrollment process, consistent with the enrollment capacities of such entities.

''(C) The process shall permit and assist an individual enrolled with an entity under such process to change such enrollment to another managed care entity during a period (of at least 90 days) after the effective date of the enrollment.

''(D) The process may provide for consideration of factors such as quality, geographic proximity, continuity of providers, and capacity of the plan when conducting such process.

''(b) REENROLLMENT OF INDIVIDUALS WHO REGAIN ELIGIBILITY.—

''(1) IN GENERAL.—If an individual eligible for medical assistance under a State plan under this title and enrolled with a managed care entity with a contract under subsection (a)(1)(B) ceases to be eligible for such assistance for a period of not greater than 2 months, the State may provide for the automatic reenrollment of the individual with the entity as of the first day of the month in which the individual is again eligible for such assistance, and may consider factors such as quality, geographic proximity, continuity of providers, and capacity of the plan when conducting such reenrollment.

''(2) CONDITIONS.—Paragraph (1) shall only apply if—

''(A) the month for which the individual is to be reenrolled occurs during the enrollment period covered by the individual's original enrollment with the managed care entity,

''(B) the managed care entity continues to have a contract with the State agency under subsection (a)(1)(B) as of the first day of such month, and

''(C) the managed care entity complies with the applicable requirements of this part.

''(3) NOTICE OF REENROLLMENT.—The State shall provide timely notice to a managed care entity of any reenrollment of an individual under this subsection.

''(c) STATE OPTION OF MINIMUM ENROLLMENT PERIOD.—

''(1) IN GENERAL.—In the case of an individual who is enrolled with a managed care entity under this part and who would (but for this subsection) lose eligibility for benefits under this title before the end of the minimum enrollment period (defined in paragraph (2)), the State plan under this title may provide, notwithstanding any other provision of this title, that the individual shall be deemed to continue to be eligible for such benefits until the end of such minimum period, but, except for benefits furnished under section 1902(a)(23)(B), only with respect to such benefits provided to the individual as an enrollee of such entity.

''(2) MINIMUM ENROLLMENT PERIOD DEFINED.—For purposes of paragraph (1), the term 'minimum enrollment period' means, with respect to an individual's enrollment with an entity under a State plan, a period, established by the State, of not more than 6 months beginning on the date the individual's enrollment with the entity becomes effective, except that a State may extend such period for up to a total of 12 months in the case of an individual's enrollment with a managed care entity (as defined in section 1950(a)(1)) so long as such extension is done uniformly for all individuals enrolled with all such entities.

''(d) OTHER ENROLLMENT-RELATED PROVISIONS.—

''(1) NONDISCRIMINATION.—A managed care entity may not discriminate on the basis of health status or anticipated need for services in the enrollment, reenrollment, or disenrollment of individuals eligible to receive medical assistance under a State plan under this title or by discouraging enrollment (except as permitted by this section) by eligible individuals.

''(2) PROVISION OF INFORMATION.—

''(A) IN GENERAL.—Each State, enrollment broker, or managed care organization shall provide all enrollment notices and informational and instructional materials in a manner and form which may be easily understood by enrollees of the entity who are eligible for medical assistance under the State plan under this title, including enrollees and potential enrollees who are blind, deaf, disabled, or cannot read or understand the English language.

''(B) INFORMATION TO HEALTH CARE PROVIDERS, ENROLLEES, AND POTENTIAL ENROLLEES.—Each medicaid managed care organization shall—

''(i) upon request, make the information described in section 1945(c)(1) available to enrollees and potential enrollees in the organization's service area, and

''(ii) provide to enrollees and potential enrollees information regarding all items and services that are available to enrollees under the contract between the State and the organization that are covered either directly or through a method of referral and prior authorization.

''(3) PROVISION OF COMPARATIVE INFORMATION.—

''(A) BY STATE.—A State that requires individuals to enroll with managed care entities under this part shall annually provide to all enrollees and potential enrollees a list identifying the managed care entities that are (or will be) available and information described in subparagraph (C) concerning such entities. Such information shall be presented in a comparative, chart-like form.

''(B) BY ENTITY.—Upon the enrollment, or renewal of enrollment, of an individual with a managed care entity under this part, the entity shall provide such individual with the information described in subparagraph (C) concerning such entity and other entities available in the area, presented in a comparative, chart-like form.

''(C) REQUIRED INFORMATION.—Information under this subparagraph, with respect to a managed care entity for a year, shall include the following:

''(i) BENEFITS.—The benefits covered by the entity, including—

''(I) covered items and services beyond those provided under a traditional fee-for-service program;

''(II) any beneficiary cost sharing; and

''(III) any maximum limitations on out-of-pocket expenses.

''(ii) PREMIUMS.—The net monthly premium, if any, under the entity.

''(iii) SERVICE AREA.—The service area of the entity.

''(iv) QUALITY AND PERFORMANCE.—To the extent available, quality and performance indicators for the benefits under the entity (and how they compare to such indicators under the traditional fee-for-service programs in the area involved), including—

''(I) disenrollment rates for enrollees electing to receive benefits through the entity for the previous 2 years (excluding disenrollment due to death or moving outside the service area of the entity);

''(II) information on enrollee satisfaction;

''(III) information on health process and outcomes;

''(IV) grievance procedures;

''(V) the extent to which an enrollee may select the health care provider of their choice, including health care providers within the network of the entity and out-of-network health care providers (if the entity covers out-of-network items and services); and

''(VI) an indication of enrollee exposure to balance billing and the restrictions on coverage of items and services provided to such enrollee by an out-of-network health care provider.

''(v) SUPPLEMENTAL BENEFITS OPTIONS.—Whether the entity offers optional supplemental benefits and the terms and conditions (including premiums) for such coverage.

''(vi) PHYSICIAN COMPENSATION.—An overall summary description as to the method of compensation of participating physicians.

''(e) SPECIAL NEEDS INDIVIDUALS DESCRIBED.—In this part, the term 'special needs individual' means any of the following individuals:

''(1) SPECIAL NEEDS CHILD.—An individual who is under 19 years of age who—

''(A) is eligible for supplemental security income under title XVI;

''(B) is described under section 501(a)(1)(D);

''(C) is a child described in section 1902(e)(3); or

''(D) is not described in any preceding subparagraph but is in foster care or otherwise in an out-of-home placement.

''(2) MEDICARE BENEFICIARIES.—A qualified medicare beneficiary (as defined in section 1905(p)(1)) or an individual otherwise eligible for benefits under title XVIII.

''(f) RULE OF CONSTRUCTION.—Nothing in this part shall be construed as allowing a managed care entity that has entered into a contract with the State under this part to restrict the choice of an individual in receiving services described in section 1905(a)(4)(C).

''SEC. 1942. BENEFICIARY ACCESS TO SERVICES GENERALLY.

''(a) ACCESS TO SERVICES.—

''(1) IN GENERAL.—Each managed care entity shall provide or arrange for the provision of all medically necessary medical assistance under this title which is specified in the contract entered into between such entity and the State under section 1941(a)(1)(B) for enrollees who are eligible for medical assistance under the State plan under this title.

''(2) PRIMARY-CARE-PROVIDER-TO-ENROLLEE RATIO AND MAXIMUM TRAVEL TIME.—Each such entity shall assure adequate access to primary care services by meeting standards, established by the Secretary, relating to the maximum ratio of enrollees under this title to full-time-equivalent primary care providers available to serve such enrollees and to maximum travel time for such enrollees to access such providers. The Secretary may permit such a maximum ratio to vary depending on the area and population served. Such standards shall be based on standards commonly applied in the commercial market, commonly used in accreditation of managed care organizations, and standards used in the approval of waiver applications under section 1115, and shall be consistent with the requirements of section 1876(c)(4)(A) and part C of title XVIII.

''(b) REFERRAL TO SPECIALTY CARE FOR ENROLLEES REQUIRING TREATMENT BY SPECIALISTS.—

''(1) IN GENERAL.—In the case of an enrollee under a managed care entity and who has a condition or disease of sufficient seriousness and complexity to require treatment by a specialist, the entity shall make or provide for a referral to a specialist who is available and accessible to provide the treatment for such condition or disease.

''(2) SPECIALIST DEFINED.—For purposes of this subsection, the term 'specialist' means, with respect to a condition, a health care practitioner, facility, or center (such as a center of excellence) that has adequate expertise through appropriate training and experience (including, in the case of a child, an appropriate pediatric specialist) to provide high quality care in treating the condition.

''(3) CARE UNDER REFERRAL.—Care provided pursuant to such referral under paragraph (1) shall be—

''(A) pursuant to a treatment plan (if any) developed by the specialist and approved by the entity, in consultation with the designated primary care provider or specialist and the enrollee (or the enrollee's designee), and

''(B) in accordance with applicable quality assurance and utilization review standards of the entity.

Nothing in this subsection shall be construed as preventing such a treatment plan for an enrollee from requiring a specialist to provide the primary care provider with regular updates on the specialty care provided, as well as all necessary medical information.

''(4) REFERRALS TO PARTICIPATING PROVIDERS.—An entity is not required under paragraph (1) to provide for a referral to a specialist that—

''(A) is not a participating provider, unless the entity does not have an appropriate specialist that is available and accessible to treat the enrollee's condition, and

''(B) is a participating provider with respect to such treatment.

''(5) TREATMENT OF NONPARTICIPATING PROVIDERS.—If an entity refers an enrollee to a nonparticipating specialist, services provided pursuant to the approved treatment plan shall be provided at no additional cost to the enrollee beyond what the enrollee would otherwise pay for services received by such a specialist that is a participating provider.

''(c) TIMELY DELIVERY OF SERVICES.—Each managed care entity shall respond to requests from enrollees for the delivery of medical assistance in a manner which—

''(1) makes such assistance—

''(A) available and accessible to each such individual, within the area served by the entity, with reasonable promptness and in a manner which assures continuity; and

''(B) when medically necessary, available and accessible 24 hours a day and 7 days a week, and

''(2) with respect to assistance provided to such an individual other than through the entity, or without prior authorization, in the case of a primary care case manager, provides for reimbursement to the individual (if applicable under the contract between the State and the entity) if—

''(A) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition and meet the requirements for access to emergency care under section 1943; and

''(B) it was not reasonable given the circumstances to obtain the services through the entity, or, in the case of a primary care case manager, with prior authorization.

''(d) INTERNAL GRIEVANCE PROCEDURE.—Each medicaid managed care organization shall establish an internal grievance procedure under which an enrollee who is eligible for medical assistance under the State plan under this title, or a provider on behalf of such an enrollee, may challenge the denial of coverage of or payment for such assistance.

''(e) INFORMATION ON BENEFIT CARVE OUTS.—Each managed care entity shall inform each enrollee, in a written and prominent manner, of any benefits to which the enrollee may be entitled to medical assistance under this title but which are not made available to the enrollee through the entity. Such information shall include information on where and how such enrollees may access benefits not made available to the enrollee through the entity.

''(f) DEMONSTRATION OF ADEQUATE CAPACITY AND SERVICES.—Each medicaid managed care organization shall provide the State and the Secretary with adequate assurances (as determined by the Secretary) that the organization, with respect to a service area—

''(1) has the capacity to serve the expected enrollment in such service area,

''(2) offers an appropriate range of services for the population expected to be enrolled in such service area, including transportation services and translation services consisting of the principal languages spoken in the service area,

''(3) maintains a sufficient number, mix, and geographic distribution of providers of services included in the contract with the State to ensure that services are available to individuals receiving medical assistance and enrolled in the organization to the same extent that such services are available to individuals enrolled in the organization who are not recipients of medical assistance under the State plan under this title,

''(4) maintains extended hours of operation with respect to primary care services that are beyond those maintained during a normal business day,

''(5) provides preventive and primary care services in locations that are readily accessible to members of the community,

''(6) provides information concerning educational, social, health, and nutritional services offered by other programs for which enrollees may be eligible, and

''(7) complies with such other requirements relating to access to care as the Secretary or the State may impose.

''(g) COMPLIANCE WITH CERTAIN MATERNITY AND MENTAL HEALTH REQUIREMENTS.—Each medicaid managed care organization shall comply with the requirements of subpart 2 of part A of title XXVII of the Public Health Service Act insofar as such requirements apply with respect to a health insurance issuer that offers group health insurance coverage.

''(h) TREATMENT OF CHILDREN WITH SPECIAL HEALTH CARE NEEDS.—

''(1) IN GENERAL.—In the case of an enrollee of a managed care entity who is a child described in section 1941(e)(1)—

''(A) if any medical assistance specified in the contract with the State is identified in a treatment plan prepared for the enrollee, the managed care entity shall provide (or arrange to be provided) such assistance in accordance with the treatment plan either—

''(i) by referring the enrollee to a pediatric health care provider who is trained and experienced in the provision of such assistance and who has a contract with the managed care entity to provide such assistance; or

''(ii) if appropriate services are not available through the managed care entity, permitting such enrollee to seek appropriate specialty services from pediatric health care providers outside of or apart from the managed care entity, and

''(B) the managed care entity shall require each health care provider with whom the managed care entity has entered into an agreement to provide medical assistance to enrollees to furnish the medical assistance specified in such enrollee's treatment plan to the extent the health care provider is able to carry out such treatment plan.

''(2) PRIOR AUTHORIZATION.—An enrollee referred for treatment under paragraph (1)(A)(i), or permitted to seek treatment outside of or apart from the managed care entity under paragraph (1)(A)(ii) shall be deemed to have obtained any prior authorization required by the entity.

"SEC. 1943. REQUIREMENTS FOR ACCESS TO EMERGENCY CARE.

''(a) IN GENERAL.—A managed care entity shall—

''(1) provide coverage for emergency services (as defined in subsection (c)) without regard to prior authorization or the emergency care provider's contractual relationship with the organization; and

''(2) comply with such guidelines as the Secretary shall prescribe relating to promoting efficient and timely coordination of appropriate maintenance and post-stabilization care of an enrollee after the enrollee has been determined to be stable in accordance with section 1867.

''(b) CONTENT OF GUIDELINES.—The guidelines prescribed under subsection (a) shall provide that—

''(1) a provider of emergency services shall make a documented good faith effort to contact the managed care entity in a timely fashion from the point at which the individual is stabilized to request approval for medically necessary post-stabilization care,

''(2) the entity shall respond in a timely fashion to the initial contact with the entity with a decision as to whether the services for which approval is requested will be authorized, and

''(3) if a denial of a request is communicated, the entity shall, upon request from the treating physician, arrange for a physician who is authorized by the entity to review the denial to communicate directly with the treating physician in a timely fashion.

''(c) DEFINITION OF EMERGENCY SERVICES.—In this section—

''(1) IN GENERAL.—The term 'emergency services' means, with respect to an individual enrolled with a managed care entity, covered inpatient and outpatient services that—

''(A) are furnished by a provider that is qualified to furnish such services under this title, and

''(B) are needed to evaluate or stabilize an emergency medical condition (as defined in subparagraph (B)).

''(2) EMERGENCY MEDICAL CONDITION BASED ON PRUDENT LAYPERSON.—The term 'emergency medical condition' means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

''(A) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

''(B) serious impairment to bodily functions, or

''(C) serious dysfunction of any bodily organ or part.

"SEC. 1944. OTHER BENEFICIARY PROTECTIONS.

''(a) PROTECTING ENROLLEES AGAINST THE INSOLVENCY OF MANAGED CARE ENTITIES AND AGAINST THE FAILURE OF THE STATE TO PAY SUCH ENTITIES.—Each managed care entity shall provide that an individual eligible for medical assistance under the State plan under this title who is enrolled with the entity may not be held liable—

''(1) for the debts of the managed care entity, in the event of the entity's insolvency,

''(2) for services provided to the individual—

''(A) in the event of the entity failing to receive payment from the State for such services; or

''(B) in the event of a health care provider with a contractual or other arrangement with the entity failing to receive payment from the State or the managed care entity for such services, or

''(3) for the debts of any health care provider with a contractual or other arrangement with the entity to provide services to the individual, in the event of the insolvency of the health care provider.

''(b) PROTECTION OF BENEFICIARIES AGAINST BALANCE BILLING THROUGH SUBCONTRACTORS.—

''(1) IN GENERAL.—Any contract between a managed care entity that has an agreement with a State under this title and another entity under which the other entity (or any other entity pursuant to the contract) provides directly or indirectly for the provision of services to beneficiaries under the agreement with the State

shall include such provisions as the Secretary may require in order to assure that the other entity complies with balance billing limitations and other requirements of this title (such as limitation on withholding of services) as they would apply to the managed care entity if such entity provided such services directly and not through a contract with another entity.

''(2) APPLICATION OF SANCTIONS FOR VIOLATIONS.—The provisions of section 1128A(b)(2)(B) and 1128B(d)(1) shall apply with respect to entities contracting directly or indirectly with a managed care entity (with a contract with a State under this title) for the provision of services to beneficiaries under such a contract in the same manner as such provisions would apply to the managed care entity if it provided such services directly and not through a contract with another entity.

''SEC. 1945. ASSURING QUALITY CARE.

''(a) EXTERNAL INDEPENDENT REVIEW OF MANAGED CARE ENTITY ACTIVITIES.—

''(1) REVIEW OF MEDICAID MANAGED CARE ORGANIZATION CONTRACT.—

''(A) IN GENERAL.—Except as provided in paragraph (2), each medicaid managed care organization shall be subject to an annual external independent review of the quality outcomes and timeliness of, and access to, the items and services specified in such organization's contract with the State under section 1941(a)(1)(B). Such review shall specifically evaluate the extent to which the medicaid managed care organization provides such services in a timely manner.

''(B) CONTENTS OF REVIEW.—An external independent review conducted under this subsection shall include—

''(i) a review of the entity's medical care, through sampling of medical records or other appropriate methods, for indications of quality of care and inappropriate utilization (including overutilization) and treatment,

''(ii) a review of enrollee inpatient and ambulatory data, through sampling of medical records or other appropriate methods, to determine trends in quality and appropriateness of care,

''(iii) notification of the entity and the State when the review under this paragraph indicates inappropriate care, treatment, or utilization of services (including overutilization), and

''(iv) other activities as prescribed by the Secretary or the State.

''(C) USE OF PROTOCOLS.—An external independent review conducted under this subsection on and after January 1, 1999, shall use protocols that have been developed, tested, and validated by the Secretary and that are at least as rigorous as those used by the National Committee on Quality Assurance as of the date of the enactment of this section.

''(D) AVAILABILITY OF RESULTS.—The results of each external independent review conducted under this paragraph shall be available to participating health care providers, enrollees, and potential enrollees of the medicaid managed care organization, except that the results may not be made available in a manner that discloses the identity of any individual patient.

''(2) DEEMED COMPLIANCE.—

''(A) MEDICARE ORGANIZATIONS.—The requirements of paragraph (1) shall not apply with respect to a medicaid managed care organization if the organization is an eligible organization with a contract in effect under section 1876 or under part C of title XVIII.

''(B) PRIVATE ACCREDITATION.—

''(i) IN GENERAL.—The requirements of paragraph (1) shall not apply with respect to a medicaid managed care organization if—

''(I) the organization is accredited by an organization meeting the requirements described in subparagraph (C)), and

''(II) the standards and process under which the organization is accredited meet such requirements as are established under clause (ii), without regard to whether or not the time requirement of such clause is satisfied.

''(ii) STANDARDS AND PROCESS.—Not later than 180 days after the date of the enactment of this section, the Secretary shall specify requirements for the standards and process under which a medicaid managed care organization is accredited by an organization meeting the requirements of subparagraph (B).

''(C) ACCREDITING ORGANIZATION.—An accrediting organization meets the requirements of this subparagraph if the organization—

''(i) is a private, nonprofit organization,

''(ii) exists for the primary purpose of accrediting managed care organizations or health care providers, and

''(iii) is independent of health care providers or associations of health care providers.

''(3) REVIEW OF PRIMARY CARE CASE MANAGER CONTRACT.—Each primary care case manager shall be subject to an annual external independent review of the quality and timeliness of, and access to, the items and services specified in the contract entered into between the State and the primary care case manager under section 1941(a)(1)(B).

''(4) USE OF VALIDATION SURVEYS.—The Secretary shall conduct surveys each year to validate external reviews of the number of managed care entities in the year. In conducting such surveys the Secretary shall use the same protocols as were used in preparing the external reviews. If an external review finds that an individual managed care entity meets applicable requirements, but the Secretary determines that the entity does not meet such requirements, the Secretary's determination as to the entity's noncompliance with such requirements is binding and supersedes that of the previous survey.

''(b) FEDERAL MONITORING RESPONSIBILITIES.—The Secretary shall review the external independent reviews conducted pursuant to subsection (a) and shall monitor the effectiveness of the State's monitoring of managed care entities and any followup activities required under this part. If the Secretary determines that a State's monitoring and followup activities are not adequate to ensure that the requirements of such section are met, the Secretary shall undertake appropriate followup activities to ensure that the State improves its monitoring and followup activities.

''(c) PROVIDING INFORMATION ON SERVICES.—

''(1) REQUIREMENTS FOR MEDICAID MANAGED CARE ORGANIZATIONS.—Each medicaid managed care organization shall provide to the State complete and timely information concerning the following:

''(A) The services that the organization provides to (or arranges to be provided to) individuals eligible for medical assistance under the State plan under this title.

''(B) The identity, locations, qualifications, and availability of participating health care providers.

''(C) The rights and responsibilities of enrollees.

''(D) The services provided by the organization which are subject to prior authorization by the organization as a condition of coverage (in accordance with subsection (d)).

''(E) The procedures available to an enrollee and a health care provider to appeal the failure of the organization to cover a service.

''(F) The performance of the organization in serving individuals eligible for medical assistance under the State plan under this title.

Such information shall be provided in a form consistent with the reporting of similar information by eligible organizations under section 1876 or under part C of title XVIII.

''(2) REQUIREMENTS FOR PRIMARY CARE CASE MANAGERS.—Each primary care case manager shall—

''(A) provide to the State (at least at such frequency as the Secretary may require), complete and timely information concerning the services that the primary care case manager provides to (or arranges to be provided to) individuals eligible for medical assistance under the State plan under this title,

''(B) make available to enrollees and potential enrollees information concerning services available to the enrollee for which prior authorization by the primary care case manager is required,

''(C) provide enrollees and potential enrollees information regarding all items and services that are available to enrollees under the contract between the State and the primary care case manager that are covered either directly or through a method of referral and prior authorization, and

''(D) provide assurances that such entities and their professional personnel are licensed as required by State law and qualified to provide case management services, through methods such as ongoing monitoring of compliance with applicable requirements and providing information and technical assistance.

''(3) REQUIREMENTS FOR BOTH MEDICAID MANAGED CARE ORGANIZATIONS AND PRIMARY CARE CASE MANAGERS.—Each managed care entity shall provide the State with aggregate encounter data for all items and services, including early and periodic screening, diagnostic, and treatment services under section 1905(r) furnished to individuals under 21 years of age. Any such data provided may be audited by the State.

''(d) CONDITIONS FOR PRIOR AUTHORIZATION.—Subject to section 1943, a managed care entity may require the approval of medical assistance for nonemergency services before the assistance is furnished to an enrollee only if the system providing for such approval provides that such decisions are made in a timely manner, depending upon the urgency of the situation.

''(e) PATIENT ENCOUNTER DATA.—Each medicaid managed care organization shall maintain sufficient patient encounter data to identify the health care provider who delivers services to patients and to otherwise enable the State plan to meet the requirements of section 1902(a)(27) and shall submit such data to the State or the Secretary upon request. The medicaid managed care organization shall incorporate such information in the maintenance of patient encounter data with respect to such health care provider.

''(f) INCENTIVES FOR HIGH QUALITY MANAGED CARE ENTITIES.—The Secretary and the State may establish a program to reward, through public recognition, incentive payments, or enrollment of additional individuals (or combinations of such rewards), managed care entities that provide the highest quality care to individuals eligible for medical assistance under the State plan under this title who are enrolled with such entities. For purposes of section 1903(a)(7), proper expenses incurred by a State in carrying out such a program shall be considered to be expenses necessary for the proper and efficient administration of the State plan under this title.

''(g) QUALITY ASSURANCE STANDARDS.—Any contract between a State and a managed care entity shall provide—

''(1) that the State agency will develop and implement a State specific quality assessment and improvement strategy, consistent with standards that the Secretary, in consultation with the States, shall establish and monitor (but that shall not preempt any State standards that are more stringent than the standards established under this paragraph), and that includes—

''(A) standards for access to care so that covered services are available within reasonable timeframes and in a manner that ensures continuity of care and adequate primary care and specialized services capacity; and

''(B) procedures for monitoring and evaluating the quality and appropriateness of care and services to beneficiaries that reflect the full spectrum of populations enrolled in the plan and that include—

''(i) requirements for provision of quality assurance data to the State using the data and information set that the Secretary, in consultation with the States, shall specify with respect to entities contracting under section 1876 or under part C of title XVIII or alternative data requirements approved by the Secretary;

''(ii) if necessary, an annual examination of the scope and content of the quality improvement strategy; and

''(iii) other aspects of care and service directly related to the improvement of quality of care (including grievance procedures and marketing and information standards),

''(2) that entities entering into such agreements under which payment is made on a prepaid capitated or other risk basis shall be required—

''(A) to submit to the State agency information that demonstrates significant improvement in the care delivered to members;

''(B) to maintain an internal quality assurance program consistent with paragraph (1), and meeting standards that the Secretary, in consultation with the States, shall establish in regulations; and

''(C) to provide effective procedures for hearing and resolving grievances between the entity and members enrolled with the entity under this section, and

''(3) that provision is made, consistent with State law or with regulations under State law, with respect to the solvency of those entities, financial reporting by those entities, and avoidance of waste, fraud, and abuse.

''(h) ANNUAL REPORT ON NON-HEALTH EXPENDITURES.—Each medicaid managed care organization shall annually provide to enrollees a statement disclosing the proportion of the premiums and other revenues received by the organization that are expended for non-health care items and services.

''SEC. 1946. PROTECTIONS FOR PROVIDERS.

''(a) TIMELINESS OF PAYMENT.—A medicaid managed care organization shall make payment to health care providers for items and services which are subject to the contract under section 1941(a)(1)(B) and which are furnished to individuals eligible for medical assistance under the State plan under this title who are enrolled with the entity on a timely basis consistent with section 1943 and under the claims payment procedures described in section 1902(a)(37)(A), unless the health care provider and the managed care entity agree to an alternate payment schedule.

''(b) PHYSICIAN INCENTIVE PLANS.—Each medicaid managed care organization shall require that any physician incentive plan covering physicians who are participating in the medicaid managed care organization shall meet the requirements of section 1876(i)(8) and comparable requirements under part C of title XVIII.

''(c) WRITTEN PROVIDER PARTICIPATION AGREEMENTS FOR CERTAIN PROVIDERS.—

''(1) IN GENERAL.—Each medicaid managed care organization that enters into a written provider participation agreement with a provider described in paragraph (2) shall—

''(A) include terms and conditions that are no more restrictive than the terms and conditions that the medicaid managed care organization includes in its agreements with other participating providers with respect to—

''(i) the scope of covered services for which payment is made to the provider;

''(ii) the assignment of enrollees by the organization to the provider;

''(iii) the limitation on financial risk or availability of financial incentives to the provider;

''(iv) accessibility of care;

''(v) professional credentialing and recredentialing;

''(vi) licensure;

''(vii) quality and utilization management;

''(viii) confidentiality of patient records;

''(ix) grievance procedures; and

''(x) indemnification arrangements between the organizations and providers; and

''(B) provide for payment to the provider on a basis that is comparable to the basis on which other providers are paid.

''(2) PROVIDERS DESCRIBED.—The providers described in this paragraph are the following:

''(A) Rural health clinics, as defined in section 1905(l)(1).

''(B) Federally-qualified health centers, as defined in section 1905(l)(2)(B).

''(C) Clinics which are eligible to receive payment for services provided under title X of the Public Health Service Act.

''(d) PAYMENTS TO RURAL HEALTH CLINICS AND FEDERALLY-QUALIFIED HEALTH CENTERS.—Each medicaid managed care organization that has a contract under this title with respect to the provision of services of a rural health clinic or a Federally-qualified health center shall provide, at the election of such clinic or center, that the organization shall provide payments to such a clinic or center for services described in 1905(a)(2)(C) at the rates of payment specified in section 1902(a)(13)(E).

''(e) ANTIDISCRIMINATION.—A managed care entity shall not discriminate with respect to participation, reimbursement, or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification. This subsection shall not be construed to prohibit a managed care entity from including providers only to the extent necessary to meet the needs of the entity's enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the entity.

''SEC. 1947. ASSURING ADEQUACY OF PAYMENTS TO MEDICAID MANAGED CARE ORGANIZATIONS AND ENTITIES.

A State shall find, determine, and make assurances satisfactory to the Secretary that the rates it pays a managed care entity for individuals eligible under the State plan have been determined by an independent actuary that meets the standards for qualification and practice established by the Actuarial Standards Board, to be sufficient and not excessive with respect to the estimated costs of the services provided.

''SEC. 1948. FRAUD AND ABUSE.

''(a) PROVISIONS APPLICABLE TO MANAGED CARE ENTITIES.—

''(1) PROHIBITING AFFILIATIONS WITH INDIVIDUALS DEBARRED BY FEDERAL AGENCIES.—

''(A) IN GENERAL.—A managed care entity may not knowingly—

''(i) have a person described in subparagraph (C) as a director, officer, partner, or person with beneficial ownership of more than 5 percent of the entity's equity, or

''(ii) have an employment, consulting, or other agreement with a person described in such subparagraph for the provision of items and services that are significant and material to the entity's obligations under its contract with the State.

''(B) EFFECT OF NONCOMPLIANCE.—If a State finds that a managed care entity is not in compliance with clause (i) or (ii) of subparagraph (A), the State—

''(i) shall notify the Secretary of such noncompliance,

''(ii) may continue an existing agreement with the entity unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) directs otherwise, and

''(iii) may not renew or otherwise extend the duration of an existing agreement with the entity unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) provides to the State and to the Congress a written statement describing compelling reasons that exist for renewing or extending the agreement.

''(C) PERSONS DESCRIBED.—A person is described in this subparagraph if such person—

''(i) is debarred, suspended, or otherwise excluded from participating in procurement activities under any Federal procurement or nonprocurement program or activity, as provided for in the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355; 108 Stat. 3243), or

''(ii) is an affiliate (as defined in such Act) of a person described in clause (i).

''(2) RESTRICTIONS ON MARKETING.—

''(A) DISTRIBUTION OF MATERIALS.—

''(i) IN GENERAL.—A managed care entity may not distribute directly or through any agent or independent contractor marketing materials within any State—

''(I) without the prior approval of the State, and

''(II) that contain false or materially misleading information.

''(ii) CONSULTATION IN REVIEW OF MARKET MATERIALS.—In the process of reviewing and approving such materials, the State shall provide for consultation with a medical care advisory committee.

''(iii) PROHIBITION.—The State may not enter into or renew a contract with a managed care entity for the provision of services to individuals enrolled under the State plan under this title if the State determines that the entity distributed directly or through any agent or independent contractor marketing materials in violation of clause (i).

''(B) SERVICE MARKET.—A managed care entity shall distribute marketing materials to the entire service area of such entity.

''(C) PROHIBITION OF TIE-INS.—A managed care entity, or any agency of such entity, may not seek to influence an individual's enrollment with the entity in conjunction with the sale of any other insurance.

''(D) PROHIBITING MARKETING FRAUD.—Each managed care entity shall comply with such procedures and conditions as the Secretary prescribes in order to ensure that, before an individual is enrolled with the entity, the individual is provided accurate oral and written and sufficient information to make an informed decision whether or not to enroll.

''(E) PROHIBITION OF COLD CALL MARKETING.—Each managed care entity shall not, directly or indirectly, conduct door-to-door, telephonic, or other 'cold call' marketing of enrollment under this title.

''(b) PROVISIONS APPLICABLE ONLY TO MEDICAID MANAGED CARE ORGANIZATIONS.—

''(1) STATE CONFLICT-OF-INTEREST SAFEGUARDS IN MEDICAID RISK CONTRACTING.—A medicaid managed care organization may not enter into a contract with any State under section 1941(a)(1)(B) unless the State has in effect conflict-of-interest safeguards with respect to officers and employees of the State with responsibilities relating to contracts with such organizations or to the default enrollment process described in section 1941(a)(1)(F) that are at least as effective as the Federal safeguards provided under section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423), against conflicts of interest that apply with respect to Federal procurement officials with comparable responsibilities with respect to such contracts.

''(2) REQUIRING DISCLOSURE OF FINANCIAL INFORMATION.—In addition to any requirements applicable under paragraph (27) or (35) of section 1902(a), a medicaid managed care organization shall—

''(A) report to the State such financial information as the State may require to demonstrate that—

''(i) the organization has the ability to bear the risk of potential financial losses and otherwise has a fiscally sound operation;

''(ii) the organization uses the funds paid to it by the State for activities consistent with the requirements of this title and the contract between the State and organization; and

''(iii) the organization does not place an individual physician, physician group, or other health care provider at substantial risk for services not provided by such physician, group, or health care provider, by providing adequate protection to limit the liability of such physician,

group, or health care provider, through measures such as stop loss insurance or appropriate risk corridors,

''(B) agree that the Secretary and the State (or any person or organization designated by either) shall have the right to audit and inspect any books and records of the organization (and of any subcontractor) relating to the information reported pursuant to subparagraph (A) and any information required to be furnished under section paragraphs (27) or (35) of section 1902(a),

''(C) make available to the Secretary and the State a description of each transaction described in subparagraphs (A) through (C) of section 1318(a)(3) of the Public Health Service Act between the organization and a party in interest (as defined in section 1318(b) of such Act),

''(D) agree to make available to its enrollees upon reasonable request—

''(i) the information reported pursuant to subparagraph (A); and

''(ii) the information required to be disclosed under sections 1124 and 1126,

''(E) comply with subsections (a) and (c) of section 1318 of the Public Health Service Act (relating to disclosure of certain financial information) and with the requirement of section 1301(c)(8) of such Act (relating to liability arrangements to protect members), and

''(F) notify the State of loans and other special financial arrangements which are made between the organization and subcontractors, affiliates, and related parties.

Each State is required to conduct audits on the books and records of at least 1 percent of the number of medicaid managed care organizations operating in the State.

''(3) ADEQUATE PROVISION AGAINST RISK OF INSOLVENCY.—

''(A) ESTABLISHMENT OF STANDARDS.—The Secretary shall establish standards, including appropriate equity standards, under which each medicaid managed care organization shall make adequate provision against the risk of insolvency.

''(B) CONSIDERATION OF OTHER STANDARDS.—In establishing the standards described in subparagraph (A), the Secretary shall consider solvency standards applicable to eligible organizations with a risk-sharing contract under section 1876 or under part C of title XVIII.

''(C) MODEL CONTRACT ON SOLVENCY.—At the earliest practicable time after the date of the enactment of this section, the Secretary shall issue guidelines concerning solvency standards for risk contracting entities and subcontractors of such risk contracting entities. Such guidelines shall take into account characteristics that may differ among risk contracting entities, including whether such an entity is at risk for inpatient hospital services.

''(4) REQUIRING REPORT ON NET EARNINGS AND ADDITIONAL BENEFITS.—Each medicaid managed care organization shall submit a report to the State not later than 12 months after the close of a contract year containing the most recent audited financial statement of the organization's net earnings and consistent with generally accepted accounting principles.

''(c) DISCLOSURE OF OWNERSHIP AND RELATED INFORMATION.—Each medicaid managed care organization shall provide for disclosure of information in accordance with section 1124.

''(d) DISCLOSURE OF TRANSACTION INFORMATION.—

''(1) IN GENERAL.—Each medicaid managed care organization which is not a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) shall report to the State and, upon request, to the Secretary, the Inspector General of the Department of Health and Human Services, and the Comptroller General, a description of transactions between the organization and a party in interest (as defined in section 1318(b) of such Act), including the following transactions:

''(A) Any sale or exchange, or leasing of any property between the organization and such a party.

''(B) Any furnishing for consideration of goods, services (including management services), or facilities between the organization and such a party, but not including salaries paid to employees for services provided in the normal course of their employment.

''(C) Any lending of money or other extension of credit between the organization and such a party.

The State or Secretary may require that information reported respecting an organization which controls, or is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the organization and such entity.

''(2) DISCLOSURE TO ENROLLEES.—Each such organization shall make the information reported pursuant to paragraph (1) available to its enrollees upon reasonable request.

''(e) CONTRACT OVERSIGHT.—

''(1) IN GENERAL.—The Secretary must provide prior review and approval for contracts under this part with a medicaid managed care organization providing for expenditures under this title in excess of $1,000,000.

''(2) INSPECTOR GENERAL REVIEW.—As part of such approval process, the Inspector General in the Department of Health and Human Services, effective October 1, 1997, shall make a determination (to the extent practicable) as to whether persons with an ownership interest (as defined in section 1124(a)(3)) or an officer, director, agent, or managing employee (as defined in section 1126(b)) of the organization are or have been described in subsection (a)(1)(C) based on a ground relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct or obstruction of an investigation.

''(f) LIMITATION ON AVAILABILITY OF FFP FOR USE OF ENROLLMENT BROKERS.—Amounts expended by a State for the use of an enrollment broker in marketing managed care entities to eligible individuals under this title shall be considered, for purposes of section 1903(a)(7), to be necessary for the proper and efficient administration of the State plan but only if the following conditions are met with respect to the broker:

''(1) The broker is independent of any such entity and of any health care providers (whether or not any such provider participates in the State plan under this title) that provide coverage of services in the same State in which the broker is conducting enrollment activities.

''(2) No person who is an owner, employee, consultant, or has a contract with the broker either has any direct or indirect financial interest with such an entity or health care provider or has been excluded from participation in the program under this title or title XVIII or debarred by any Federal agency, or subject to a civil money penalty under this Act.

''(g) USE OF UNIQUE PHYSICIAN IDENTIFIER FOR PARTICIPATING PHYSICIANS.—Each medicaid managed care organization shall require each physician providing services to enrollees eligible for medical assistance under the State plan under this title to have a unique identifier in accordance with the system established under section 1173(b).

''(h) SECRETARIAL RECOVERY OF FFP FOR CAPITATION PAYMENTS FOR INSOLVENT MANAGED CARE ENTITIES.—The Secretary shall provide for the recovery and offset against any amount owed a State under section 1903(a)(1) in an amount equal to the amounts paid to the State for medical assistance provided under such section, for expenditures for capitation payments to a managed care entity that becomes insolvent or for services contracted for with, but not provided by, such organization.

''SEC. 1949. SANCTIONS FOR NONCOMPLIANCE BY MANAGED CARE ENTITIES.

''(a) USE OF INTERMEDIATE SANCTIONS BY THE STATE TO ENFORCE REQUIREMENTS.—

''(1) IN GENERAL.—Each State shall establish intermediate sanctions, which may include any of the types described in subsection (b) other than the termination of a contract with a managed care entity, which the State may impose against a managed care entity with a contract under section 1941(a)(1)(B) if the entity—

''(A) fails substantially to provide medically necessary items and services that are required (under law or under such entity's contract with the State) to be provided to an enrollee covered under the contract,

''(B) imposes premiums or charges on enrollees in excess of the premiums or charges permitted under this title,

''(C) acts to discriminate among enrollees on the basis of their health status or requirements for health care services, including expulsion or refusal to reenroll an individual, except as permitted by this part, or engaging in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment with the entity by eligible individuals whose medical condition or history indicates a need for substantial future medical services,

''(D) misrepresents or falsifies information that is furnished—

''(i) to the Secretary or the State under this part; or

''(ii) to an enrollee, potential enrollee, or a health care provider under such sections, or

''(E) fails to comply with the requirements of section 1876(i)(8) (or comparable requirements under part C of title XVIII) or this part.

''(2) RULE OF CONSTRUCTION.—For purposes of paragraph (1)(A), the term 'medically necessary' shall not be construed as requiring an abortion be performed for any individual, except if necessary to save the life of the mother or if a pregnancy is the result of an act of rape or incest.

''(b) INTERMEDIATE SANCTIONS.—The sanctions described in this subsection are as follows:

''(1) Civil money penalties as follows:

''(A) Except as provided in subparagraph (B), (C), or (D), not more than $25,000 for each determination under subsection (a).

''(B) With respect to a determination under paragraph (3) or (4)(A) of subsection (a), not more than $100,000 for each such determination.

''(C) With respect to a determination under subsection (a)(2), double the excess amount charged in violation of such subsection (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned).

''(D) Subject to subparagraph (B), with respect to a determination under subsection (a)(3), $15,000 for each individual not enrolled as a result of a practice described in such subsection.

''(2) The appointment of temporary management—

''(A) to oversee the operation of the medicaid-only managed care entity upon a finding by the State that there is continued egregious behavior by the plan, or

''(B) to assure the health of the entity's enrollees, if there is a need for temporary management while—

''(i) there is an orderly termination or reorganization of the managed care entity; or

''(ii) improvements are made to remedy the violations found under subsection (a),

except that temporary management under this paragraph may not be terminated until the State has determined that the managed care entity has the capability to ensure that the violations shall not recur.

''(3) Permitting individuals enrolled with the managed care entity to terminate enrollment without cause, and notifying such individuals of such right to terminate enrollment.

''(4) Suspension or default of all enrollment of individuals under this title after the date the Secretary or the State notifies the entity of a determination of a violation of any requirement of this part.

''(5) Suspension of payment to the entity under this title for individuals enrolled after the

date the Secretary or State notifies the entity of such a determination and until the Secretary or State is satisfied that the basis for such determination has been corrected and is not likely to recur.

''(c) TREATMENT OF CHRONIC SUBSTANDARD ENTITIES.—In the case of a managed care entity which has repeatedly failed to meet the requirements of sections 1942 through 1946, the State shall (regardless of what other sanctions are provided) impose the sanctions described in paragraphs (2) and (3) of subsection (b).

''(d) AUTHORITY TO TERMINATE CONTRACT.—In the case of a managed care entity which has failed to meet the requirements of this part, the State shall have the authority to terminate its contract with such entity under section 1941(a)(1)(B) and to enroll such entity's enrollees with other managed care entities (or to permit such enrollees to receive medical assistance under the State plan under this title other than through a managed care entity).

''(e) AVAILABILITY OF SANCTIONS TO THE SECRETARY.—

''(1) INTERMEDIATE SANCTIONS.—In addition to the sanctions described in paragraph (2) and any other sanctions available under law, the Secretary may provide for any of the sanctions described in subsection (b) if the Secretary determines that a managed care entity with a contract under section 1941(a)(1)(B) fails to meet any of the requirements of this part.

''(2) DENIAL OF PAYMENTS TO THE STATE.—The Secretary may deny payments to the State for medical assistance furnished under the contract under section 1941(a)(1)(B) for individuals enrolled after the date the Secretary notifies a managed care entity of a determination under subsection (a) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

''(f) DUE PROCESS FOR MANAGED CARE ENTITIES.—

''(1) AVAILABILITY OF HEARING PRIOR TO TERMINATION OF CONTRACT.—A State may not terminate a contract with a managed care entity under section 1941(a)(1)(B) unless the entity is provided with a hearing prior to the termination.

''(2) NOTICE TO ENROLLEES OF TERMINATION HEARING.—A State shall notify all individuals enrolled with a managed care entity which is the subject of a hearing to terminate the entity's contract with the State of the hearing and that the enrollees may immediately disenroll with the entity without cause.

''(3) OTHER PROTECTIONS FOR MANAGED CARE ENTITIES AGAINST SANCTIONS IMPOSED BY STATE.—Before imposing any sanction against a managed care entity other than termination of the entity's contract, the State shall provide the entity with notice and such other due process protections as the State may provide, except that a State may not provide a managed care entity with a pre-termination hearing before imposing the sanction described in subsection (b)(2).

''(4) IMPOSITION OF CIVIL MONETARY PENALTIES BY SECRETARY.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply with respect to a civil money penalty imposed by the Secretary under subsection (b)(1) in the same manner as such provisions apply to a penalty or proceeding under section 1128A.

''SEC. 1950. DEFINITIONS; MISCELLANEOUS PROVISIONS.

''(a) DEFINITIONS.—For purposes of this title:

''(1) MANAGED CARE ENTITY.—The term 'managed care entity' means—

''(A) a medicaid managed care organization; or

''(B) a primary care case manager.

''(2) MEDICAID MANAGED CARE ORGANIZATION.—The term 'medicaid managed care organization' means a health maintenance organization, an eligible organization with a contract under section 1876 or under part C of title XVIII, a provider sponsored network, or any other organization which is organized under the laws of a State, has made adequate provision (as determined under standards established for purposes of eligible organizations under section 1876 or under part C of title XVIII, and through its capitalization or otherwise) against the risk of insolvency, and provides or arranges for the provision of one or more items and services to individuals eligible for medical assistance under the State plan under this title in accordance with a contract with the State under section 1941(a)(1)(B).

''(3) PRIMARY CARE CASE MANAGER.—

''(A) IN GENERAL.—The term 'primary care case manager' has the meaning given such term in section 1905(t)(2).''.

(b) STUDIES AND REPORTS.—

(1) REPORT ON PUBLIC HEALTH SERVICES.—

(A) IN GENERAL.—Not later than January 1, 1998, the Secretary of Health and Human Services (in this subsection referred to as the ''Secretary'') shall report to the Committee on Finance of the Senate and the Committee on Commerce of the House of Representatives on the effect of managed care entities (as defined in section 1950(a)(1) of the Social Security Act) on the delivery of and payment for the services traditionally provided through providers described in section 1941(a)(2)(B)(i) of such Act.

(B) CONTENTS OF REPORT.—The report referred to in subparagraph (A) shall include—

(i) information on the extent to which enrollees with eligible managed care entities seek services at local health departments, public hospitals, and other facilities that provide care without regard to a patient's ability to pay;

(ii) information on the extent to which the facilities described in clause (i) provide services to enrollees with eligible managed care entities without receiving payment;

(iii) information on the effectiveness of systems implemented by facilities described in clause (i) for educating such enrollees on services that are available through eligible managed care entities with which such enrollees are enrolled;

(iv) to the extent possible, identification of the types of services most frequently sought by such enrollees at such facilities; and

(v) recommendations about how to ensure the timely delivery of the services traditionally provided through providers described in section 1941(a)(2)(B)(i) of the Social Security Act to enrollees of managed care entities and how to ensure that local health departments, public hospitals, and other facilities are adequately compensated for the provision of such services to such enrollees.

(2) REPORT ON PAYMENTS TO HOSPITALS.—

(A) IN GENERAL.—Not later than October 1 of each year, beginning with October 1, 1998, the Secretary and the Comptroller General shall analyze and submit a report to the Committee on Finance of the Senate and the Committee on Commerce of the House of Representatives on rates paid for hospital services under managed care entities under contracts under section 1941(a)(1)(B) of the Social Security Act.

(B) CONTENTS OF REPORT.—The information in the report described in subparagraph (A) shall—

(i) be organized by State, type of hospital, type of service; and

(ii) include a comparison of rates paid for hospital services under managed care entities with rates paid for hospital services furnished to individuals who are entitled to benefits under a State plan under title XIX of the Social Security Act and are not enrolled with such entities.

(3) REPORTS BY STATES.—Each State shall transmit to the Secretary, at such time and in such manner as the Secretary determines appropriate, the information on hospital rates submitted to such State under section 1947(b)(2) of the Social Security Act.

(4) INDEPENDENT STUDY AND REPORT ON QUALITY ASSURANCE AND ACCREDITATION STANDARDS.—The Institute of Medicine of the National Academy of Sciences shall conduct a study and analysis of the quality assurance programs and accreditation standards applicable to managed care entities operating in the private sector or to such entities that operate under contracts under the medicare program under title XVIII of the Social Security Act to determine if such programs and standards include consideration of the accessibility and quality of the health care items and services delivered under such contracts to low-income individuals.

(c) CONFORMING AMENDMENTS.—

(1) REPEAL OF CURRENT REQUIREMENTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), section 1903(m) (42 U.S.C. 1396b(m)) is repealed on the date of the enactment of this Act.

(B) EXISTING CONTRACTS.—In the case of any contract under section 1903(m) of such Act which is in effect on the day before the date of the enactment of this Act, the provisions of such section shall apply to such contract until the earlier of—

(i) the day after the date of the expiration of the contract; or

(ii) the date which is 1 year after the date of the enactment of this Act.

(2) FEDERAL FINANCIAL PARTICIPATION.—

(A) CLARIFICATION OF APPLICATION OF FFP DENIAL RULES TO PAYMENTS MADE PURSUANT TO MANAGED CARE ENTITIES.—Section 1903(i) (42 U.S.C. 1396b(i)) is amended by adding at the end the following new sentence: ''Paragraphs (1)(A), (1)(B), (2), (5), and (12) shall apply with respect to items or services furnished and amounts expended by or through a managed care entity (as defined in section 1950(a)(1)) in the same manner as such paragraphs apply to items or services furnished and amounts expended directly by the State.''.

(B) FFP FOR EXTERNAL QUALITY REVIEW ORGANIZATIONS.—Section 1903(a)(3)(C) (42 U.S.C. 1396b(a)(3)(C)) is amended—

(i) by inserting ''(i)'' after ''(C)'', and

(ii) by adding at the end the following new clause:

''(ii) 75 percent of the sums expended with respect to costs incurred during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to the performance of independent external reviews of managed care entities (as defined in section 1950(a)(1)) by external quality review organizations, but only if such organizations conduct such reviews under protocols approved by the Secretary and only in the case of such organizations that meet standards established by the Secretary relating to the independence of such organizations from agencies responsible for the administration of this title or eligible managed care entities; and''.

(3) EXCLUSION OF CERTAIN INDIVIDUALS AND ENTITIES FROM PARTICIPATION IN PROGRAM.—Section 1128(b)(6)(C) (42 U.S.C. 1320a–7(b)(6)(C)) is amended—

(A) in clause (i), by striking ''a health maintenance organization (as defined in section 1903(m))'' and inserting ''a managed care entity, as defined in section 1950(a)(1),''; and

(B) in clause (ii), by inserting ''section 1115 or'' after ''approved under''.

(4) STATE PLAN REQUIREMENTS.—Section 1902 (42 U.S.C. 1396a) is amended—

(A) in subsection (a)(30)(C), by striking ''section 1903(m)'' and inserting ''section 1941(a)(1)(B)''; and

(B) in subsection (a)(57), by striking ''health maintenance organization (as defined in section 1903(m)(1)(A))'' and inserting ''managed care entity, as defined in section 1950(a)(1)'';

(C) in subsection (e)(2)(A), by striking ''or with an entity described in paragraph (2)(B)(iii), (2)(E), (2)(G), or (6) of section 1903(m) under a contract described in section 1903(m)(2)(A)'' and inserting ''or with a managed care entity, as defined in section 1950(a)(1);

(D) in subsection (p)(2)—

(i) by striking ''a health maintenance organization (as defined in section 1903(m))'' and inserting ''a managed care entity, as defined in section 1950(a)(1),'';

(ii) by striking ''an organization'' and inserting ''an entity''; and

(iii) by striking ''any organization'' and inserting ''any entity''; and

(E) in subsection (w)(1), by striking ''sections 1903(m)(1)(A) and'' and inserting ''section''.

(5) PAYMENT TO STATES.—Section 1903(w)(7)(A)(viii) (42 U.S.C. 1396b(w)(7)(A)(viii)) is amended to read as follows:

''(viii) Services of a managed care entity with a contract under section 1941(a)(1)(B).''.

(6) USE OF ENROLLMENT FEES AND OTHER CHARGES.—Section 1916 (42 U.S.C. 1396o) is amended in subsections (a)(2)(D) and (b)(2)(D) by striking ''a health maintenance organization (as defined in section 1903(m))'' and inserting ''a managed care entity, as defined in section 1950(a)(1),'' each place it appears.

(7) EXTENSION OF ELIGIBILITY FOR MEDICAL ASSISTANCE.—Section 1925(b)(4)(D)(iv) (42 U.S.C. 1396r–6(b)(4)(D)(iv)) is amended to read as follows:

''(iv) ENROLLMENT WITH MANAGED CARE ENTITY.—Enrollment of the caretaker relative and dependent children with a managed care entity, as defined in section 1950(a)(1), less than 50 percent of the membership (enrolled on a prepaid basis) of which consists of individuals who are eligible to receive benefits under this title (other than because of the option offered under this clause). The option of enrollment under this clause is in addition to, and not in lieu of, any enrollment option that the State might offer under subparagraph (A)(i) with respect to receiving services through a managed care entity in accordance with part B.''.

*(8) PAYMENT FOR COVERED OUTPATIENT DRUGS.—Section 1927(j)(1) (42 U.S.C. 1396r–8(j)(1)) is amended by striking ''***Health Maintenance Organizations, including those organizations that contract under section 1903(m),'' and inserting ''health maintenance organizations and medicaid managed care organizations, as defined in section 1950(a)(2),''.*

(9) APPLICATION OF SANCTIONS FOR BALANCED BILLING THROUGH SUBCONTRACTORS.—(A) Section 1128A(b)(2)(B) (42 U.S.C. 1320a–7a(b)) is amended by inserting '', including section 1944(b)'' after ''title XIX''.

(B) Section 1128B(d)(1) (42 U.S.C. 1320a–7b(d)(1)) is amended by inserting ''or, in the case of an individual enrolled with a managed care entity under part B of title XIX, the applicable rates established by the entity under the agreement with the State agency under such part'' after ''established by the State''.

(10) REPEAL OF CERTAIN RESTRICTIONS ON OBSTETRICAL AND PEDIATRIC PROVIDERS.—Section 1903(i) (42 U.S.C. 1396b(i)) is amended by striking paragraph (12).

(11) DEMONSTRATION PROJECTS TO STUDY EFFECT OF ALLOWING STATES TO EXTEND MEDICAID COVERAGE FOR CERTAIN FAMILIES.—Section 4745(a)(5)(A) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1396a note) is amended by striking ''(except section 1903(m)'' and inserting ''(except part B)''.

(12) CONFORMING AMENDMENT FOR DISCLOSURE REQUIREMENTS FOR MANAGED CARE ENTITIES.—Section 1124(a)(2)(A) (42 U.S.C. 1320a–3(a)(2)(A)) is amended by inserting ''managed care entity under title XIX,'' after ''renal dialysis facility,''.

(13) ELIMINATION OF REGULATORY PAYMENT CAP.—The Secretary of Health and Human Services may not, under the authority of section 1902(a)(30)(A) of the Social Security Act or any other provision of title XIX of such Act, impose a limit by regulation on the amount of the capitation payments that a State may make to qualified entities under such title, and section 447.361 of title 42, Code of Federal Regulations (relating to upper limits of payment: risk contracts), is hereby nullified.

(14) CONTINUATION OF ELIGIBILITY.—Section 1902(e)(2) (42 U.S.C. 1396a(e)(2)) is amended to read as follows:

''(2) For provision providing for extended liability in the case of certain beneficiaries enrolled with managed care entities, see section 1941(c).''.

(15) CONFORMING AMENDMENTS TO FREEDOM-OF-CHOICE PROVISIONS.—Section 1902(a)(23) (42 U.S.C. 1396a(a)(23)) is amended—

(A) in the matter preceding subparagraph (A), by striking ''subsection (g) and in section 1915'' and inserting ''subsection (g), section 1915, and section 1941,''; and

(B) in subparagraph (B), by striking ''a health maintenance organization, or a'' and inserting ''or with a managed care entity, as defined in section 1950(a)(1), or''.

(d) EFFECTIVE DATE; STATUS OF WAIVERS.—

(1) EFFECTIVE DATE.—Except as provided in paragraph (2), the amendments made by this section shall apply to medical assistance furnished—

(A) during quarters beginning on or after October 1, 1997; or

(B) in the case of assistance furnished under a contract described in subsection (c)(1)(B), during quarters beginning after the earlier of—

(i) the date of the expiration of the contract; or

(ii) the expiration of the 1-year period which begins on the date of the enactment of this Act.

(2) APPLICATION TO WAIVERS.—If any waiver granted to a State under section 1115 or 1915 of the Social Security Act (42 U.S.C. 1315, 1396n), or otherwise, which relates to the provision of medical assistance under a State plan under title XIX of the such Act (42 U.S.C. 1396 et seq.), is in effect or approved by the Secretary of Health and Human Services as of the applicable effective date described in paragraph (1), the amendments made by this section shall not apply with respect to the State before the expiration (determined without regard to any extensions) of the waiver to the extent such amendments are inconsistent with the terms of the waiver.

SEC. 5702. PRIMARY CARE CASE MANAGEMENT SERVICES AS STATE OPTION WITHOUT NEED FOR WAIVER.

(a) OPTIONAL COVERAGE AS PART OF MEDICAL ASSISTANCE.—

(1) IN GENERAL.—Section 1905(a) (42 U.S.C. 1396d(a)) is amended—

(A) by striking ''and'' at the end of paragraph (24);

(B) by redesignating paragraph (25) as paragraph (26); and

(C) by inserting after paragraph (24) the following new paragraph:

''(25) primary care case management services (as defined in subsection (t)); and''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1902(a)(10)(C)(iv) (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by striking ''through (24)'' and inserting ''through (25)''.

(B) Section 1902(j) (42 U.S.C. 1396a(j)) is amended by striking ''through (25)'' and inserting ''through (26)''.

(b) PRIMARY CARE CASE MANAGEMENT SERVICES DEFINED.—Section 1905 (42 U.S.C. 1396d)) is amended by adding at the end the following new subsection:

''(t)(1) The term 'primary care case management services' means case-management related services (including coordination and monitoring of health care services) provided by a primary care case manager under a primary care case management contract.

''(2)(A) The term 'primary care case manager' means, with respect to a primary care case management contract, a provider described in subparagraph (B).

''(B) A provider described in this subparagraph is—

''(i) a physician, a physician group practice, or an entity employing or having other arrangements with physicians who provide case management services; or

''(ii) at State option—

''(I) a nurse practitioner (as described in section 1905(a)(21));

''(II) a certified nurse-midwife (as defined in section 1861(gg)(2)); or

''(III) a physician assistant (as defined in section 1861(aa)(5)).

''(3) The term 'primary care case management contract' means a contract with a State agency under which a primary care case manager undertakes to locate, coordinate, and monitor covered primary care, covered primary care (and such other covered services as may be specified under the contract) to all individuals enrolled with the primary care case manager, and that provides for—

''(A) reasonable and adequate hours of operation, including 24-hour availability of information, referral, and treatment with respect to medical emergencies;

''(B) restriction of enrollment to individuals residing sufficiently near a service delivery site of the entity to be able to reach that site within a reasonable time using available and affordable modes of transportation;

''(C) employment of, or contracts or other arrangements with, sufficient numbers of physicians and other appropriate health care professionals to ensure that services under the contract can be furnished to enrollees promptly and without compromise to quality of care;

''(D) a prohibition on discrimination on the basis of health status or requirements for health services in the enrollment or disenrollment of individuals eligible for medical assistance under this title; and

''(E) a right for an enrollee to terminate enrollment without cause during the first month of each enrollment period, which period shall not exceed 6 months in duration, and to terminate enrollment at any time for cause.

''(4) For purposes of this subsection, the term 'primary care' includes all health care services customarily provided in accordance with State licensure and certification laws and regulations, and all laboratory services customarily provided by or through, a general practitioner, family medicine physician, internal medicine physician, obstetrician/gynecologist, or pediatrician.''.

(c) CONFORMING AMENDMENT.—Section 1915(b)(1) (42 U.S.C. 1396n(b)(1)) is repealed.

(d) EFFECTIVE DATE.—The amendments made by this section apply to primary care case management services furnished on or after October 1, 1997.

SEC. 5703. ADDITIONAL REFORMS TO EXPAND AND SIMPLIFY MANAGED CARE.

(a) ELIMINATION OF 75:25 RESTRICTION ON RISK CONTRACTS.—

(1) 75 PERCENT LIMIT ON MEDICARE AND MEDICAID ENROLLMENT.—

(A) IN GENERAL.—Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)) is amended by striking clause (ii).

(B) CONFORMING AMENDMENTS.—

(i) Section 1903(m)(2) (42 U.S.C. 1396b(m)(2)) is amended—

(I) by striking subparagraphs (C), (D), and (E); and

(II) in subparagraph (G), by striking ''clauses (i) and (ii)'' and inserting ''clause (i)''.

(ii) Section 1902(e)(2)(A) (42 U.S.C. 1396a(e)(2)(A)) is amended by striking ''(2)(E),''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply on and after June 20, 1997.

(b) ELIMINATION OF PROHIBITION ON COPAYMENTS FOR SERVICES FURNISHED BY HEALTH MAINTENANCE ORGANIZATIONS.—Section 1916 (42 U.S.C. 1396o) is amended—

(1) in subsection (a)(2)(D), by striking ''or services furnished'' and all that follows through ''enrolled,''; and

(2) in subsection (b)(2)(D), by striking ''or (at the option'' and all that follows through ''enrolled,''.

Subchapter B—Management Flexibility Reforms

SEC. 5711. ELIMINATION OF BOREN AMENDMENT REQUIREMENTS FOR PROVIDER PAYMENT RATES.

(a) PLAN AMENDMENTS.—Section 1902(a)(13) is amended—

(1) by striking all that precedes subparagraph (D) and inserting the following:

''(13) provide—

''(A) for a public process for determination of rates of payment under the plan for hospital services (and which, in the case of hospitals, take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs), nursing facility services, services provided in intermediate care facilities for the mentally retarded, and home and community-based services, under which—

''(i) proposed rates, the methodologies underlying the establishment of such rates, and a description of how such methodologies will affect access to services, quality of services, and safety of beneficiaries are published, and providers, beneficiaries and their representatives, and other concerned State residents are given a reasonable opportunity for review and comment on such proposed rates, methodologies, and description; and

''(ii) final rates, the methodologies underlying the establishment of such rates, and justifications for such rates (that may take into account public comments received by the State (if any) are published in 1 or more daily newspapers of general circulation in the State or in any publication used by the State to publish State statutes or rules); and'';

(2) by redesignating subparagraphs (D) and (E) as subparagraphs (B) and (C), respectively;

(3) in subparagraph (B), as so redesignated, by adding ''and'' at the end; and

(4) by striking subparagraph (F).

(b) STUDY AND REPORT.—

(1) STUDY.—The Secretary of Health and Human Services shall study the effect on access to services, the quality of services, and the safety of services provided to beneficiaries of the rate-setting methods used by States pursuant to section 1902(a)(13) of the Social Security Act (42 U.S.C. 1396a(a)(13), as amended by subsection (a).

(2) REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary of Health and Human Services shall submit a report to the appropriate committees of Congress on the conclusions of the study conducted under paragraph (1), together with any recommendations for legislation as a result of such conclusions.

(c) CONFORMING AMENDMENTS.—

(1) Section 1903(m)(2)(A)(ix) (42 U.S.C. 1396b(m)(2)(A)(ix)) is amended by striking ''1902(a)(13)(E)'' each place it appears and inserting ''1902(a)(13)(C)''.

(2) Section 1905(o)(3) (42 U.S.C. 1396d(o)(3)) is amended by striking ''amount described in section 1902(a)(13)(D)'' and inserting ''amount determined in section 1902(a)(13)(B)''.

(3) Section 1913(b)(3) (42 U.S.C. 1396l(b)(3)) is amended by striking ''1902(a)(13)(A)'' and inserting ''1902(a)(13)''.

(4) Section 1923 (42 U.S.C. 1396r–4) is amended in subsections (a)(1) and (e)(1), by striking ''1902(a)(13)(A)'' each place it appears and inserting ''1902(a)(13)''.

SEC. 5712. MEDICAID PAYMENT RATES FOR QUALIFIED MEDICARE BENEFICIARIES.

(a) IN GENERAL.—Section 1902(n) (42 U.S.C. 1396a(n)) is amended—

(1) by inserting ''(1)'' after ''(n)'', and

(2) by adding at the end the following:

''(2) In carrying out paragraph (1), a State is not required to provide any payment for any expenses incurred relating to payment for a coinsurance or copayment for medicare cost-sharing if the amount of the payment under title XVIII for the service exceeds the payment amount that otherwise would be made under the State plan under this title for such service.

''(3) In the case in which a State's payment for medicare cost-sharing for a qualified medicare beneficiary with respect to an item or service is reduced or eliminated through the application of paragraph (1) or (2) of this subsection—

''(A) for purposes of applying any limitation under title XVIII on the amount that the beneficiary may be billed or charged for the service, the amount of payment made under title XVIII plus the amount of payment (if any) under the State plan shall be considered to be payment in full for the service,

''(B) the beneficiary shall not have any legal liability to make payment to a provider or managed care entity (as defined in section 1950(a)(1)) for the service, and

''(C) any lawful sanction that may be imposed upon a provider or managed care entity (as defined in section 1950(a)(1)) for excess charges under this title or title XVIII shall apply to the imposition of any charge on the individual in such case.

This paragraph shall not be construed as preventing payment of any medicare cost-sharing by a medicare supplemental policy or an employer retiree health plan on behalf of an individual.''.

(b) LIMITATION IN MEDICARE PROVIDER AGREEMENTS.—Section 1866(a)(1)(A) (42 U.S.C. 1395cc(a)(1)(A)) is amended—

(1) by inserting ''(i)'' after ''(A)'', and

(2) by inserting before the comma at the end the following: '', and (ii) not to impose any charge that may not be charged under section 1902(n)(3)''.

(c) LIMITATION ON NONPARTICIPATING PROVIDERS.—Section 1848(g)(3)(A) (42 U.S.C. 1395w–4(g)(3)(A)) is amended by inserting before the period at the end the following: ''and the provisions of section 1902(n)(3)(A) apply to further limit permissible charges under this section''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payment for items and services furnished on or after the later of—

(1) October 1, 1997; or

(2) the termination date of a provider agreement under the medicare program under title XVIII or under a State plan under title XIX that is in effect on the date of the enactment of this Act.

Subchapter C—Reduction of Disproportionate Share Hospital (DSH) Payments

SEC. 5721. DISPROPORTIONATE SHARE HOSPITAL (DSH) PAYMENTS.

(a) REDUCTION OF PAYMENTS.—Section 1923(f) (42 U.S.C. 1396r–4(f)) is amended to read as follows:

''(f) LIMITATION ON FEDERAL FINANCIAL PARTICIPATION.—

''(1) IN GENERAL.—Beginning with fiscal year 1998, payment under section 1903(a) shall not be made to a State with respect to any payment adjustment made under this section for hospitals in a State for quarters in a fiscal year in excess of the disproportionate share hospital (in this subsection referred to as 'DSH') allotment for the State for the fiscal year, as specified in paragraphs (2), (3), (4), and (5).

''(2) DETERMINATION OF STATE DSH ALLOTMENTS FOR FISCAL YEAR 1998.—

''(A) IN GENERAL.—Except as provided in subparagraph (B) and paragraph (4), the DSH allotment for a State for fiscal year 1998 is equal to the State 1995 DSH spending amount.

''(B) HIGH DSH STATES.—In the case of any State that is a high DSH State, the DSH allotment for that State for fiscal year 1998 is equal to the sum of—

''(i) the Federal share of payment adjustments made to hospitals in the State under subsection (c) that are attributable to the 1995 DSH allotment for inpatient hospital services provided (based on reporting data specified by the State on HCFA Form 64 as inpatient DSH, and as approved by the Secretary); and

''(ii) 70 percent of the Federal share of payment adjustments made to hospitals in the State under subsection (c) that are attributable to the 1995 DSH allotment for payments to institutions for mental diseases and other mental health facilities (based on reporting data specified by the State on HCFA Form 64 as mental health DSH, and as approved by the Secretary).

''(3) DETERMINATION OF STATE DSH ALLOTMENTS FOR FISCAL YEARS 1999 THROUGH 2002.—

''(A) NON HIGH DSH STATES.—

''(i) IN GENERAL.—Except as provided in subparagraph (B) and paragraph (4), the DSH allotment for a State for each of fiscal years 1999 through 2002 is equal to the applicable percentage of the State 1995 DSH spending amount.

''(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage with respect to a State described in that clause is—

''(I) for fiscal year 1999, 98 percent;

''(II) for fiscal year 2000, 95 percent;

''(III) for fiscal year 2001, 90 percent; and

''(IV) for fiscal year 2002, 85 percent.

''(B) HIGH DSH STATES.—

''(i) IN GENERAL.—In the case of any State that is a high DSH State, the DSH allotment for that State for each of fiscal years 1999 through 2002 is equal to the applicable reduction percentage of the high DSH State modified 1995 spending amount for that fiscal year.

''(ii) HIGH DSH STATE MODIFIED 1995 SPENDING AMOUNT.—

''(I) IN GENERAL.—For purposes of clause (i), the high DSH State modified 1995 spending amount means, with respect to a State and a fiscal year, the sum of—

''(aa) the Federal share of payment adjustments made to hospitals in the State under subsection (c) that are attributable to the 1995 DSH allotment for inpatient hospital services provided (based on reporting data specified by the State on HCFA Form 64 as inpatient DSH, and as approved by the Secretary); and

''(bb) the applicable mental health percentage for such fiscal year of the Federal share of payment adjustments made to hospitals in the State under subsection (c) that are attributable to the 1995 DSH allotment for payments to institutions for mental diseases and other mental health facilities (based on reporting data specified by the State on HCFA Form 64 as mental health DSH, and as approved by the Secretary).

''(II) APPLICABLE MENTAL HEALTH PERCENTAGE.—For purposes of subclause (I)(bb), the applicable mental health percentage for such fiscal year is—

''(aa) for fiscal year 1999, 50 percent;

''(bb) for fiscal year 2000, 20 percent; and

''(cc) for fiscal years 2001 and 2002, 0 percent.

''(iii) APPLICABLE REDUCTION PERCENTAGE.—For purposes of clause (i), the applicable reduction percentage described in that clause is—

''(I) for fiscal year 1999, 92 percent;

''(II) for fiscal year 2000, 85 percent; and

''(III) for fiscal years 2001 and 2002, 80 percent.

''(4) EXCEPTIONS.—

''(A) CERTAIN STATES WITHOUT 1995 MENTAL HEALTH DSH SPENDING.—In the case of any State with a State 1995 DSH spending amount that exceeds 12 percent of the Federal medical assistance percentage of expenditures made under the State plan under this title for medical assistance during fiscal year 1995 and that, during such fiscal year, did not make any payment adjustments to hospitals in the State under subsection (c) that are attributable to the 1995 DSH allotment for payments to institutions for mental diseases and other mental health facilities (based on reporting data specified by the State on HCFA Form 64 as mental health DSH, and as approved by the Secretary), the DSH allotment for that State for each of fiscal years 1998 through 2002 is equal to the average of the State 1995 DSH spending amount and the State 1996 DSH spending amount.

''(B) STATES WITH LOW STATE 1995 DSH SPENDING AMOUNTS.—In the case of any State with a

State 1995 DSH spending amount that is less than 3 percent of the Federal medical assistance percentage of expenditures made under the State plan under this title for medical assistance during fiscal year 1995, the DSH allotment for that State for each of fiscal years 1998 through 2002 is equal to the State 1995 DSH spending amount.

''(C) STATES WITH STATE 1995 DSH SPENDING AMOUNTS ABOVE 3 PERCENT.—In the case of any State with a State 1995 DSH spending amount that is more than 3 percent of the Federal medical assistance percentage of expenditures made under the State plan under this title for medical assistance during fiscal year 1995, the DSH allotment for that State for each of fiscal years 1999 through 2002 is equal to the greater of—

''(i) the amount otherwise determined for such State under paragraph (3); or

''(ii) 50 percent of the State 1995 DSH spending amount.

''(5) DETERMINATION OF STATE DSH ALLOTMENTS FOR FISCAL YEAR 2003 AND THEREAFTER.—The DSH allotment for any State for fiscal year 2003 and each fiscal year thereafter is equal to the DSH allotment for the State for the preceding fiscal year, increased by the estimated percentage change in the consumer price index for medical services (as determined by the Bureau of Labor Statistics).

''(6) DEFINITIONS.—

''(A) HIGH DSH STATE.—The term 'high DSH State' means a State that, with respect to fiscal year 1997, had a State base allotment under this section that exceeded 12 percent of the Federal medical assistance percentage of expenditures made under the State plan under this title for medical assistance during such fiscal year, as determined using the preliminary State DSH allotment for the State for fiscal year 1997, as published in the Federal Register on January 31, 1997.

''(B) STATE.—In this subsection, the term 'State' means the 50 States and the District of Columbia.''.

''(C) STATE 1995 DSH SPENDING AMOUNT.—The term 'State 1995 DSH spending amount' means, with respect to a State, the Federal medical assistance percentage of payment adjustments made under subsection (c) under the State plan that are attributable to the fiscal year 1995 DSH allotment, as reported by the State not later than January 1, 1997, on HCFA Form 64, and as approved by the Secretary.

''(D) STATE 1996 DSH SPENDING AMOUNT.—The term 'State 1996 DSH spending amount' means, with respect to a State, the Federal share of payment adjustments made under subsection (c) under the State plan during fiscal year 1996 as reported by the State not later than December 31, 1997, on HCFA Form 64, and as approved by the Secretary.''.

(b) LIMITATION ON PAYMENTS TO INSTITUTIONS FOR MENTAL DISEASES.—Section 1923 of the Social Security Act (42 U.S.C. 1396r–4) is amended by adding at the end the following:

''(h) LIMITATION ON CERTAIN STATE DSH EXPENDITURES.—

''(1) IN GENERAL.—Notwithstanding any other provision of this section, payment under section 1903(a) shall not be made to a State with respect to any payment adjustments made under this section for quarters in a fiscal year to institutions for mental diseases or other mental health facilities, in excess of—

''(A) the total State DSH expenditures that are attributable to fiscal year 1995 for payments to institutions for mental diseases and other mental health facilities (based on reporting data specified by the State on HCFA Form 64 as mental health DSH, and as approved by the Secretary); or

''(B) the amount of such payment adjustment which is equal to the applicable percentage of the Federal share of payment adjustments made to hospitals in the State under subsection (c) that are attributable to the 1995 DSH allotment for payments to institutions for mental diseases and other mental health facilities (based on reporting data specified by the State on HCFA Form 64 as mental health DSH, and as approved by the Secretary).

''(2) APPLICABLE PERCENTAGE.—

''(A) IN GENERAL.—For purposes of paragraph (1), the applicable percentage with respect to a fiscal year is the lesser of the percentage determined under subparagraph (B) or—

''(i) for fiscal year 2001, 50 percent;

''(ii) for fiscal year 2002, 40 percent; and

''(iii) for fiscal year 2003 and thereafter, 33 percent.

''(B) 1995 PERCENTAGE.—The percentage determined under this subparagraph is the ratio (determined as a percentage) of the Federal share of payment adjustments made to hospitals in the State under subsection (c) that are attributable to the 1995 DSH allotment for payments to institutions for mental diseases and other mental health facilities, to the State 1995 DSH spending amount, as defined under subsection (f)(6)(C).''.

(c) TARGETING PAYMENTS.—Section 1923(a)(2) (42 U.S.C. 1396r–4(a)(2)) is amended by adding at the end the following:

''(D) A State plan under this title shall not be considered to meet the requirements of section 1902(a)(13)(A) (insofar as it requires payments to hospitals to take into account the situation of hospitals that serve a disproportionate number of low-income patients with special needs), as of October 1, 1998, unless the State has provided assurances to the Secretary that the State has developed a methodology for prioritizing payments to disproportionate share hospitals, including children's hospitals, on the basis of the proportion of low-income and medicaid patients served by such hospitals. In making such assurances, the State plan shall provide a definition of high-volume disproportionate share hospitals and a detailed description of the specific methodology to be used to provide disproportionate share payments to such hospitals. The State shall provide an annual report to the Secretary describing the disproportionate share payments to such high-volume disproportionate share hospitals.''.

(d) EFFECTIVE DATE.—The amendments made by this section apply on and after October 1, 1997.

CHAPTER 2—EXPANSION OF MEDICAID ELIGIBILITY

SEC. 5731. STATE OPTION TO PERMIT WORKERS WITH DISABILITIES TO BUY INTO MEDICAID.

Section 1902(a)(10)(A)(ii) (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(1) in subclause (XI), by striking ''or'' at the end;

(2) in subclause (XII), by adding ''or'' at the end; and

(3) by adding at the end the following:

''(XIII) who are in families whose income is less than 250 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved, and who but for earnings in excess of the limit established under section 1619(b), would be considered to be receiving supplemental security income (subject, notwithstanding section 1916, to payment of premiums or other charges (set on a sliding scale based on income) that the State may determine);''.

SEC. 5732. 12-MONTH CONTINUOUS ELIGIBILITY FOR CHILDREN.

(a) IN GENERAL.—Section 1902(e) (42 U.S.C. 1396a(e)) is amended by adding at the end the following:

''(12) At the option of the State, the State plan may provide that an individual who is under an age specified by the State (not to exceed 19 years of age) and who is determined to be eligible for benefits under a State plan approved under this title under subsection (a)(10)(A) shall remain eligible for those benefits until the earlier of—

''(A) the end of the 12-month period following the determination; or

''(B) the date that the individual exceeds that age.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to medical assistance for items and services furnished on or after October 1, 1997.

CHAPTER 3—PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

SEC. 5741. ESTABLISHMENT OF PACE PROGRAM AS MEDICAID STATE OPTION.

(a) IN GENERAL.—Title XIX is amended—

(1) in section 1905(a) (42 U.S.C. 1396d(a)), as amended by section 5702(a)(1)—

(A) by striking ''and'' at the end of paragraph (25);

(B) by redesignating paragraph (26) as paragraph (27); and

(C) by inserting after paragraph (25) the following new paragraph:

''(26) services furnished under a PACE program under section 1932 to PACE program eligible individuals enrolled under the program under such section; and'';

(2) by redesignating section 1932 as section 1933; and

(3) by inserting after section 1931 the following new section:

''PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

''SEC. 1932. (a) STATE OPTION.—

''(1) IN GENERAL.—A State may elect to provide medical assistance under this section with respect to PACE program services to PACE program eligible individuals who are eligible for medical assistance under the State plan and who are enrolled in a PACE program under a PACE program agreement. Such individuals need not be eligible for benefits under part A, or enrolled under part B, of title XVIII to be eligible to enroll under this section. In the case of an individual enrolled with a PACE program pursuant to such an election—

''(A) the individual shall receive benefits under the plan solely through such program, and

''(B) the PACE provider shall receive payment in accordance with the PACE program agreement for provision of such benefits.

''(2) PACE PROGRAM DEFINED.—For purposes of this section and section 1894, the term 'PACE program' means a program of all-inclusive care for the elderly that meets the following requirements:

''(A) OPERATION.—The entity operating the program is a PACE provider (as defined in paragraph (3)).

''(B) COMPREHENSIVE BENEFITS.—The program provides comprehensive health care services to PACE program eligible individuals in accordance with the PACE program agreement and regulations under this section.

''(C) TRANSITION.—In the case of an individual who is enrolled under the program under this section and whose enrollment ceases for any reason (including that the individual no longer qualifies as a PACE program eligible individual, the termination of a PACE program agreement, or otherwise), the program provides assistance to the individual in obtaining necessary transitional care through appropriate referrals and making the individual's medical records available to new providers.

''(3) PACE PROVIDER DEFINED.—

''(A) IN GENERAL.—For purposes of this section, the term 'PACE provider' means an entity that—

''(i) subject to subparagraph (B), is (or is a distinct part of) a public entity or a private, nonprofit entity organized for charitable purposes under section 501(c)(3) of the Internal Revenue Code of 1986, and

''(ii) has entered into a PACE program agreement with respect to its operation of a PACE program.

''(B) TREATMENT OF PRIVATE, FOR-PROFIT PROVIDERS.—Clause (i) of subparagraph (A) shall not apply—

''(i) to entities subject to a demonstration project waiver under subsection (h); and

''(ii) after the date the report under section 5743(b) of the Balanced Budget Act of 1997 is submitted, unless the Secretary determines that any of the findings described in subparagraph (A), (B), (C), or (D) of paragraph (2) of such section are true.

''(4) PACE PROGRAM AGREEMENT DEFINED.—For purposes of this section, the term 'PACE program agreement' means, with respect to a PACE provider, an agreement, consistent with this section, section 1894 (if applicable), and regulations promulgated to carry out such sections, among the PACE provider, the Secretary, and a State administering agency for the operation of a PACE program by the provider under such sections.

''(5) PACE PROGRAM ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this section, the term 'PACE program eligible individual' means, with respect to a PACE program, an individual who—

''(A) is 55 years of age or older;

''(B) subject to subsection (c)(4), is determined under subsection (c) to require the level of care required under the State medicaid plan for coverage of nursing facility services;

''(C) resides in the service area of the PACE program; and

''(D) meets such other eligibility conditions as may be imposed under the PACE program agreement for the program under subsection (e)(2)(A)(ii).

''(6) PACE PROTOCOL.—For purposes of this section, the term 'PACE protocol' means the Protocol for the Program of All-inclusive Care for the Elderly (PACE), as published by On Lok, Inc., as of April 14, 1995, or any successor protocol that may be agreed upon between the Secretary and On Lok, Inc.

''(7) PACE DEMONSTRATION WAIVER PROGRAM DEFINED.—For purposes of this section, the term 'PACE demonstration waiver program' means a demonstration program under either of the following sections (as in effect before the date of their repeal):

''(A) Section 603(c) of the Social Security Amendments of 1983 (Public Law 98–21), as extended by section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272).

''(B) Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509).

''(8) STATE ADMINISTERING AGENCY DEFINED.—For purposes of this section, the term 'State administering agency' means, with respect to the operation of a PACE program in a State, the agency of that State (which may be the single agency responsible for administration of the State plan under this title in the State) responsible for administering PACE program agreements under this section and section 1894 in the State.

''(9) TRIAL PERIOD DEFINED.—

''(A) IN GENERAL.—For purposes of this section, the term 'trial period' means, with respect to a PACE program operated by a PACE provider under a PACE program agreement, the first 3 contract years under such agreement with respect to such program.

''(B) TREATMENT OF ENTITIES PREVIOUSLY OPERATING PACE DEMONSTRATION WAIVER PROGRAMS.—Each contract year (including a year occurring before the effective date of this section) during which an entity has operated a PACE demonstration waiver program shall be counted under subparagraph (A) as a contract year during which the entity operated a PACE program as a PACE provider under a PACE program agreement.

''(10) REGULATIONS.—For purposes of this section, the term 'regulations' refers to interim final or final regulations promulgated under subsection (f) to carry out this section and section 1894.

''(b) SCOPE OF BENEFITS; BENEFICIARY SAFEGUARDS.—

''(1) IN GENERAL.—Under a PACE program agreement, a PACE provider shall—

''(A) provide to PACE program eligible individuals, regardless of source of payment and directly or under contracts with other entities, at a minimum—

''(i) all items and services covered under title XVIII (for individuals enrolled under section 1894) and all items and services covered under this title, but without any limitation or condition as to amount, duration, or scope and without application of deductibles, copayments, coinsurance, or other cost-sharing that would otherwise apply under such title or this title, respectively; and

''(ii) all additional items and services specified in regulations, based upon those required under the PACE protocol;

''(B) provide such enrollees access to necessary covered items and services 24 hours per day, every day of the year;

''(C) provide services to such enrollees through a comprehensive, multidisciplinary health and social services delivery system which integrates acute and long-term care services pursuant to regulations; and

''(D) specify the covered items and services that will not be provided directly by the entity, and to arrange for delivery of those items and services through contracts meeting the requirements of regulations.

''(2) QUALITY ASSURANCE; PATIENT SAFEGUARDS.—The PACE program agreement shall require the PACE provider to have in effect at a minimum—

''(A) a written plan of quality assurance and improvement, and procedures implementing such plan, in accordance with regulations, and

''(B) written safeguards of the rights of enrolled participants (including a patient bill of rights and procedures for grievances and appeals) in accordance with regulations and with other requirements of this title and Federal and State law designed for the protection of patients.

''(c) ELIGIBILITY DETERMINATIONS.—

''(1) IN GENERAL.—The determination of—

''(A) whether an individual is a PACE program eligible individual shall be made under and in accordance with the PACE program agreement, and

''(B) who is entitled to medical assistance under this title shall be made (or who is not so entitled, may be made) by the State administering agency.

''(2) CONDITION.—An individual is not a PACE program eligible individual (with respect to payment under this section) unless the individual's health status has been determined by the Secretary or the State administering agency, in accordance with regulations, to be comparable to the health status of individuals who have participated in the PACE demonstration waiver programs. Such determination shall be based upon information on health status and related indicators (such as medical diagnoses and measures of activities of daily living, instrumental activities of daily living, and cognitive impairment) that are part of a uniform minimum data set collected by PACE providers on potential eligible individuals.

''(3) ANNUAL ELIGIBILITY RECERTIFICATIONS.—

''(A) IN GENERAL.—Subject to subparagraph (B), the determination described in subsection (a)(5)(B) for an individual shall be reevaluated at least annually.

''(B) EXCEPTION.—The requirement of annual reevaluation under subparagraph (A) may be waived during a period in accordance with regulations in those cases in which the State administering agency determines that there is no reasonable expectation of improvement or significant change in an individual's condition during the period because of the advanced age, severity of the advanced age, severity of chronic condition, or degree of impairment of functional capacity of the individual involved.

''(4) CONTINUATION OF ELIGIBILITY.—An individual who is a PACE program eligible individual may be deemed to continue to be such an individual notwithstanding a determination that the individual no longer meets the requirement of subsection (a)(5)(B) if, in accordance with regulations, in the absence of continued coverage under a PACE program the individual reasonably would be expected to meet such requirement within the succeeding 6-month period.

''(5) ENROLLMENT; DISENROLLMENT.—The enrollment and disenrollment of PACE program eligible individuals in a PACE program shall be pursuant to regulations and the PACE program agreement and shall permit enrollees to voluntarily disenroll without cause at any time. Such regulations and agreement shall provide that the PACE program may not disenroll a PACE program eligible individual on the ground that the individual has engaged in noncompliant behavior if such behavior is related to a mental or physical condition of the individual. For purposes of the preceding sentence, the term 'noncompliant behavior' includes repeated noncompliance with medical advice and repeated failure to appear for appointments.

''(d) PAYMENTS TO PACE PROVIDERS ON A CAPITATED BASIS.—

''(1) IN GENERAL.—In the case of a PACE provider with a PACE program agreement under this section, except as provided in this subsection or by regulations, the State shall make prospective monthly payments of a capitation amount for each PACE program eligible individual enrolled under the agreement under this section.

''(2) CAPITATION AMOUNT.—The capitation amount to be applied under this subsection for a provider for a contract year shall be an amount specified in the PACE program agreement for the year. Such amount shall be an amount, specified under the PACE agreement, which is less than the amount that would otherwise have been made under the State plan if the individuals were not so enrolled and shall be adjusted to take into account the comparative frailty of PACE enrollees and such other factors as the Secretary determines to be appropriate. The payment under this section shall be in addition to any payment made under section 1894 for individuals who are enrolled in a PACE program under such section.

''(e) PACE PROGRAM AGREEMENT.—

''(1) REQUIREMENT.—

''(A) IN GENERAL.—The Secretary, in close cooperation with the State administering agency, shall establish procedures for entering into, extending, and terminating PACE program agreements for the operation of PACE programs by entities that meet the requirements for a PACE provider under this section, section 1894, and regulations.

''(B) NUMERICAL LIMITATION.—

''(i) IN GENERAL.—The Secretary shall not permit the number of PACE providers with which agreements are in effect under this section or under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 to exceed—

''(I) 40 as of the date of the enactment of this section, or

''(II) as of each succeeding anniversary of such date, the numerical limitation under this subparagraph for the preceding year plus 20.

Subclause (II) shall apply without regard to the actual number of agreements in effect as of a previous anniversary date.

''(ii) TREATMENT OF CERTAIN PRIVATE, FOR-PROFIT PROVIDERS.—The numerical limitation in clause (i) shall not apply to a PACE provider that—

''(I) is operating under a demonstration project waiver under subsection (h), or

''(II) was operating under such a waiver and subsequently qualifies for PACE provider status pursuant to subsection (a)(3)(B)(ii).

''(2) SERVICE AREA AND ELIGIBILITY.—

''(A) IN GENERAL.—A PACE program agreement for a PACE program—

''(i) shall designate the service area of the program;

''(ii) may provide additional requirements for individuals to qualify as PACE program eligible individuals with respect to the program;

''(iii) shall be effective for a contract year, but may be extended for additional contract years in the absence of a notice by a party to terminate, and is subject to termination by the Secretary and the State administering agency at any time for cause (as provided under the agreement);

''(iv) shall require a PACE provider to meet all applicable State and local laws and requirements; and

''(v) shall have such additional terms and conditions as the parties may agree to, provided that such terms and conditions are consistent with this section and regulations.

''(B) SERVICE AREA OVERLAP.—In designating a service area under a PACE program agreement under subparagraph (A)(i), the Secretary (in consultation with the State administering agency) may exclude from designation an area that is already covered under another PACE program agreement, in order to avoid unnecessary duplication of services and avoid impairing the financial and service viability of an existing program.

''(3) DATA COLLECTION; DEVELOPMENT OF OUTCOME MEASURES.—

''(A) DATA COLLECTION.—

''(i) IN GENERAL.—Under a PACE program agreement, the PACE provider shall—

''(I) collect data;

''(II) maintain, and afford the Secretary and the State administering agency access to, the records relating to the program, including pertinent financial, medical, and personnel records; and

''(III) submit to the Secretary and the State administering agency such reports as the Secretary finds (in consultation with State administering agencies) necessary to monitor the operation, cost, and effectiveness of the PACE program.

''(ii) REQUIREMENTS DURING TRIAL PERIOD.—During the first 3 years of operation of a PACE program (either under this section or under a PACE demonstration waiver program), the PACE provider shall provide such additional data as the Secretary specifies in regulations in order to perform the oversight required under paragraph (4)(A).

''(B) DEVELOPMENT OF OUTCOME MEASURES.—Under a PACE program agreement, the PACE provider, the Secretary, and the State administering agency shall jointly cooperate in the development and implementation of health status and quality of life outcome measures with respect to PACE program eligible individuals.

''(4) OVERSIGHT.—

''(A) ANNUAL, CLOSE OVERSIGHT DURING TRIAL PERIOD.—During the trial period (as defined in subsection (a)(9)) with respect to a PACE program operated by a PACE provider, the Secretary (in cooperation with the State administering agency) shall conduct a comprehensive annual review of the operation of the PACE program by the provider in order to assure compliance with the requirements of this section and regulations. Such a review shall include—

''(i) an onsite visit to the program site;

''(ii) comprehensive assessment of a provider's fiscal soundness;

''(iii) comprehensive assessment of the provider's capacity to provide all PACE services to all enrolled participants;

''(iv) detailed analysis of the entity's substantial compliance with all significant requirements of this section and regulations; and

''(v) any other elements the Secretary or the State administering agency considers necessary or appropriate.

''(B) CONTINUING OVERSIGHT.—After the trial period, the Secretary (in cooperation with the State administering agency) shall continue to conduct such review of the operation of PACE providers and PACE programs as may be appropriate, taking into account the performance level of a provider and compliance of a provider with all significant requirements of this section and regulations.

''(C) DISCLOSURE.—The results of reviews under this paragraph shall be reported promptly to the PACE provider, along with any recommendations for changes to the provider's program, and shall be made available to the public upon request.

''(5) TERMINATION OF PACE PROVIDER AGREEMENTS.—

''(A) IN GENERAL.—Under regulations—

''(i) the Secretary or a State administering agency may terminate a PACE program agreement for cause, and

''(ii) a PACE provider may terminate such an agreement after appropriate notice to the Secretary, the State administering agency, and enrollees.

''(B) CAUSES FOR TERMINATION.—In accordance with regulations establishing procedures for termination of PACE program agreements, the Secretary or a State administering agency may terminate a PACE program agreement with a PACE provider for, among other reasons, the fact that—

''(i) the Secretary or State administering agency determines that—

''(I) there are significant deficiencies in the quality of care provided to enrolled participants; or

''(II) the provider has failed to comply substantially with conditions for a program or provider under this section or section 1894; and

''(ii) the entity has failed to develop and successfully initiate, within 30 days of the date of the receipt of written notice of such a determination, a plan to correct the deficiencies, or has failed to continue implementation of such a plan.

''(C) TERMINATION AND TRANSITION PROCEDURES.—An entity whose PACE provider agreement is terminated under this paragraph shall implement the transition procedures required under subsection (a)(2)(C).

''(6) SECRETARY'S OVERSIGHT; ENFORCEMENT AUTHORITY.—

''(A) IN GENERAL.—Under regulations, if the Secretary determines (after consultation with the State administering agency) that a PACE provider is failing substantially to comply with the requirements of this section and regulations, the Secretary (and the State administering agency) may take any or all of the following actions:

''(i) Condition the continuation of the PACE program agreement upon timely execution of a corrective action plan.

''(ii) Withhold some or all further payments under the PACE program agreement under this section or section 1894 with respect to PACE program services furnished by such provider until the deficiencies have been corrected.

''(iii) Terminate such agreement.

''(B) APPLICATION OF INTERMEDIATE SANCTIONS.—Under regulations, the Secretary may provide for the application against a PACE provider of remedies described in section 1857(f)(2) (or, for periods before January 1, 1999, section 1876(i)(6)(B)) or 1903(m)(5)(B) in the case of violations by the provider of the type described in section 1857(f)(1) (or 1876(i)(6)(A) for such periods) or 1903(m)(5)(A), respectively (in relation to agreements, enrollees, and requirements under section 1894 or this section, respectively).

''(7) PROCEDURES FOR TERMINATION OR IMPOSITION OF SANCTIONS.—Under regulations, the provisions of section 1857(g) (or for periods before January 1, 1999, section 1876(i)(9)) shall apply to termination and sanctions respecting a PACE program agreement and PACE provider under this subsection in the same manner as they apply to a termination and sanctions with respect to a contract and a Medicare Choice organization under part C of title XVIII (or for such periods an eligible organization under section 1876).

''(8) TIMELY CONSIDERATION OF APPLICATIONS FOR PACE PROGRAM PROVIDER STATUS.—In considering an application for PACE provider program status, the application shall be deemed approved unless the Secretary, within 90 days after the date of the submission of the application to the Secretary, either denies such request in writing or informs the applicant in writing with respect to any additional information that is needed in order to make a final determination with respect to the application. After the date the Secretary receives such additional information, the application shall be deemed approved unless the Secretary, within 90 days of such date, denies such request.

''(f) REGULATIONS.—

''(1) IN GENERAL.—The Secretary shall issue interim final or final regulations to carry out this section and section 1894.

''(2) USE OF PACE PROTOCOL.—

''(A) IN GENERAL.—In issuing such regulations, the Secretary shall, to the extent consistent with the provisions of this section, incorporate the requirements applied to PACE demonstration waiver programs under the PACE protocol.

''(B) FLEXIBILITY.—In order to provide for reasonable flexibility in adapting the PACE service delivery model to the needs of particular organizations (such as those in rural areas or those that may determine it appropriate to use nonstaff physicians according to State licensing law requirements) under this section and section 1894, the Secretary (in close consultation with State administering agencies) may modify or waive provisions of the PACE protocol so long as any such modification or waiver is not inconsistent with and would not impair the essential elements, objectives, and requirements of this section, but may not modify or waive any of the following provisions:

''(i) The focus on frail elderly qualifying individuals who require the level of care provided in a nursing facility.

''(ii) The delivery of comprehensive, integrated acute and long-term care services.

''(iii) The interdisciplinary team approach to care management and service delivery.

''(iv) Capitated, integrated financing that allows the provider to pool payments received from public and private programs and individuals.

''(v) The assumption by the provider of full financial risk.

''(3) APPLICATION OF CERTAIN ADDITIONAL BENEFICIARY AND PROGRAM PROTECTIONS.—

''(A) IN GENERAL.—In issuing such regulations and subject to subparagraph (B), the Secretary may apply with respect to PACE programs, providers, and agreements such requirements of part C of title XVIII (or, for periods before January 1, 1999, section 1876) and section 1903(m) relating to protection of beneficiaries and program integrity as would apply to Medicare Choice organizations under such part C (or for such periods eligible organizations under risk-sharing contracts under section 1876) and to health maintenance organizations under prepaid capitation agreements under section 1903(m).

''(B) CONSIDERATIONS.—In issuing such regulations, the Secretary shall—

''(i) take into account the differences between populations served and benefits provided under this section and under part C of title XVIII (or, for periods before January 1, 1999, section 1876) and section 1903(m);

''(ii) not include any requirement that conflicts with carrying out PACE programs under this section; and

''(iii) not include any requirement restricting the proportion of enrollees who are eligible for benefits under this title or title XVIII.

''(g) WAIVERS OF REQUIREMENTS.—With respect to carrying out a PACE program under this section, the following requirements of this title (and regulations relating to such requirements) shall not apply:

''(1) Section 1902(a)(1), relating to any requirement that PACE programs or PACE program services be provided in all areas of a State.

''(2) Section 1902(a)(10), insofar as such section relates to comparability of services among different population groups.

''(3) Sections 1902(a)(23) and 1915(b)(4), relating to freedom of choice of providers under a PACE program.

''(4) Section 1903(m)(2)(A), insofar as it restricts a PACE provider from receiving prepaid capitation payments.

''(h) DEMONSTRATION PROJECT FOR FOR-PROFIT ENTITIES.—

''(1) IN GENERAL.—In order to demonstrate the operation of a PACE program by a private, for-profit entity, the Secretary (in close consultation with State administering agencies) shall grant waivers from the requirement under subsection (a)(3) that a PACE provider may not be a for-profit, private entity.

''(2) SIMILAR TERMS AND CONDITIONS.—

''(A) IN GENERAL.—Except as provided under subparagraph (B), and paragraph (1), the terms and conditions for operation of a PACE program by a provider under this subsection shall be the same as those for PACE providers that are nonprofit, private organizations.

''(B) NUMERICAL LIMITATION.—The number of programs for which waivers are granted under this subsection shall not exceed 10. Programs with waivers granted under this subsection shall not be counted against the numerical limitation specified in subsection (e)(1)(B).

''(i) POST-ELIGIBILITY TREATMENT OF INCOME.—A State may provide for post-eligibility treatment of income for individuals enrolled in PACE programs under this section in the same manner as a State treats post-eligibility income for individuals receiving services under a waiver under section 1915(c).

''(j) MISCELLANEOUS PROVISIONS.—Nothing in this section or 1894 shall be construed as preventing a PACE provider from entering into contracts with other governmental or nongovernmental payers for the care of PACE program eligible individuals who are not eligible for benefits under part A, or enrolled under part B, of title XVIII or eligible for medical assistance under this title.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1902(j) (42 U.S.C. 1396a(j)), as amended by section 5702(a)(2)(B), is amended by striking ''(26)'' and inserting ''(27)''.

(2) Section 1924(a)(5) (42 U.S.C. 1396r–5(a)(5)) is amended—

(A) in the heading, by striking ''FROM ORGANIZATIONS RECEIVING CERTAIN WAIVERS'' and inserting ''UNDER PACE PROGRAMS''; and

(B) by striking ''from any organization'' and all that follows and inserting ''under a PACE demonstration waiver program (as defined in section 1932(a)(7)) or under a PACE program under section 1932 or 1894.''.

(3) Section 1903(f)(4)(C) (42 U.S.C. 1396b(f)(4)(C)) is amended by inserting ''or who is a PACE program eligible individual enrolled in a PACE program under section 1932,'' after ''section 1902(a)(10)(A),''.

SEC. 5742. EFFECTIVE DATE; TRANSITION.

(a) TIMELY ISSUANCE OF REGULATIONS; EFFECTIVE DATE.—The Secretary of Health and Human Services shall promulgate regulations to carry out this chapter in a timely manner. Such regulations shall be designed so that entities may establish and operate PACE programs under sections 1894 and 1932 of the Social Security Act (as added by sections 5011 and 5741 of this Act) for periods beginning not later than 1 year after the date of the enactment of this Act.

(b) EXPANSION AND TRANSITION FOR PACE DEMONSTRATION PROJECT WAIVERS.—

(1) EXPANSION IN CURRENT NUMBER AND EXTENSION OF DEMONSTRATION PROJECTS.—Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 4118(g) of the Omnibus Budget Reconciliation Act of 1987, is amended—

(A) in paragraph (1), by inserting before the period at the end the following: '', except that the Secretary shall grant waivers of such requirements to up to the applicable numerical limitation specified in section 1933(e)(1)(B) of the Social Security Act''; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking '', including permitting the organization to assume progressively (over the initial 3-year period of the waiver) the full financial risk''; and

(ii) in subparagraph (C), by adding at the end the following: ''In granting further extensions, an organization shall not be required to provide for reporting of information which is only required because of the demonstration nature of the project.''.

(2) ELIMINATION OF REPLICATION REQUIREMENT.—Section 9412(b)(2)(B) of such Act, as so amended, shall not apply to waivers granted under such section after the date of the enactment of this Act.

(3) TIMELY CONSIDERATION OF APPLICATIONS.—In considering an application for waivers under such section before the effective date of the repeals under subsection (d), subject to the numerical limitation under the amendment made by paragraph (1), the application shall be deemed approved unless the Secretary of Health and Human Services, within 90 days after the date of its submission to the Secretary, either denies such request in writing or informs the applicant in writing with respect to any additional information which is needed in order to make a final determination with respect to the application. After the date the Secretary receives such additional information, the application shall be deemed approved unless the Secretary, within 90 days of such date, denies such request.

(c) PRIORITY AND SPECIAL CONSIDERATION IN APPLICATION.—During the 3-year period beginning on the date of the enactment of this Act:

(1) PROVIDER STATUS.—The Secretary of Health and Human Services shall give priority in processing applications of entities to qualify as PACE programs under section 1894 or 1932 of the Social Security Act—

(A) first, to entities that are operating a PACE demonstration waiver program (as defined in section 1932(a)(7) of such Act), and

(B) then to entities that have applied to operate such a program as of May 1, 1997.

(2) NEW WAIVERS.—The Secretary shall give priority, in the awarding of additional waivers under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986—

(A) to any entities that have applied for such waivers under such section as of May 1, 1997; and

(B) to any entity that, as of May 1, 1997, has formally contracted with a State to provide services for which payment is made on a capitated basis with an understanding that the entity was seeking to become a PACE provider.

(3) SPECIAL CONSIDERATION.—The Secretary shall give special consideration, in the processing of applications described in paragraph (1) and the awarding of waivers described in paragraph (2), to an entity which as of May 1, 1997, through formal activities (such as entering into contracts for feasibility studies) has indicated a specific intent to become a PACE provider.

(d) REPEAL OF CURRENT PACE DEMONSTRATION PROJECT WAIVER AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (2), the following provisions of law are repealed:

(A) Section 603(c) of the Social Security Amendments of 1983 (Public Law 98–21).

(B) Section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272).

(C) Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509).

(2) DELAY IN APPLICATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the repeals made by paragraph (1) shall not apply to waivers granted before the initial effective date of regulations described in subsection (a).

(B) APPLICATION TO APPROVED WAIVERS.—Such repeals shall apply to waivers granted before such date only after allowing such organizations a transition period (of up to 24 months) in order to permit sufficient time for an orderly transition from demonstration project authority to general authority provided under the amendments made by this chapter.

SEC. 5743. STUDY AND REPORTS.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in close consultation with State administering agencies, as defined in section 1932(a)(8) of the Social Security Act) shall conduct a study of the quality and cost of providing PACE program services under the medicare and medicaid programs under the amendments made by this chapter.

(2) STUDY OF PRIVATE, FOR-PROFIT PROVIDERS.—Such study shall specifically compare the costs, quality, and access to services by entities that are private, for-profit entities operating under demonstration projects waivers granted under section 1932(h) of the Social Security Act with the costs, quality, and access to services of other PACE providers.

(b) REPORT.—

(1) IN GENERAL.—Not later than 4 years after the date of the enactment of this Act, the Secretary shall provide for a report to Congress on the impact of such amendments on quality and cost of services. The Secretary shall include in such report such recommendations for changes in the operation of such amendments as the Secretary deems appropriate.

(2) TREATMENT OF PRIVATE, FOR-PROFIT PROVIDERS.—The report shall include specific findings on whether any of the following findings is true:

(A) The number of covered lives enrolled with entities operating under demonstration project waivers under section 1932(h) of the Social Security Act is fewer than 800 (or such lesser number as the Secretary may find statistically sufficient to make determinations respecting findings described in the succeeding subparagraphs).

(B) The population enrolled with such entities is less frail than the population enrolled with other PACE providers.

(C) Access to or quality of care for individuals enrolled with such entities is lower than such access or quality for individuals enrolled with other PACE providers.

(D) The application of such section has resulted in an increase in expenditures under the medicare or medicaid programs above the expenditures that would have been made if such section did not apply.

(c) INFORMATION INCLUDED IN ANNUAL RECOMMENDATIONS.—The Physician Payment Review Commission shall include in its annual recommendations under section 1845(b) of the Social Security Act (42 U.S.C. 1395w–1), and the Prospective Payment Review Commission shall include in its annual recommendations reported under section 1886(e)(3)(A) of such Act (42 U.S.C. 1395ww(e)(3)(A)), recommendations on the methodology and level of payments made to PACE providers under section 1894(d) of such Act and on the treatment of private, for-profit entities as PACE providers. References in the preceding sentence to the Physician Payment Review Commission and the Prospective Payment Review Commission shall be deemed to be references to the Medicare Payment Advisory Commission (MedPAC) established under section 5022(a) after the termination of the Physician Payment Review Commission and the Prospective Payment Review Commission provided for in section 5022(c)(2).

CHAPTER 4—MEDICAID MANAGEMENT AND PROGRAM REFORMS

SEC. 5751. ELIMINATION OF REQUIREMENT TO PAY FOR PRIVATE INSURANCE.

(a) REPEAL OF STATE PLAN PROVISION.—Section 1902(a)(25) (42 U.S.C. 1396a(a)(25)) is amended—

(1) by striking subparagraph (G); and

(2) by redesignating subparagraphs (H) and (I) as subparagraphs (G) and (H), respectively.

(b) REPEAL OF ENROLLMENT REQUIREMENTS.—Section 1906 (42 U.S.C. 1396e) is repealed.

(c) REINSTATEMENT OF STATE OPTION.—Section 1905(a) (42 U.S.C. 1396a(a)) is amended, in the matter preceding clause (i), by inserting ''(including, at State option, through purchase or payment of enrollee costs of health insurance)'' after ''The term 'medical assistance' means payment''.

SEC. 5752. ELIMINATION OF OBSTETRICAL AND PEDIATRIC PAYMENT RATE REQUIREMENTS.

(a) IN GENERAL.—Section 1926 (42 U.S.C. 1396r–7) is repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall apply to services furnished on or after October 1, 1997.

SEC. 5753. PHYSICIAN QUALIFICATION REQUIREMENTS.

(a) IN GENERAL.—Section 1903(i) (42 U.S.C. 1396b(i)) is amended by striking paragraph (12).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after the date of the enactment of this Act.

SEC. 5754. EXPANDED COST-SHARING REQUIREMENTS.

Section 1916 (42 U.S.C. 1396o) is amended by adding at the end the following:

''(g)(1) Notwithstanding any other provision of this title, the State plan may impose cost-sharing with respect to any medical assistance provided to an individual who is not described in section 1902(a)(10)(A)(i) in accordance with the provisions of this subsection, except that no cost-sharing may be imposed with respect to medical assistance provided to an individual who has not attained age 18 if such individual's family income does not exceed 150 percent of the poverty line applicable to a family of the size involved, and if, as of the date of enactment of the Balanced Budget Act of 1997, cost-sharing could not be imposed with respect to medical assistance provided to such individual.

''(2) Any cost-sharing imposed under this subsection shall be pursuant to a public schedule and shall reflect such economic factors, employment status, and family size with respect to each such individual as the State determines appropriate.

''(3) In the case of any family whose income is less than 150 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved, the total annual amount of cost-sharing that may be imposed for such family shall not exceed 3 percent of the family's average gross monthly earnings (less the average monthly costs for such child care as is necessary for the employment of the caretaker relative) for such period.

''(4) In the case of any family whose income exceeds 150 percent, but does not exceed 200 percent of, such poverty line, paragraph (3) shall be applied by substituting '5 percent' for '3 percent'.

''(5) Nothing in this subsection shall be construed as preventing a State from imposing cost-sharing with respect to individuals eligible for medical assistance under the State plan, or with respect to items or services provided as medical assistance under such plan, if the provisions of this title otherwise allow the State to do so or if the State has received a waiver that authorizes such cost-sharing.

''(6) Any cost-sharing imposed under this subsection may not be included in determining the amount of the State percentage required for reimbursement of expenditures under a State plan under this title.

''(7) In this subsection, the term 'cost-sharing' includes copayments, deductibles, coinsurance, enrollment fees, premiums, and other charges for the provision of health care services.''.

SEC. 5755. PENALTY FOR FRAUDULENT ELIGIBILITY.

Section 1128B(a) (42 U.S.C. 1320a–7b(a)), as amended by section 217 of the Health Insurance Portability and Accountability Act of 1996, is amended—

(1) by amending paragraph (6) to read as follows:

''(6) for a fee knowingly and willfully counsels or assists an individual to dispose of assets (including by any transfer in trust) in order for the individual to become eligible for medical assistance under a State plan under title XIX, if disposing of the assets results in the imposition of a period of ineligibility for such assistance under section 1917(c),''; and

(2) in clause (ii) of the matter following such paragraph, by striking ''failure, or conversion by any other person'' and inserting ''failure, conversion, or provision of counsel or assistance by any other person''.

SEC. 5756. ELIMINATION OF WASTE, FRAUD, AND ABUSE.

(a) BAN ON SPENDING FOR NONHEALTH RELATED ITEMS.—Section 1903(i) (42 U.S.C. 1396b(i)) is amended—

(1) in paragraphs (2) and (15), by striking the period at the end and inserting ''; or'';

(2) in paragraphs (10)(B), (11), and (13), by adding ''or'' at the end; and

(3) by inserting after paragraph (15), the following:

''(16) with respect to any amount expended for roads, bridges, stadiums, or any other item or service not covered under a State plan under this title.''.

(b) DISCLOSURE OF INFORMATION AND SURETY BOND REQUIREMENT FOR SUPPLIERS OF DURABLE MEDICAL EQUIPMENT.—

(1) REQUIREMENT.—Section 1902(a) (42 U.S.C. 1396a(a)), is amended—

(A) by striking ''and'' at the end of paragraph (62);

(B) by striking the period at the end of paragraph (63) and inserting ''; and''; and

(C) by inserting after paragraph (63) the following:

''(64) provide that the State shall not issue or renew a provider number for a supplier of medical assistance consisting of durable medical equipment, as defined in section 1861(n), for purposes of payment under this part for such assistance that is furnished by the supplier, unless the supplier provides the State agency on a continuing basis with—

''(A)(i) full and complete information as to the identity of each person with an ownership or control interest (as defined in section 1124(a)(3)) in the supplier or in any subcontractor (as defined by the Secretary in regulations) in which the supplier directly or indirectly has a 5 percent or more ownership interest; and

(ii) to the extent determined to be feasible under regulations of the Secretary, the name of any disclosing entity (as defined in section 1124(a)(2)) with respect to which a person with such an ownership or control interest in the supplier is a person with such an ownership or control interest in the disclosing entity; and

''(B) a surety bond in a form specified by the State and in an amount that is not less than $50,000.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to suppliers of medical assistance consisting of durable medical equipment furnished on or after January 1, 1998.

(c) SURETY BOND REQUIREMENT FOR HOME HEALTH AGENCIES.—

(1) IN GENERAL.—Section 1905(a)(7) (42 U.S.C. 1396d(a)(7) is amended by inserting '', provided that the agency or organization providing such services provides the State agency on a continuing basis with a surety bond in a form specified by the State and in an amount that is not less than $50,000'' after ''services''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to home health agencies with respect to services furnished on or after January 1, 1998.

(d) CONFLICT OF INTEREST SAFEGUARDS.—Section 1902(a)(4) (42 U.S.C. 1396a(a)(4)) is amended to read as follows:

''(4) provide—

''(A) such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods, and including provision for utilization of professional medical personnel in the administration and, where administered locally, supervision of administration of the plan) as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

''(B) for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency; and

''(C) that each State or local officer or employee, or independent contractor—

''(i) who is responsible for the expenditure of substantial amounts of funds under the State plan, or who is responsible for administering the State plan under this title, each individual who formerly was such an officer, employee, or independent contractor, and each partner of such an officer, employee, or independent contractor shall be prohibited from committing any act, in relation to any activity under the plan, the commission of which, in connection with any activity concerning the United States Government, by an officer or employee of the United States Government, an individual who was such an officer or employee, or a partner of such an officer or employee is prohibited by section 207 or 208 of title 18, United States Code; and

''(ii) who is responsible for selecting, awarding, or otherwise obtaining items and services under the State plan shall be subject to safeguards against conflicts of interest that are at least as stringent as the safeguards that apply under section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) to persons described in subsection (a)(2) of such section of that Act;''.

(e) AUTHORITY TO REFUSE TO ENTER INTO MEDICAID AGREEMENTS WITH INDIVIDUALS OR ENTITIES CONVICTED OF FELONIES.—Section 1902(a)(23) (42 U.S.C. 1396a(a)(23)) is amended to read as follows:

''(23) provide that—

''(A) any individual eligible for medical assistance (including drugs) may obtain such assistance from any institution, agency, community pharmacy, or person, qualified to perform the service or services required (including an organization which provides such services, or arranges for their availability, on a prepayment basis), who undertakes to provide him such services; and

''(B) an enrollment of an individual eligible for medical assistance in a primary care case-management system (described in section 1915(b)(1)), a health maintenance organization, or a similar entity shall not restrict the choice of the qualified person from whom the individual may receive services under section 1905(a)(4)(C), except as provided in subsection (g) and in section 1915, except in the case of Puerto Rico, the Virgin Islands, and Guam, and except that nothing in this paragraph shall be construed as requiring a State to provide medical assistance for items or services furnished by a person or entity convicted of a felony under Federal or State law for an offense which the State agency determines is inconsistent with the best interest of beneficiaries under the State plan;''.

(f) MONITORING PAYMENTS FOR DUAL ELIGIBLES.—The Administrator of the Health Care Financing Administration shall—

(1) develop mechanisms to better monitor and prevent inappropriate payments under the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) in the case of individuals who are dually eligible for benefits under such program and under the medicare program under title XVIII of such Act (42 U.S.C. 1395 et seq.);

(2) study the use of case management or care coordination in order to improve the appropriateness of care, quality of care, and cost effectiveness of care for individuals who are dually eligible for benefits under such programs; and

(3) work with the States to ensure better care coordination for dual eligibles and make recommendations to Congress as to any statutory changes that would not compromise beneficiary protections and that would improve or facilitate such care.

(g) BENEFICIARY AND PROGRAM PROTECTION AGAINST WASTE, FRAUD, AND ABUSE.—Section 1902(a) (42 U.S.C. 1396a(a)), as amended by subsection (b)(1), is amended—

(1) by striking ''and'' at the end of paragraph (63);

(2) by striking the period at the end of paragraph (64) and inserting ''; and''; and

(3) by inserting after paragraph (64) the following:

''(65) provide programs—

''(A) to ensure program integrity, protect and advocate on behalf of individuals, and to report to the State data concerning beneficiary concerns and complaints and instances of beneficiary abuse or program waste or fraud by managed care plans operating in the State under contact with the State agency;

''(B) to provide assistance to beneficiaries, with particular emphasis on the families of special needs children and persons with disabilities to—

''(i) explain the differences between managed care and fee-for-service plans;

''(ii) clarify the coverage for such beneficiaries under any managed care plan offered under the State plan under this title;

''(iii) explain the implications of the choices between competing plans;

''(iv) assist such beneficiaries in understanding their rights under any managed care plan offered under the State plan, including their right to—

''(I) access and benefits;

''(II) nondiscrimination;

''(III) grievance and appeal mechanisms; and

''(IV) change plans, as designated in the State plan; and

''(v) exercise the rights described in clause (iv); and

''(C) to collect and report to the State data on the number of complaints or instances identified under subparagraph (A) and to report to the State annually on any systematic problems in the implementation of managed care entities contracting with the State under the State plan under this title.''.

SEC. 5757. STUDY ON EPSDT BENEFITS.

(a) STUDY.—The Secretary of Health and Human Services, in consultation with Governors, directors of State medicaid and State maternal and child programs, the Institute of Medicine, the American Academy of Pediatrics, and representatives of beneficiaries under the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) shall conduct a study of the early and periodic screening, diagnostic, and treatment services provided under State plans under title XIX of the Social Security Act in accordance with section 1905(r) of such Act (42 U.S.C. 1396d(r)).

(b) REPORT.—Not later than 12 months after the date of enactment of this Act, the Secretary of Health and Human Services shall submit a report to Congress on the results of the conducted study under subsection (a).

SEC. 5758. STUDY AND GUIDELINES REGARDING MANAGED CARE ORGANIZATIONS AND INDIVIDUALS WITH SPECIAL HEALTH CARE NEEDS.

(a) STUDY AND RECOMMENDATIONS.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary''), in consultation with States, managed care organizations, the National Academy of State Health Policy, representatives of beneficiaries with special health care needs, experts in specialized health care, and others, shall conduct a study and develop the guidelines described in subsection (b). Not later than 2 years after the date of enactment of this Act, the Secretary shall report such guidelines to Congress and make recommendations for implementing legislation.

(b) GUIDELINES DESCRIBED.—The guidelines to be developed by the Secretary shall relate to issues such as risk adjustment, solvency, medical necessity definitions, case management, quality controls, adequacy of provider networks, access to specialists (including pediatric specialists and the use of specialists as primary care providers), marketing, compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), speedy grievance and appeals procedures, data collection, and such other matters as the Secretary may determine, as these issues affect care provided to individuals with special health care needs and chronic conditions in capitated managed care or primary care case management plans. The Secretary shall distinguish which guidelines should apply to primary care case management arrangements, to capitated risk sharing arrangements, or to both. Such guidelines should be designed to be used in reviewing State proposals under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (by waiver request or State plan amendment) to implement mandatory capitated managed care or primary care case management arrangements that enroll beneficiaries with chronic conditions or special health care needs.

CHAPTER 5—MISCELLANEOUS

SEC. 5761. INCREASED FMAPS.

Section 1905(b) (42 U.S.C. 1396d(b)(1)) is amended—

(1) by striking ''and (2)'' and inserting ''(2)''; and

(2) by striking the period and inserting '', and (3) during the period beginning on October 1, 1997, and ending on September 30, 2000, the Federal medical assistance percentage for the District of Columbia shall be 60 per centum, and the Federal medical assistance percentage for Alaska shall be 59.8 per centum (but only, in the case of such States, with respect to expenditures under a State plan under this title).''.

SEC. 5762. INCREASE IN PAYMENT CAPS FOR TERRITORIES.

Section 1108 (42 U.S.C. 1308) is amended—

(1) in subsection (f), by striking ''The'' and inserting ''Subject to subsection (g), the''; and

(2) by adding at the end the following:

''(g) MEDICAID PAYMENTS TO TERRITORIES FOR FISCAL YEAR 1998 AND THEREAFTER.—

''(1) FISCAL YEAR 1998.—With respect to fiscal year 1998, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsection (f) for such fiscal year shall be increased in the following manner:

''(A) For Puerto Rico, $30,000,000.

''(B) For the Virgin Islands, $750,000.

''(C) For Guam, $750,000.

''(D) For the Northern Mariana Islands, $500,000.

''(E) For American Samoa, $500,000.

''(2) FISCAL YEAR 1999 AND THEREAFTER.—Notwithstanding subsection (f), with respect to fiscal year 1999 and any fiscal year thereafter, the total amount certified by the Secretary under title XIX for payment to—

''(A) Puerto Rico shall not exceed the sum of the amount provided in this subsection for the preceding fiscal year increased by the percentage increase in the medical care component of the consumer price index for all urban consumers (as published by the Bureau of Labor Statistics) for the twelve-month period ending in March preceding the beginning of the fiscal year, rounded to the nearest $100,000;

''(B) the Virgin Islands shall not exceed the sum of the amount provided in this subsection for the preceding fiscal year increased by the percentage increase referred to in subparagraph (A), rounded to the nearest $10,000;

''(C) Guam shall not exceed the sum of the amount provided in this subsection for the preceding fiscal year increased by the percentage increase referred to in subparagraph (A), rounded to the nearest $10,000;

''(D) Northern Mariana Islands shall not exceed the sum of the amount provided in this subsection for the preceding fiscal year increased by the percentage increase referred to in subparagraph (A), rounded to the nearest $10,000; and

''(E) American Samoa shall not exceed the sum of the amount provided in this subsection for the preceding fiscal year increased by the percentage increase referred to in subparagraph (A), rounded to the nearest $10,000.''.

SEC. 5763. COMMUNITY-BASED MENTAL HEALTH SERVICES.

(a) IN GENERAL.—Section 1905(a) (42 U.S.C. 1396d(a)), as amended by section 5741(a)(1), is amended—

(1) by striking ''and'' at the end of paragraph (26);

(2) by redesignating paragraph (27) as paragraph (28); and

(3) by inserting after paragraph (26) the following new paragraph:

''(27) outpatient and intensive community-based mental health services, including psychiatric rehabilitation, day treatment, intensive in-home services for children, assertive community treatment, therapeutic out-of-home placements (excluding room and board), clinic services, partial hospitalization, and targeted case management; and''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1902(a)(10)(C)(iv) (42 U.S.C. 1396a(a)(10)(C)(iv)), as amended by section 5702(a)(2)(A), is amended by inserting ''or (27)'' after ''(25)''.

(2) Section 1902(j) (42 U.S.C. 1396a(j)), as amended by section 5741(b)(1), is amended by striking ''(27)'' and inserting ''(28)''.

SEC. 5764. OPTIONAL MEDICAID COVERAGE OF CERTAIN CDC-SCREENED BREAST CANCER PATIENTS.

(a) COVERAGE AS OPTIONAL CATEGORICALLY NEEDY GROUP.—Section 1902(a)(10)(A)(ii) (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(1) in subclause (XI), by striking ''or'' at the end;

(2) in subclause (XII), by adding ''or'' at the end; and

(3) by adding at the end the following:

''(XIII) who are described in subsection (aa)(1)(relating to certain CDC-screened breast cancer patients);''.

(b) GROUP AND BENEFIT DESCRIBED.—Section 1902 (42 U.S.C. 1396a) is amended by adding at the end the following:

''(aa)(1) Individuals described in this paragraph are individuals not described in subsection (a)(10)(A)(i) who—

''(A) have not attained age 65;

''(B) have been diagnosed with breast cancer through participation in the program to screen women for breast and cervical cancer conducted by the Director of the Centers for Disease Control and Prevention under title 15 of the Public Health Service Act (42 U.S.C. 300k et seq.);

''(C) satisfy the income and resource eligibility criteria established by such Director for participation in such program; and

''(D) are not otherwise eligible for medical assistance under the State plan under this title.

''(2) For purposes of subsection (a)(10), the term ''breast cancer-related services'' means

each of the following services relating to treatment of breast cancer:

''(A) Prescribed drugs.

''(B) Physicians' services and services described in section 1905(a)(2).

''(C) Laboratory and X-ray services (including services to confirm the presence of breast cancer).

''(D) Rural health clinic services and Federally-qualified health center services.

''(E) Case management services (as defined in section 1915(g)(2)).

''(F) Services (other than room and board) designed to encourage completion of regimens of prescribed drugs by outpatients, including services to observe directly the intake of prescribed drugs.''.

(c) LIMITATION ON BENEFITS.—Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended in the matter following subparagraph (F)—

(1) by striking '', and (XIII)''; and

(2) by inserting before the semicolon at the end the following: '', and (XIV) the medical assistance made available to an individual described in subsection (aa)(1) who is eligible for medical assistance only because of subparagraph (A)(ii)(XIII) shall be limited to medical assistance for breast cancer-related services (described in subsection (aa)(2))''.

(d) CONFORMING AMENDMENTS.—

(1) Section 1905(a) (42 U.S.C. 1396d(a)) is amended—

(A) in clause (x), by striking ''or'' at the end;

(B) in clause (xi), by adding ''or'' at the end;

(C) by inserting after clause (xi) the following:

''(xii) individuals described in section 1902(aa)(1),''; and

(D) by striking paragraph (19) and inserting the following:

''(19) case management services (as defined in section 1915(g)(2)), TB-related services described in section 1902(z)(2)(F), and breast cancer-related services described in section 1902)(2)(F);''.

(2) Section 1915(g)(1) (42 U.S.C. 1396n(g)(1)) is amended by inserting ''or section 1902(aa)(1)'' after ''section 1902(z)(1)(A)''.

(e) EFFECTIVE DATE.—The amendments made by this section apply to medical assistance furnished on or after October 1, 1997, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 5765. TREATMENT OF STATE TAXES IMPOSED ON CERTAIN HOSPITALS THAT PROVIDE FREE CARE.

(a) EXCEPTION FROM TAX DOES NOT DISQUALIFY AS BROAD-BASED TAX.—Section 1903(w)(3) (42 U.S.C. 1396b(w)(3)) is amended—

(1) in subparagraph (B), by striking ''and (E)'' and inserting ''(E), and (F)''; and

(2) by adding at the end the following:

''(F) In no case shall a tax not qualify as a broad-based health care related tax under this paragraph because it does not apply to a hospital that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code and that does not accept payment under the State plan under this title or under title XVIII.''.

(b) REDUCTION IN FEDERAL FINANCIAL PARTICIPATION IN CASE OF IMPOSITION OF TAX.—Section 1903(b) (42 U.S.C. 1396b(b)) is amended by adding at the end the following:

''(4) Notwithstanding the preceding provisions of this section, the amount determined under subsection (a)(1) for any State shall be decreased in a quarter by the amount of any health care related taxes (described in section 1902(w)(3)(A)) that are imposed on a hospital described in subsection (w)(3)(F) in that quarter.''.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxes imposed before, on, or after the date of the enactment of this Act and the amendment made by subsection (b) shall apply to taxes imposed on or after such date.

SEC. 5766. TREATMENT OF VETERANS PENSIONS UNDER MEDICAID.

(a) POST-ELIGIBILITY.—Section 1902(r)(1) of the Social Security Act (42 U.S.C. 1396a(r)(1)) is amended to read as follows:

''(r)(1) For purposes of sections 1902(a)(17) and 1924(d)(1)(D) and for purposes of a waiver under section 1915, with respect to the post-eligibility treatment of income of individuals who are institutionalized or receiving home or community-based services under such a waiver—

''(A) there shall be disregarded reparation payments made by the Federal Republic of Germany;

''(B) there shall be taken into account amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party, including—

''(i) medicare and other health insurance premiums, deductibles, or coinsurance, and

''(ii) necessary medical or remedial care recognized under State law but not covered under the State plan under this title, subject to reasonable limits the State may establish on the amount of these expenses; and

''(C) in the case of a resident in a State veterans home, there shall be taken into account, as income, any and all payments received under a Department of Veterans Affairs pension or compensation program, including payments attributable to the recipient's medical expenses or to the recipient's need for aid and attendance, but excluding that part of any augmented benefit attributable to a dependent.

For purposes of subparagraph (C), any Department of Veterans Affairs pension benefit that has been limited to $90 per month pursuant to section 5503(f) of title 38, United States Code, may be applied to meet the monthly personal needs allowance provided by the State plan under this title, but shall not otherwise be used to reduce the amount paid to a facility under the State plan.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to periods beginning on and after July 1, 1994.

SEC. 5767. REMOVAL OF NAME FROM NURSE AIDE REGISTRY.

(a) MEDICARE.—Section 1819(g)(1)(C) of the Social Security Act (42 U.S.C. 1395i-3(g)(1)(C)) is amended—

(1) in the first sentence by striking ''The State'' and inserting ''(i) The State''; and

(2) by adding at the end the following:

''(ii)(I) In the case of a finding of neglect, the State shall establish a procedure to permit a nurse aide to petition the State to have his or her name removed from the registry upon a determination by the State that—

''(aa) the employment and personal history of the nurse aide does not reflect a pattern of abusive behavior or neglect; and

''(bb) the neglect involved in the original finding was a singular occurrence.

''(II) In no case shall a determination on a petition submitted under clause (I) be made prior to the expiration of the 1-year period beginning on the date on which the name of the petitioner was added to the registry under this subparagraph.''.

(b) MEDICAID.—Section 1919(g)(1)(C) of the Social Security Act (42 U.S.C. 1396r(g)(1)(C)) is amended—

(1) in the first sentence by striking ''The State'' and inserting ''(i) The State''; and

(2) by adding at the end the following:

''(ii)(I) In the case of a finding of neglect, the State shall establish a procedure to permit a nurse aide to petition the State to have his or her name removed from the registry upon a determination by the State that—

''(aa) the employment and personal history of the nurse aide does not reflect a pattern of abusive behavior or neglect; and

''(bb) the neglect involved in the original finding was a singular occurrence.

''(II) In no case shall a determination on a petition submitted under clause (I) be made prior to the expiration of the 1-year period beginning on the date on which the name of the petitioner was added to the registry under this subparagraph.''.

(c) RETROACTIVE REVIEW.—The procedures developed by a State under the amendments made by subsection (a) and (b) shall permit an individual to petition for a review of any finding made by a State under section 1819(g)(1)(C) or 1919(g)(1)(C) of the Social Security Act (42 U.S.C. 1395i-3(g)(1)(C) or 1396r(g)(1)(C)) after January 1, 1995.

(d) STUDY AND REPORT.—

(1) STUDY.—The Secretary of Health and Human Services shall conduct a study of—

(A) the use of nurse aide registries by States, including the number of nurse aides placed on the registries on a yearly basis and the circumstances that warranted their placement on the registries;

(B) the extent to which institutional environmental factors (such as a lack of adequate training or short staffing) contribute to cases of abuse and neglect at nursing facilities; and

(C) whether alternatives (such as a probational period accompanied by additional training or mentoring or sanctions on facilities that create an environment that encourages abuse or neglect) to the sanctions that are currently applied under the Social Security Act for abuse and neglect at nursing facilities might be more effective in minimizing future cases of abuse and neglect.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress, a report concerning the results of the study conducted under paragraph (1) and the recommendation of the Secretary for legislation based on such study.

SEC. 5768. WAIVER OF CERTAIN PROVIDER TAX PROVISIONS.

Notwithstanding any other provision of law, taxes, fees, or assessments, as defined in section 1903(w)(3)(A) of the Social Security Act (42 U.S.C. 1396b(w)(3)(A)), that were collected by the State of New York from a health care provider before June 1, 1997, and for which a waiver of the provisions of subparagraph (B) or (C) of section 1903(w)(3) of such Act has been applied for, or that would, but for this paragraph require that such a waiver be applied for, in accordance with subparagraph (E) of such section, and, (if so applied for) upon which action by the Secretary of Health and Human Services (including any judicial review of any such proceeding) has not been completed as of the date of enactment of this Act, are deemed to be permissible health care related taxes and in compliance with the requirements of subparagraphs (B) and (C) of sections 1903(w)(3) of such Act.

SEC. 5769. CONTINUATION OF STATE-WIDE SECTION 1115 MEDICAID WAIVERS.

(a) IN GENERAL.—Section 1115 of the Social Security Act (42 U.S.C. 1315) is amended by adding at the end the following:

''(d)(1) The provisions of this subsection shall apply to the extension of statewide comprehensive research and demonstration projects (in this subsection referred to as 'waiver project') for which waivers of compliance with the requirements of title XIX are granted under subsection (a). With respect to a waiver project that, but for the enactment of this subsection, would expire, the State at its option may not later than 1 year before the waiver under subsection (a) would expire (acting through the chief executive officer of the State who is operating the project), submit to the Secretary a written request for an extension of such waiver project for up to 2 years.

''(2) The requirements of this paragraph are that the waiver project—

''(A) has been successfully operated for 5 or more years; and

''(B) has been shown, through independent evaluations sponsored by the Health Care Financing Administration, to successfully contain costs and provide access to health care.

''(3)(A) In the case of waiver projects described in paragraph (1)(A), if the Secretary fails to respond to the request within 6 months after the date on which the request was submitted, the request is deemed to have been granted.

''(B) If the request is granted or deemed to have been granted, the deadline for submittal of a final report shall be 1 year after the date on which the waiver project would have expired but for the enactment of this subsection.

''(C) The Secretary shall release an evaluation of each such project not later than 1 year after the date of receipt of the final report.

''(D) Phase-down provisions which were applicable to waiver projects before an extension was provided under this subsection shall not apply.

''(4) The extension of a waiver project under this subsection shall be on the same terms and conditions (including applicable terms and conditions related to quality and access of services, budget neutrality as adjusted for inflation, data and reporting requirements and special population protections), except for any phase down provisions, and subject to the same set of waivers that applied to the project or were granted before the extension of the project under this subsection. The permanent continuation of a waiver project shall be on the same terms and conditions, including financing, and subject to the same set of waivers. No test of budget neutrality shall be applied in the case of projects described in paragraph (2) after that date on which the permanent extension was granted.

''(5) In the case of a waiver project described in paragraph (2), the Secretary, acting through the Health Care Financing Administration shall, deem any State's request to expand medicaid coverage in whole or in part to individuals who have an income at or below the Federal poverty level as budget neutral if independent evaluations sponsored by the Health Care Financing Administration have shown that the State's medicaid managed care program under such original waiver is more cost effective and efficient than the traditional fee-for-service medicaid program that, in the absence of any managed care waivers under this section, would have been provided in the State.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date of enactment of this Act.

SEC. 5770. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise specifically provided, the provisions of and amendments made by this subtitle shall apply with respect to State programs under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) on and after October 1, 1997.

(b) EXTENSION FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this subtitle, the State plan shall not be regarded as failing to comply with the requirements of this subtitle solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

Subtitle J—Children's Health Insurance Initiatives

SEC. 5801. ESTABLISHMENT OF CHILDREN'S HEALTH INSURANCE INITIATIVES.

(a) IN GENERAL.—The Social Security Act is amended by adding at the end the following:

''TITLE XXI—CHILD HEALTH INSURANCE INITIATIVES

''SEC. 2101. PURPOSE.

''The purpose of this title is to provide funds to States to enable such States to expand the provision of health insurance coverage for low-income children. Funds provided under this title shall be used to achieve this purpose through outreach activities described in section 2106(a) and, at the option of the State through—

''(1) a grant program conducted in accordance with section 2107 and the other requirements of this title; or

''(2) expansion of coverage of such children under the State medicaid program who are not required to be provided medical assistance under section 1902(l) (taking into account the process of individuals aging into eligibility under subsection (l)(1)(D)).

''SEC. 2102. DEFINITIONS.

''In this title:

''(1) BASE-YEAR COVERED LOW-INCOME CHILD POPULATION.—The term 'base-year covered low-income child population' means the total number of low-income children with respect to whom, as of fiscal year 1996, an eligible State provides or pays the cost of health benefits either through a State funded program or through expanded eligibility under the State plan under title XIX (including under a waiver of such plan), as determined by the Secretary. Such term does not include any low-income child described in paragraph (3)(A) that a State must cover in order to be considered an eligible State under this title.

''(2) CHILD.—The term 'child' means an individual under 19 years of age.

''(3) ELIGIBLE STATE.—The term 'eligible State' means, with respect to a fiscal year, a State that—

''(A) provides, under section 1902(l)(1)(D) or under a waiver, for eligibility for medical assistance under a State plan under title XIX of individuals under 17 years of age in fiscal year 1998, and under 19 years of age in fiscal year 2000, regardless of date of birth;

''(B) has submitted to the Secretary under section 2104 a program outline that—

''(i) sets forth how the State intends to use the funds provided under this title to provide health insurance coverage for low-income children consistent with the provisions of this title; and

''(ii) is approved under section 2104; and

''(iii) otherwise satisfies the requirements of this title; and

''(C) satisfies the maintenance of effort requirement described in section 2105(c)(5).

''(4) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The term 'Federal medical assistance percentage' means, with respect to a State, the meaning given that term under section 1905(b). Any cost-sharing imposed under this title may not be included in determining Federal medical assistance percentage for reimbursement of expenditures under a State program funded under this title.

''(5) FEHBP-EQUIVALENT CHILDREN'S HEALTH INSURANCE COVERAGE.—The term 'FEHBP-equivalent children's health insurance coverage' means, with respect to a State, any plan or arrangement that provides, or pays the cost of, health benefits that the Secretary has certified are equivalent to or better than the services covered for a child, including hearing and vision services, under the standard Blue Cross/Blue Shield preferred provider option service benefit plan offered under chapter 89 of title 5, United States Code.

''(6) INDIANS.—The term 'Indians' has the meaning given that term in section 4(c) of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

''(7) LOW-INCOME CHILD.—The term 'low-income child' means a child in a family whose income is below 200 percent of the poverty line for a family of the size involved.

''(8) POVERTY LINE.—The term 'poverty line' has the meaning given that term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

''(9) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

''(10) STATE.—The term 'State' means each of the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

''(11) STATE CHILDREN'S HEALTH EXPENDITURES.—The term 'State children's health expenditures' means the State share of expenditures by the State for providing children with health care items and services under—

''(A) the State plan for medical assistance under title XIX;

''(B) the maternal and child health services block grant program under title V;

''(C) the preventive health services block grant program under part A of title XIX of the Public Health Services Act (42 U.S.C. 300w et seq.);

''(D) State-funded programs that are designed to provide health care items and services to children;

''(E) school-based health services programs;

''(F) State programs that provide uncompensated or indigent health care;

''(G) county-indigent care programs for which the State requires a matching share by a county government or for which there are intergovernmental transfers from a county to State government; and

''(H) any other program under which the Secretary determines the State incurs uncompensated expenditures for providing children with health care items and services.

''(12) STATE MEDICAID PROGRAM.—The term 'State medicaid program' means the program of medical assistance provided under title XIX.

''SEC. 2103. APPROPRIATION.

''(a) APPROPRIATION.—

''(1) IN GENERAL.—Subject to subsection (b), out of any money in the Treasury of the United States not otherwise appropriated, there is appropriated for the purpose of carrying out this title—

''(A) for fiscal year 1998, $2,500,000,000;

''(B) for each of fiscal years 1999 and 2000, $3,200,000,000;

''(C) for fiscal year 2001, $3,600,000,000;

''(D) for fiscal year 2002, $3,500,000,000;

''(E) for each of fiscal years 2003 through 2007, $4,580,000,000.

''(2) AVAILABILITY.—Funds appropriated under this section shall remain available without fiscal year limitation, as provided under section 2105(b)(4).

''(b) REDUCTION FOR INCREASED MEDICAID EXPENDITURES.—With respect to each of the fiscal years described in subsection (a)(1), the amount appropriated under subsection (a)(1) for each such fiscal year shall be reduced by an amount equal to the amount of the total Federal outlays under the medicaid program under title XIX resulting from—

''(1) the amendment made by section 5732 of the Balanced Budget Act of 1997 (regarding the State option to provide 12-month continuous eligibility for children);

''(2) increased enrollment under State plans approved under such program as a result of outreach activities under section 2106(a); and

''(3) the requirement under section 2102(3)A) to provide eligibility for medical assistance under the State plan under title XIX for all children under 19 years of age who have families with income that is at or below the poverty line.

''(c) STATE ENTITLEMENT.—This title constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided in accordance with the provisions of this title.

''(d) EFFECTIVE DATE.—No State is eligible for payments under section 2105 for any calendar quarter beginning before October 1, 1997.

"SEC. 2104. PROGRAM OUTLINE.

"(a) GENERAL DESCRIPTION.—A State shall submit to the Secretary for approval a program outline, consistent with the requirements of this title, that—

"(1) identifies, on or after the date of enactment of the Balanced Budget Act of 1997, which of the 2 options described in section 2101 the State intends to use to provide low-income children in the State with health insurance coverage;

"(2) describes the manner in which such coverage shall be provided; and

"(3) provides such other information as the Secretary may require.

"(b) OTHER REQUIREMENTS.—The program outline submitted under this section shall include the following:

"(1) ELIGIBILITY STANDARDS AND METHODOLOGIES.—A summary of the standards and methodologies used to determine the eligibility of low-income children for health insurance coverage under a State program funded under this title.

"(2) ELIGIBILITY SCREENING; COORDINATION WITH OTHER HEALTH COVERAGE.—A description of the procedures to be used to ensure—

"(A) through both intake and followup screening, that only low-income children are furnished health insurance coverage through funds provided under this title; and

"(B) that any health insurance coverage provided for children through funds under this title does not reduce the number of children who are provided such coverage through any other publicly or privately funded health plan.

"(3) INDIANS.—A description of how the State will ensure that Indians are served through a State program funded under this title.

"(c) DEADLINE FOR SUBMISSION.—A State program outline shall be submitted to the Secretary by not later than March 31 of any fiscal year (October 1, 1997, in the case of fiscal year 1998).

"SEC. 2105. DISTRIBUTION OF FUNDS.

"(a) ESTABLISHMENT OF FUNDING POOLS.—

"(1) IN GENERAL.—From the amount appropriated under section 2103(a)(1) for each fiscal year, determined after the reduction required under section 2103(b), the Secretary shall, for purposes of fiscal year 1998, reserve 85 percent of such amount for distribution to eligible States through the basic allotment pool under subsection (b) and 15 percent of such amount for distribution through the new coverage incentive pool under subsection (c)(2)(B)(ii).

"(2) ANNUAL ADJUSTMENT OF RESERVE PERCENTAGES.—The Secretary shall annually adjust the amount of the percentages described in paragraph (1) in order to provide sufficient basic allotments and sufficient new coverage incentives to achieve the purpose of this title.

"(b) DISTRIBUTION OF FUNDS UNDER THE BASIC ALLOTMENT POOL.—

"(1) STATES.—

"(A) IN GENERAL.—From the total amount reserved under subsection (a) for a fiscal year for distribution through the basic allotment pool, the Secretary shall first set aside 0.25 percent for distribution under paragraph (2) and shall allot from the amount remaining to each eligible State not described in such paragraph the State's allotment percentage for such fiscal year.

"(B) STATE'S ALLOTMENT PERCENTAGE.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the allotment percentage for a fiscal year for each State is the percentage equal to the ratio of the number of low-income children in the base period in the State to the total number of low-income children in the base period in all States not described in paragraph (2).

"(ii) NUMBER OF LOW-INCOME CHILDREN IN THE BASE PERIOD.—In clause (i), the number of low-income children in the base period for a fiscal year in a State is equal to the average of the number of low-income children in the State for the period beginning on October 1, 1992, and ending on September 30, 1995, as reported in the March 1994, March 1995, and March 1996 supplements to the Current Population Survey of the Bureau of the Census.

"(2) OTHER STATES.—

"(A) IN GENERAL.—From the amount set aside under paragraph (1)(A) for each fiscal year, the Secretary shall make allotments for such fiscal year in accordance with the percentages specified in subparagraph (B) to Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands, if such States are eligible States for such fiscal year.

"(B) PERCENTAGES SPECIFIED.—The percentages specified in this subparagraph are in the case of—

"(i) Puerto Rico, 91.6 percent;

"(ii) Guam, 3.5 percent;

"(iii) the Virgin Islands, 2.6 percent;

"(iv) American Samoa, 1.2 percent; and

"(v) the Northern Mariana Islands, 1.1 percent.

"(3) THREE-YEAR AVAILABILITY OF AMOUNTS ALLOTTED.—Amounts allotted to a State pursuant to this subsection for a fiscal year shall remain available for expenditure by the State through the end of the second succeeding fiscal year.

"(4) PROCEDURE FOR DISTRIBUTION OF UNUSED FUNDS.—The Secretary shall determine an appropriate procedure for distribution of funds to eligible States that remain unused under this subsection after the expiration of the availability of funds required under paragraph (3). Such procedure shall be developed and administered in a manner that is consistent with the purpose of this title.

"(c) PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall—

"(A) before October 1 of any fiscal year, pay an eligible State an amount equal to 1 percent of the amount allotted to the State under subsection (b) for conducting the outreach activities required under section 2106(a); and

"(B) make quarterly fiscal year payments to an eligible State from the amount remaining of such allotment for such fiscal year in an amount equal to the Federal medical assistance percentage for the State (as defined under section 2102(4) and determined without regard to the amount of Federal funds received by the State under title XIX before the date of enactment of this title) of the Federal and State incurred cost of providing health insurance coverage for a low-income child in the State plus the applicable bonus amount.

"(2) APPLICABLE BONUS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the applicable bonus amount is—

"(i) 5 percent of the Federal and State incurred cost, with respect to a period, of providing health insurance coverage for children covered at State option among the base-year covered low-income child population (measured in full year equivalency) (including such children covered by the State through expanded eligibility under the medicaid program under title XIX before the date of enactment of this title, but excluding any low-income child described in section 2102(3)(A) that a State must cover in order to be considered an eligible State under this title); and

"(ii) 10 percent of the Federal and State incurred cost, with respect to a period, of providing health insurance coverage for children covered at State option among the number (as so measured) of low-income children that are in excess of such population.

"(B) SOURCE OF BONUSES.—

"(i) BASE-YEAR COVERED LOW-INCOME CHILD POPULATION.—A bonus described in subparagraph (A)(i) shall be paid out of an eligible State's allotment for a fiscal year.

"(ii) FOR OTHER LOW-INCOME CHILD POPULATIONS.—A bonus described in subparagraph (A)(ii) shall be paid out of the new coverage incentive pool reserved under subsection (a)(1).

"(3) DEFINITION OF COST OF PROVIDING HEALTH INSURANCE COVERAGE.—For purposes of this subsection the cost of providing health insurance coverage for a low-income child in the State means—

"(A) in the case of an eligible State that opts to use funds provided under this title through the medicaid program, the cost of providing such child with medical assistance under the State plan under title XIX; and

"(B) in the case of an eligible State that opts to use funds provided under this title under section 2107, the cost of providing such child with health insurance coverage under such section.

"(4) LIMITATION ON TOTAL PAYMENTS.—With respect to a fiscal year, the total amount paid to an eligible State under this title (including any bonus payments) shall not exceed 85 percent of the total cost of a State program conducted under this title for such fiscal year.

"(5) MAINTENANCE OF EFFORT.—

"(A) DEEMED COMPLIANCE.—A State shall be deemed to be in compliance with this provision if—

"(i) it does not adopt income and resource standards and methodologies that are more restrictive than those applied as of June 1, 1997, for purposes of determining a child's eligibility for medical assistance under the State plan under title XIX; and

"(ii) in the case of fiscal year 1998 and each fiscal year thereafter, the State children's health expenditures defined in section 2102(11) are not less than the amount of such expenditures for fiscal year 1996.

"(B) FAILURE TO MAINTAIN MEDICAID STANDARDS AND METHODOLOGIES.—A State that fails to meet the conditions described in subparagraph (A) shall not receive—

"(i) funds under this title for any child that would be determined eligible for medical assistance under the State plan under title XIX using the income and resource standards and methodologies applied under such plan as of June 1, 1997; and

"(ii) any bonus amounts described in paragraph (2)(A)(ii).

"(C) FAILURE TO MAINTAIN SPENDING ON CHILD HEALTH PROGRAMS.—A State that fails to meet the condition described in subparagraph (A)(ii) shall not receive funding under this title.

"(6) ADVANCE PAYMENT; RETROSPECTIVE ADJUSTMENT.—The Secretary may make payments under this subsection for each quarter on the basis of advance estimates of expenditures submitted by the State and such other investigation as the Secretary may find necessary, and shall reduce or increase the payments as necessary to adjust for any overpayment or underpayment for prior quarters.

"SEC. 2106. USE OF FUNDS.

"(a) SET-ASIDE FOR OUTREACH ACTIVITIES.—

"(1) IN GENERAL.—From the amount allotted to a State under section 2105(b) for a fiscal year, each State shall conduct outreach activities described in paragraph (2).

"(2) OUTREACH ACTIVITIES DESCRIBED.—The outreach activities described in this paragraph include activities to—

"(A) identify and enroll children who are eligible for medical assistance under the State plan under title XIX; and

"(B) conduct public awareness campaigns to encourage employers to provide health insurance coverage for children.

"(b) STATE OPTIONS FOR REMAINDER.—A State may use the amount remaining of the allotment to a State under section 2105(b) for a fiscal year, determined after the payment required under section 2105(c)(1)(A), in accordance with section 2107 or the State medicaid program (but not both). Nothing in the preceding sentence shall be construed as limiting a State's eligibility for receiving the 5 percent bonus described in section 2105(c)(2)(A)(i) for children covered by the State through expanded eligibility under the medicaid program under title XIX before the date of enactment of this title.

"(c) PROHIBITION ON USE OF FUNDS.—No funds provided under this title may be used to provide health insurance coverage for—

''(1) families of State public employees; or

''(2) children who are committed to a penal institution.

''(d) USE LIMITED TO STATE PROGRAM EXPENDITURES.—Funds provided to an eligible State under this title shall only be used to carry out the purpose of this title (as described in section 2101), and any health insurance coverage provided with such funds may include coverage of abortion only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.

''(e) ADMINISTRATIVE EXPENDITURES.—

''(1) IN GENERAL.—Not more than the applicable percentage of the amount allotted to a State under section 2105(b) for a fiscal year, determined after the payment required under section 2105(c)(1)(A), shall be used for administrative expenditures for the program funded under this title.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to a fiscal year is—

''(A) for the first 2 years of a State program funded under this title, 10 percent;

''(B) for the third year of a State program funded under this title, 7.5 percent; and

''(C) for the fourth year of a State program funded under this title and each year thereafter, 5 percent.

''(f) NONAPPLICATION OF FIVE-YEAR LIMITED ELIGIBILITY FOR MEANS-TESTED PUBLIC BENEFITS.—The provisions of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613) shall not apply with respect to a State program funded under this title.

''(g) AUDITS.—The provisions of section 506(b) shall apply to funds expended under this title to the same extent as they apply to title V.

''(h) REQUIREMENT TO FOLLOW STATE PROGRAM OUTLINE.—The State shall conduct the program in accordance with the program outline approved by the Secretary under section 2104.

''SEC. 2107. STATE OPTION FOR THE PURCHASE OR PROVISION OF CHILDREN'S HEALTH INSURANCE.

''(a) STATE OPTION.—

''(1) IN GENERAL.—An eligible State that opts to use funds provided under this title under this section shall use such funds to provide FEHBP-equivalent children's health insurance coverage for low-income children who reside in the State.

''(2) PRIORITY FOR LOW-INCOME CHILDREN.—A State that uses funds provided under this title under this section shall not cover low-income children with higher family income without covering such children with a lower family income.

''(3) DETERMINATION OF ELIGIBILITY AND FORM OF ASSISTANCE.—An eligible State may establish any additional eligibility criteria for the provision of health insurance coverage for a low-income child through funds provided under this title, so long as such criteria and assistance are consistent with the purpose and provisions of this title.

''(4) AFFORDABILITY.—An eligible State may impose any family premium obligations or cost-sharing requirements otherwise permitted under this title on low-income children with family incomes that exceed 150 percent of the poverty line. In the case of a low-income child whose family income is at or below 150 percent of the poverty line, limits on beneficiary costs generally applicable under title XIX apply to coverage provided such children under this section.

''(b) NONENTITLEMENT.—Nothing in this section shall be construed as providing an entitlement for an individual or person to any health insurance coverage, assistance, or service provided through a State program funded under this title. If, with respect to a fiscal year, an eligible State determines that the funds provided under this title are not sufficient to provide health insurance coverage for all the low-income children that the State proposes to cover in the State program outline submitted under section 2104 for such fiscal year, the State may adjust the applicable eligibility criteria for such children appropriately or adjust the State program in another manner specified by the Secretary, so long as any such adjustments are consistent with the purpose of this title.

''SEC. 2108. PROGRAM INTEGRITY.

''The following provisions of the Social Security Act shall apply to eligible States under this title in the same manner as such provisions apply to a State under title XIX:

''(1) Section 1116 (relating to administrative and judicial review).

''(2) Section 1124 (relating to disclosure of ownership and related information).

''(3) Section 1126 (relating to disclosure of information about certain convicted individuals).

''(4) Section 1128 (relating to exclusion from individuals and entities from participation in State health care plans).

''(5) Section 1128A (relating to civil monetary penalties).

''(6) Section 1128B (relating to criminal penalties).

''(7) Section 1132 (relating to periods within which claims must be filed).

''(8) Section 1902(a)(4)(C) (relating to conflict of interest standards).

''(9) Section 1903(i) (relating to limitations on payment).

''(10) Section 1903(m)(5) (as in effect on the day before the date of enactment of the Balanced Budget Act of 1997).

''(11) Section 1903(w) (relating to limitations on provider taxes and donations).

''(12) Section 1905(a)(B) (relating to the exclusion of care or services for any individual who has not attained 65 years of age and who is a patient in an institution for mental diseases from the definition of medical assistance).

''(13) Section 1921 (relating to state licensure authorities).

''(14) Sections 1902(a)(25), 1912(a)(1)(A), and 1903(o) (insofar as such sections relate to third party liability).

''(15) Sections 1948 and 1949 (as added by section 5701(a)(2) of the Balanced Budget Act of 1997).

''SEC. 2109. ANNUAL REPORTS.

''(a) ANNUAL STATE ASSESSMENT OF PROGRESS.—An eligible State shall—

''(1) assess the operation of the State program funded under this title in each fiscal year, including the progress made in providing health insurance coverage for low-income children; and

''(2) report to the Secretary, by January 1 following the end of the fiscal year, on the result of the assessment.

''(b) REPORT OF THE SECRETARY.—The Secretary shall submit to the appropriate committees of Congress an annual report and evaluation of the State programs funded under this title based on the State assessments and reports submitted under subsection (a). Such report shall include any conclusions and recommendations that the Secretary considers appropriate.''.

(b) CONFORMING AMENDMENT.—Section 1128(h) (42 U.S.C. 1320a–7(h)) is amended by—

(1) in paragraph (2), by striking ''or'' at the end;

(2) in paragraph (3), by striking the period and inserting '', or''; and

(3) by adding at the end the following:

''(4) a program funded under title XXI.''.

(c) EFFECTIVE DATE.—The amendments made by this section apply on and after October 1, 1997.

DIVISION 3—INCOME SECURITY AND OTHER PROVISIONS

Subtitle K—Income Security, Welfare-to-Work Grant Program, and Other Provisions

CHAPTER 1—INCOME SECURITY

SEC. 5811. SSI ELIGIBILITY FOR ALIENS RECEIVING SSI ON AUGUST 22, 1996.

(a) IN GENERAL.—Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) is amended by adding after subparagraph (D) the following new subparagraph:

''(E) ALIENS RECEIVING SSI ON AUGUST 22, 1996.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1) shall not apply to an alien who is lawfully residing in any State and who was receiving such benefits on August 22, 1996.''.

(b) STATUS OF CUBAN AND HAITIAN ENTRANTS.—For purposes of section 402(a)(2)(E) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(E)), an alien who is a Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980, shall be considered a qualified alien.

(c) CONFORMING AMENDMENTS.—Section 402(a)(2)(D) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(D)) is amended—

(1) by striking clause (i);

(2) in the subparagraph heading by striking ''BENEFITS'' and inserting ''FOOD STAMPS'';

(3) by striking ''(ii) FOOD STAMPS''; and

(4) by redesignating subclauses (I), (II), and (III) as clauses (i), (ii), and (iii).

SEC. 5812. EXTENSION OF ELIGIBILITY PERIOD FOR REFUGEES AND CERTAIN OTHER QUALIFIED ALIENS FROM 5 TO 7 YEARS FOR SSI AND MEDICAID.

(a) SSI.—Section 402(a)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(A)) is amended to read as follows:

''(A) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.—

''(i) SSI.—With respect to the specified Federal program described in paragraph (3)(A) paragraph 1 shall not apply to an alien until 7 years after the date—

''(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

''(II) an alien is granted asylum under section 208 of such Act; or

''(III) an alien's deportation is withheld under section 243(h) of such Act.

''(ii) FOOD STAMPS.—With respect to the specified Federal program described in paragraph (3)(B), paragraph 1 shall not apply to an alien until 5 years after the date—

''(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

''(II) an alien is granted asylum under section 208 of such Act; or

''(III) an alien's deportation is withheld under section 243(h) of such Act.''.

(b) MEDICAID.—Section 402(b)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(b)(2)(A)) is amended to read as follows:

''(A) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.—

''(i) MEDICAID.—With respect to the designated Federal program described in paragraph (3)(C), paragraph 1 shall not apply to an alien until 7 years after the date—

''(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

''(II) an alien is granted asylum under section 208 of such Act; or

''(III) an alien's deportation is withheld under section 243(h) of such Act.

''(ii) OTHER DESIGNATED FEDERAL PROGRAMS.—With respect to the designated Federal programs under paragraph (3) (other than subparagraph (C)), paragraph 1 shall not apply to an alien until 5 years after the date—

''(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

''(II) an alien is granted asylum under section 208 of such Act; or

''(III) an alien's deportation is withheld under section 243(h) of such Act.''.

(c) STATUS OF CUBAN AND HAITIAN ENTRANTS.—For purposes of sections 402(a)(2)(A) and 402(b)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(A), (b)(2)(A)), an alien who is a Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980, shall be considered a refugee.

SEC. 5813. EXCEPTIONS FOR CERTAIN INDIANS FROM LIMITATION ON ELIGIBILITY FOR SUPPLEMENTAL SECURITY INCOME AND MEDICAID BENEFITS.

(a) EXCEPTION FROM LIMITATION ON SSI ELIGIBILITY.—Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) is amended—

(1) by redesignating subparagraph (D) and subparagraph (E); and

(2) by inserting after subparagraph (C) the following:

''(D) SSI EXCEPTION FOR CERTAIN INDIANS.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1) shall not apply to any individual—

''(i) who is an American Indian born in Canada to whom the provisions of section 289 of the Immigration and Nationality Act (8 U.S.C. 1358) apply; or

''(ii) who is a member of an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).''.

(b) EXCEPTION FROM LIMITATION ON MEDICAID ELIGIBILITY.—Section 402(b)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(b)(2)) is amended—

(1) by redesignating subparagraph (D) and subparagraph (E); and

(2) by inserting after subparagraph (C) the following:

''(D) MEDICAID EXCEPTION FOR CERTAIN INDIANS.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the medicaid program), paragraph (1) shall not apply to any individual described in subsection (a)(2)(D).''.

(c) SSI AND MEDICAID EXCEPTIONS FROM LIMITATION ON ELIGIBILITY OF NEW ENTRANTS.—Section 403(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(b)) is amended by adding at the end the following:

''(3) SSI AND MEDICAID EXCEPTION FOR CERTAIN INDIANS.—An individual described in section 402(a)(2)(D), but only with respect to the programs specified in subsections (a)(3)(A) and (b)(3)(C) of section 402.''.

(d) EFFECTIVE DATE.—

(1) SECTION 402.—The amendments made by subsections (a) and (b) shall take effect as though they had been included in the enactment of section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(2) SECTION 403.—The amendment made by subsection (c) shall take effect as though they had been included in the enactment of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 5814. SSI ELIGIBILITY FOR DISABLED LEGAL ALIENS IN THE UNITED STATES ON AUGUST 22, 1996.

Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) (as amended by section 5813) is amended by adding at the end the following:

''(G) DISABLED ALIENS LAWFULLY RESIDING IN THE UNITED STATES ON AUGUST 22, 1996.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1) shall not apply to an alien who—

''(i) is lawfully residing in any State on August 22, 1996; and

''(ii) is disabled, as defined in section 1614(a)(3) of the Social Security Act (42 U.S.C. 1382c(a)(3)).''.

SEC. 5815. EXEMPTION FROM RESTRICTION ON SUPPLEMENTAL SECURITY INCOME PROGRAM PARTICIPATION BY CERTAIN RECIPIENTS ELIGIBLE ON THE BASIS OF VERY OLD APPLICATIONS.

Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) (as amended by section 5814) is amended by adding at the end the following:

''(H) SSI EXCEPTION FOR CERTAIN RECIPIENTS ON THE BASIS OF VERY OLD APPLICATIONS.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1) shall not apply to any individual—

''(i) who is receiving benefits under such program for months after July 1996 on the basis of an application filed before January 1, 1979; and

''(ii) with respect to whom the Commissioner of Social Security lacks clear and convincing evidence that such individual is an alien ineligible for such benefits as a result of the application of this section.''.

SEC. 5816. REINSTATEMENT OF ELIGIBILITY FOR BENEFITS.

(a) FOOD STAMPS.—The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended by adding after section 435 the following new section:

''SEC. 436. DERIVATIVE ELIGIBILITY FOR BENEFITS.

Notwithstanding any other provision of law, an alien who under the provisions of this title is ineligible for benefits under the food stamp program (as defined in section 402(a)(3)(A)) shall not be eligible for such benefits because the alien receives benefits under the supplemental security income program (as defined in section 402(a)(3)(B)).''.

(b) MEDICAID.—Section 402(b)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(b)(2)) is amended by adding at the end the following:

''(E) MEDICAID EXCEPTION FOR ALIENS RECEIVING SSI.—An alien who is receiving benefits under the program defined in subsection (a)(3)(A) (relating to the supplemental security income program) shall be eligible for medical assistance under a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) under the same terms and conditions that apply to other recipients of benefits under the program defined in such subsection.''.

(c) CLERICAL AMENDMENT.—Section 2 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended by adding after the item related to section 435 the following:

''Sec. 436. Derivative eligibility for benefits.''.

SEC. 5817. EXEMPTION FOR CHILDREN WHO ARE LEGAL ALIENS FROM 5-YEAR BAN ON MEDICAID ELIGIBILITY.

Section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613)) is amended by adding at the end the following:

''(e) MEDICAID ELIGIBILITY EXEMPTION FOR CHILDREN.—The limitation under subsection (a) shall not apply to any alien who has not attained age 19 and is lawfully residing in any State, but only with respect to such alien's eligibility for medical assistance under a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).''.

SEC. 5818. TREATMENT OF CERTAIN AMERASIAN IMMIGRANTS AS REFUGEES.

(a) AMENDMENTS TO EXCEPTIONS FOR REFUGEES/ASYLEES.—

(1) FOR PURPOSES OF SSI AND FOOD STAMPS.—Section 402(a)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(A)) is amended—

(A) by striking ''; or'' at the end of clause (ii);

(B) by striking the period at the end of clause (iii) and inserting ''; or''; and

(C) by adding at the end the following:

''(iv) an alien who is admitted to the United States as an Amerasian immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100–202 and amended by the 9th proviso under MIGRATION AND REFUGEE ASSISTANCE in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, Public Law 100–461, as amended).''.

(2) FOR PURPOSES OF TANF, SSBG, AND MEDICAID.—Section 402(b)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(A)) is amended—

(A) by striking ''; or'' at the end of clause (ii);

(B) by striking the period at the end of clause (iii) and inserting ''; or''; and

(C) by adding at the end the following:

''(iv) an alien described in subsection (a)(2)(A)(iv) until 5 years after the date of such alien's entry into the United States.''.

(3) FOR PURPOSES OF EXCEPTION FROM 5-YEAR LIMITED ELIGIBILITY OF QUALIFIED ALIENS.—Section 403(b)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(b)(1)) is amended by adding at the end the following:

''(D) An alien described in section 402(a)(2)(A)(iv).''.

(4) FOR PURPOSES OF CERTAIN STATE PROGRAMS.—Section 412(b)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1622(b)(1)) is amended by adding at the end the following new subparagraph:

''(D) An alien described in section 402(a)(2)(A)(iv).''.

(b) FUNDING.—

(1) LEVY OF FEE.—The Attorney General through the Immigration and Naturalization Service shall levy a $100 processing fee upon each alien that the Service determines—

(A) is unlawfully residing in the United States;

(B) has been arrested by a Federal law enforcement officer for the commission of a felony; and

(C) merits deportation after having been determined by a court of law to have committed a felony while residing illegally in the United States.

(2) COLLECTION AND USE.—In addition to any other penalty provided by law, a court shall impose the fee described in paragraph (1) upon an alien described in such paragraph upon the entry of a judgment of deportation by such court. Funds collected pursuant to this subsection shall be credited by the Secretary of the Treasury as offsetting increased Federal outlays resulting from the amendments made by section 5817A of the Balanced Budget Act of 1997.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to the period beginning on or after October 1, 1997.

SEC. 5819. SSI ELIGIBILITY FOR SEVERELY DISABLED ALIENS.

Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)), as amended by section 5815, is amended by adding at the end the following:

''(I) SSI EXCEPTION FOR SEVERELY DISABLED ALIENS.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1), and the September 30, 1997 application deadline under subparagraph (G), shall not apply to any alien who is lawfully present in the United States and who has been denied approval of an application for naturalization by the Attorney General solely on the ground that the alien is so severely disabled that the alien is otherwise unable to satisfy the requirements for naturalization.''.

SEC. 5820. EFFECTIVE DATE.

The amendments made by this chapter shall take effect as if they were included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2260).

CHAPTER 2—WELFARE-TO-WORK GRANT PROGRAM

SEC. 5821. WELFARE-TO-WORK GRANTS.

(a) GRANTS TO STATES.—

(1) IN GENERAL.—Section 403(a) (42 U.S.C. 603(a)) is amended by adding at the end the following:

''(5) WELFARE-TO-WORK GRANTS.—

''(A) NONCOMPETITIVE GRANTS.—

''(i) ENTITLEMENT.—A State shall be entitled to receive from the Secretary a grant for each fiscal year specified in subparagraph (H) of this paragraph for which the State is a welfare-to-work State, in an amount that does not exceed the greater of—

''(I) the allotment of the State under clause (iii) of this subparagraph for the fiscal year; or

''(II) 0.5 percent of the amount specified in subparagraph (H) for each fiscal year minus the total of the amounts reserved pursuant to subparagraphs (E), (F), and (G) for the fiscal year. The Secretary shall make pro rata reductions in the amounts otherwise payable to States under this paragraph as necessary so that grants under this paragraph do not exceed the available amount, as defined in clause (iv).

''(ii) WELFARE-TO-WORK STATE.—A State shall be considered a welfare-to-work State for a fiscal year for purposes of this subparagraph if the Secretary determines that the State meets the following requirements:

''(I) The State has submitted to the Secretary (in the form of an addendum to the State plan submitted under section 402) a plan which—

''(aa) describes how, consistent with this subparagraph, the State will use any funds provided under this subparagraph during the fiscal year;

''(bb) specifies the formula to be used pursuant to clause (vi) to distribute funds in the State, and describes the process by which the formula was developed;

''(cc) contains evidence that the plan was developed in consultation and coordination with sub-State areas; and

''(dd) is approved by the agency administering the State program funded under this part.

''(II) The State certifies to the Secretary that the State intends to expend during the fiscal year (excluding expenditures described in section 409(a)(7)(B)(iv)) for activities described in clauses (i) and (ii) of subparagraph (C) of this paragraph an amount equal to not less than 33 percent of the Federal funds provided under this paragraph.

''(III) The State has agreed to negotiate in good faith with the Secretary with respect to the substance of any evaluation under section 413(j), and to cooperate with the conduct of any such evaluation.

''(IV) The State is an eligible State for the fiscal year.

''(V) Qualified State expenditures (within the meaning of section 409(a)(7)) are the applicable percentage for the immediately preceding fiscal year, as defined by section 409(a)(7)(B)(ii).

''(iii) ALLOTMENTS TO WELFARE-TO-WORK STATES.—The allotment of a welfare-to-work State for a fiscal year shall be the available amount for the fiscal year multiplied by the State percentage for the fiscal year.

''(iv) AVAILABLE AMOUNT.—As used in this subparagraph, the term 'available amount' means, for a fiscal year, the sum of—

''(I) 75 percent of the sum of—

''(aa) the amount specified in subparagraph (H) for the fiscal year, minus the total of the amounts reserved pursuant to subparagraphs (E), (F), and (G) for the fiscal year; and

''(bb) any amount reserved pursuant to subparagraph (F) for the immediately preceding fiscal year that has not been obligated; and

''(II) any available amount for the immediately preceding fiscal year that has not been obligated by a State or sub-State entity.

''(v) STATE PERCENTAGE.—As used in clause (iii), the term 'State percentage' means, with respect to a fiscal year, ⅓ of the sum of—

''(I) the percentage represented by the number of individuals in the State whose income is less than the poverty line divided by the number of such individuals in the United States;

''(II) the percentage represented by the number of unemployed individuals in the State divided by the number of such individuals in the United States; and

''(III) the percentage represented by the number of individuals who are adult recipients of assistance under the State program funded under this part divided by the number of individuals in the United States who are adult recipients of assistance under any State program funded under this part.

''(vi) DISTRIBUTION OF FUNDS WITHIN STATES.—

''(I) IN GENERAL.—A State to which a grant is made under this subparagraph shall distribute not less than 85 percent of the grant funds among the political subdivisions in the State in which the percentage represented by the number of individuals in the State whose income is less than the poverty line divided by the number of such individuals in the State, and the percentage represented by the number of unemployed individuals in the State divided by the number of such individuals in the State are both above the average such percentages for the State, in accordance with a formula which—

''(aa) determines the amount to be distributed for the benefit of a political subdivision in proportion to the number (if any) of individuals residing in the political subdivision with an income that is less than the poverty line, relative to such number of individuals for the other political subdivisions in the State, and accords a weight of not less than 50 percent to this factor;

''(bb) may determine the amount to be distributed for the benefit of a political subdivision in proportion to the number of adults residing in the political subdivision who are recipients of assistance under the State program funded under this part (whether in effect before or after the amendments made by section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act first applied to the State) for at least 30 months (whether or not consecutive) relative to the number of such adults residing in the other political subdivisions in the State; and

''(cc) may determine the amount to be distributed for the benefit of a political subdivision in proportion to the number of unemployed individuals residing in the political subdivision relative to the number of such individuals residing in the other political subdivisions in the State.

''(II) SPECIAL RULE.—Notwithstanding subclause (I), if the formula used pursuant to subclause (I) would result in the distribution of less than $100,000 during a fiscal year for the benefit of a political subdivision, then in lieu of distributing such sum in accordance with the formula, such sum shall be available for distribution under subclause (III) during the fiscal year.

''(III) PROJECTS TO HELP LONG-TERM RECIPIENTS OF ASSISTANCE INTO THE WORK FORCE.—The Governor of a State to which a grant is made under this subparagraph may distribute not more than 15 percent of the grant funds (plus any amount required to be distributed under this subclause by reason of subclause (II)) to projects that appear likely to help long-term recipients of assistance under the State program funded under this part (whether in effect before or after the amendments made by section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act first applied to the State) enter the work force.

''(vii) ADMINISTRATION.—

''(I) IN GENERAL.—A grant made under this subparagraph to a State shall be administered by the State agency that is administering, or supervising the administration of, the State program funded under this part.

''(B) COMPETITIVE GRANTS.—

''(i) IN GENERAL.—The Secretary shall award grants in accordance with this subparagraph, in fiscal years 1998 and 2000, for projects proposed by eligible applicants, based on the following:

''(I) The effectiveness of the proposal in—

''(aa) expanding the base of knowledge about programs aimed at moving recipients of assistance under State programs funded under this part who are least job ready into the work force.

''(bb) moving recipients of assistance under State programs funded under this part who are least job ready into the work force; and

''(cc) moving recipients of assistance under State programs funded under this part who are least job ready into the work force, even in labor markets that have a shortage of low-skill jobs.

''(II) At the discretion of the Secretary, any of the following:

''(aa) The history of success of the applicant in moving individuals with multiple barriers into work.

''(bb) Evidence of the applicant's ability to leverage private, State, and local resources.

''(cc) Use by the applicant of State and local resources beyond those required by subparagraph (A).

''(dd) Plans of the applicant to coordinate with other organizations at the local and State level.

''(ee) Use by the applicant of current or former recipients of assistance under a State program funded under this part as mentors, case managers, or service providers.

''(III) Evidence that the proposal has the approval of the State agency administering the program under this part.

''(ii) ELIGIBLE APPLICANTS.—As used in clause (i), the term 'eligible applicant' means a political subdivision of a State or a community action agency, community development corporation or other non-profit organizations with demonstrated effectiveness in moving welfare recipients into the workforce that submits a proposal that is approved by the agency administering the State program funded under this part.

''(iii) DETERMINATION OF GRANT AMOUNT.—In determining the amount of a grant to be made under this subparagraph for a project proposed by an applicant, the Secretary shall provide the applicant with an amount sufficient to ensure that the project has a reasonable opportunity to be successful, taking into account the number of long-term recipients of assistance under a State program funded under this part, the level of unemployment, the job opportunities and job growth, the poverty rate, and such other factors as the Secretary deems appropriate, in the area to be served by the project.

''(iv) TARGETING OF FUNDS TO RURAL AREAS.—

''(I) IN GENERAL.—The Secretary shall use not less than 30 percent of the funds available for grants under this subparagraph for a fiscal year to award grants for expenditures in rural areas.

''(II) RURAL AREA DEFINED.—As used in subclause (I), the term 'rural area' means a city, town, or unincorporated area that has a population of 50,000 or fewer inhabitants and that is not an urbanized area immediately adjacent to a city, town, or unincorporated area that has a population of more than 50,000 inhabitants.

''(v) FUNDING.—For grants under this subparagraph for each fiscal year specified in subparagraph (H), there shall be available to the Secretary an amount equal to the sum of—

''(I) 25 percent of the sum of—

''(aa) the amount specified in subparagraph (H) for the fiscal year, minus the total of the amounts reserved pursuant to subparagraphs (E), (F), and (G) for the fiscal year; and

''(bb) any amount reserved pursuant to subparagraph (F) for the immediately preceding fiscal year that has not been obligated; and

''(II) any amount available for grants under this subparagraph for the immediately preceding fiscal year that has not been obligated.

''(C) LIMITATIONS ON USE OF FUNDS.—

''(i) ALLOWABLE ACTIVITIES.—An entity to which funds are provided under this paragraph may use the funds to move into the work force recipients of assistance under the program funded under this part of the State in which the entity is located and the noncustodial parent of any minor who is such a recipient, by means of any of the following:

''(I) Job creation through public or private sector employment wage subsidies.

''(II) On-the-job training.

''(III) Contracts with public or private providers of readiness, placement, and post-employment services.

''(IV) Job vouchers for placement, readiness, and post-employment services.

''(V) Job support services (excluding child care services) if such services are not otherwise available.

''(VI) Technical assistance and related services that lead to self-employment through the microloan demonstration program under section 7(m) of the Small Business Act (15 U.S.C. 636(m)).

Contracts or vouchers for job placement services supported by these funds must require that at least ½ of the payment occur after a eligible individual placed into the workforce has been in the workforce for 6 months.

''(ii) REQUIRED BENEFICIARIES.—An entity that operates a project with funds provided under this paragraph shall expend at least 90 percent of all funds provided to the project for the benefit of recipients of assistance under the program funded under this part of the State in which the entity is located who meet the requirements of either of the following subclauses:

''(I) At least 2 of the following apply to the recipient:

''(aa) The individual has not completed secondary school or obtained a certificate of general equivalency, and has low skills in reading and mathematics.

''(bb) The individual requires substance abuse treatment for employment.

''(cc) The individual has a poor work history. The Secretary shall prescribe such regulations as may be necessary to interpret this subclause.

''(II) The individual—

''(aa) has received assistance under the State program funded under this part (whether in effect before or after the amendments made by section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 first apply to the State) for at least 30 months (whether or not consecutive); or

''(bb) within 12 months, will become ineligible for assistance under the State program funded under this part by reason of a durational limit on such assistance, without regard to any exemption provided pursuant to section 408(a)(7)(C) that may apply to the individual.

''(iii) LIMITATION ON APPLICABILITY OF SECTION 404.—The rules of section 404, other than subsections (b), (f), and (h) of section 404, shall not apply to a grant made under this paragraph.

''(iv) COOPERATION WITH TANF AGENCY.—On a determination by the Secretary an entity that operates a project with funds provided under this paragraph and the agency administering the State program funded under this part are not adhering to the agreement to implement any plan or project for which the funds are provided, the recipient of the funds shall remit the funds to the Secretary.

''(v) PROHIBITION AGAINST USE OF GRANT FUNDS FOR ANY OTHER FUND MATCHING REQUIREMENT.—An entity to which funds are provided under this paragraph shall not use any part of the funds to fulfill any obligation of any State, or political subdivision to contribute funds under other Federal law.

''(vi) DEADLINE FOR EXPENDITURE.—An entity to which funds are provided under this paragraph shall remit to the Secretary any part of the funds that are not expended within 3 years after the date the funds are so provided.

''(D) INDIVIDUALS WITH INCOME LESS THAN THE POVERTY LINE.—For purposes of this paragraph, the number of individuals with an income that is less than the poverty line shall be determined based on the methodology used by the Bureau of the Census to produce and publish intercensal poverty data for 1993 for States and counties.

''(E) SET-ASIDE FOR HIGH PERFORMANCE BONUS.—$100,000,000 of the amount specified in subparagraph (H) for fiscal year 1999 shall be reserved for use by the Secretary to make bonus grants (in the same manner as such grants are determined under paragraph (4)) for fiscal year 2003 to those States that receive funds under this paragraph and that are most successful in increasing the earnings of individuals described in subparagraph (C)(ii)(II).

''(F) SET-ASIDE FOR INDIAN TRIBES.—1 percent of the amount specified in subparagraph (H) for each fiscal year shall be reserved for grants to Indian tribes under section 412(a)(3).

''(G) SET-ASIDE FOR EVALUATIONS.—0.5 percent of the amount specified in subparagraph (H) for each fiscal year shall be reserved for use by the Secretary to carry out section 413(j).

''(H) FUNDING.—The amount specified in this subparagraph is—

''(i) $750,000,000 for fiscal year 1998;

''(ii) $1,250,000,000 for fiscal year 1999; and

''(iii) $1,000,000,000 for fiscal year 2000.

''(I) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to this paragraph shall remain available through fiscal year 2002.

''(J) BUDGET SCORING.—Notwithstanding section 457(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985, the baseline shall assume that no grant shall be awarded under this paragraph or under section 412(a)(3) after fiscal year 2000.

''(K) NONDISPLACEMENT IN WORK ACTIVITIES.—

''(i) PROHIBITIONS.—

''(I) GENERAL PROHIBITION.—A participant in a work activity pursuant to this paragraph shall not displace (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits) any individual who, as of the date of the participation, is an employee.

''(II) PROHIBITION ON IMPAIRMENT OF CONTRACTS.—A work activity pursuant to this paragraph shall not impair an existing contract for services or collective bargaining agreement, and a work activity that would be inconsistent with the terms of a collective bargaining agreement shall not be undertaken without the written concurrence of the labor organization and employer concerned.

''(III) OTHER PROHIBITIONS.—A participant in a work activity shall not be employed in a job—

''(aa) when any other individual is on layoff from the same or any substantially equivalent job;

''(bb) when the employer has terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created with the participant; or

''(cc) which is created in a promotional line that will infringe in any way upon the promotional opportunities of employed individuals.

''(ii) HEALTH AND SAFETY.—Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees shall be equally applicable to working conditions of participants engaged in a work activity pursuant to this paragraph. To the extent that a State workers' compensation law applies, workers' compensation shall be provided to participants on the same basis as the compensation is provided to other individuals in the State in similar employment.

''(iii) GRIEVANCE PROCEDURE.—

''(I) IN GENERAL.—Each State to which a grant is made under this paragraph shall establish and maintain a procedure for grievances or complaints alleging violations of clauses (i) or (ii) from participants and other interested or affected parties. The procedure shall include an opportunity for a hearing and be completed within 60 days after the grievance or complaint is filed.

''(II) INVESTIGATION.—

''(aa) IN GENERAL.—The Secretary of Labor shall investigate an allegation of a violation of clause (i) or (ii) if a decision relating to the violation is not reached within 60 days after the date of the filing of the grievance or complaint, and either party appeals to the Secretary of Labor, or a decision relating to the violation is reached within the 60-day period, and the party to which the decision is adverse appeals the decision to the Secretary of Labor.

''(bb) ADDITIONAL REQUIREMENT.—The Secretary of Labor shall make a final determination relating to an appeal made under item (aa) not later than 120 days after receiving the appeal.

''(III) REMEDIES.—Remedies for violation of clause (i) or (ii) shall be limited to—

''(aa) suspension or termination of payments under this paragraph;

''(bb) prohibition of placement of a participant with an employer that has violated clause (i) or (ii);

''(cc) where applicable, reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions and privileges of employment; and

''(dd) where appropriate, other equitable relief.''.

(2) CONFORMING AMENDMENT.—Section 409(a)(7)(B)(iv) of such Act (42 U.S.C. 609(a)(7)(B)(iv)) is amended to read as follows:

''(iv) EXPENDITURES BY THE STATE.—The term 'expenditures by the State' does not include—

''(I) any expenditure from amounts made available by the Federal Government;

''(II) any State funds expended for the medicaid program under title XIX;

''(III) any State funds which are used to match Federal funds provided under section 403(a)(5); or

''(IV) any State funds which are expended as a condition of receiving Federal funds other than under this part.

Notwithstanding subclause (IV) of the preceding sentence, such term includes expenditures by a State for child care in a fiscal year to the extent that the total amount of the expenditures does not exceed the amount of State expenditures in fiscal year 1994 or 1995 (whichever is the greater) that equal the non-Federal share for the programs described in section 418(a)(1)(A).''.

(b) GRANTS TO OUTLYING AREAS.—Section 1108(a)(1) of such Act (42 U.S.C. 1308(a)(1)) is amended by inserting ''(except section 403(a)(5))'' after ''title IV''.

(c) GRANTS TO INDIAN TRIBES.—Section 412(a) of such Act (42 U.S.C. 612(a)) is amended by adding at the end the following:

''(3) WELFARE-TO-WORK GRANTS.—

''(A) IN GENERAL.—The Secretary shall award a grant in accordance with this paragraph to an Indian tribe for each fiscal year specified in section 403(a)(5)(H) for which the Indian tribe is a welfare-to-work tribe, in such amount as the Secretary deems appropriate, subject to subparagraph (B) of this paragraph.

''(B) WELFARE-TO-WORK TRIBE.—An Indian tribe shall be considered a welfare-to-work tribe for a fiscal year for purposes of this paragraph if the Indian tribe meets the following requirements:

''(i) The Indian tribe has submitted to the Secretary (in the form of an addendum to the tribal family assistance plan, if any, of the Indian tribe) a plan which describes how, consistent with section 403(a)(5), the Indian tribe will use any funds provided under this paragraph during the fiscal year.

''(ii) The Indian tribe has provided the Secretary with an estimate of the amount that the Indian tribe intends to expend during the fiscal year (excluding tribal expenditures described in section 409(a)(7)(B)(iv)) for activities described in section 403(a)(5)(C)(i).

''(iii) The Indian tribe has agreed to negotiate in good faith with the Secretary of Health and Human Services with respect to the substance of any evaluation under section 413(j), and to cooperate with the conduct of any such evaluation.

''(C) LIMITATIONS ON USE OF FUNDS.—Section 403(a)(5)(C) shall apply to funds provided to Indian tribes under this paragraph in the same manner in which such section applies to funds provided under section 403(a)(5).''.

(d) FUNDS RECEIVED FROM GRANTS TO BE DISREGARDED IN APPLYING DURATIONAL LIMIT ON ASSISTANCE.—Section 408(a)(7) of such Act (42 U.S.C. 608(a)(7)) is amended by adding at the end the following:

''(G) INAPPLICABILITY TO WELFARE-TO-WORK GRANTS AND ASSISTANCE.—For purposes of subparagraph (A) of this paragraph, a grant made under section 403(a)(5) shall not be considered a grant made under section 403, and assistance from funds provided under section 403(a)(5) shall not be considered assistance.''.

(e) EVALUATIONS.—Section 413 of such Act (42 U.S.C. 613) is amended by adding at the end the following:

''(j) EVALUATION OF WELFARE-TO-WORK PROGRAMS.—

''(1) EVALUATION.—The Secretary—

''(A) shall, in consultation with the Secretary of Labor, develop a plan to evaluate how grants made under sections 403(a)(5) and 412(a)(3) have been used;

''(B) may evaluate the use of such grants by such grantees as the Secretary deems appropriate, in accordance with an agreement entered into with the grantees after good-faith negotiations; and

''(C) shall include the following outcome measures in the plan developed under subparagraph (A):

''(i) Placements in the labor force and placements in the labor force that last for at least 6 months.

''(ii) Placements in the private and public sectors.

''(iii) Earnings of individuals who obtain employment.

''(iv) Average expenditures per placement.

''(2) REPORTS TO THE CONGRESS.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Secretary, in consultation with the Secretary of Labor and the Secretary of Housing and Urban Development, shall submit to the Congress reports on the projects funded under sections 403(a)(5) and 412(a)(3) and on the evaluations of the projects.

''(B) INTERIM REPORT.—Not later than January 1, 1999, the Secretary shall submit an interim report on the matter described in subparagraph (A).

''(C) FINAL REPORT.—Not later than January 1, 2001 (or at a later date, if the Secretary informs the committees of the Congress with jurisdiction over the subject matter of the report) the Secretary shall submit a final report on the matter described in subparagraph (A).''.

SEC. 5822. CLARIFICATION OF A STATE'S ABILITY TO SANCTION AN INDIVIDUAL RECEIVING ASSISTANCE UNDER TANF FOR NONCOMPLIANCE.

(a) IN GENERAL.—Section 408 (42 U.S.C. 608) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b), the following:

''(c) NONAPPLICATION OF ANY MINIMUM WAGE REQUIREMENTS WITH RESPECT TO INDIVIDUAL SANCTIONS.—Notwithstanding any other provision of law, any requirement imposed by law, regulation, or otherwise that requires that an individual in a family that receives assistance under the State program funded under this part receive the applicable minimum wage under section 6 of the Fair Labor Standards Act (29 U.S.C. 206), shall not prohibit a State from imposing against a family that includes such an individual any penalty that may be imposed under the State program funded under this part for failure to comply with a requirement under such program.''.

(b) RETROACTIVITY.—The amendment made by subsection (a) shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2112).

CHAPTER 3—UNEMPLOYMENT COMPENSATION

SEC. 5831. INCREASE IN FEDERAL UNEMPLOYMENT ACCOUNT CEILING.

(a) IN GENERAL.—Section 902(a)(2) (42 U.S.C. 1102(a)(2)) is amended by striking ''0.25 percent'' and inserting ''0.5 percent''.

(b) EFFECTIVE DATE.—This section and the amendment made by this section—

(1) shall take effect on October 1, 2001, and

(2) shall apply to fiscal years beginning on or after that date.

SEC. 5832. SPECIAL DISTRIBUTION TO STATES FROM UNEMPLOYMENT TRUST FUND.

(a) IN GENERAL.—Section 903(a) (42 U.S.C. 1103(a)) is amended by adding at the end the following new paragraph:

''(3)(A) Notwithstanding any other provision of this section, for purposes of carrying out this subsection with respect to any excess amount (referred to in paragraph (1)) remaining in the employment security administration account as of the close of fiscal year 1999, 2000, or 2001, such amount shall—

''(i) to the extent of any amounts not in excess of $100,000,000, be subject to subparagraph (B), and

''(ii) to the extent of any amounts in excess of $100,000,000, be subject to subparagraph (C).

''(B) Paragraphs (1) and (2) shall apply with respect to any amounts described in subparagraph (A)(i), except that—

''(i) in carrying out the provisions of paragraph (2)(B) with respect to such amounts (to determine the portion of such amounts which is to be allocated to a State for a succeeding fiscal year), the ratio to be applied under such provisions shall be the same as the ratio that—

''(I) the amount of funds to be allocated to such State for such fiscal year pursuant to title III, bears to

''(II) the total amount of funds to be allocated to all States for such fiscal year pursuant to title III,

as determined by the Secretary of Labor, and

''(ii) the amounts allocated to a State pursuant to this subparagraph shall be available to such State, subject to the last sentence of subsection (c)(2).

Nothing in this paragraph shall preclude the application of subsection (b) with respect to any allocation determined under this subparagraph.

''(C) Any amounts described in clause (ii) of subparagraph (A) (remaining in the employment security administration account as of the close of any fiscal year specified in such subparagraph) shall, as of the beginning of the succeeding fiscal year, accrue to the Federal unemployment account, without regard to the limit provided in section 902(a).''.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 903(c) of the Social Security Act is amended by adding at the end, as a flush left sentence, the following:

''Any amount allocated to a State under this section for fiscal year 2000, 2001, or 2002 may be used by such State only to pay expenses incurred by it for the administration of its unemployment compensation law, and may be so used by it without regard to any of the conditions prescribed in any of the preceding provisions of this paragraph.''.

SEC. 5833. TREATMENT OF CERTAIN SERVICES PERFORMED BY INMATES.

(a) IN GENERAL.—Subsection (c) of section 3306 of the Internal Revenue Code of 1986 (defining employment) is amended—

(1) by striking ''or'' at the end of paragraph (19),

(2) by striking the period at the end of paragraph (20) and inserting ''; or'', and

(3) by adding at the end the following new paragraph:

''(21) service performed by a person committed to a penal institution.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to service performed after March 26, 1996.

DIVISION 4—EARNED INCOME CREDIT AND OTHER PROVISIONS

Subtitle L—Earned Income Credit and Other Provisions

CHAPTER 1—EARNED INCOME CREDIT

SEC. 5851. RESTRICTIONS ON AVAILABILITY OF EARNED INCOME CREDIT FOR TAXPAYERS WHO IMPROPERLY CLAIMED CREDIT IN PRIOR YEAR.

(a) IN GENERAL.—Section 32 of the Internal Revenue Code of 1986 (relating to earned income credit) is amended by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and by inserting after subsection (j) the following new subsection:

''(k) RESTRICTIONS ON TAXPAYERS WHO IMPROPERLY CLAIMED CREDIT IN PRIOR YEAR.—

''(1) TAXPAYERS MAKING PRIOR FRAUDULENT OR RECKLESS CLAIMS.—

''(A) IN GENERAL.—No credit shall be allowed under this section for any taxable year in the disallowance period.

''(B) DISALLOWANCE PERIOD.—For purposes of paragraph (1), the disallowance period is—

''(i) the period of 10 taxable years after the most recent taxable year for which there was a final determination that the taxpayer's claim of credit under this section was due to fraud, and

''(ii) the period of 2 taxable years after the most recent taxable year for which there was a final determination that the taxpayer's claim of credit under this section was due to reckless or intentional disregard of rules and regulations (but not due to fraud).

''(2) TAXPAYERS MAKING IMPROPER PRIOR CLAIMS.—In the case of a taxpayer who is denied credit under this section for any taxable year as a result of the deficiency procedures under subchapter B of chapter 63, no credit shall be allowed under this section for any subsequent taxable year unless the taxpayer provides such information as the Secretary may require to demonstrate eligibility for such credit.''.

(b) DUE DILIGENCE REQUIREMENT ON INCOME TAX RETURN PREPARERS.—Section 6695 of the Internal Revenue Code of 1986 (relating to other assessable penalties with respect to the preparation of income tax returns for other persons) is amended by adding at the end the following new subsection:

''(g) FAILURE TO BE DILIGENT IN DETERMINING ELIGIBILITY FOR EARNED INCOME CREDIT.—Any person who is an income tax preparer with respect to any return or claim for refund who fails to comply with due diligence requirements imposed by the Secretary by regulations with respect to determining eligibility for, or the amount of, the credit allowable by section 32 shall pay a penalty of $100 for each such failure.''.

(c) EXTENSION PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Paragraph (2) of section 6213(g) (relating to the definition of mathematical or clerical errors) is amended by striking ''and'' at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting '', and'', and by inserting after subparagraph (I) the following new subparagraph:

''(J) an omission of information required by section 32(k)(2) (relating to taxpayers making improper prior claims of earned income credit).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

CHAPTER 2—INCREASE IN PUBLIC DEBT LIMIT

SEC. 5861. INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking the dollar amount contained therein and inserting ''$5,950,000,000,000''.

CHAPTER 3—MISCELLANEOUS

SEC. 5871. SENSE OF THE SENATE REGARDING THE CORRECTION OF COST-OF-LIVING ADJUSTMENTS.

(a) FINDINGS.—The Senate makes the following findings:

(1) The final report of the Senate Finance Committee's Advisory Commission to Study the Consumer Price Index, chaired by Professor Michael Boskin, has concluded that the Consumer Price Index overstates the cost of living in the United States by 1.1 percentage points.

(2) Dr. Alan Greenspan, Chairman of the Board of Governors of the Federal Reserve System, has testified before the Senate Finance Committee that ''the best available evidence suggests that there is virtually no chance that the CPI as currently published understates'' the cost of living and that there is ''a very high probability that the upward bias ranges between ½ percentage point per year and 1½ percentage points per year''.

(3) The overstatement of the cost of living by the Consumer Price Index has been recognized by economists since at least 1961, when a report noting the existence of the overstatement was issued by a National Bureau of Economic Research Committee, chaired by Professor George J. Stigler.

(4) Congress and the President, through the indexing of Federal tax brackets, Social Security benefits, and other Federal program benefits, have undertaken to protect taxpayers and beneficiaries of such programs from the erosion of purchasing power due to inflation.

(5) Congress and the President intended the indexing of Federal tax brackets, Social Security benefits, and other Federal program benefits to accurately reflect changes in the cost of living.

(6) The overstatement of the cost of living increases the deficit and undermines the equitable administration of Federal benefits and tax policies.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that all cost-of-living adjustments required by statute should accurately reflect the best available estimate of changes in the cost of living.

Subtitle M—Welfare Reform Technical Corrections

SEC. 5900. SHORT TITLE OF SUBTITLE.

This subtitle may be cited as the ''Welfare Reform Technical Corrections Act of 1997''.

CHAPTER 1—BLOCK GRANTS FOR TEMPORARY ASSISTANCE TO NEEDY FAMILIES

SEC. 5901. AMENDMENT OF THE SOCIAL SECURITY ACT.

Except as otherwise expressly provided, wherever in this chapter an amendment or repeal is expressed in terms of an amendment to, or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act, and if the section or other provision is of part A of title IV of such Act, the reference shall be considered to be made to the section or other provision as amended by section 103, and as in effect pursuant to section 116, of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 5902. ELIGIBLE STATES; STATE PLAN.

(a) LATER DEADLINE FOR SUBMISSION OF STATE PLANS.—Section 402(a) (42 U.S.C. 602(a)) is amended by striking ''2-year period immediately preceding'' and inserting ''27-month period ending with the close of the 1st quarter of''.

(b) CLARIFICATION OF SCOPE OF WORK PROVISIONS.—Section 402(a)(1)(A)(ii) (42 U.S.C. 602(a)(1)(A)(ii)) is amended by inserting '', consistent with section 407(e)(2)'' before the period.

(c) CORRECTION OF CROSS-REFERENCE.—Section 402(a)(1)(A)(v) (42 U.S.C. 602(a)(1)(A)(v)) is amended by striking ''403(a)(2)(B)'' and inserting ''403(a)(2)(C)(iii)''.

(d) NOTIFICATION OF PLAN AMENDMENTS.—Section 402 (42 U.S.C. 602) is amended—

(1) by redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following:

''(b) PLAN AMENDMENTS.—Within 30 days after a State amends a plan submitted pursuant to subsection (a), the State shall notify the Secretary of the amendment.''; and

(2) in subsection (c) (as so redesignated), by inserting ''or plan amendment'' after ''plan''.

SEC. 5903. GRANTS TO STATES.

(a) BONUS FOR DECREASE IN ILLEGITIMACY MODIFIED TO TAKE ACCOUNT OF CERTAIN TERRITORIES.—

(1) IN GENERAL.—Section 403(a)(2)(B) (42 U.S.C. 603(a)(2)(B)) is amended to read as follows:

''(B) AMOUNT OF GRANT.—

''(i) IN GENERAL.—If, for a bonus year, none of the eligible States is Guam, the Virgin Islands, or American Samoa, then the amount of the grant shall be—

''(I) $20,000,000 if there are 5 eligible States; or

''(II) $25,000,000 if there are fewer than 5 eligible States.

''(ii) AMOUNT IF CERTAIN TERRITORIES ARE ELIGIBLE.—If, for a bonus year, Guam, the Virgin Islands, or American Samoa is an eligible State, then the amount of the grant shall be—

''(I) in the case of such a territory, 25 percent of the mandatory ceiling amount (as defined in section 1108(c)(4)) with respect to the territory; and

''(II) in the case of a State that is not such a territory—

''(aa) if there are 5 eligible States other than such territories, $20,000,000, minus ⅕ of the total amount of the grants payable under this paragraph to such territories for the bonus year; or

''(bb) if there are fewer than 5 such eligible States, $25,000,000, or such lesser amount as may be necessary to ensure that the total amount of grants payable under this paragraph for the bonus year does not exceed $100,000,000.''.

(2) CERTAIN TERRITORIES TO BE IGNORED IN RANKING OTHER STATES.—Section 403(a)(2)(C)(i)(I)(aa) (42 U.S.C. 603(a)(2)(C)(i)(I)(aa)) is amended by adding at the end the following: ''In the case of a State that is not a territory specified in subparagraph (B), the comparative magnitude of the decrease for the State shall be determined without regard to the magnitude of the corresponding decrease for any such territory.''.

(b) COMPUTATION OF BONUS BASED ON RATIOS OF OUT-OF-WEDLOCK BIRTHS TO ALL BIRTHS INSTEAD OF NUMBERS OF OUT-OF-WEDLOCK BIRTHS.—Section 403(a)(2) (42 U.S.C. 603(a)(2)) is amended—

(1) in the paragraph heading, by inserting ''RATIO'' before the period;

(2) in subparagraph (A), by striking all that follows ''bonus year'' and inserting a period; and

(3) in subparagraph (C)—

(A) in clause (i)—

(i) in subclause (I)(aa)—

(I) by striking ''number of out-of-wedlock births that occurred in the State during'' and inserting ''illegitimacy ratio of the State for''; and

(II) by striking ''number of such births that occurred during'' and inserting ''illegitimacy ratio of the State for''; and

(ii) in subclause (II)(aa)—

(I) by striking ''number of out-of-wedlock births that occurred in'' each place such term appears and inserting ''illegitimacy ratio of''; and

(II) by striking ''calculate the number of out-of-wedlock births'' and inserting ''calculate the illegitimacy ratio''; and

(B) by adding at the end the following:

''(iii) ILLEGITIMACY RATIO.—The term 'illegitimacy ratio' means, with respect to a State and a period—

''(I) the number of out-of-wedlock births to mothers residing in the State that occurred during the period; divided by

''(II) the number of births to mothers residing in the State that occurred during the period.''.

(c) USE OF CALENDAR YEAR DATA INSTEAD OF FISCAL YEAR DATA IN CALCULATING BONUS FOR DECREASE IN ILLEGITIMACY RATIO.—Section 403(a)(2)(C) (42 U.S.C. 603(a)(2)(C)) is amended—

(1) in clause (i)—

(A) in subclause (I)(bb)—

(i) by striking ''the fiscal year'' and inserting ''the calendar year for which the most recent data are available''; and

(ii) by striking ''fiscal year 1995'' and inserting ''calendar year 1995'';

(B) in subclause (II), by striking ''fiscal'' each place such term appears and inserting ''calendar''; and

(2) in clause (ii), by striking ''fiscal years'' and inserting ''calendar years''.

(d) CORRECTION OF HEADING.—Section 403(a)(3)(C)(ii) (42 U.S.C. 603(a)(3)(C)(ii)) is amended in the heading by striking ''1997'' and inserting ''1998''.

(e) CLARIFICATION OF CONTINGENCY FUND PROVISION.—Section 403(b) (42 U.S.C. 603(b)) is amended—

(1) in paragraph (6), by striking ''(5)'' and inserting ''(4)'';

(2) by striking paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (5) the following:

''(6) ANNUAL RECONCILIATION.—

''(A) IN GENERAL.—Notwithstanding paragraph (3), if the Secretary makes a payment to a State under this subsection in a fiscal year, then the State shall remit to the Secretary, within 1 year after the end of the first subsequent period of 3 consecutive months for which the State is not a needy State, an amount equal to the amount (if any) by which—

''(i) the total amount paid to the State under paragraph (3) of this subsection in the fiscal year; exceeds

''(ii) the product of—

''(I) the Federal medical assistance percentage for the State (as defined in section 1905(b), as such section was in effect on September 30, 1995);

''(II) the State's reimbursable expenditures for the fiscal year; and

''(III) 1/12 times the number of months during the fiscal year for which the Secretary made a payment to the State under such paragraph (3).

''(B) DEFINITIONS.—As used in subparagraph (A):

''(i) REIMBURSABLE EXPENDITURES.—The term 'reimbursable expenditures' means, with respect to a State and a fiscal year, the amount (if any) by which—

''(I) countable State expenditures for the fiscal year; exceeds

''(II) historic State expenditures (as defined in section 409(a)(7)(B)(iii)), excluding any amount expended by the State for child care under subsection (g) or (i) of section 402 (as in effect during fiscal year 1994) for fiscal year 1994.

''(ii) COUNTABLE STATE EXPENDITURES.—The term 'countable expenditures' means, with respect to a State and a fiscal year—

''(I) the qualified State expenditures (as defined in section 409(a)(7)(B)(i) (other than the expenditures described in subclause (I)(bb) of such section)) under the State program funded under this part for the fiscal year; plus

''(II) any amount paid to the State under paragraph (3) during the fiscal year that is expended by the State under the State program funded under this part.''.

(f) ADMINISTRATION OF CONTINGENCY FUND TRANSFERRED TO THE SECRETARY OF HHS.—Section 403(b)(7) (42 U.S.C. 603(b)(7)) is amended to read as follows:

''(7) STATE DEFINED.—As used in this subsection, the term 'State' means each of the 50 States and the District of Columbia.''.

SEC. 5904. USE OF GRANTS.

Section 404(a)(2) (42 U.S.C. 604(a)(2)) is amended by inserting '', or (at the option of the State) August 21, 1996'' before the period.

SEC. 5905. MANDATORY WORK REQUIREMENTS.

(a) FAMILY WITH A DISABLED PARENT NOT TREATED AS A 2-PARENT FAMILY.—Section 407(b)(2) (42 U.S.C. 607(b)(2)) is amended by adding at the end the following:

''(C) FAMILY WITH A DISABLED PARENT NOT TREATED AS A 2-PARENT FAMILY.—A family that includes a disabled parent shall not be considered a 2-parent family for purposes of subsections (a) and (b) of this section.''.

(b) CORRECTION OF HEADING.—Section 407(b)(3) (42 U.S.C. 607(b)(3)) is amended in the heading by inserting ''AND NOT RESULTING FROM CHANGES IN STATE ELIGIBILITY CRITERIA'' before the period.

(c) STATE OPTION TO INCLUDE INDIVIDUALS RECEIVING ASSISTANCE UNDER A TRIBAL WORK PROGRAM IN PARTICIPATION RATE CALCULATION.—Section 407(b)(4) (42 U.S.C. 607(b)(4)) is amended—

(1) in the heading, by inserting ''OR TRIBAL WORK PROGRAM'' before the period; and

(2) by inserting ''or under a tribal work program to which funds are provided under this part'' before the period.

(d) SHARING OF 35-HOUR WORK REQUIREMENT BETWEEN PARENTS IN 2-PARENT FAMILIES.—Section 407(c)(1)(B) (42 U.S.C. 607(c)(1)(B)) is amended—

(1) in clause (i)—

(A) by striking ''is'' and inserting ''and the other parent in the family are''; and

(B) by inserting ''a total of'' before ''at least''; and

(2) in clause (ii)—

(A) by striking ''individual's spouse is'' and inserting ''individual and the other parent in the family are'';

(B) by inserting ''for a total of at least 55 hours per week'' before ''during the month''; and

(C) by striking ''20'' and inserting ''50''.

(e) CLARIFICATION OF EFFORT REQUIRED IN WORK ACTIVITIES.—Section 407(c)(1)(B) (42 U.S.C. 607(c)(1)(B)) is amended by striking ''making progress'' each place such term appears and inserting ''participating''.

(f) ADDITIONAL CONDITION UNDER WHICH 12 WEEKS OF JOB SEARCH MAY COUNT AS WORK.—Section 407(c)(2)(A)(i) (42 U.S.C. 607(c)(2)(A)(i)) is amended by inserting ''or the State is a needy State (within the meaning of section 403(b)(6))'' after ''United States''.

(g) CARETAKER RELATIVE OF CHILD UNDER AGE 6 DEEMED TO BE MEETING WORK REQUIREMENTS IF ENGAGED IN WORK FOR 20 HOURS PER WEEK.—Section 407(c)(2)(B) (42 U.S.C. 607(c)(2)(B)) is amended—

(1) in the heading, by inserting ''OR RELATIVE'' after ''PARENT'' each place such term appears; and

(2) by striking ''in a 1-parent family who is the parent'' and inserting ''who is the only parent or caretaker relative in the family''.

(h) EXTENSION TO MARRIED TEENS OF RULE THAT RECEIPT OF SUFFICIENT EDUCATION IS ENOUGH TO MEET WORK PARTICIPATION REQUIREMENTS.—Section 407(c)(2)(C) (42 U.S.C. 607(c)(2)(C)) is amended—

(1) in the heading, by striking ''TEEN HEAD OF HOUSEHOLD'' and inserting ''SINGLE TEEN HEAD OF HOUSEHOLD OR MARRIED TEEN''; and

(2) by striking ''a single'' and inserting ''married or a''.

(i) CLARIFICATION OF NUMBER OF HOURS OF PARTICIPATION IN EDUCATION DIRECTLY RELATED TO EMPLOYMENT THAT ARE REQUIRED IN ORDER FOR SINGLE TEEN HEAD OF HOUSEHOLD OR MARRIED TEEN TO BE DEEMED TO BE ENGAGED IN WORK.—Section 407(c)(2)(C)(ii) (42 U.S.C. 607(c)(2)(C)(ii)) is amended by striking ''at least'' and all that follows through ''subsection'' and inserting ''an average of at least 20 hours per week during the month''.

(j) CLARIFICATION OF REFUSAL TO WORK FOR PURPOSES OF WORK PENALTIES FOR INDIVIDUALS.—Section 407(e)(2) (42 U.S.C. 607(e)(2)) is amended by striking ''work'' and inserting ''engage in work required in accordance with this section''.

(k) CLARIFICATION OF REMOVAL OF TEEN PARENTS WITH RESPECT TO VOCATIONAL EDUCATION.—Section 407(c)(2) (42 U.S.C. 607(c)(2)) is amended—

(1) in subparagraph (C), by striking '', subject to subparagraph (D) of this paragraph,''; and

(2) by striking subparagraph (D) and inserting the following:

''(D) NUMBER OF PERSONS THAT MAY BE TREATED AS ENGAGED IN WORK BY VIRTUE OF PARTICIPATION IN VOCATIONAL EDUCATION ACTIVITIES.—For purposes of determining monthly participation rates under paragraphs (1)(B)(i) and (2)(B) of subsection (b), not more than 20 percent of individuals in all families and in 2-parent families (other than individuals in such families who are described in subparagraph (C)) may be determined to be engaged in work in the State for a month by reason of participation in vocational educational training.''.

SEC. 5906. PROHIBITIONS; REQUIREMENTS.

(a) ELIMINATION OF REDUNDANT LANGUAGE; CLARIFICATION OF HOME RESIDENCE REQUIREMENT.—Section 408(a)(1) (42 U.S.C. 608(a)(1)) is amended to read as follows:

''(1) NO ASSISTANCE FOR FAMILIES WITHOUT A MINOR CHILD.—A State to which a grant is made under section 403 shall not use any part of the grant to provide assistance to a family, unless the family includes a minor child who resides with the family (consistent with paragraph (10)) or a pregnant individual.''.

(b) CLARIFICATION OF TERMINOLOGY.—Section 408(a)(3) (42 U.S.C. 608(a)(3)) is amended—

(1) by striking ''leaves'' the 1st, 3rd, and 4th places such term appears and inserting ''ceases to receive assistance under''; and

(2) by striking ''the date the family leaves the program'' the 2nd place such term appears and inserting ''such date''.

(c) ELIMINATION OF SPACE.—Section 408(a)(5)(A)(ii) (42 U.S.C. 608(a)(5)(A)(ii)) is amended by striking ''DESCRIBED.— For'' and inserting ''DESCRIBED.—For''.

(d) CORRECTIONS TO 5-YEAR LIMIT ON ASSISTANCE.—

(1) CLARIFICATION OF LIMITATION ON HARDSHIP EXEMPTION.—Section 408(a)(7)(C)(ii) (42 U.S.C. 608(a)(7)(C)(ii)) is amended—

(A) by striking ''The number'' and inserting ''The average monthly number''; and

(B) by inserting ''during the fiscal year or the immediately preceding fiscal year (but not both), as the State may elect'' before the period.

(2) RESIDENCE EXCEPTION MADE MORE UNIFORM AND EASIER TO ADMINISTER.—Section 408(a)(7)(D) (42 U.S.C. 608(a)(7)(D)) is amended to read as follows:

''(D) DISREGARD OF MONTHS OF ASSISTANCE RECEIVED BY ADULT WHILE LIVING IN INDIAN COUNTRY OR AN ALASKAN NATIVE VILLAGE WITH 50 PERCENT UNEMPLOYMENT.—

''(i) IN GENERAL.—In determining the number of months for which an adult has received assistance under a State or tribal program funded under this part, the State or tribe shall disregard any month during which the adult lived in Indian country or an Alaskan Native village if the most reliable data available with respect to the month (or a period including the month) indicate that at least 50 percent of the adults living in Indian country or in the village were not employed.

''(ii) INDIAN COUNTRY DEFINED.—As used in clause (i), the term 'Indian country' has the meaning given such term in section 1151 of title 18, United States Code.''.

(e) REINSTATEMENT OF DEEMING AND OTHER RULES APPLICABLE TO ALIENS WHO ENTERED THE UNITED STATES UNDER AFFIDAVITS OF SUPPORT FORMERLY USED.—Section 408 (42 U.S.C. 608) is amended by striking subsection (d) and inserting the following:

''(d) SPECIAL RULES RELATING TO TREATMENT OF CERTAIN ALIENS.—For special rules relating to the treatment of certain aliens, see title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

''(e) SPECIAL RULES RELATING TO THE TREATMENT OF NON-213A ALIENS.—The following rules shall apply if a State elects to take the income or resources of any sponsor of a non-213A alien into account in determining whether the alien is eligible for assistance under the State program funded under this part, or in determining the amount or types of such assistance to be provided to the alien:

''(1) DEEMING OF SPONSOR'S INCOME AND RESOURCES.—For a period of 3 years after a non-213A alien enters the United States:

''(A) INCOME DEEMING RULE.—The income of any sponsor of the alien and of any spouse of the sponsor is deemed to be income of the alien, to the extent that the total amount of the income exceeds the sum of—

''(i) the lesser of—

''(I) 20 percent of the total of any amounts received by the sponsor or any such spouse in the month as wages or salary or as net earnings from self-employment, plus the full amount of any costs incurred by the sponsor and any such spouse in producing self-employment income in such month; or

''(II) $175;

''(ii) the cash needs standard established by the State for purposes of determining eligibility for assistance under the State program funded under this part for a family of the same size and composition as the sponsor and any other individuals living in the same household as the sponsor who are claimed by the sponsor as dependents for purposes of determining the sponsor's Federal personal income tax liability but whose needs are not taken into account in determining whether the sponsor's family has met the cash needs standard;

''(iii) any amounts paid by the sponsor or any such spouse to individuals not living in the household who are claimed by the sponsor as dependents for purposes of determining the sponsor's Federal personal income tax liability; and

''(iv) any payments of alimony or child support with respect to individuals not living in the household.

''(B) RESOURCE DEEMING RULE.—The resources of a sponsor of the alien and of any spouse of the sponsor are deemed to be resources of the alien to the extent that the aggregate value of the resources exceeds $1,500.

''(C) SPONSORS OF MULTIPLE NON-213A ALIENS.—If a person is a sponsor of 2 or more non-213A aliens who are living in the same home, the income and resources of the sponsor and any spouse of the sponsor that would be deemed income and resources of any such alien under subparagraph (A) shall be divided into a number of equal shares equal to the number of such aliens, and the State shall deem the income and resources of each such alien to include 1 such share.

''(2) INELIGIBILITY OF NON-213A ALIENS SPONSORED BY AGENCIES; EXCEPTION.—A non-213A alien whose sponsor is or was a public or private agency shall be ineligible for assistance under a State program funded under this part, during a period of 3 years after the alien enters the United States, unless the State agency administering the program determines that the sponsor either no longer exists or has become unable to meet the alien's needs.

''(3) INFORMATION PROVISIONS.—

''(A) DUTIES OF NON-213A ALIENS.—A non-213A alien, as a condition of eligibility for assistance under a State program funded under this part

during the period of 3 years after the alien enters the United States, shall be required to provide to the State agency administering the program—

''(i) such information and documentation with respect to the alien's sponsor as may be necessary in order for the State agency to make any determination required under this subsection, and to obtain any cooperation from the sponsor necessary for any such determination; and

''(ii) such information and documentation as the State agency may request and which the alien or the alien's sponsor provided in support of the alien's immigration application.

''(B) DUTIES OF FEDERAL AGENCIES.—The Secretary shall enter into agreements with the Secretary of State and the Attorney General under which any information available to them and required in order to make any determination under this subsection will be provided by them to the Secretary (who may, in turn, make the information available, upon request, to a concerned State agency).

''(4) NON-213A ALIEN DEFINED.—An alien is a non-213A alien for purposes of this subsection if the affidavit of support or similar agreement with respect to the alien that was executed by the sponsor of the alien's entry into the United States was executed other than pursuant to section 213A of the Immigration and Nationality Act.

''(5) INAPPLICABILITY TO ALIEN MINOR SPONSORED BY A PARENT.—This subsection shall not apply to an alien who is a minor child if the sponsor of the alien or any spouse of the sponsor is a parent of the alien.

''(6) INAPPLICABILITY TO CERTAIN CATEGORIES OF ALIENS.—This subsection shall not apply to an alien who is—

''(A) admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

''(B) paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year; or

''(C) granted political asylum by the Attorney General under section 208 of such Act.''.

SEC. 5907. PENALTIES.

(a) STATES GIVEN MORE TIME TO FILE QUARTERLY REPORTS.—Section 409(a)(2)(A) (42 U.S.C. 609(a)(2)(A)) is amended by striking ''1 month'' and inserting ''45 days''.

(b) TREATMENT OF SUPPORT PAYMENTS PASSED THROUGH TO FAMILIES AS QUALIFIED STATE EXPENDITURES.—Section 409(a)(7)(B)(i)(I)(aa) (42 U.S.C. 609(a)(7)(B)(i)(I)(aa)) is amended by inserting '', including any amount collected by the State as support pursuant to a plan approved under part D, on behalf of a family receiving assistance under the State program funded under this part, that is distributed to the family under section 457(a)(1)(B) and disregarded in determining the eligibility of the family for, and the amount of, such assistance'' before the period.

(c) DISREGARD OF EXPENDITURES MADE TO REPLACE PENALTY GRANT REDUCTIONS.—Section 409(a)(7)(B)(i) (42 U.S.C. 609(a)(7)(B)(i)) is amended by redesignating subclause (III) as subclause (IV) and by inserting after subclause (II) the following:

''(III) EXCLUSION OF AMOUNTS EXPENDED TO REPLACE PENALTY GRANT REDUCTIONS.—Such term does not include any amount expended in order to comply with paragraph (12).''.

(d) TREATMENT OF FAMILIES OF CERTAIN ALIENS AS ELIGIBLE FAMILIES.—Section 409(a)(7)(B)(i)(IV) (42 U.S.C. 609(a)(7)(B)(i)(IV)), as so redesignated by subsection (c) of this section, is amended—

(1) by striking ''and families'' and inserting ''families''; and

(2) by striking ''Act or section 402'' and inserting ''Act, and families of aliens lawfully present in the United States that would be eligible for such assistance but for the application of title IV''.

(e) ELIMINATION OF MEANINGLESS LANGUAGE.—Section 409(a)(7)(B)(ii) (42 U.S.C. 609(a)(7)(B)(ii)) is amended by striking ''reduced (if appropriate) in accordance with subparagraph (C)(ii)''.

(f) CLARIFICATION OF SOURCE OF DATA TO BE USED IN DETERMINING HISTORIC STATE EXPENDITURES.—Section 409(a)(7)(B) (42 U.S.C. 609(a)(7)(B)) is amended by adding at the end the following:

''(v) SOURCE OF DATA.—In determining expenditures by a State for fiscal years 1994 and 1995, the Secretary shall use information which was reported by the State on ACF Form 231 or (in the case of expenditures under part F) ACF Form 331, available as of the dates specified in clauses (ii) and (iii) of section 403(a)(1)(D).''.

(g) CONFORMING TITLE IV–A PENALTIES TO TITLE IV–D PERFORMANCE-BASED STANDARDS.—Section 409(a)(8) (42 U.S.C. 609(a)(8)) is amended to read as follows:

''(8) NONCOMPLIANCE OF STATE CHILD SUPPORT ENFORCEMENT PROGRAM WITH REQUIREMENTS OF PART D.—

''(A) IN GENERAL.—If the Secretary finds, with respect to a State's program under part D, in a fiscal year beginning on or after October 1, 1997—

''(i)(I) on the basis of data submitted by a State pursuant to section 454(15)(B), or on the basis of the results of a review conducted under section 452(a)(4), that the State program failed to achieve the paternity establishment percentages (as defined in section 452(g)(2)), or to meet other performance measures that may be established by the Secretary;

''(II) on the basis of the results of an audit or audits conducted under section 452(a)(4)(C)(i) that the State data submitted pursuant to section 454(15)(B) is incomplete or unreliable; or

''(III) on the basis of the results of an audit or audits conducted under section 452(a)(4)(C) that a State failed to substantially comply with 1 or more of the requirements of part D; and

''(ii) that, with respect to the succeeding fiscal year—

''(I) the State failed to take sufficient corrective action to achieve the appropriate performance levels or compliance as described in subparagraph (A)(i); or

''(II) the data submitted by the State pursuant to section 454(15)(B) is incomplete or unreliable; the amounts otherwise payable to the State under this part for quarters following the end of such succeeding fiscal year, prior to quarters following the end of the first quarter throughout which the State program has achieved the paternity establishment percentages or other performance measures as described in subparagraph (A)(i)(I), or is in substantial compliance with 1 or more of the requirements of part D as described in subparagraph (A)(i)(III), as appropriate, shall be reduced by the percentage specified in subparagraph (B).

''(B) AMOUNT OF REDUCTIONS.—The reductions required under subparagraph (A) shall be—

''(i) not less than 1 nor more than 2 percent;

''(ii) not less than 2 nor more than 3 percent, if the finding is the 2nd consecutive finding made pursuant to subparagraph (A); or

''(iii) not less than 3 nor more than 5 percent, if the finding is the 3rd or a subsequent consecutive such finding.

''(C) DISREGARD OF NONCOMPLIANCE WHICH IS OF A TECHNICAL NATURE.—For purposes of this section and section 452(a)(4), a State determined as a result of an audit—

''(i) to have failed to have substantially complied with 1 or more of the requirements of part D shall be determined to have achieved substantial compliance only if the Secretary determines that the extent of the noncompliance is of a technical nature which does not adversely affect the performance of the State's program under part D; or

''(ii) to have submitted incomplete or unreliable data pursuant to section 454(15)(B) shall be determined to have submitted adequate data only if the Secretary determines that the extent of the incompleteness or unreliability of the data is of a technical nature which does not adversely affect the determination of the level of the State's paternity establishment percentages (as defined under section 452(g)(2)) or other performance measures that may be established by the Secretary.''.

(h) CORRECTION OF REFERENCE TO 5-YEAR LIMIT ON ASSISTANCE.—Section 409(a)(9) (42 U.S.C. 609(a)(9)) is amended by striking ''408(a)(1)(B)'' and inserting ''408(a)(7)''.

(i) CORRECTION OF ERRORS IN PENALTY FOR FAILURE TO MEET MAINTENANCE OF EFFORT REQUIREMENT APPLICABLE TO THE CONTINGENCY FUND.—Section 409(a)(10) (42 U.S.C. 609(a)(10)) is amended—

(1) by striking ''the expenditures under the State program funded under this part for the fiscal year (excluding any amounts made available by the Federal Government)'' and inserting ''the qualified State expenditures (as defined in paragraph (7)(B)(i) (other than the expenditures described in subclause (I)(bb) of that paragraph)) under the State program funded under this part for the fiscal year'';

(2) by inserting ''excluding any amount expended by the State for child care under subsection (g) or (i) of section 402 (as in effect during fiscal year 1994) for fiscal year 1994,'' after ''(as defined in paragraph (7)(B)(iii) of this subsection),''; and

(3) by inserting ''that the State has not remitted under section 403(b)(6)'' before the period.

(j) PENALTY FOR STATE FAILURE TO EXPEND ADDITIONAL STATE FUNDS TO REPLACE GRANT REDUCTIONS.—Section 409(a)(12) (42 U.S.C. 609(a)(12)) is amended—

(1) in the heading—

(A) by striking ''FAILURE'' and inserting ''REQUIREMENT''; and

(B) by striking ''REDUCTIONS'' and inserting ''REDUCTIONS; PENALTY FOR FAILURE TO DO SO''; and

(2) by inserting '', and if the State fails to do so, the Secretary may reduce the grant payable to the State under section 403(a)(1) for the fiscal year that follows such succeeding fiscal year by an amount equal to not more than 2 percent of the State family assistance grant'' before the period.

(k) ELIMINATION OF CERTAIN REASONABLE CAUSE EXCEPTIONS.—Section 409(b)(2) (42 U.S.C. 609(b)(2)) is amended by striking ''(7) or (8)'' and inserting ''(6), (7), (8), (10), or (12)''.

(l) CLARIFICATION OF WHAT IT MEANS TO CORRECT A VIOLATION.—Section 409(c) (42 U.S.C. 609(c)) is amended—

(1) in each of subparagraphs (A) and (B) of paragraph (1), by inserting ''or discontinue, as appropriate,'' after ''correct'';

(2) in paragraph (2)—

(A) in the heading, by inserting ''OR DISCONTINUING'' after ''CORRECTING''; and

(B) by inserting ''or discontinues, as appropriate'' after ''corrects''; and

(3) in paragraph (3)—

(A) in the heading, by inserting ''OR DISCONTINUE'' after ''CORRECT''; and

(B) by inserting ''or discontinue, as appropriate,'' before ''the violation''.

(m) CERTAIN PENALTIES NOT AVOIDABLE THROUGH CORRECTIVE COMPLIANCE PLANS.—Section 409(c)(4) (42 U.S.C. 609(c)(4)) is amended to read as follows:

''(4) INAPPLICABILITY TO CERTAIN PENALTIES.—This subsection shall not apply to the imposition of a penalty against a State under paragraph (6), (7), (8), (10), or (12) of subsection (a).''.

(n) FAILURE TO SATISFY MINIMUM PARTICIPATION RATES.—Section 409(a)(3) (42 U.S.C. 609(a)(3)) is amended—

(1) in subparagraph (A), by striking ''not more than''; and

(2) in subparagraph (C), by inserting before the period the following: ''or if the noncompliance is due to extraordinary circumstances such as a natural disaster or regional recession. The Secretary shall provide a written report to Congress to justify any waiver or penalty reduction due to such extraordinary circumstances''.

SEC. 5908. DATA COLLECTION AND REPORTING.

Section 411(a) (42 U.S.C. 611(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking clause (ii) and inserting the following:

''(ii) Whether a child receiving such assistance or an adult in the family is receiving—

''(I) Federal disability insurance benefits;

''(II) benefits based on Federal disability status;

''(III) aid under a State plan approved under title XIV (as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972));

''(IV) aid or assistance under a State plan approved under title XVI (as in effect without regard to such amendment) by reason of being permanently and totally disabled; or

''(V) supplemental security income benefits under title XVI (as in effect pursuant to such amendment) by reason of disability.'';

(ii) in clause (iv), by striking ''youngest child in'' and inserting ''head of'';

(iii) in each of clauses (vii) and (viii), by striking ''status'' and inserting ''level''; and

(iv) by adding at the end the following:

''(xvii) With respect to each individual in the family who has not attained 20 years of age, whether the individual is a parent of a child in the family.''; and

(B) in subparagraph (B)—

(i) in the heading, by striking ''ESTIMATES'' and inserting ''SAMPLES''; and

(ii) in clause (i), by striking ''an estimate which is obtained'' and inserting ''disaggregated case record information on a sample of families selected''; and

(2) by redesignating paragraph (6) as paragraph (7) and inserting after paragraph (5) the following:

''(6) REPORT ON FAMILIES RECEIVING ASSISTANCE.—The report required by paragraph (1) for a fiscal quarter shall include for each month in the quarter the number of families and individuals receiving assistance under the State program funded under this part (including the number of 2-parent and 1-parent families), and the total dollar value of such assistance received by all families.''.

SEC. 5909. DIRECT FUNDING AND ADMINISTRATION BY INDIAN TRIBES.

(a) PRORATING OF TRIBAL FAMILY ASSISTANCE GRANTS.—Section 412(a)(1)(A) (42 U.S.C. 612(a)(1)(A)) is amended by inserting ''which shall be reduced for a fiscal year, on a pro rata basis for each quarter, in the case of a tribal family assistance plan approved during a fiscal year for which the plan is to be in effect,'' before ''and shall''.

(b) TRIBAL OPTION TO OPERATE WORK ACTIVITIES PROGRAM.—Section 412(a)(2)(A) (42 U.S.C. 612(a)(2)(A)) is amended by striking ''The Secretary'' and all that follows through ''2002'' and inserting ''For each of fiscal years 1997, 1998, 1999, 2000, 2001, and 2002, the Secretary shall pay to each eligible Indian tribe that proposes to operate a program described in subparagraph (C)''.

(c) DISCRETION OF TRIBES TO SELECT POPULATION TO BE SERVED BY TRIBAL WORK ACTIVITIES PROGRAM.—Section 412(a)(2)(C) (42 U.S.C. 612(a)(2)(C)) is amended by striking ''members of the Indian tribe'' and inserting ''such population and such service area or areas as the tribe specifies''.

(d) REDUCTION OF APPROPRIATION FOR TRIBAL WORK ACTIVITIES PROGRAMS.—Section 412(a)(2)(D) (42 U.S.C. 612(a)(2)(D)) is amended by striking ''$7,638,474'' and inserting ''$7,633,287''.

(e) AVAILABILITY OF CORRECTIVE COMPLIANCE PLANS TO INDIAN TRIBES.—Section 412(f)(1) (42 U.S.C. 612(f)(1)) is amended by striking ''and (b)'' and inserting ''(b), and (c)''.

(f) ELIGIBILITY OF TRIBES FOR FEDERAL LOANS FOR WELFARE PROGRAMS.—Section 412 (42 U.S.C. 612) is amended by redesignating subsections (f), (g), and (h) as subsections (g), (h), and (i), respectively, and by inserting after subsection (e) the following:

''(f) ELIGIBILITY FOR FEDERAL LOANS.—Section 406 shall apply to an Indian tribe with an approved tribal assistance plan in the same manner as such section applies to a State, except that section 406(c) shall be applied by substituting 'section 412(a)' for 'section 403(a)'.''.

SEC. 5910. RESEARCH, EVALUATIONS, AND NATIONAL STUDIES.

(a) RESEARCH.—

(1) METHODS.—Section 413(a) (42 U.S.C. 613(a)) is amended by inserting '', directly or through grants, contracts, or interagency agreements,'' before ''shall conduct''.

(2) CORRECTION OF CROSS REFERENCE.—Section 413(a) (42 U.S.C. 613(a)) is amended by striking ''409'' and inserting ''407''.

(b) CORRECTION OF ERRONEOUSLY INDENTED PARAGRAPH.—Section 413(e)(1) (42 U.S.C. 613(e)(1)) is amended to read as follows:

''(1) IN GENERAL.—The Secretary shall annually rank States to which grants are made under section 403 based on the following ranking factors:

''(A) ABSOLUTE OUT-OF-WEDLOCK RATIOS.—The ratio represented by—

''(i) the total number of out-of-wedlock births in families receiving assistance under the State program under this part in the State for the most recent year for which information is available; over

''(ii) the total number of births in families receiving assistance under the State program under this part in the State for the year.

''(B) NET CHANGES IN THE OUT-OF-WEDLOCK RATIO.—The difference between the ratio described in subparagraph (A) with respect to a State for the most recent year for which such information is available and the ratio with respect to the State for the immediately preceding year.''.

(c) FUNDING OF PRIOR AUTHORIZED DEMONSTRATIONS.—Section 413(h)(1)(D) (42 U.S.C. 613(h)(1)(D)) is amended by striking ''September 30, 1995'' and inserting ''August 22, 1996''.

(d) CHILD POVERTY REPORTS.—

(1) DELAYED DUE DATE FOR INITIAL REPORT.—Section 413(i)(1) (42 U.S.C. 613(i)(1)) is amended by striking ''90 days after the date of the enactment of this part'' and inserting ''November 30, 1997''.

(2) MODIFICATION OF FACTORS TO BE USED IN ESTABLISHING METHODOLOGY FOR USE IN DETERMINING CHILD POVERTY RATES.—Section 413(i)(5) (42 U.S.C. 613(i)(5)) is amended by striking ''the county-by-county'' and inserting '', to the extent available, county-by-county''.

SEC. 5911. REPORT ON DATA PROCESSING.

Section 106(a)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2164) is amended by striking ''(whether in effect before or after October 1, 1995)''.

SEC. 5912. STUDY ON ALTERNATIVE OUTCOMES MEASURES.

Section 107(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2164) is amended by striking ''409(a)(7)(C)'' and inserting ''408(a)(7)(C)''.

SEC. 5913. LIMITATION ON PAYMENTS TO THE TERRITORIES.

(a) CERTAIN PAYMENTS TO BE DISREGARDED IN DETERMINING LIMITATION.—Section 1108(a) (42 U.S.C. 1308) is amended to read as follows:

''(a) LIMITATION ON TOTAL PAYMENTS TO EACH TERRITORY.—

''(1) IN GENERAL.—Notwithstanding any other provision of this Act (except for paragraph (2) of this subsection), the total amount certified by the Secretary of Health and Human Services under titles I, X, XIV, and XVI, under parts A and E of title IV, and under subsection (b) of this section, for payment to any territory for a fiscal year shall not exceed the ceiling amount for the territory for the fiscal year.

''(2) CERTAIN PAYMENTS DISREGARDED.—Paragraph (1) of this subsection shall be applied without regard to any payment made under section 403(a)(2), 403(a)(4), 406, or 413(f).''.

(b) CERTAIN CHILD CARE AND SOCIAL SERVICES EXPENDITURES BY TERRITORIES TREATED AS IV–A EXPENDITURES FOR PURPOSES OF MATCHING GRANT.—Section 1108(b)(1)(A) (42 U.S.C. 1308(b)(1)(A)) is amended by inserting '', including any amount paid to the State under part A of title IV that is transferred in accordance with section 404(d) and expended under the program to which transferred'' before the semicolon.

(c) ELIMINATION OF DUPLICATIVE MAINTENANCE OF EFFORT REQUIREMENT.—Section 1108 (42 U.S.C. 1308) is amended by striking subsection (e).

SEC. 5914. CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT.

(a) AMENDMENTS TO PART D OF TITLE IV.—

(1) CORRECTIONS TO DETERMINATION OF PATERNITY ESTABLISHMENT PERCENTAGES.—Section 452 (42 U.S.C. 652) is amended—

(A) in subsection (d)(3)(A), by striking all that follows ''for purposes of'' and inserting ''section 409(a)(8), to achieve the paternity establishment percentages (as defined under section 452(g)(2)) and other performance measures that may be established by the Secretary, and to submit data under section 454(15)(B) that is complete and reliable, and to substantially comply with the requirements of this part; and''; and

(B) in subsection (g)(1), by striking ''section 403(h)'' and inserting ''section 409(a)(8)''.

(2) ELIMINATION OF OBSOLETE LANGUAGE.—Section 108(c)(8)(C) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2165) is amended by inserting ''and all that follows through 'the best interests of such child to do so''' before ''and inserting''.

(3) INSERTION OF LANGUAGE INADVERTENTLY OMITTED.—Section 108(c)(13) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2166) is amended by inserting ''and inserting 'pursuant to section 408(a)(3)''' before the period.

(4) ELIMINATION OF OBSOLETE CROSS REFERENCE.—Section 464(a)(1) (42 U.S.C. 664(a)(1)) is amended by striking ''section 402(a)(26)'' and inserting ''section 408(a)(3)''.

(b) AMENDMENTS TO PART E OF TITLE IV.—Each of the following is amended by striking ''June 1, 1995'' each place such term appears and inserting ''July 16, 1996'':

(1) Section 472(a) (42 U.S.C. 672(a)).

(2) Section 472(h) (42 U.S.C. 672(h)).

(3) Section 473(a)(2) (42 U.S.C. 673(a)(2)).

(4) Section 473(b) (42 U.S.C. 673(b)).

SEC. 5915. OTHER CONFORMING AMENDMENTS.

(a) ELIMINATION OF AMENDMENTS INCLUDED INADVERTENTLY.—Section 110(l) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2173) is amended—

(1) by striking paragraphs (1), (4), (5), and (7);

(2) by redesignating paragraphs (2), (3), (6), and (8) as paragraphs (1), (2), (3), and (4), respectively; and

(3) by adding ''and'' at the end of paragraph (3), as so redesignated.

(b) CORRECTION OF CITATION.—Section 109(f) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2177) is amended by striking ''93–186'' and inserting ''93–86''.

(c) CORRECTION OF INTERNAL CROSS REFERENCE.—Section 103(a)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2112) is amended by striking ''603(b)(2)'' and inserting ''603(b)''.

(d) CORRECTION OF REFERENCES.—Section 416 (42 U.S.C. 616) is amended by striking ''amendment made by section 2103 of the Personal Responsibility and Work Opportunity'' and inserting ''amendments made by section 103 of the

Personal Responsibility and Work Opportunity Reconciliation''.

SEC. 5916. MODIFICATIONS TO THE JOB OPPORTUNITIES FOR CERTAIN LOW-INCOME INDIVIDUALS PROGRAM.

Section 112(5) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2177) is amended in each of subparagraphs (A) and (B) by inserting ''under'' after ''funded''.

SEC. 5917. DENIAL OF ASSISTANCE AND BENEFITS FOR DRUG-RELATED CONVICTIONS.

(a) EXTENSION OF CERTAIN REQUIREMENTS COORDINATED WITH DELAYED EFFECTIVE DATE FOR SUCCESSOR PROVISIONS.—Section 115(d)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2181) is amended by striking ''convictions'' and inserting ''a conviction if the conviction is for conduct''.

(b) IMMEDIATE EFFECTIVENESS OF PROVISIONS RELATING TO RESEARCH, EVALUATIONS, AND NATIONAL STUDIES.—Section 116(a) of such Act (Public Law 104–193; 110 Stat. 2181) is amended by adding at the end the following:

''(6) RESEARCH, EVALUATIONS, AND NATIONAL STUDIES.—Section 413 of the Social Security Act, as added by the amendment made by section 103(a) of this Act, shall take effect on the date of the enactment of this Act.''.

SEC. 5918. TRANSITION RULE.

Section 116 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2181) is amended—

(1) in subsection (a)(2), by inserting ''(but subject to subsection (b)(1)(A)(ii))'' after ''this section''; and

(2) in subsection (b)(1)(A)(ii), by striking ''June 30, 1997'' and inserting ''the later of June 30, 1997, or the day before the date described in subsection (a)(2)(B) of this section''.

SEC. 5919. PROTECTING VICTIMS OF FAMILY VIOLENCE.

(a) FINDINGS.—Congress finds that—

(1) the intent of Congress in amending part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat 2112) was to allow States to take into account the effects of the epidemic of domestic violence in establishing their welfare programs, by giving States the flexibility to grant individual, temporary waivers for good cause to victims of domestic violence who meet the criteria set forth in section 402(a)(7)(B) of the Social Security Act (42 U.S.C. 602(a)(7)(B));

(2) the allowance of waivers under such sections was not intended to be limited by other, separate, and independent provisions of part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(3) under section 402(a)(7)(A)(iii) of such Act (42 U.S.C. 602(a)(7)(A)(iii)), requirements under the temporary assistance for needy families program under part A of title IV of such Act may, for good cause, be waived for so long as necessary; and

(4) good cause waivers granted pursuant to section 402(a)(7)(A)(iii) of such Act (42 U.S.C. 602(a)(7)(A)(iii)) are intended to be temporary and directed only at particular program requirements when needed on an individual case-by-case basis, and are intended to facilitate the ability of victims of domestic violence to move forward and meet program requirements when safe and feasible without interference by domestic violence.

(b) CLARIFICATION OF WAIVER PROVISIONS.—

(1) IN GENERAL.—Section 402(a)(7) (42 U.S.C. 602(a)(7)) is amended by adding at the end the following:

''(C) NO NUMERICAL LIMITS.—In implementing this paragraph, a State shall not be subject to any numerical limitation in the granting of good cause waivers under subparagraph (A)(iii).

''(D) WAIVERED INDIVIDUALS NOT INCLUDED FOR PURPOSES OF CERTAIN OTHER PROVISIONS OF THIS PART.—Any individual to whom a good cause waiver of compliance with this Act has been granted in accordance with subparagraph (A)(iii) shall not be included for purposes of determining a State's compliance with the participation rate requirements set forth in section 407, for purposes of applying the limitation described in section 408(a)(7)(C)(ii), or for purposes of determining whether to impose a penalty under paragraph (3), (5), or (9) of section 409(a).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect as if it had been included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2112).

(c) FEDERAL PARENT LOCATOR SERVICE.—

(1) IN GENERAL.—Section 453 (42 U.S.C. 653), as amended by section 5938, is further amended—

(A) in subsection (b)(2)—

(i) in the matter preceding subparagraph (A), by inserting ''or that the health, safety, or liberty or a parent or child would by unreasonably put at risk by the disclosure of such information,'' before ''provided that'';

(ii) in subparagraph (A), by inserting '', that the health, safety, or liberty or a parent or child would by unreasonably put at risk by the disclosure of such information,'' before ''and that information''; and

(iii) in subparagraph (B)(i), by striking ''be harmful to the parent or the child'' and inserting ''place the health, safety, or liberty of a parent or child unreasonably at risk''; and

(B) in subsection (c)(2), by inserting '', or to serve as the initiating court in an action to seek and order,'' before ''against a noncustodial''.

(2) STATE PLAN.—Section 454(26) (42 U.S.C. 654), as amended by section 5956, is further amended—

(A) in subparagraph (C), by striking ''result in physical or emotional harm to the party or the child'' and inserting ''place the health, safety, or liberty of a parent or child unreasonably at risk'';

(B) in subparagraph (D), by striking ''of domestic violence or child abuse against a party or the child and that the disclosure of such information could be harmful to the party or the child'' and inserting ''that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information''; and

(C) in subparagraph (E), by striking ''of domestic violence'' and all that follows through the semicolon and inserting ''that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information pursuant to section 453(b)(2), the court shall determine whether disclosure to any other person or persons of information received from the Secretary could place the health, safety, or liberty or a parent or child unreasonably at risk (if the court determines that disclosure to any other person could be harmful, the court and its agents shall not make any such disclosure);''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect 1 day after the effective date described in section 5961(a).

SEC. 5920. EFFECTIVE DATES.

(a) AMENDMENTS TO PART A OF TITLE IV OF THE SOCIAL SECURITY ACT.—The amendments made by this chapter to a provision of part A of title IV of the Social Security Act shall take effect as if the amendments had been included in section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 at the time such section became law.

(b) AMENDMENTS TO PARTS D AND E OF TITLE IV OF THE SOCIAL SECURITY ACT.—The amendments made by section 5914 of this Act shall take effect as if the amendments had been included in section 108 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 at the time such section 108 became law.

(c) AMENDMENTS TO OTHER AMENDATORY PROVISIONS.—The amendments made by section 5915(a) of this Act shall take effect as if the amendments had been included in section 110 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 at the time such section 110 became law.

(d) AMENDMENTS TO FREESTANDING PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.—The amendments made by this chapter to a provision of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 that, as of July 1, 1997, will not have become part of another statute shall take effect as if the amendments had been included in the provision at the time the provision became law.

CHAPTER 2—SUPPLEMENTAL SECURITY INCOME

SEC. 5921. CONFORMING AND TECHNICAL AMENDMENTS RELATING TO ELIGIBILITY RESTRICTIONS.

(a) DENIAL OF SSI BENEFITS FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.—Section 1611(e)(6) (42 U.S.C. 1382(e)(6)) is amended by inserting ''and section 1106(c) of this Act'' after ''of 1986''.

(b) TREATMENT OF PRISONERS.—Section 1611(e)(1)(I)(i)(II) (42 U.S.C. 1382(e)(1)(I)(i)(II)) is amended by striking ''inmate of the institution'' and all that follows through ''this subparagraph'' and inserting ''individual who receives in the month preceding the first month throughout which such individual is an inmate of the jail, prison, penal institution, or correctional facility that furnishes information respecting such individual pursuant to subclause (I), or is confined in the institution (that so furnishes such information) as described in section 202(x)(1)(A)(ii), a benefit under this title for such preceding month, and who is determined by the Commissioner to be ineligible for benefits under this title by reason of confinement based on the information provided by such institution''.

(c) CORRECTION OF REFERENCE.—Section 1611(e)(1)(I)(i)(I) (42 U.S.C. 1382(e)(1)(I)(i)(I)) is amended by striking ''paragraph (1)'' and inserting ''this paragraph''.

SEC. 5922. CONFORMING AND TECHNICAL AMENDMENTS RELATING TO BENEFITS FOR DISABLED CHILDREN.

(a) ELIGIBILITY REDETERMINATIONS FOR CURRENT RECIPIENTS.—Section 211(d)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (42 U.S.C. 1382c note) is amended by striking ''1 year'' and inserting ''18 months''.

(b) ELIGIBILITY REDETERMINATIONS AND CONTINUING DISABILITY REVIEWS.—

(1) DISABILITY ELIGIBILITY REDETERMINATIONS REQUIRED FOR SSI RECIPIENTS WHO ATTAIN 18 YEARS OF AGE.—Section 1614(a)(3)(H)(iii) (42 U.S.C. 1382c(a)(3)(H)(iii)) is amended by striking subclauses (I) and (II) and all that follows and inserting the following:

''(I) by applying the criteria used in determining initial eligibility for individuals who are age 18 or older; and

''(II) either during the 1-year period beginning on the individual's 18th birthday or, in lieu of a continuing disability review, whenever the Commissioner determines that an individual's case is subject to a redetermination under this clause.

With respect to any redetermination under this clause, paragraph (4) shall not apply.''.

(2) CONTINUING DISABILITY REVIEW REQUIRED FOR LOW BIRTH WEIGHT BABIES.—Section 1614(a)(3)(H)(iv) (42 U.S.C. 1382c(a)(3)(H)(iv)) is amended—

(A) in subclause (I), by striking ''Not'' and inserting ''Except as provided in subclause (VI), not''; and

(B) by adding at the end the following:

''(VI) Subclause (I) shall not apply in the case of an individual described in that subclause who, at the time of the individual's initial disability determination, the Commissioner determines has an impairment that is not expected to improve within 12 months after the birth of that individual, and who the Commissioner schedules for a continuing disability review at a date that is after the individual attains 1 year of age.''.

(c) ADDITIONAL ACCOUNTABILITY REQUIREMENTS.—Section 1631(a)(2)(F) (42 U.S.C. 1383(a)(2)(F)) is amended—

(1) in clause (ii)(III)(bb), by striking ''the total amount'' and all that follows through ''1613(c)'' and inserting ''in any case in which the individual knowingly misapplies benefits from such an account, the Commissioner shall reduce future benefits payable to such individual (or to such individual and his spouse) by an amount equal to the total amount of such benefits so misapplied''; and

(2) by striking clause (iii) and inserting the following:

''(iii) The representative payee may deposit into the account established under clause (i) any other funds representing past due benefits under this title to the eligible individual, provided that the amount of such past due benefits is equal to or exceeds the maximum monthly benefit payable under this title to an eligible individual (including State supplementary payments made by the Commissioner pursuant to an agreement under section 1616 or section 212(b) of Public Law 93–66).''.

(d) REDUCTION IN CASH BENEFITS PAYABLE TO INSTITUTIONALIZED INDIVIDUALS WHOSE MEDICAL COSTS ARE COVERED BY PRIVATE INSURANCE.—Section 1611(e) (42 U.S.C. 1382(e)) is amended—

(1) in paragraph (1)(B)—

(A) in the matter preceding clause (i), by striking ''hospital, extended care facility, nursing home, or intermediate care facility'' and inserting ''medical treatment facility'';

(B) in clause (ii)—

(i) in the matter preceding subclause (I), by striking ''hospital, home or''; and

(ii) in subclause (I), by striking ''hospital, home, or'';

(C) in clause (iii), by striking ''hospital, home, or''; and

(D) in the matter following clause (iii), by striking ''hospital, extended care facility, nursing home, or intermediate care facility which is a 'medical institution or nursing facility' within the meaning of section 1917(c)'' and inserting ''medical treatment facility that provides services described in section 1917(c)(1)(C)'';

(2) in paragraph (1)(E)—

(A) in clause (i)(II), by striking ''hospital, extended care facility, nursing home, or intermediate care facility'' and inserting ''medical treatment facility''; and

(B) in clause (iii), by striking ''hospital, extended care facility, nursing home, or intermediate care facility'' and inserting ''medical treatment facility'';

(3) in paragraph (1)(G), in the matter preceding clause (i)—

(A) by striking ''or which is a hospital, extended care facility, nursing home, or intermediate care'' and inserting ''or is in a medical treatment''; and

(B) by inserting ''or, in the case of an individual who is a child under the age of 18, under any health insurance policy issued by a private provider of such insurance'' after ''title XIX''; and

(4) in paragraph (3)—

(A) by striking ''same hospital, home, or facility'' and inserting ''same medical treatment facility''; and

(B) by striking ''same such hospital, home, or facility'' and inserting ''same such facility''.

(e) CORRECTION OF U.S.C. CITATION.—Section 211(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2189) is amended by striking ''1382(a)(4)'' and inserting ''1382c(a)(4)''.

SEC. 5923. ADDITIONAL TECHNICAL AMENDMENTS TO TITLE XVI.

Section 1615(d) (42 U.S.C. 1382d(d)) is amended—

(1) in the first sentence, by inserting a comma after ''subsection (a)(1)''; and

(2) in the last sentence, by striking ''him'' and inserting ''the Commissioner''.

SEC. 5924. ADDITIONAL TECHNICAL AMENDMENTS RELATING TO TITLE XVI.

Section 1110(a)(3) (42 U.S.C. 1310(a)(3)) is amended—

(1) by inserting ''(or the Commissioner, with respect to any jointly financed cooperative agreement or grant concerning title XVI)'' after ''Secretary'' the first place it appears; and

(2) by inserting ''(or the Commissioner, as applicable)'' after ''Secretary'' the second place it appears.

SEC. 5925. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this part shall take effect as if included in the enactment of title II of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2185).

(b) EXCEPTION.—The amendments made by section 5925 shall take effect as if included in the enactment of the Social Security Independence and Program Improvements Act of 1994 (Public Law 103–296; 108 Stat. 1464).

CHAPTER 3—CHILD SUPPORT

SEC. 5935. STATE OBLIGATION TO PROVIDE CHILD SUPPORT ENFORCEMENT SERVICES.

(a) INDIVIDUALS SUBJECT TO FEE FOR CHILD SUPPORT ENFORCEMENT SERVICES.—Section 454(6)(B) (42 U.S.C. 654(6)(B)) is amended by striking ''individuals not receiving assistance under any State program funded under part A, which'' and inserting ''an individual, other than an individual receiving assistance under a State program funded under part A or E, or under a State plan approved under title XIX, or who is required by the State to cooperate with the State agency administering the program under this part pursuant to subsection (l) or (m) of section 6 of the Food Stamp Act of 1977, and''.

(b) CORRECTION OF REFERENCE.—Section 464(a)(2)(A) (42 U.S.C. 654(a)(2)(A)) is amended in the first sentence by striking ''section 454(6)'' and inserting ''section 454(4)(A)(ii)''.

SEC. 5936. DISTRIBUTION OF COLLECTED SUPPORT.

(a) CONTINUATION OF ASSIGNMENTS.—Section 457(b) (42 U.S.C. 657(b)) is amended—

(1) by striking ''which were assigned'' and inserting ''assigned''; and

(2) by striking ''and which were in effect'' and all that follows and inserting ''and in effect on September 30, 1997 (or such earlier date, on or after August 22, 1996, as the State may choose), shall remain assigned after such date.''.

(b) STATE OPTION FOR APPLICABILITY.—

(1) IN GENERAL.—Section 457(a) (42 U.S.C. 657(a)) is amended by adding at the end the following:

''(6) STATE OPTION FOR APPLICABILITY.—Notwithstanding any other provision of this subsection, a State may elect to apply the rules described in clauses (i)(II), (ii)(II), and (v) of paragraph (2)(B) to support arrearages collected on and after October 1, 1998, and, if the State makes such an election, shall apply the provisions of this section, as in effect and applied on the day before the date of enactment of section 302 of the Personal Responsibility and Work Opportunity Act of 1996 (Public Law 104–193, 110 Stat. 2200), other than subsection (b)(1) (as so in effect), to amounts collected before October 1, 1998.''.

(2) CONFORMING AMENDMENTS.—Section 408(a)(3)(A) (42 U.S.C. 608(a)(3)(A)) is amended—

(A) in clause (i), by inserting ''(I)'' after ''(i)'';

(B) in clause (ii)—

(i) by striking ''(ii)'' and inserting ''(II)''; and

(ii) by striking the period and inserting ''; or''; and

(C) by adding at the end, the following:

''(ii) if the State elects to distribute collections under section 457(a)(6), the date the family ceases to receive assistance under the program, if the assignment is executed on or after October 1, 1998.''.

(c) DISTRIBUTION OF COLLECTIONS WITH RESPECT TO FAMILIES RECEIVING ASSISTANCE.—Section 457(a)(1) (42 U.S.C. 657(a)(1)) is amended by adding at the end the following flush language: ''In no event shall the total of the amounts paid to the Federal Government and retained by the State exceed the total of the amounts that have been paid to the family as assistance by the State.''.

(d) FAMILIES UNDER CERTAIN AGREEMENTS.—Section 457(a)(4) (42 U.S.C. 657(a)(4)) is amended to read as follows:

''(4) FAMILIES UNDER CERTAIN AGREEMENTS.—In the case of an amount collected for a family in accordance with a cooperative agreement under section 454(33), distribute the amount so collected pursuant to the terms of the agreement.''.

(e) STUDY AND REPORT.—Section 457(a)(5) (42 U.S.C. 657(a)(5)) is amended by striking ''1998'' and inserting ''1999''.

(f) CORRECTIONS OF REFERENCES.—Section 457(a)(2)(B) (42 U.S.C. 657(a)(2)(B)) is amended—

(1) in clauses (i)(I) and (ii)(I)—

(A) by striking ''(other than subsection (b)(1))'' each place it appears; and

(B) by inserting ''(other than subsection (b)(1) (as so in effect))'' after ''1996'' each place it appears; and

(2) in clause (ii)(II), by striking ''paragraph (4)'' and inserting ''paragraph (5)''.

(g) CORRECTION OF TERRITORIAL MATCH.—Section 457(c)(3)(A) (42 U.S.C. 657(c)(3)(A)) is amended by striking ''the Federal medical assistance percentage (as defined in section 1118)'' and inserting ''75 percent''.

(h) DEFINITIONS.—

(1) FEDERAL SHARE.—Section 457(c)(2) (42 U.S.C. 657(c)(2)) is amended by striking ''collected'' the second place it appears and inserting ''distributed''.

(2) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—Section 457(c)(3)(B) (42 U.S.C. 657(c)(3)(B)) is amended by striking ''as in effect on September 30, 1996'' and inserting ''as such section was in effect on September 30, 1995''.

(i) CONFORMING AMENDMENTS.—

(1) Section 464(a)(2)(A) (42 U.S.C. 664(a)(2)(A)) is amended, in the penultimate sentence, by inserting ''in accordance with section 457'' after ''owed''.

(2) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking ''457(b)(4) or (d)(3)'' and inserting ''457''.

SEC. 5937. CIVIL PENALTIES RELATING TO STATE DIRECTORY OF NEW HIRES.

Section 453A (42 U.S.C. 653a) is amended—

(1) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking ''shall be less than'' and inserting ''shall not exceed''; and

(B) in paragraph (1), by striking ''$25'' and inserting ''$25 per failure to meet the requirements of this section with respect to a newly hired employee''; and

(2) in subsection (g)(2)(B), by striking ''extracts'' and all that follows through ''Labor'' and inserting ''information''.

SEC. 5938. FEDERAL PARENT LOCATOR SERVICE.

(a) IN GENERAL.—Section 453 (42 U.S.C. 653) is amended—

(1) in subsection (a)—

(A) by inserting ''(1)'' after ''(a)''; and

(B) by striking ''to obtain'' and all that follows through the period and inserting ''for the purposes specified in paragraphs (2) and (3).

''(2) For the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligations, the

Federal Parent Locator Service shall obtain and transmit to any authorized person specified in subsection (c)—

''(A) information on, or facilitating the discovery of, the location of any individual—

''(i) who is under an obligation to pay child support;

''(ii) against whom such an obligation is sought; or

''(iii) to whom such an obligation is owed,

including the individual's social security number (or numbers), most recent address, and the name, address, and employer identification number of the individual's employer;

''(B) information on the individual's wages (or other income) from, and benefits of, employment (including rights to or enrollment in group health care coverage); and

''(C) information on the type, status, location, and amount of any assets of, or debts owed by or to, any such individual.

''(3) For the purpose of enforcing any Federal or State law with respect to the unlawful taking or restraint of a child, or making or enforcing a child custody or visitation determination, as defined in section 463(d)(1), the Federal Parent Locator Service shall be used to obtain and transmit the information specified in section 463(c) to the authorized persons specified in section 463(d)(2).'';

(2) by striking subsection (b) and inserting the following:

''(b)(1) Upon request, filed in accordance with subsection (d), of any authorized person, as defined in subsection (c) for the information described in subsection (a)(2), or of any authorized person, as defined in section 463(d)(2) for the information described in section 463(c), the Secretary shall, notwithstanding any other provision of law, provide through the Federal Parent Locator Service such information to such person, if such information—

''(A) is contained in any files or records maintained by the Secretary or by the Department of Health and Human Services; or

''(B) is not contained in such files or records, but can be obtained by the Secretary, under the authority conferred by subsection (e), from any other department, agency, or instrumentality of the United States or of any State,

and is not prohibited from disclosure under paragraph (2).

''(2) No information shall be disclosed to any person if the disclosure of such information would contravene the national policy or security interests of the United States or the confidentiality of census data. The Secretary shall give priority to requests made by any authorized person described in subsection (c)(1). No information shall be disclosed to any person if the State has notified the Secretary that the State has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the custodial parent or the child of such parent, provided that—

''(A) in response to a request from an authorized person (as defined in subsection (c) and section 463(d)(2)), the Secretary shall advise the authorized person that the Secretary has been notified that there is reasonable evidence of domestic violence or child abuse and that information can only be disclosed to a court or an agent of a court pursuant to subparagraph (B); and

''(B) information may be disclosed to a court or an agent of a court described in subsection (c)(2) or section 463(d)(2)(B), if—

''(i) upon receipt of information from the Secretary, the court determines whether disclosure to any other person of that information could be harmful to the parent or the child; and

''(ii) if the court determines that disclosure of such information to any other person could be harmful, the court and its agents shall not make any such disclosure.

''(3) Information received or transmitted pursuant to this section shall be subject to the safeguard provisions contained in section 454(26).''; and

(3) in subsection (c)—

(A) in paragraph (1), by striking ''or to seek to enforce orders providing child custody or visitation rights''; and

(B) in paragraph (2)—

(i) by inserting ''or to serve as the initiating court in an action to seek an order'' after ''issue an order''; and

(ii) by striking ''or to issue an order against a resident parent for child custody or visitation rights''.

(b) USE OF THE FEDERAL PARENT LOCATOR SERVICE.—Section 463 (42 U.S.C. 663) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking ''any State which is able and willing to do so,'' and inserting ''every State''; and

(ii) by striking ''such State'' and inserting ''each State''; and

(B) in paragraph (2), by inserting ''or visitation'' after ''custody'';

(2) in subsection (b)(2), by inserting ''or visitation'' after ''custody'';

(3) in subsection (d)—

(A) in paragraph (1), by inserting ''or visitation'' after ''custody''; and

(B) in subparagraphs (A) and (B) of paragraph (2), by inserting ''or visitation'' after ''custody'' each place it appears;

(4) in subsection (f)(2), by inserting ''or visitation'' after ''custody''; and

(5) by striking ''noncustodial'' each place it appears.

SEC. 5939. ACCESS TO REGISTRY DATA FOR RESEARCH PURPOSES.

(a) IN GENERAL.—Section 453(j)(5) (42 U.S.C. 653(j)(5)) is amended by inserting ''data in each component of the Federal Parent Locator Service maintained under this section and to'' before ''information''.

(b) CONFORMING AMENDMENTS.—Section 453 (42 U.S.C. 653) is amended—

(1) in subsection (j)(3)(B), by striking ''registries'' and inserting ''components''; and

(2) in subsection (k)(2), by striking ''subsection (j)(3)'' and inserting ''section 453A(g)(2)''.

SEC. 5940. COLLECTION AND USE OF SOCIAL SECURITY NUMBERS FOR USE IN CHILD SUPPORT ENFORCEMENT.

Section 466(a)(13) (42 U.S.C. 666(a)(13)) is amended—

(1) in subparagraph (A)—

(A) by striking ''commercial''; and

(B) by inserting ''recreational license,'' after ''occupational license,''; and

(2) in the matter following subparagraph (C), by inserting ''to be used on the face of the document while the social security number is kept on file at the agency'' after ''other than the social security number''.

SEC. 5941. ADOPTION OF UNIFORM STATE LAWS.

Section 466(f) (42 U.S.C. 666(f)) is amended by striking ''together'' and all that follows and inserting ''and as in effect on August 22, 1996, including any amendments officially adopted as of such date by the National Conference of Commissioners on Uniform State Laws.''.

SEC. 5942. STATE LAWS PROVIDING EXPEDITED PROCEDURES.

Section 466(c) (42 U.S.C. 666(c)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (E), by inserting '', part E,'' after ''part A''; and

(B) in subparagraph (G), by inserting ''any current support obligation and'' after ''to satisfy''; and

(2) in paragraph (2)(A)—

(A) in clause (i), by striking ''the tribunal and''; and

(B) in clause (ii)—

(i) by striking ''tribunal may'' and inserting ''court or administrative agency of competent jurisdiction shall''; and

(ii) by striking ''filed with the tribunal'' and inserting ''filed with the State case registry''.

SEC. 5943. VOLUNTARY PATERNITY ACKNOWLEDGEMENT.

Section 466(a)(5)(C)(i) (42 U.S.C. 666(a)(5)(C)(i)) is amended by inserting '', or through the use of video or audio equipment,'' after ''orally''.

SEC. 5944. CALCULATION OF PATERNITY ESTABLISHMENT PERCENTAGE.

Section 452(g)(2) (42 U.S.C. 652(g)(2)) is amended, in the matter following subparagraph (C), by striking ''subparagraph (A)'' and inserting ''subparagraphs (A) and (B)''.

SEC. 5945. MEANS AVAILABLE FOR PROVISION OF TECHNICAL ASSISTANCE AND OPERATION OF FEDERAL PARENT LOCATOR SERVICE.

(a) TECHNICAL ASSISTANCE.—Section 452(j) (42 U.S.C. 652(j)), is amended, in the matter preceding paragraph (1), by striking ''to cover costs incurred by the Secretary'' and inserting ''which shall be available for use by the Secretary, either directly or through grants, contracts, or interagency agreements,''.

(b) OPERATION OF FEDERAL PARENT LOCATOR SERVICE.—

(1) MEANS AVAILABLE.—Section 453(o) (42 U.S.C. 653(o)) is amended—

(A) in the heading, by striking ''RECOVERY OF COSTS'' and inserting ''USE OF SET-ASIDE FUNDS''; and

(B) by striking ''to cover costs incurred by the Secretary'' and inserting ''which shall be available for use by the Secretary, either directly or through grants, contracts, or interagency agreements,''.

(2) AVAILABILITY OF FUNDS.—Section 453(o) (42 U.S.C. 653(o)) is amended by adding at the end the following: ''Amounts appropriated under this subsection for each of fiscal years 1997 through 2001 shall remain available until expended.''.

SEC. 5946. AUTHORITY TO COLLECT SUPPORT FROM FEDERAL EMPLOYEES.

(a) RESPONSE TO NOTICE OR PROCESS.—Section 459(c)(2)(C) (42 U.S.C. 659(c)(2)(C)) is amended by striking ''respond to the order, process, or interrogatory'' and inserting ''withhold available sums in response to the order or process, or answer the interrogatory''.

(b) MONEYS SUBJECT TO PROCESS.—Section 459(h)(1) (42 U.S.C. 659(h)(1)) is amended—

(1) in the matter preceding subparagraph (A) and in subparagraph (A)(i), by striking ''paid or'' each place it appears;

(2) in subparagraph (A)—

(A) in clause (ii)(V), by striking ''and'' at the end;

(B) in clause (iii)—

(i) by inserting ''or payable'' after ''paid''; and

(ii) by striking ''but'' and inserting ''; and''; and

(C) by inserting after clause (iii), the following:

''(iv) benefits paid or payable under the Railroad Retirement System, but''; and

(3) in subparagraph (B)—

(A) in clause (i), by striking ''or'' at the end;

(B) in clause (ii), by striking the period and inserting ''; or''; and

(C) by adding at the end the following:

''(iii) of periodic benefits under title 38, United States Code, except as provided in subparagraph (A)(ii)(V).''.

(c) CONFORMING AMENDMENT.—Section 454(19)(B)(ii) (42 U.S.C. 654(19)(B)(ii)) is amended by striking ''section 462(e)'' and inserting ''section 459(i)(5)''.

SEC. 5947. DEFINITION OF SUPPORT ORDER.

Section 453(p) (42 U.S.C. 653(p)), is amended by striking ''a child and'' and inserting ''of''.

SEC. 5948. STATE LAW AUTHORIZING SUSPENSION OF LICENSES.

Section 466(a)(16) (42 U.S.C. 666(a)(16)) is amended by inserting ''and sporting'' after ''recreational''.

SEC. 5949. INTERNATIONAL SUPPORT ENFORCEMENT.

Section 454(32)(A) (42 U.S.C. 654(32)(A)) is amended by striking ''section 459A(d)(2)'' and inserting ''section 459A(d)''.

SEC. 5950. CHILD SUPPORT ENFORCEMENT FOR INDIAN TRIBES.

(a) COOPERATIVE AGREEMENTS BY INDIAN TRIBES AND STATES FOR CHILD SUPPORT ENFORCEMENT.—Section 454(33) (42 U.S.C. 654(33)) is amended—

(1) by striking ''and enforce support orders, and'' and inserting ''or enforce support orders, or'';

(2) by striking ''guidelines established by such tribe or organization'' and inserting ''guidelines established or adopted by such tribe or organization'';

(3) by striking ''funding collected'' and inserting ''collections''; and

(4) by striking ''such funding'' and inserting ''such collections''.

(b) CORRECTION OF SUBSECTION DESIGNATION.—Section 455 (42 U.S.C. 655), is amended by redesignating subsection (b), as added by section 375(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193, 110 Stat. 2256), as subsection (f).

(c) DIRECT GRANTS TO TRIBES.—Section 455(f) (42 U.S.C. 655(f)), as redesignated by subsection (b), is amended to read as follows:

''(f) The Secretary may make direct payments under this part to an Indian tribe or tribal organization that demonstrates to the satisfaction of the Secretary that it has the capacity to operate a child support enforcement program meeting the objectives of this part, including establishment of paternity, establishment, modification, and enforcement of support orders, and location of absent parents. The Secretary shall promulgate regulations establishing the requirements which must be met by an Indian tribe or tribal organization to be eligible for a grant under this subsection.''.

SEC. 5951. CONTINUATION OF RULES FOR DISTRIBUTION OF SUPPORT IN THE CASE OF A TITLE IV–E CHILD.

Section 457 (42 U.S.C. 657) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by striking ''subsection (e)'' and inserting ''subsections (e) and (f)''; and

(2) by adding at the end, the following:

''(f) Notwithstanding the preceding provisions of this section, amounts collected by a State as child support for months in any period on behalf of a child for whom a public agency is making foster care maintenance payments under part E—

''(1) shall be retained by the State to the extent necessary to reimburse it for the foster care maintenance payments made with respect to the child during such period (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

''(2) shall be paid to the public agency responsible for supervising the placement of the child to the extent that the amounts collected exceed the foster care maintenance payments made with respect to the child during such period but not the amounts required by a court or administrative order to be paid as support on behalf of the child during such period; and the responsible agency may use the payments in the manner it determines will serve the best interests of the child, including setting such payments aside for the child's future needs or making all or a part thereof available to the person responsible for meeting the child's day-to-day needs; and

''(3) shall be retained by the State, if any portion of the amounts collected remains after making the payments required under paragraphs (1) and (2), to the extent that such portion is necessary to reimburse the State (with appropriate reimbursement to the Federal Government to the extent of its participation in the financing) for any past foster care maintenance payments (or payments of assistance under the State program funded under part A) which were made with respect to the child (and with respect to which past collections have not previously been retained);

and any balance shall be paid to the State agency responsible for supervising the placement of the child, for use by such agency in accordance with paragraph (2).''.

SEC. 5952. GOOD CAUSE IN FOSTER CARE AND FOOD STAMP CASES.

(a) STATE PLAN.—Section 454(4)(A)(i) (42 U.S.C. 654(4)(A)(i)) is amended—

(1) by striking ''or'' before ''(III)''; and

(2) by inserting ''or (IV) cooperation is required pursuant to section 6(l)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(l)(1)),'' after ''title XIX,''.

(b) CONFORMING AMENDMENTS.—Section 454(29) (42 U.S.C. 654(29)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking ''part A of this title or the State program under title XIX'' and inserting ''part A, the State program under part E, the State program under title XIX, or the food stamp program, as defined under section 3(h) of the Food Stamp Act of 1977 (7 U.S.C. 2012(h)),''; and

(B) by striking clauses (i) and (ii) and all that follows through the semicolon and inserting the following:

''(i) in the case of the State program funded under part A, the State program under part E, or the State program under title XIX shall, at the option of the State, be defined, taking into account the best interests of the child, and applied in each case, by the State agency administering such program; and

''(ii) in the case of the food stamp program, as defined under section 3(h) of the Food Stamp Act of 1977 (7 U.S.C. 2012(h)), shall be defined and applied in each case under that program in accordance with section 6(l)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2015(l)(2));'';

(2) in subparagraph (D), by striking ''or the State program under title XIX'' and inserting ''the State program under part E, the State program under title XIX, or the food stamp program, as defined under section 3(h) of the Food Stamp Act of 1977 (7 U.S.C. 2012(h))''; and

(3) in subparagraph (E), by striking ''individual,'' and all that follows through ''XIX,'' and inserting ''individual and the State agency administering the State program funded under part A, the State agency administering the State program under part E, the State agency administering the State program under title XIX, or the State agency administering the food stamp program, as defined under section 3(h) of the Food Stamp Act of 1977 (7 U.S.C. 2012(h)),''.

SEC. 5953. DATE OF COLLECTION OF SUPPORT.

Section 454B(c)(1) (42 U.S.C. 654B(c)(1)) is amended by adding at the end the following: ''The date of collection for amounts collected and distributed under this part is the date of receipt by the State disbursement unit, except that if current support is withheld by an employer in the month when due and is received by the State disbursement unit in a month other than the month when due, the date of withholding may be deemed to be the date of collection.''.

SEC. 5954. ADMINISTRATIVE ENFORCEMENT IN INTERSTATE CASES.

(a) PROCEDURES.—Section 466(a)(14) (42 U.S.C. 666(a)(14)) is amended to read as follows:

''(14) HIGH-VOLUME, AUTOMATED ADMINISTRATIVE ENFORCEMENT IN INTERSTATE CASES.—

''(A) IN GENERAL.—Procedures under which—

''(i) the State shall use high-volume automated administrative enforcement, to the same extent as used for intrastate cases, in response to a request made by another State to enforce support orders, and shall promptly report the results of such enforcement procedure to the requesting State;

''(ii) the State may, by electronic or other means, transmit to another State a request for assistance in enforcing support orders through high-volume, automated administrative enforcement, which request—

''(I) shall include such information as will enable the State to which the request is transmitted to compare the information about the cases to the information in the data bases of the State; and

''(II) shall constitute a certification by the requesting State—

''(aa) of the amount of support under an order the payment of which is in arrears; and

''(bb) that the requesting State has complied with all procedural due process requirements applicable to each case;

''(iii) if the State provides assistance to another State pursuant to this paragraph with respect to a case, neither State shall consider the case to be transferred to the caseload of such other State; and

''(iv) the State shall maintain records of—

''(I) the number of such requests for assistance received by the State;

''(II) the number of cases for which the State collected support in response to such a request; and

''(III) the amount of such collected support.

''(B) HIGH-VOLUME AUTOMATED ADMINISTRATIVE ENFORCEMENT.—In this part, the term 'high-volume automated administrative enforcement' means the use of automatic data processing to search various State data bases, including license records, employment service data, and State new hire registries, to determine whether information is available regarding a parent who owes a child support obligation.''.

(b) INCENTIVE PAYMENTS.—Section 458(d) (42 U.S.C. 658(d)) is amended by inserting '', including amounts collected under section 466(a)(14),'' after ''another State''.

SEC. 5955. WORK ORDERS FOR ARREARAGES.

Section 466(a)(15) (42 U.S.C. 666(a)(15)) is amended to read as follows:

''(15) PROCEDURES TO ENSURE THAT PERSONS OWING OVERDUE SUPPORT WORK OR HAVE A PLAN FOR PAYMENT OF SUCH SUPPORT.—Procedures under which the State has the authority, in any case in which an individual owes overdue support with respect to a child receiving assistance under a State program funded under part A, to issue an order or to request that a court or an administrative process established pursuant to State law issue an order that requires the individual to—

''(A) pay such support in accordance with a plan approved by the court, or, at the option of the State, a plan approved by the State agency administering the State program under this part; or

''(B) if the individual is subject to such a plan and is not incapacitated, participate in such work activities (as defined in section 407(d)) as the court, or, at the option of the State, the State agency administering the State program under this part, deems appropriate.''.

SEC. 5956. ADDITIONAL TECHNICAL STATE PLAN AMENDMENTS.

Section 454 (42 U.S.C. 654) is amended—

(1) in paragraph (8)—

(A) in the matter preceding subparagraph (A)—

(i) by striking ''noncustodial''; and

(ii) by inserting '', for the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligations, or making or enforcing a child custody or visitation determination, as defined in section 463(d)(1)'' after ''provide that'';

(B) in subparagraph (A), by striking the comma and inserting a semicolon;

(C) in subparagraph (B), by striking the semicolon and inserting a comma; and

(D) by inserting after subparagraph (B), the following flush language:

''and shall, subject to the privacy safeguards required under paragraph (26), disclose only the information described in sections 453 and 463 to the authorized persons specified in such sections for the purposes specified in such sections;'';

(2) in paragraph (17)—

(A) by striking ''in the case of a State which has'' and inserting ''provide that the State will have''; and

(B) by inserting ''and'' after ''section 453,''; and

(3) in paragraph (26)—

(A) in the matter preceding subparagraph (A), by striking ''will'';

(B) in subparagraph (A)—

(i) by inserting '', modify,'' after ''establish'', the second place it appears; and

(ii) by inserting '', or to make or enforce a child custody determination'' after ''support'';

(C) in subparagraph (B)—

(i) by inserting ''or the child'' after ''1 party'';

(ii) by inserting ''or the child'' after ''former party''; and

(iii) by striking ''and'' at the end;

(D) in subparagraph (C)—

(i) by inserting ''or the child'' after ''1 party'';

(ii) by striking ''another party'' and inserting ''another person'';

(iii) by inserting ''to that person'' after ''release of the information''; and

(iv) by striking ''former party'' and inserting ''party or the child''; and

(E) by adding at the end the following:

''(D) in cases in which the prohibitions under subparagraphs (B) and (C) apply, the requirement to notify the Secretary, for purposes of section 453(b)(2), that the State has reasonable evidence of domestic violence or child abuse against a party or the child and that the disclosure of such information could be harmful to the party or the child; and

''(E) procedures providing that when the Secretary discloses information about a parent or child to a State court or an agent of a State court described in section 453(c)(2) or 463(d)(2)(B), and advises that court or agent that the Secretary has been notified that there is reasonable evidence of domestic violence or child abuse pursuant to section 453(b)(2), the court shall determine whether disclosure to any other person of information received from the Secretary could be harmful to the parent or child and, if the court determines that disclosure to any other person could be harmful, the court and its agents shall not make any such disclosure;''.

SEC. 5957. FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS.

Section 453(h) (42 U.S.C. 653(h)) is amended—

(1) in paragraph (1), by inserting ''and order'' after ''with respect to each case''; and

(2) in paragraph (2)—

(A) in the heading, by inserting ''AND ORDER'' after ''CASE'';

(B) by inserting ''or an order'' after ''with respect to a case'' and

(C) by inserting ''or order'' after ''and the State or States which have the case''.

SEC. 5958. FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS.

Section 1738B(f) of title 28, United States Code, is amended—

(1) in paragraph (4), by striking ''a court may'' and all that follows and inserting ''a court having jurisdiction over the parties shall issue a child support order, which must be recognized.''; and

(2) in paragraph (5), by inserting ''under subsection (d)'' after ''jurisdiction''.

SEC. 5959. DEVELOPMENT COSTS OF AUTOMATED SYSTEMS.

(a) DEFINITION OF STATE.—Section 455(a)(3)(B) (42 U.S.C. 655(a)(3)(B)) is amended—

(1) in clause (i)—

(A) by inserting ''or system described in clause (iii)'' after ''each State''; and

(B) by inserting ''or system'' after ''the State''; and

(2) by adding at the end the following:

''(iii) For purposes of clause (i), a system described in this clause is a system that has been approved by the Secretary to receive enhanced funding pursuant to the Family Support Act of 1988 (Public Law 100–485; 102 Stat. 2343) for the purpose of developing a system that meets the requirements of sections 454(16) (as in effect on and after September 30, 1995) and 454A, including systems that have received funding for such purpose pursuant to a waiver under section 1115(a).''.

(b) TEMPORARY LIMITATION ON PAYMENTS.—Section 344(b)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (42 U.S.C. 655 note) is amended—

(1) in subparagraph (B)—

(A) by inserting ''or a system described in subparagraph (C)'' after ''to a State''; and

(B) by inserting ''or system'' after ''for the State''; and

(2) in subparagraph (C), by striking ''Act,'' and all that follows and inserting ''Act, and among systems that have been approved by the Secretary to receive enhanced funding pursuant to the Family Support Act of 1988 (Public Law 100–485; 102 Stat. 2343) for the purpose of developing a system that meets the requirements of sections 454(16) (as in effect on and after September 30, 1995) and 454A, including systems that have received funding for such purpose pursuant to a waiver under section 1115(a), which shall take into account—

''(i) the relative size of such State and system caseloads under part D of title IV of the Social Security Act; and

''(ii) the level of automation needed to meet the automated data processing requirements of such part.''.

SEC. 5960. ADDITIONAL TECHNICAL AMENDMENTS.

(a) ELIMINATION OF SURPLUSAGE.—Section 466(c)(1)(F) (42 U.S.C. 666(c)(1)(F)) is amended by striking ''of section 466''.

(b) CORRECTION OF AMBIGUOUS AMENDMENT.—Section 344(a)(1)(F) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2234) is amended by inserting ''the first place such term appears'' before ''and all that follows''.

(c) CORRECTION OF ERRONEOUSLY DRAFTED PROVISION.—Section 215 of the Department of Health and Human Services Appropriations Act, 1997, (as contained in section 101(e) of the Omnibus Consolidated Appropriations Act, 1997) is amended to read as follows:

''SEC. 215. Sections 452(j) and 453(o) of the Social Security Act (42 U.S.C. 652(j) and 653(o)), as amended by section 345 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2237) are each amended by striking 'section 457(a)' and inserting 'a plan approved under this part'. Amounts available under such sections 452(j) and 453(o) shall be calculated as though the amendments made by this section were effective October 1, 1995.''.

(d) ELIMINATION OF SURPLUSAGE.—Section 456(a)(2)(B) (42 U.S.C. 656(a)(2)(B)) is amended by striking '', and'' and inserting a period.

(e) CORRECTION OF DATE.—Section 466(a)(1)(B) (42 U.S.C. 666(a)(1)(B)) is amended by striking ''October 1, 1996'' and inserting ''January 1, 1994''.

SEC. 5961. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this chapter shall take effect as if included in the enactment of title III of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2105).

(b) EXCEPTION.—The amendments made by section 5936(b)(2) shall take effect as if the amendments had been included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2112).

CHAPTER 4—RESTRICTING WELFARE AND PUBLIC BENEFITS FOR ALIENS

Subchapter A—Eligibility for Federal Benefits

SEC. 5965. ALIEN ELIGIBILITY FOR FEDERAL BENEFITS: LIMITED APPLICATION TO MEDICARE AND BENEFITS UNDER THE RAILROAD RETIREMENT ACT.

(a) LIMITED APPLICATION TO MEDICARE.—Section 401(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1611(b)) is amended by adding at the end the following:

''(3) Subsection (a) shall not apply to any benefit payable under title XVIII of the Social Security Act (relating to the medicare program) to an alien who is lawfully present in the United States as determined by the Attorney General and, with respect to benefits payable under part A of such title, who was authorized to be employed with respect to any wages attributable to employment which are counted for purposes of eligibility for such benefits.''.

(b) LIMITED APPLICATION TO BENEFITS UNDER THE RAILROAD RETIREMENT ACT.—Section 401(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1611(b)) (as amended by subsection (a)) is amended by inserting at the end the following:

''(4) Subsection (a) shall not apply to any benefit payable under the Railroad Retirement Act of 1974 or the Railroad Unemployment Insurance Act to an alien who is lawfully present in the United States as determined by the Attorney General or to an alien residing outside the United States.''.

SEC. 5966. EXCEPTIONS TO BENEFIT LIMITATIONS: CORRECTIONS TO REFERENCE CONCERNING ALIENS WHOSE DEPORTATION IS WITHHELD.

Sections 402(a)(2)(A)(i)(III), 402(a)(2)(A)(ii)(III), 402(b)(2)(A)(iii), 403(b)(1)(C), 412(b)(1)(C), and 431(b)(5) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(A)(iii), 1612(b)(2)(A)(iii), 1613(b)(1)(C), 1622(b)(1)(C), and 1641(b)(5)) are each amended by striking ''section 243(h) of such Act'' each place it appears and inserting ''section 243(h) of such Act (as in effect immediately before the effective date of section 307 of division C of Public Law 104–208) or section 241(b)(3) of such Act (as amended by section 305(a) of division C of Public Law 104–208)''.

SEC. 5967. VETERANS EXCEPTION: APPLICATION OF MINIMUM ACTIVE DUTY SERVICE REQUIREMENT; EXTENSION TO UNREMARRIED SURVIVING SPOUSE; EXPANDED DEFINITION OF VETERAN.

(a) APPLICATION OF MINIMUM ACTIVE DUTY SERVICE REQUIREMENT.—Sections 402(a)(2)(C)(i), 402(b)(2)(C)(i), 403(b)(2)(A), and 412(b)(3)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(C)(i), 1612(b)(2)(C)(i), 1613(b)(2)(A), and 1622(b)(3)(A)) are each amended by inserting ''and who fulfills the minimum active-duty service requirements of section 5303A(d) of title 38, United States Code'' after ''alienage''.

(b) EXCEPTION APPLICABLE TO UNREMARRIED SURVIVING SPOUSE.—Section 402(a)(2)(C)(iii), 402(b)(2)(C)(iii), 403(b)(2)(C), and 412(b)(3)(C) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(C)(iii), 1612(b)(2)(C)(iii), 1613(b)(2)(C), and 1622(b)(3)(C)) are each amended by inserting before the period ''or the unremarried surviving spouse of an individual described in clause (i) or (ii) who is deceased if the marriage fulfills the requirements of section 1304 of title 38, United States Code''.

(c) EXPANDED DEFINITION OF VETERAN.—Sections 402(a)(2)(C)(i), 402(b)(2)(C)(i), 403(b)(2)(A), and 412(b)(3)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(C)(i), 1612(b)(2)(C)(i), 1613(b)(2)(A), and 1622(b)(3)(A)) are each

amended by inserting ''1101, or 1301, or as described in section 107'' after ''section 101''.

SEC. 5968. CORRECTION OF REFERENCE CONCERNING CUBAN AND HAITIAN ENTRANTS.

Section 403(d) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(d)) is amended—

(1) by striking ''section 501 of the Refugee'' and insert ''section 501(a) of the Refugee''; and

(2) by striking ''section 501(e)(2)'' and inserting ''section 501(e)''.

SEC. 5969. NOTIFICATION CONCERNING ALIENS NOT LAWFULLY PRESENT: CORRECTION OF TERMINOLOGY.

Section 1631(e)(9) of the Social Security Act (42 U.S.C. 1383(e)(9)) and section 27 of the United States Housing Act of 1937, as added by section 404 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, are each amended by striking ''unlawfully in the United States'' each place it appears and inserting ''not lawfully present in the United States''.

SEC. 5970. FREELY ASSOCIATED STATES: CONTRACTS AND LICENSES.

Sections 401(c)(2)(A) and 411(c)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1611(c)(2)(A) and 1621(c)(2)(A)) are each amended by inserting before the semicolon at the end '', or to a citizen of a freely associated state, if section 141 of the applicable compact of free association approved in Public Law 99–239 or 99–658 (or a successor provision) is in effect''.

SEC. 5971. CONGRESSIONAL STATEMENT REGARDING BENEFITS FOR HMONG AND OTHER HIGHLAND LAO VETERANS.

(a) FINDINGS.—The Congress makes the following findings:

(1) Hmong and other Highland Lao tribal peoples were recruited, armed, trained, and funded for military operations by the United States Department of Defense, Central Intelligence Agency, Department of State, and Agency for International Development to further United States national security interests during the Vietnam conflict.

(2) Hmong and other Highland Lao tribal forces sacrificed their own lives and saved the lives of American military personnel by rescuing downed American pilots and aircrews and by engaging and successfully fighting North Vietnamese troops.

(3) Thousands of Hmong and other Highland Lao veterans who fought in special guerilla units on behalf of the United States during the Vietnam conflict, along with their families, have been lawfully admitted to the United States in recent years.

(4) The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193), the new national welfare reform law, restricts certain welfare benefits for noncitizens of the United States and the exceptions for noncitizen veterans of the Armed Forces of the United States do not extend to Hmong veterans of the Vietnam conflict era, making Hmong veterans and their families receiving certain welfare benefits subject to restrictions despite their military service on behalf of the United States.

(b) CONGRESSIONAL STATEMENT.—It is the sense of the Congress that Hmong and other Highland Lao veterans who fought on behalf of the Armed Forces of the United States during the Vietnam conflict and have lawfully been admitted to the United States for permanent residence should be considered veterans for purposes of continuing certain welfare benefits consistent with the exceptions provided other noncitizen veterans under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Subchapter B—General Provisions

SEC. 5972. DETERMINATION OF TREATMENT OF BATTERED ALIENS AS QUALIFIED ALIENS; INCLUSION OF ALIEN CHILD OF BATTERED PARENT AS QUALIFIED ALIEN.

(a) DETERMINATION OF STATUS BY AGENCY PROVIDING BENEFITS.—Section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641) is amended in subsections (c)(1)(A) and (c)(2)(A) by striking ''Attorney General, which opinion is not subject to review by any court)'' each place it appears and inserting ''agency providing such benefits)''.

(b) GUIDANCE ISSUED BY ATTORNEY GENERAL.—Section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(c)) is amended by adding at the end the following new undesignated paragraph:

''After consultation with the Secretaries of Health and Human Services, Agriculture, and Housing and Urban Development, the Commissioner of Social Security, and with the heads of such Federal agencies administering benefits as the Attorney General considers appropriate, the Attorney General shall issue guidance (in the Attorney General's sole and unreviewable discretion) for purposes of this subsection and section 421(f), concerning the meaning of the terms 'battery' and 'extreme cruelty', and the standards and methods to be used for determining whether a substantial connection exists between battery or cruelty suffered and an individual's need for benefits under a specific Federal, State, or local program.''.

(c) INCLUSION OF ALIEN CHILD OF BATTERED PARENT AS QUALIFIED ALIEN.—Section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(c)) is amended—

(1) at the end of paragraph (1)(B)(iv) by striking ''or'';

(2) at the end of paragraph (2)(B) by striking the period and inserting ''; or''; and

(3) by inserting after paragraph (2)(B) and before the last sentence of such subsection the following new paragraph:

''(3) an alien child who—

''(A) resides in the same household as a parent who has been battered or subjected to extreme cruelty in the United States by that parent's spouse or by a member of the spouse's family residing in the same household as the parent and the spouse consented or acquiesced to such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

''(B) who meets the requirement of subparagraph (B) of paragraph (1).''.

(d) INCLUSION OF ALIEN CHILD OF BATTERED PARENT UNDER SPECIAL RULE FOR ATTRIBUTION OF INCOME.—Section 421(f)(1)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631(f)(1)(A)) is amended—

(1) at the end of clause (i) by striking ''or''; and

(2) by striking ''and the battery or cruelty described in clause (i) or (ii)'' and inserting ''or (iii) the alien is a child whose parent (who resides in the same household as the alien child) has been battered or subjected to extreme cruelty in the United States by that parent's spouse, or by a member of the spouse's family residing in the same household as the parent and the spouse consented to, or acquiesced in, such battery or cruelty, and the battery or cruelty described in clause (i), (ii), or (iii)''.

SEC. 5973. VERIFICATION OF ELIGIBILITY FOR BENEFITS.

(a) REGULATIONS AND GUIDANCE.—Section 432(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1642(a)) is amended—

(1) by inserting at the end of paragraph (1) the following: ''Not later than 90 days after the date of the enactment of the Welfare Reform Technical Corrections Act of 1997, the Attorney General of the United States, after consultation with the Secretary of Health and Human Services, shall issue interim verification guidance.''; and

(2) by adding after paragraph (2) the following new paragraph:

''(3) Not later than 90 days after the date of the enactment of the Welfare Reform Technical Corrections Act of 1997, the Attorney General shall promulgate regulations which set forth the procedures by which a State or local government can verify whether an alien applying for a State or local public benefit is a qualified alien, a nonimmigrant under the Immigration and Nationality Act, or an alien paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act for less than 1 year, for purposes of determining whether the alien is ineligible for benefits under section 411 of this Act.''.

(b) DISCLOSURE OF INFORMATION FOR VERIFICATION.—Section 384(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208) is amended by adding after paragraph (4) the following new paragraph:

''(5) The Attorney General is authorized to disclose information, to Federal, State, and local public and private agencies providing benefits, to be used solely in making determinations of eligibility for benefits pursuant to section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.''.

SEC. 5974. QUALIFYING QUARTERS: DISCLOSURE OF QUARTERS OF COVERAGE INFORMATION; CORRECTION TO ASSURE THAT CREDITING APPLIES TO ALL QUARTERS EARNED BY PARENTS BEFORE CHILD IS 18.

(a) DISCLOSURE OF QUARTERS OF COVERAGE INFORMATION.—Section 435 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1645) is amended by adding at the end the following: ''Notwithstanding section 6103 of the Internal Revenue Code of 1986, the Commissioner of Social Security is authorized to disclose quarters of coverage information concerning an alien and an alien's spouse or parents to a government agency for the purposes of this title.''.

(b) CORRECTION TO ASSURE THAT CREDITING APPLIES TO ALL QUARTERS EARNED BY PARENTS BEFORE CHILD IS 18.—Section 435(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1645(1)) is amended by striking ''while the alien was under age 18,'' and inserting ''before the date on which the alien attains age 18,''.

SEC. 5975. STATUTORY CONSTRUCTION: BENEFIT ELIGIBILITY LIMITATIONS APPLICABLE ONLY WITH RESPECT TO ALIENS PRESENT IN THE UNITED STATES.

Section 433 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1643) is amended—

(1) by redesignated subsections (b) and (c) as subsections (c) and (d); and

(2) by adding after subsection (a) the following new subsection:

''(b) BENEFIT ELIGIBILITY LIMITATIONS APPLICABLE ONLY WITH RESPECT TO ALIENS PRESENT IN THE UNITED STATES.—Notwithstanding any other provision of this title, the limitations on eligibility for benefits under this title shall not apply to eligibility for benefits of aliens who are not residing, or present, in the United States with respect to—

''(1) wages, pensions, annuities, and other earned payments to which an alien is entitled resulting from employment by, or on behalf of, a Federal, State, or local government agency which was not prohibited during the period of such employment or service under section 274A or other applicable provision of the Immigration and Nationality Act; or

''(2) benefits under laws administered by the Secretary of Veterans Affairs.''.

Subchapter C—Miscellaneous Clerical and Technical Amendments; Effective Date

SEC. 5976. CORRECTING MISCELLANEOUS CLERICAL AND TECHNICAL ERRORS.

(a) INFORMATION REPORTING UNDER TITLE IV OF THE SOCIAL SECURITY ACT.—Effective July 1, 1997, section 408 of the Social Security Act (42 U.S.C. 608), as amended by section 5903, and as in effect pursuant to section 116 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and as amended by section 5906(e) of this Act, is amended by adding at the end the following new subsection:

''(f) STATE REQUIRED TO PROVIDE CERTAIN INFORMATION.—Each State to which a grant is made under section 403 shall, at least 4 times annually and upon request of the Immigration and Naturalization Service, furnish the Immigration and Naturalization Service with the name and address of, and other identifying information on, any individual who the State knows is not lawfully present in the United States.''.

(b) MISCELLANEOUS CLERICAL AND TECHNICAL CORRECTIONS.—

(1) Section 411(c)(3) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1621(c)(3)) is amended by striking ''4001(c)'' and inserting ''401(c)''.

(2) Section 422(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1632(a)) is amended by striking ''benefits (as defined in section 412(c)),'' and inserting ''benefits,''.

(3) Section 412(b)(1)(C) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1622(b)(1)(C)) is amended by striking ''with-holding'' and inserting ''withholding''.

(4) The subtitle heading for subtitle D of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended to read as follows:

''Subtitle D—General Provisions''.

(5) The subtitle heading for subtitle F of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended to read as follows:

''Subtitle F—Earned Income Credit Denied to Unauthorized Employees''.

(6) Section 431(c)(2)(B) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(c)(2)(B)) is amended by striking ''clause (ii) of subparagraph (A)'' and inserting ''subparagraph (B) of paragraph (1)''.

(7) Section 431(c)(1)(B) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(c)(1)(B)) is amended—

(A) in clause (iii) by striking '', or'' and inserting ''(as in effect prior to April 1, 1997),''; and

(B) by adding after clause (iv) the following new clause:

''(v) cancellation of removal pursuant to section 240A(b)(2) of such Act;''.

SEC. 5977. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this chapter shall be effective as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

CHAPTER 5—CHILD PROTECTION

SEC. 5981. CONFORMING AND TECHNICAL AMENDMENTS RELATING TO CHILD PROTECTION.

(a) METHODS PERMITTED FOR CONDUCT OF STUDY OF CHILD WELFARE.—Section 429A(a) (42 U.S.C. 628b(a)) is amended by inserting ''(directly, or by grant, contract, or interagency agreement)'' after ''conduct''.

(b) REDESIGNATION OF PARAGRAPH.—Section 471(a) (42 U.S.C. 671(a)) is amended—

(1) by striking ''and'' at the end of paragraph (17);

(2) by striking the period at the end of paragraph (18) (as added by section 1808(a) of the Small Business Job Protection Act of 1996 (Public Law 104–188; 110 Stat. 1903)) and inserting ''; and''; and

(3) by redesignating paragraph (18) (as added by section 505(3) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2278)) as paragraph (19).

SEC. 5982. ADDITIONAL TECHNICAL AMENDMENTS RELATING TO CHILD PROTECTION.

(a) PART B AMENDMENTS.—

(1) IN GENERAL.—Part B of title IV (42 U.S.C. 620–635) is amended—

(A) in section 422(b)—

(i) by striking the period at the end of the paragraph (9) (as added by section 554(3) of the Improving America's Schools Act of 1994 (Public Law 103–382; 108 Stat. 4057)) and inserting a semicolon;

(ii) by redesignating paragraph (10) as paragraph (11); and

(iii) by redesignating paragraph (9), as added by section 202(a)(3) of the Social Security Act Amendments of 1994 (Public Law 103–432, 108 Stat. 4453), as paragraph (10);

(B) in sections 424(b) and 425(a), by striking ''422(b)(9)'' each place it appears and inserting ''422(b)(10)''; and

(C) by transferring section 429A (as added by section 503 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2277)) to the end of subpart 1.

(2) CLARIFICATION OF CONFLICTING AMENDMENTS.—Section 204(a)(2) of the Social Security Act Amendments of 1994 (Public Law 103–432; 108 Stat. 4456) is amended by inserting ''(as added by such section 202(a))'' before ''and inserting''.

(b) PART E AMENDMENTS.—Section 472(d) (42 U.S.C. 672(d)) is amended by striking ''422(b)(9)'' and inserting ''422(b)(10)''.

SEC. 5983. EFFECTIVE DATE.

The amendments made by this chapter shall take effect as if included in the enactment of title V of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2277).

CHAPTER 6—CHILD CARE

SEC. 5985. CONFORMING AND TECHNICAL AMENDMENTS RELATING TO CHILD CARE.

(a) FUNDING.—Section 418(a) (42 U.S.C. 618(a)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by inserting ''the greater of'' after ''equal to'';

(B) in subparagraph (A)—

(i) by striking ''the sum of'';

(ii) by striking ''amounts expended'' and inserting ''expenditures''; and

(iii) by striking ''section—'' and all that follows and inserting ''subsections (g) and (i) of section 402 (as in effect before October 1, 1995); or'';

(C) in subparagraph (B)—

(i) by striking ''sections'' and inserting ''subsections''; and

(ii) by striking the semicolon at the end and inserting a period; and

(D) in the matter following subparagraph (B), by striking ''whichever is greater.''; and

(2) in paragraph (2)—

(A) by striking subparagraph (B) and inserting the following:

''(B) ALLOTMENTS TO STATES.—The total amount available for payments to States under this paragraph, as determined under subparagraph (A), shall be allotted among the States based on the formula used for determining the amount of Federal payments to each State under section 403(n) (as in effect before October 1, 1995).'';

(B) by striking subparagraph (C) and inserting the following:

''(C) FEDERAL MATCHING OF STATE EXPENDITURES EXCEEDING HISTORICAL EXPENDITURES.—The Secretary shall pay to each eligible State for a fiscal year an amount equal to the lesser of the State's allotment under subparagraph (B) or the Federal medical assistance percentage for the State for the fiscal year (as defined in section 1905(b), as such section was in effect on September 30, 1995) of so much of the State's expenditures for child care in that fiscal year as exceed the total amount of expenditures by the State (including expenditures from amounts made available from Federal funds) in fiscal year 1994 or 1995 (whichever is greater) for the programs described in paragraph (1)(A).''; and

(C) in subparagraph (D)(i)—

(i) by striking ''amounts under any grant awarded'' and inserting ''any amounts allotted''; and

(ii) by striking ''the grant is made'' and inserting ''such amounts are allotted''.

(b) DATA USED TO DETERMINE HISTORIC STATE EXPENDITURES.—Section 418(a) (42 U.S.C. 618(a)), is amended by adding at the end the following:

''(5) DATA USED TO DETERMINE STATE AND FEDERAL SHARES OF EXPENDITURES.—In making the determinations concerning expenditures required under paragraphs (1) and (2)(C), the Secretary shall use information that was reported by the State on ACF Form 231 and available as of the applicable dates specified in clauses (i)(I), (ii), and (iii)(III) of section 403(a)(1)(D).''.

(c) DEFINITION OF STATE.—Section 418(d) (42 U.S.C. 618(d)) is amended by striking ''or'' and inserting ''and''.

SEC. 5986. ADDITIONAL CONFORMING AND TECHNICAL AMENDMENTS.

The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) is amended—

(1) in section 658E(c)(2)(E)(ii), by striking ''tribal organization'' and inserting ''tribal organizations'';

(2) in section 658K(a)—

(A) in paragraph (1)—

(i) in subparagraph (B)—

(I) by striking clause (iv) and inserting the following:

''(iv) whether the head of the family unit is a single parent;'';

(II) in clause (v)—

(aa) in the matter preceding subclause (I), by striking ''including the amount obtained from (and separately identified)—'' and inserting ''including—''; and

(bb) by striking subclause (II) and inserting the following:

''(II) cash or other assistance under—

''(aa) the temporary assistance for needy families program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); and

''(bb) a State program for which State spending is counted toward the maintenance of effort requirement under section 409(a)(7) of the Social Security Act (42 U.S.C. 609(a)(7));''; and

(III) in clause (x), by striking ''week'' and inserting ''month''; and

(ii) by striking subparagraph (D) and inserting the following:

''(D) USE OF SAMPLES.—

''(i) AUTHORITY.—A State may comply with the requirement to collect the information described in subparagraph (B) through the use of disaggregated case record information on a sample of families selected through the use of scientifically acceptable sampling methods approved by the Secretary.

''(ii) SAMPLING AND OTHER METHODS.—The Secretary shall provide the States with such case sampling plans and data collection procedures as the Secretary deems necessary to produce statistically valid samples of the information described in subparagraph (B). The Secretary may develop and implement procedures for verifying the quality of data submitted by the States.''; and

(B) in paragraph (2)—

(i) in the heading, by striking ''BIANNUAL'' and inserting ''ANNUAL''; and

(ii) by striking ''6'' and inserting ''12'';

(3) in section 658L, by striking ''1997'' and inserting ''1998'';

(4) in section 658O(c)(6)(C), by striking ''(A)'' and inserting ''(B)''; and

(5) in section 658P(13), by striking ''or'' and inserting ''and''.

SEC. 5987. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this chapter and the amendments made by this chapter shall take effect as if included in the enactment of title VI of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2278).

(b) EXCEPTIONS.—The amendment made by section 5985(a)(2)(B) and the repeal made by section 5987(d) shall each take effect on October 1, 1997.

CHAPTER 7—ERISA AMENDMENTS RELATING TO MEDICAL CHILD SUPPORT ORDERS

SEC. 5991. AMENDMENTS RELATING TO SECTION 303 OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.

(a) PRIVACY SAFEGUARDS FOR MEDICAL CHILD SUPPORT ORDERS.—Section 609(a)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(3)(A)) is amended by adding at the end the following: ''except that, to the extent provided in the order, the name and mailing address of an official of a State or a political subdivision thereof may be substituted for the mailing address of any such alternate recipient,''.

(b) PAYMENT TO STATE OFFICIAL TREATED AS SATISFACTION OF PLAN'S OBLIGATION.—Section 609(a) of such Act (29 U.S.C. 1169(a)) is amended by adding at the end the following new paragraph:

''(9) PAYMENT TO STATE OFFICIAL TREATED AS SATISFACTION OF PLAN'S OBLIGATION TO MAKE PAYMENT TO ALTERNATE RECIPIENT.—Payment of benefits by a group health plan to an official of a State or a political subdivision thereof who is named in a qualified medical child support order in lieu of the alternate recipient, pursuant to paragraph (3)(A), shall be treated, for purposes of this title, as payment of benefits to the alternate recipient.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall be apply with respect to medical child support orders issued on or after the date of the enactment of this Act.

SEC. 5992. AMENDMENT RELATING TO SECTION 381 OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.

(a) CLARIFICATION OF EFFECT OF ADMINISTRATIVE NOTICES.—Section 609(a)(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(2)(B)) is amended by adding at the end the following new sentence: ''For purposes of this subparagraph, an administrative notice which is issued pursuant to an administrative process referred to in subclause (II) of the preceding sentence and which has the effect of an order described in clause (i) or (ii) of the preceding sentence shall be treated as such an order.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective as if included in the enactment of section 381 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2257).

SEC. 5993. AMENDMENTS RELATING TO SECTION 382 OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.

(a) ELIMINATION OF REQUIREMENT THAT ORDERS SPECIFY AFFECTED PLANS.—Section 609(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(3)) is amended—

(1) in subparagraph (C), by striking '', and'' and inserting a period; and

(2) by striking subparagraph (D).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to medical child support orders issued on or after the date of the enactment of this Act.

TITLE VI—COMMITTEE ON GOVERNMENTAL AFFAIRS

Subtitle A—Civil Service and Postal Provisions

SEC. 6001. INCREASED CONTRIBUTIONS TO FEDERAL CIVILIAN RETIREMENT SYSTEMS.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) AGENCY CONTRIBUTIONS.—Notwithstanding section 8334(a)(1) of title 5, United States Code—

(A) during the period beginning on October 1, 1997, through September 30, 2001, each employing agency (other than the United States Postal Service, the Metropolitan Washington Airports Authority, or the government of the District of Columbia) shall contribute—

(i) 8.51 percent of the basic pay of an employee;

(ii) 9.01 percent of the basic pay of a congressional employee, a law enforcement officer, a member of the Capitol police, or a firefighter; and

(iii) 9.51 percent of the basic pay of a Member of Congress, a Claims Court judge, a United States magistrate, a judge of the United States Court of Appeals for the Armed Forces, or a bankruptcy judge; and

(B) during the period beginning on October 1, 2001, through September 30, 2002, each employing agency (other than the United States Postal Service, the Metropolitan Washington Airports Authority, or the government of the District of Columbia) shall contribute—

(i) 8.6 percent of the basic pay of an employee;

(ii) 9.1 percent of the basic pay of a congressional employee, a law enforcement officer, a member of the Capitol police, or a firefighter; and

(iii) 9.6 percent of the basic pay of a Member of Congress, a Claims Court judge, a United States magistrate, a judge of the United States Court of Appeals for the Armed Forces, or a bankruptcy judge;

in lieu of the agency contributions otherwise required under section 8334(a)(1) of title 5, United States Code.

(2) NO REDUCTION IN AGENCY CONTRIBUTIONS BY THE POSTAL SERVICE.—Agency contributions by the United States Postal Service under section 8348(h) of title 5, United States Code—

(A) shall not be reduced as a result of the amendments made under paragraph (3) of this subsection; and

(B) shall be computed as though such amendments had not been enacted.

(3) INDIVIDUAL DEDUCTIONS, WITHHOLDINGS, AND DEPOSITS.—The table under section 8334(c) of title 5, United States Code, is amended—

(A) in the matter relating to an employee by striking:

''7	After December 31, 1969.'';

and inserting the following:

''7	January 1, 1970, to December 31, 1998.
7.25	January 1, 1999, to December 31, 1999.
7.4	January 1, 2000, to December 31, 2000.
7.5	January 1, 2001, to December 31, 2002.
7	After December 31, 2002.'';

(B) in the matter relating to a Member or employee for congressional employee service by striking:

''7½	After December 31, 1969.'';

and inserting the following:

''7.5	January 1, 1970, to December 31, 1998.
7.75	January 1, 1999, to December 31, 1999.
7.9	January 1, 2000, to December 31, 2000.
8	January 1, 2001, to December 31, 2002.
7.5	After December 31, 2002.'';

(C) in the matter relating to a Member for Member service by striking:

''8	After December 31, 1969.'';

and inserting the following:

''8	January 1, 1970, to December 31, 1998.
8.25	January 1, 1999, to December 31, 1999.
8.4	January 1, 2000, to December 31, 2000.
8.5	January 1, 2001, to December 31, 2002.
8	After December 31, 2002.'';

(D) in the matter relating to a law enforcement officer for law enforcement service and firefighter for firefighter service by striking:

''7½	After December 31, 1974.'';

and inserting the following:

''7.5	January 1, 1975, to December 31, 1998.
7.75	January 1, 1999, to December 31, 1999.
7.9	January 1, 2000, to December 31, 2000.
8	January 1, 2001, to December 31, 2002.
7.5	After December 31, 2002.'';

(E) in the matter relating to a bankruptcy judge by striking:

''8	After December 31, 1983.'';

and inserting the following:

''8	January 1, 1984, to December 31, 1998.
8.25	January 1, 1999, to December 31, 1999.
8.4	January 1, 2000, to December 31, 2000.
8.5	January 1, 2001, to December 31, 2002.
8	After December 31, 2002.'';

(F) in the matter relating to a judge of the United States Court of Appeals for the Armed Forces for service as a judge of that court by striking:

''8	On and after the date of enactment of the Department of Defense Authorization Act, 1984.'';

and inserting the following:

''8	The date of enactment of the Department of Defense Authorization Act, 1984, to December 31, 1998.
8.25	January 1, 1999, to December 31, 1999.
8.4	January 1, 2000, to December 31, 2000.
8.5	January 1, 2001, to December 31, 2002.
8	After December 31, 2002.'';

(G) in the matter relating to a United States magistrate by striking:

''8	After September 30, 1987.'';

and inserting the following:

''8	October 1, 1987, to December 31, 1998.
8.25	January 1, 1999, to December 31, 1999.
8.4	January 1, 2000, to December 31, 2000.
8.5	January 1, 2001, to December 31, 2002.
8	After December 31, 2002.'';

(H) in the matter relating to a Claims Court judge by striking:

''8	After September 30, 1988.'';

and insert the following:

	''8	October 1, 1988, to December 31, 1998.
	8.25	January 1, 1999, to December 31, 1999.
	8.4	January 1, 2000, to December 31, 2000.
	8.5	January 1, 2001, to December 31, 2002.
	8	After December 31, 2002.'';

and

(I) by inserting after the matter relating to a Claims Court judge the following:

''Member of the Capitol Police.	2.5	August 1, 1920, to June 30, 1926.
	3.5	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6.5	November 1, 1956, to December 31, 1969.
	7.5	January 1, 1970, to December 31, 1998.
	7.75	January 1, 1999, to December 31, 1999.
	7.9	January 1, 2000, to December 31, 2000.
	8	January 1, 2001, to December 31, 2002.
	7.5	After December 31, 2002.''.

(4) OTHER SERVICE.—

(A) MILITARY SERVICE.—Section 8334(j) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting ''and subject to paragraph (5),'' after ''Except as provided in subparagraph (B),''; and

(ii) by adding at the end the following new paragraph:

''(5) Effective with respect to any period of military service after December 31, 1998, the percentage of basic pay under section 204 of title 37 payable under paragraph (1) shall be equal to the same percentage as would be applicable under subsection (c) of this section for that same period for service as an employee, subject to paragraph (1)(B).''.

(B) VOLUNTEER SERVICE.—Section 8334(l) of title 5, United States Code, is amended—

(i) in paragraph (1) by adding at the end the following: ''This paragraph shall be subject to paragraph (4).''; and

(ii) by adding at the end the following new paragraph:

''(4) Effective with respect to any period of service after December 31, 1998, the percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1) shall be equal to the same percentage as would be applicable under subsection (c) of this section for the same period for service as an employee.''.

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—

(1) INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS.—

(A) IN GENERAL.—Section 8422(a) of title 5, United States Code, is amended by striking paragraph (2) and inserting the following:

''(2) The percentage to be deducted and withheld from basic pay for any pay period shall be equal to—

''(A) the applicable percentage under paragraph (3), minus

''(B) the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax for old-age, survivors, and disability insurance).

''(3) The applicable percentage under this paragraph for civilian service shall be as follows:

''Employee ..	7	Before January 1, 1999.
	7.25	January 1, 1999, to December 31, 1999.
	7.4	January 1, 2000, to December 31, 2000.
	7.5	January 1, 2001, to December 31, 2002.
	7	After December 31, 2002.
Congressional employee.	7.5	Before January 1, 1999.
	7.75	January 1, 1999, to December 31, 1999.
	7.9	January 1, 2000, to December 31, 2000.
	8	January 1, 2001, to December 31, 2002.
	7.5	After December 31, 2002.
Member	7.5	Before January 1, 1999.
	7.75	January 1, 1999, to December 31, 1999.
	7.9	January 1, 2000, to December 31, 2000.
	8	January 1, 2001, to December 31, 2002.
	7.5	After December 31, 2002.
Law enforcement officer, firefighter, member of the Capitol Police, or air traffic controller.	7.5	Before January 1, 1999.
	7.75	January 1, 1999, to December 31, 1999.
	7.9	January 1, 2000, to December 31, 2000.
	8	January 1, 2001, to December 31, 2002.
	7.5	After December 31, 2002.''.

(B) MILITARY SERVICE.—Section 8422(e) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting ''and subject to paragraph (6),'' after ''Except as provided in subparagraph (B),''; and

(ii) by adding at the end the following:

''(6) The percentage of basic pay under section 204 of title 37 payable under paragraph (1), with respect to any period of military service performed during—

''(A) January 1, 1999, through December 31, 1999, shall be 3.25 percent;

''(B) January 1, 2000, through December 31, 2000, shall be 3.4 percent; and

''(C) January 1, 2001, through December 31, 2002, shall be 3.5 percent.''.

(C) VOLUNTEER SERVICE.—Section 8422(f) of title 5, United States Code, is amended—

(i) in paragraph (1) by adding at the end the following: ''This paragraph shall be subject to paragraph (4).''; and

(ii) by adding at the end the following:

''(4) The percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1), with respect to any period of volunteer service performed during—

''(A) January 1, 1999, through December 31, 1999, shall be 3.25 percent;

''(B) January 1, 2000, through December 31, 2000, shall be 3.4 percent; and

''(C) January 1, 2001, through December 31, 2002, shall be 3.5 percent.''.

(2) NO REDUCTION IN AGENCY CONTRIBUTIONS.—Agency contributions under section 8423 (a) and (b) of title 5, United States Code, shall not be reduced as a result of the amendments made under paragraph (1) of this subsection.

(c) CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM.—

(1) AGENCY CONTRIBUTIONS.—Notwithstanding section 211(a)(2) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2021(a)(2))—

(A) during the period beginning on October 1, 1997, through September 30, 2001, the Central Intelligence Agency shall contribute 8.51 percent of the basic pay of an employee participating in the Central Intelligence Agency Retirement and Disability System; and

(B) during the period beginning on October 1, 2001, through September 30, 2002, the Central Intelligence Agency shall contribute 8.6 percent of the basic pay of an employee participating in the Central Intelligence Agency Retirement and Disability System.

(2) INDIVIDUAL DEDUCTIONS, WITHHOLDINGS, AND DEPOSITS.—Notwithstanding section 211(a)(1) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2021(a)(1)) beginning on January 1, 1999, through December 31, 2002, the amount withheld and deducted from the basic pay of an employee participating in Central Intelligence Agency Retirement and Disability System shall be as follows:

''7.25	January 1, 1999, to December 31, 1999.
7.4	January 1, 2000, to December 31, 2000.
7.5	January 1, 2001, to December 31, 2002.
7	After December 31, 2002.''.

(3) MILITARY SERVICE.—Section 252(h)(1) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2082(h)(1)), is amended to read as follows:

''(h)(1)(A) Each participant who has performed military service before the date of separation on which entitlement to an annuity under this title is based may pay to the Agency an amount equal to 7 percent of the amount of basic pay paid under section 204 of title 37, United States Code, to the participant for each period of military service after December 1956; except, the amount to be paid for military service performed beginning on January 1, 1999, through December 31, 2002, shall be as follows:

''7.25 percent of basic pay.	January 1, 1999, to December 31, 1999.
7.4 percent of basic pay.	January 1, 2000, to December 31, 2000.
7.5 percent of basic pay.	January 1, 2001, to December 31, 2002.
7 percent of basic pay.	After December 31, 2002.

''(B) The amount of such payments shall be based on such evidence of basic pay for military service as the participant may provide or, if the Director determines sufficient evidence has not been provided to adequately determine basic pay for military service, such payment shall be based upon estimates of such basic pay provided to the Director under paragraph (4).''.

(d) FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM.—

(1) AGENCY CONTRIBUTIONS.—Notwithstanding section 805(a) (1) and (2) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a) (1) and (2))—

(A) during the period beginning on October 1, 1997, through September 30, 2001, each agency employing a participant in the Foreign Service Retirement and Disability System shall contribute to the Foreign Service Retirement and Disability Fund—

(i) 8.51 percent of the basic pay of each participant covered under section 805(a)(1) of such Act participating in the Foreign Service Retirement and Disability System; and

(ii) 9.01 percent of the basic pay of each participant covered under section 805(a)(2) of such Act participating in the Foreign Service Retirement and Disability System; and

(B) during the period beginning on October 1, 2001, through September 30, 2002, each agency employing a participant in the Foreign Service Retirement and Disability System shall contribute to the Foreign Service Retirement and Disability Fund—

(i) 8.6 percent of the basic pay of each participant covered under section 805(a)(1) of such Act participating in the Foreign Service Retirement and Disability System; and

(ii) 9.1 percent of the basic pay of each participant covered under section 805(a)(2) of such Act participating in the Foreign Service Retirement and Disability System.

(2) INDIVIDUAL DEDUCTIONS, WITHHOLDINGS, AND DEPOSITS.—

(A) IN GENERAL.—Notwithstanding section 805(a)(1) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)(1)), beginning on January 1, 1999, through December 31, 2002, the amount withheld and deducted from the basic pay of a participant in the Foreign Service Retirement and Disability System shall be as follows:

''7.25	January 1, 1999, to December 31, 1999.
7.4	January 1, 2000, to December 31, 2000.
7.5	January 1, 2001, to December 31, 2002.
7	After December 31, 2002.''.

(B) FOREIGN SERVICE CRIMINAL INVESTIGATORS/INSPECTORS OF THE OFFICE OF THE INSPECTOR GENERAL, AGENCY FOR INTERNATIONAL DEVELOPMENT.—Notwithstanding section 805(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)(2)), beginning on January 1, 1999, through December 31, 2002, the amount withheld and deducted from the basic pay of an eligible Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development participating in the Foreign Service Retirement and Disability System shall be as follows:

''7.75	January 1, 1999, to December 31, 1999.
7.9	January 1, 2000, to December 31, 2000.
8	January 1, 2001, to December 31, 2002.
7.5	After December 31, 2002.''.

(C) MILITARY SERVICE.—Section 805(e) of the Foreign Service Act of 1980 (22 U.S.C. 4045(e)) is amended—

(i) in subsection (e)(1) by striking ''Each'' and inserting ''Subject to paragraph (5), each''; and

(ii) by adding after paragraph (4) the following new paragraph:

''(5) Effective with respect to any period of military service after December 31, 1998, the percentage of basic pay under section 204 of title 37, United States Code, payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) of title 5, United States Code, for that same period for service as an employee.''.

(e) FOREIGN SERVICE PENSION SYSTEM.—

(1) INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS FROM PAY.—

(A) IN GENERAL.—Section 856(a) of the Foreign Service Act of 1980 (22 U.S.C. 4071e(a)) is amended to read as follows:

''(a)(1) The employing agency shall deduct and withhold from the basic pay of each participant the applicable percentage of basic pay specified in paragraph (2) of this subsection minus the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1986 (26 U.S.C. 3101(a)) (relating to the rate of tax for old age, survivors, and disability insurance).

''(2) The applicable percentage under this subsection shall be as follows:

''7.5	Before January 1, 1999.
7.75	January 1, 1999, to December 31, 1999.
7.9	January 1, 2000, to December 31, 2000.
8	January 1, 2001, to December 31, 2002.
7.5	After December 31, 2002.''.

(B) VOLUNTEER SERVICE.—Subsection 854(c) of the Foreign Service Act of 1980 (22 U.S.C. 4071c(c)) is amended to read as follows:

''(c)(1) Credit shall be given under this System to a participant for a period of prior satisfactory service as—

''(A) a volunteer or volunteer leader under the Peace Corps Act (22 U.S.C. 2501 et seq.),

''(B) a volunteer under part A of title VIII of the Economic Opportunity Act of 1964, or

''(C) a full-time volunteer for a period of service of at least 1 year's duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.),

if the participant makes a payment to the Fund equal to 3 percent of pay received for the volunteer service; except, the amount to be paid for volunteer service beginning on January 1, 1999, through December 31, 2002, shall be as follows:

''3.25	January 1, 1999, to December 31, 1999.
3.4	January 1, 2000, to December 31, 2000.
3.5	January 1, 2001, to December 31, 2002.

''(2) The amount of such payments shall be determined in accordance with regulations of the Secretary of State consistent with regulations for making corresponding determinations under chapter 83, title 5, United States Code, together with interest determined under regulations issued by the Secretary of State.''.

(2) NO REDUCTION IN AGENCY CONTRIBUTIONS.—Agency contributions under section 857 of the Foreign Service Act of 1980 (22 U.S.C. 4071f) shall not be reduced as a result of the amendments made under paragraph (1) of this subsection.

(f) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after January 1, 1999.

SEC. 6002. GOVERNMENT CONTRIBUTIONS UNDER THE FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.

(a) IN GENERAL.—Section 8906 of title 5, United States Code, is amended by striking subsection (a) and all that follows through the end of paragraph (1) of subsection (b) and inserting the following:

''(a)(1) Not later than October 1 of each year, the Office of Personnel Management shall determine the weighted average of the subscription charges that will be in effect during the following contract year with respect to—

''(A) enrollments under this chapter for self alone; and

''(B) enrollments under this chapter for self and family.

''(2) In determining each weighted average under paragraph (1), the weight to be given to a particular subscription charge shall, with respect to each plan (and option) to which it is to apply, be commensurate with the number of enrollees enrolled in such plan (and option) as of March 31 of the year in which the determination is being made.

''(3) For purposes of paragraph (2), the term 'enrollee' means any individual who, during the contract year for which the weighted average is to be used under this section, will be eligible for a Government contribution for health benefits.

''(b)(1) Except as provided in paragraphs (2) and (3), the biweekly Government contribution for health benefits for an employee or annuitant enrolled in a health benefits plan under this chapter is adjusted to an amount equal to 72 percent of the weighted average under subsection (a)(1) (A) or (B), as applicable. For an employee, the adjustment begins on the first day of the employee's first pay period of each year. For an annuitant, the adjustment begins on the first day of the first period of each year for which an annuity payment is made.''.

(b) EFFECTIVE DATE.—This section shall take effect on the first day of the contract year that begins in 1999. Nothing in this subsection shall prevent the Office of Personnel Management from taking any action, before such first day, which it considers necessary in order to ensure the timely implementation of this section.

SEC. 6003. REPEAL OF AUTHORIZATION OF TRANSITIONAL APPROPRIATIONS FOR THE UNITED STATES POSTAL SERVICE.

(a) REPEAL.—

(1) IN GENERAL.—Section 2004 of title 39, United States Code, is repealed.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) The table of sections for chapter 20 of such title is amended by repealing the item relating to section 2004.

(B) Section 2003(e)(2) of such title is amended by striking ''sections 2401 and 2004'' each place it appears and inserting ''section 2401''.

(b) CLARIFICATION THAT LIABILITIES FORMERLY PAID PURSUANT TO SECTION 2004 REMAIN LIABILITIES PAYABLE BY THE POSTAL SERVICE.—Section 2003 of title 39, United States Code, is amended by adding at the end the following:

''(h) Liabilities of the former Post Office Department to the Employees' Compensation Fund (appropriations for which were authorized by former section 2004, as in effect before the effective date of this subsection) shall be liabilities of the Postal Service payable out of the Fund.''.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall be effective as of October 1, 1997.

SEC. 6004. MEDICARE MEANS TESTING STANDARD APPLICABLE TO SENATORS' HEALTH COVERAGE UNDER THE FEHBP.

(a) PURPOSE.—The purpose of this section is to apply the medicare means testing requirements for part B premiums to individuals with adjusted gross incomes in excess of $100,000 as enacted under section 5542 of this Act, to United States Senators with respect to their employee contributions and Government contributions under the Federal Employees Health Benefits Program.

(b) IN GENERAL.—Section 8906 of title 5, United States Code, is amended by adding at the end the following:

''(j) Notwithstanding any other provision of this section, each employee who is a Senator and is paid at an annual rate of pay exceeding $100,000 shall pay the employee contribution and the full amount of the Government contribution which applies under this section. The Secretary of the Senate shall deduct and withhold the contributions required under this section and deposit such contributions in the Employees Health Benefits Fund.''.

(c) EFFECTIVE DATE.—This section shall take effect on the first day of the first pay period beginning on or after the date of enactment of this Act.

Subtitle B—GSA Property Sales

SEC. 6011. SALE OF GOVERNORS ISLAND, NEW YORK.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall, no earlier than fiscal year 2002, dispose of by sale at fair market value all rights, title, and interests of the United States in and to the land of, and improvements to, Governors Island, New York.

(b) RIGHT OF FIRST OFFER.—Before a sale is made under subsection (a) to any other parties, the State of New York and the city of New York shall be given the right of first offer to purchase all or part of Governors Island at fair market value as determined by the Administrator of General Services. Not later than 90 days after notification by the Administrator of General Services, such right may be exercised by either the State of New York or the city of New York or by both parties acting jointly.

(c) PROCEEDS.—Proceeds from the disposal of Governors Island under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

SEC. 6012. SALE OF AIR RIGHTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall sell, at fair market value and in a manner to be determined by the Administrator, the air rights adjacent to Washington Union Station described in subsection (b), including air rights conveyed to the Administrator under subsection (d). The Administrator shall complete the sale by such date as is necessary to ensure that the proceeds from the sale will be deposited in accordance with subsection (c).

(b) DESCRIPTION.—The air rights referred to in subsection (a) total approximately 16.5 acres and are depicted on the plat map of the District of Columbia as follows:

(1) Part of lot 172, square 720.

(2) Part of lots 172 and 823, square 720.

(3) Part of lot 811, square 717.

(c) PROCEEDS.—Before September 30, 2002, proceeds from the sale of air rights under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

(d) CONVEYANCE OF AMTRAK AIR RIGHTS.—

(1) GENERAL RULE.—As a condition of future Federal financial assistance, Amtrak shall convey to the Administrator of General Services on

or before December 31, 1997, at no charge, all of the air rights of Amtrak described in subsection (b).

(2) FAILURE TO COMPLY.—If Amtrak does not meet the condition established by paragraph (1), Amtrak shall be prohibited from obligating Federal funds after March 1, 1998.

TITLE VII—COMMITTEE ON LABOR AND HUMAN RESOURCES

SEC. 7001. MANAGEMENT AND RECOVERY OF RESERVES.

(a) AMENDMENT.—Section 422 of the Higher Education Act of 1965 (20 U.S.C. 1072) is amended by adding after subsection (g) the following new subsection:

''(h) RECALL OF RESERVES; LIMITATIONS ON USE OF RESERVE FUNDS AND ASSETS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall, except as otherwise provided in this subsection, recall $1,028,000,000 from the reserve funds held by guaranty agencies under this part (which for purposes of this subsection shall include any reserve funds held by, or under the control of, any other entity) on September 1, 2002.

''(2) DEPOSIT.—Funds recalled by the Secretary under this subsection shall be deposited in the Treasury.

''(3) EQUITABLE SHARE.—The Secretary shall require each guaranty agency to return reserve funds under paragraph (1) based on such agency's equitable share of excess reserve funds held by guaranty agencies as of September 30, 1996. For purposes of this paragraph, a guaranty agency's equitable share of excess reserve funds shall be determined as follows:

''(A) The Secretary shall compute each agency's reserve ratio by dividing (i) the amount held in such agency's reserve (including funds held by, or under the control of, any other entity) as of September 30, 1996, by (ii) the original principal amount of all loans for which such agency has an outstanding insurance obligation.

''(B) If the reserve ratio of any agency as computed under subparagraph (A) exceeds 1.12 percent, the agency's equitable share shall include so much of the amounts held in such agency's reserve fund as exceed a reserve ratio of 1.12 percent.

''(C) If any additional amount is required to be recalled under paragraph (1) (after deducting the total of the equitable shares calculated under subparagraph (B)), the agencies' equitable shares shall include additional amounts—

''(i) determined by imposing on each such agency an equal percentage reduction in the amount of each agency's reserve fund remaining after deduction of the amount recalled under subparagraph (B); and

''(ii) the total of which equals the additional amount that is required to be recalled under paragraph (1) (after deducting the total of the equitable shares calculated under subparagraph (B)).

''(4) RESTRICTED ACCOUNTS.—Within 90 days after the beginning of each of fiscal years 1998 through 2002, each guaranty agency shall transfer a portion of each agency's equitable share determined under paragraph (3) to a restricted account established by the guaranty agency that is of a type selected by the guaranty agency with the approval of the Secretary. Funds transferred to such restricted accounts shall be invested in obligations issued or guaranteed by the United States or in other similarly low-risk securities. A guaranty agency shall not use the funds in such a restricted account for any purpose without the express written permission of the Secretary, except that a guaranty agency may use the earnings from such restricted account for activities to reduce student loan defaults under this part. The portion required to be transferred shall be determined as follows:

''(A) In fiscal year 1998—

''(i) all agencies combined shall transfer to a restricted account an amount equal to one-fifth of the total amount recalled under paragraph (1);

''(ii) each agency with a reserve ratio (as computed under paragraph (3)(A)) that exceeds 2 percent shall transfer to a restricted account so much of the amounts held in such agency's reserve fund as exceed a reserve ratio of 2 percent; and

''(iii) each agency shall transfer any additional amount required under clause (i) (after deducting the amount transferred under clause (ii)) by transferring an amount that represents an equal percentage of each agency's equitable share to a restricted account.

''(B) In fiscal years 1999 through 2002, each agency shall transfer an amount equal to one-fourth of the total amount remaining of the agency's equitable share (after deduction of the amount transferred under subparagraph (A)).

''(5) SHORTAGE.—If, on September 1, 2002, the total amount in the restricted accounts described in paragraph (4) is less than the amount the Secretary is required to recall under paragraph (1), the Secretary may require the return of the amount of the shortage from other reserve funds held by guaranty agencies under procedures established by the Secretary.

''(6) PROHIBITION.—The Secretary shall not have any authority to direct a guaranty agency to return reserve funds under subsection (g)(1)(A) during the period from the date of enactment of this subsection through September 30, 2002, and any reserve funds otherwise returned under subsection (g)(1) during such period shall be treated as amounts recalled under this subsection and shall not be available under subsection (g)(4).

''(7) DEFINITION.—For purposes of this subsection the term 'reserve funds' when used with respect to a guaranty agency—

''(A) includes any reserve funds held by, or under the control of, any other entity; and

''(B) does not include buildings, equipment, or other nonliquid assets.''.

(b) CONFORMING AMENDMENT.—Section 428(c)(9)(A) of the Higher Education Act of 1965 (20 U.S.C. 1078(c)(9)(A)) is amended—

(1) in the first sentence, by striking ''for the fiscal year of the agency that begins in 1993''; and

(2) by striking the third sentence.

SEC. 7002. REPEAL OF DIRECT LOAN ORIGINATION FEES TO INSTITUTIONS OF HIGHER EDUCATION.

Section 452 of the Higher Education Act of 1965 (20 U.S.C. 1087b) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

SEC. 7003. FUNDS FOR ADMINISTRATIVE EXPENSES.

Subsection (a) of section 458 of the Higher Education Act of 1965 (20 U.S.C. 1087h(a)) is amended to read as follows:

''(a) ADMINISTRATIVE EXPENSES.—

''(1) IN GENERAL.—Each fiscal year, there shall be available to the Secretary from funds not otherwise appropriated, funds to be obligated for—

''(A) administrative costs under this part, including the costs of the direct student loan programs under this part, and

''(B) administrative cost allowances payable to guaranty agencies under part B and calculated in accordance with paragraph (2),

not to exceed (from such funds not otherwise appropriated) $532,000,000 in fiscal year 1998, $610,000,000 in fiscal year 1999, $705,000,000 in fiscal year 2000, $750,000,000 in fiscal year 2001, and $750,000,000 in fiscal year 2002. Administrative cost allowances under subparagraph (B) of this paragraph shall be paid quarterly and used in accordance with section 428(f). The Secretary may carry over funds available under this section to a subsequent fiscal year.

''(2) CALCULATION BASIS.—Administrative cost allowances payable to guaranty agencies under paragraph (1)(B) shall be calculated on the basis of 0.85 percent of the total principal amount of loans upon which insurance is issued on or after the date of enactment of the Balanced Budget Act of 1997, except that such allowances shall not exceed—

''(A) $170,000,000 for each of the fiscal years 1998 and 1999; or

''(B) $150,000,000 for each of the fiscal years 2000, 2001, and 2002.''.

SEC. 7004. EXTENSION OF STUDENT AID PROGRAMS.

Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended—

(1) in section 424(a), by striking ''1998.'' and ''2002.'' and inserting ''2002.'' and ''2006.'', respectively;

(2) in section 428(a)(5), by striking ''1998,'' and ''2002.'' and inserting ''2002,'' and ''2006.'', respectively; and

(3) in section 428C(e), by striking ''1998.'' and inserting ''2002.''.

TITLE VIII—COMMITTEE ON VETERANS' AFFAIRS

SEC. 8001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Veterans Reconciliation Act of 1997''.

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

TITLE VIII—COMMITTEE ON VETERANS' AFFAIRS

Sec. 8001. Short title; table of contents.

Subtitle A—Extension of Temporary Authorities

Sec. 8011. Enhanced loan asset sale authority.
Sec. 8012. Home loan fees.
Sec. 8013. Procedures applicable to liquidation sales on defaulted home loans guaranteed by the Department of Veterans Affairs.
Sec. 8014. Income verification authority.
Sec. 8015. Limitation on pension for certain recipients of medicaid-covered nursing home care.

Subtitle B—Copayments and Medical Care Cost Recovery

Sec. 8021. Authority to require that certain veterans make copayments in exchange for receiving health care benefits.
Sec. 8022. Medical care cost recovery authority.
Sec. 8023. Department of Veterans Affairs medical-care receipts.

Subtitle C—Other Matters

Sec. 8031. Rounding down of cost-of-living adjustments in compensation and DIC rates in fiscal years 1998 through 2002.
Sec. 8032. Increase in amount of home loan fees for the purchase of repossessed homes from the Department of Veterans Affairs.
Sec. 8033. Withholding of payments and benefits.

Subtitle A—Extension of Temporary Authorities

SEC. 8011. ENHANCED LOAN ASSET SALE AUTHORITY.

Section 3720(h)(2) of title 38, United States Code, is amended by striking out ''December 31, 1997'' and inserting in lieu thereof ''December 31, 2002''.

SEC. 8012. HOME LOAN FEES.

Section 3729(a) of title 38, United States Code, is amended—

(1) in paragraph (4), by striking out ''October 1, 1998'' and inserting in lieu thereof ''October 1, 2002''; and

(2) in paragraph (5)(C), by striking out ''October 1, 1998'' and inserting in lieu thereof ''October 1, 2002''.

SEC. 8013. PROCEDURES APPLICABLE TO LIQUIDATION SALES ON DEFAULTED HOME LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.

Section 3732(c)(11) of title 38, United States Code, is amended by striking out ''October 1,

1998'' and inserting in lieu thereof ''October 1, 2002''.

SEC. 8014. INCOME VERIFICATION AUTHORITY.

Section 5317(g) of title 38, United States Code, is amended by striking out ''September 30, 1998'' and inserting in lieu thereof ''September 30, 2002''.

SEC. 8015. LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Section 5503(f)(7) of title 38, United States Code, is amended by striking out ''September 30, 1998'' and inserting in lieu thereof ''September 30, 2002''.

Subtitle B—Copayments and Medical Care Cost Recovery

SEC. 8021. AUTHORITY TO REQUIRE THAT CERTAIN VETERANS MAKE COPAYMENTS IN EXCHANGE FOR RECEIVING HEALTH CARE BENEFITS.

(a) HOSPITAL AND MEDICAL CARE.—Section 8013(e) of the Omnibus Budget Reconciliation Act of 1990 (38 U.S.C. 1710 note) is amended by striking out ''September 30, 1998'' and inserting in lieu thereof ''September 30, 2002''.

(b) OUTPATIENT MEDICATIONS.—Section 1722A(c) of title 38, United States Code, is amended by striking out ''September 30, 1998'' and inserting in lieu thereof ''September 30, 2002''.

SEC. 8022. MEDICAL CARE COST RECOVERY AUTHORITY.

Section 1729(a)(2)(E) of title 38, United States Code, is amended by striking out ''October 1, 1998'' and inserting in lieu thereof ''October 1, 2002''.

SEC. 8023. DEPARTMENT OF VETERANS AFFAIRS MEDICAL-CARE RECEIPTS.

(a) ALLOCATION OF RECEIPTS.—(1) Chapter 17 of title 38, United States Code, is amended by inserting after section 1729 the following new section:

''§ 1729A. Department of Veterans Affairs Medical Care Collections Fund

''(a) There is in the Treasury a fund to be known as the Department of Veterans Affairs Medical Care Collections Fund.

''(b) Amounts recovered or collected after June 30, 1997, under any of the following provisions of law shall be deposited in the fund:

''(1) Section 1710(f) of this title.

''(2) Section 1710(g) of this title.

''(3) Section 1711 of this title.

''(4) Section 1722A of this title.

''(5) Section 1729 of this title.

''(6) Public Law 87–693, popularly known as the 'Federal Medical Care Recovery Act' (42 U.S.C. 2651 et seq.), to the extent that a recovery or collection under that law is based on medical care and services furnished under this chapter.

''(c)(1) Subject to the provisions of appropriations Acts, amounts in the fund shall be available to the Secretary for the following purposes:

''(A) Furnishing medical care and services under this chapter, to be available during any fiscal year for the same purposes and subject to the same limitations as apply to amounts appropriated for that fiscal year for medical care.

''(B) Expenses of the Department for the identification, billing, auditing, and collection of amounts owed the United States by reason of medical care and services furnished under this chapter.

''(2) Amounts available under paragraph (1) shall be available only for the purposes set forth in that paragraph.

''(d) The Secretary shall ensure that the amount made available to a Veterans Integrated Service Network in a fiscal year from amounts in the fund is an amount equal to the amount recovered or collected by the Veterans Integrated Service Network under a provision of law referred to in subsection (b) during the fiscal year.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1729 the following new item:

''1729A. Department of Veterans Affairs Medical Care Collections Fund.''.

(b) CONFORMING AMENDMENTS.—Chapter 17 of such title is amended as follows:

(1) Section 1710(f) is amended by striking out paragraph (4) and redesignating paragraph (5) as paragraph (4).

(2) Section 1710(g) is amended by striking out paragraph (4).

(3) Section 1722A(b) is amended by striking out ''Department of Veterans Affairs Medical-Care Cost Recovery Fund'' and inserting in lieu thereof ''Department of Veterans Affairs Medical Care Collections Fund''.

(4) Section 1729 is amended by striking out subsection (g).

(c) DISPOSITION OF FUNDS IN MEDICAL-CARE COST RECOVERY FUND.—The amount of the unobligated balance remaining in the Department of Veterans Affairs Medical-Care Cost Recovery Fund (established pursuant to section 1729(g)(1) of title 38, United States Code) at the close of June 30, 1997, shall be deposited, not later than December 31, 1997, in the Department of Veterans Affairs Medical Care Collections Fund established by section 1729A(a) of title 38, United States Code, as added by subsection (a).

Subtitle C—Other Matters

SEC. 8031. ROUNDING DOWN OF COST-OF-LIVING ADJUSTMENTS IN COMPENSATION AND DIC RATES IN FISCAL YEARS 1998 THROUGH 2002.

(a) COMPENSATION COLAS.—(1) Chapter 11 of title 38, United States Code, is amended by inserting after section 1102 the following new section:

''§ 1103. Cost-of-living adjustments

''(a) In the computation of cost-of-living adjustments for fiscal years 1998 through 2002 in the rates of, and dollar limitations applicable to, compensation payable under this chapter, such adjustments shall be made by a uniform percentage that is no more than the percentage equal to the social security increase for that fiscal year, with all increased monthly rates and limitations (other than increased rates or limitations equal to a whole dollar amount) rounded down to the next lower whole dollar amount.

''(b) For purposes of this section, the term 'social security increase' means the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased for any fiscal year as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1102 the following new item:

''1103. Cost-of-living adjustments.''.

(b) DIC COLAS.—(1) Chapter 13 of title 38, United States Code, is amended by inserting after section 1302 the following new section:

''§ 1303. Cost-of-living adjustments

''(a) In the computation of cost-of-living adjustments for fiscal years 1998 through 2002 in the rates of dependency and indemnity compensation payable under this chapter, such adjustments (except as provided in subsection (b)) shall be made by a uniform percentage that is no more than the percentage equal to the social security increase for that fiscal year, with all increased monthly rates (other than increased rates equal to a whole dollar amount) rounded down to the next lower whole dollar amount.

''(b)(1) Cost-of-living adjustments for each of fiscal years 1998 through 2002 in old-law DIC rates shall be in a whole dollar amount that is no greater than the amount by which the new-law DIC rate is increased for that fiscal year as determined under subsection (a).

''(2) For purposes of paragraph (1):

''(A) The term 'old-law DIC rates' means the dollar amounts in effect under section 1311(a)(3) of this title.

''(B) The term 'new-law DIC rate' means the dollar amount in effect under section 1311(a)(1) of this title.

''(c) For purposes of this section, the term 'social security increase' means the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased for any fiscal year as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1302 the following new item:

''1303. Cost-of-living adjustments.''.

SEC. 8032. INCREASE IN AMOUNT OF HOME LOAN FEES FOR THE PURCHASE OF REPOSSESSED HOMES FROM THE DEPARTMENT OF VETERANS AFFAIRS.

Section 3729(a) of title 38, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking out ''or 3733(a)'';

(B) in subparagraph (D), by striking out ''and'' at the end;

(C) in subparagraph (E), by striking out the period at the end and inserting in lieu thereof ''; and''; and

(D) by adding at the end the following:

''(F) in the case of a loan made under section 3733(a) of this title, the amount of such fee shall be 2.25 percent of the total loan amount.''; and

(2) in paragraph (4), as amended by section 8012(1) of this Act, by striking out ''or (E)'' and inserting in lieu thereof ''(E), or (F)''.

SEC. 8033. WITHHOLDING OF PAYMENTS AND BENEFITS.

(a) NOTICE REQUIRED IN LIEU OF CONSENT OR COURT ORDER.—Section 3726 of title 38, United States Code, is amended—

(1) by inserting ''(a)'' before ''No officer''; and

(2) by striking out ''unless'' and all that follows and inserting in lieu thereof the following: ''unless the Secretary provides such veteran or surviving spouse with notice by certified mail with return receipt requested of the authority of the Secretary to waive the payment of indebtedness under section 5302(b) of this title.

''(b) If the Secretary does not waive the entire amount of the liability, the Secretary shall then determine whether the veteran or surviving spouse should be released from liability under section 3713(b) of this title.

''(c) If the Secretary determines that the veteran or surviving spouse should not be released from liability, the Secretary shall notify the veteran or surviving spouse of that determination and provide a notice of the procedure for appealing that determination, unless the Secretary has previously made such determination and notified the veteran or surviving spouse of the procedure for appealing the determination.''.

(b) CONFORMING AMENDMENT.—Section 5302(b) of such title is amended by inserting ''with return receipt requested'' after ''certified mail''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any indebtedness to the United States arising pursuant to chapter 37 of title 38, United States Code, before, on, or after the date of enactment of this Act.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 105–9

Mr. CHAFEE. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on June 26, 1997, by the President of the United States.

Tax Convention with South Africa (Treaty Document No. 105–9).

I further ask unanimous consent that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith for Senate advice and consent to ratification the Convention Between the United States of America and the Republic of South Africa for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital Gains, signed at Cape Town February 17, 1997. Also transmitted is the report of the Department of State concerning the Convention.

This Convention, which generally follows the U.S. model tax treaty, provides maximum rates of tax to be applied to various types of income and protection from double taxation of income. The Convention also provides for the exchange of information to prevent fiscal evasion and sets forth standard rules to limit the benefits of the Convention so that they are available only to residents that are not engaged in treaty shopping.

I recommend that the Senate give early and favorable consideration to this Convention and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 26, 1997*.

ORDER TO PRINT SENATE AMENDMENT TO H.R. 2015

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senate amendment to H.R. 2015 be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR FRIDAY, JUNE 27, 1997

Mr. CHAFEE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9 a.m. on Friday, June 27. I further ask unanimous consent that on Friday, immediately following the prayer, the routine requests through the morning hour be granted, and the Senate immediately resume consideration of S. 949, the Tax Fairness Relief Act, and under the previous order the Senate will begin a series of votes on or in relation to the pending amendments. I further ask unanimous consent that there be 2 minutes of debate equally divided in the usual form prior to each vote, and, lastly, with regard to any amendment offered, following the reporting of the amendment the reading of the amendment be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. CHAFEE. Mr. President, for the information of all Senators, tomorrow at 9 a.m. the Senate will resume consideration of S. 949, the Tax Relief Act of 1997 and begin another lengthy series of rollcall votes. Following the disposition of the pending amendments, additional amendments may be offered. However, it is hoped that Members will refrain from offering amendments so that the Senate may complete action on this bill at a reasonable time on Friday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. CHAFEE. Mr. President, if there be no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 11:22 p.m., adjourned until Friday, June 27, 1997, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate June 26, 1997:

THE JUDICIARY

JEROME B. FRIEDMAN, OF VIRGINIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF VIRGINIA VICE ROBERT G. DOUMAR, RETIRED.

RONNIE L. WHITE, OF MISSOURI, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MISSOURI VICE GEORGE F. GUNN, JR., RETIRED.

DEPARTMENT OF THE INTERIOR

ROBERT G. STANTON, OF VIRGINIA, TO BE DIRECTOR OF THE NATIONAL PARK SERVICE. (NEW POSITION)

DEPARTMENT OF COMMERCE

W. SCOTT GOULD, OF THE DISTRICT OF COLUMBIA, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF COMMERCE, VICE THOMAS R. BLOOM.

W. SCOTT GOULD, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE THOMAS R. BLOOM.

DEPARTMENT OF AGRICULTURE

CATHERINE E. WOTEKI, OF THE DISTRICT OF COLUMBIA, TO BE UNDER SECRETARY OF AGRICULTURE FOR FOOD SAFETY. (NEW POSITION)

U.S. ENRICHMENT CORPORATION

KNEELAND C. YOUNGBLOOD, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. ENRICHMENT CORPORATION FOR A TERM EXPIRING FEBRUARY 24, 2002. (REAPPOINTMENT)

DEPARTMENT OF STATE

WENDY RUTH SHERMAN, OF MARYLAND, TO BE COUNSELOR OF THE DEPARTMENT OF STATE, AND TO HAVE THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE.

GORDON D. GIFFIN, OF GEORGIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO CANADA.

MAURA HARTY, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PARAGUAY.

CURTIS WARREN KAMMAN, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF COLOMBIA.

JAMES F. MACK, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CO-OPERATIVE REPUBLIC OF GUYANA

ANNE MARIE SIGMUND, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KYRGYZ REPUBLIC.

KEITH C. SMITH, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF LITHUANIA.

DANIEL V. SPECKHARD, OF WISCONSIN, A CAREER MEMBER OF THE SENIOR EXECUTIVE SERVICE, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BELARUS.

DEPARTMENT OF TRANSPORTATION

GEORGE DONOHUE, OF MARYLAND, TO BE DEPUTY ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION, VICE LINDA HALL DASCHLE.

DEPARTMENT OF THE TREASURY

GARY GENSLER, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE DARCY E. BRADBURY.

NANCY KILLEFER, OF FLORIDA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE GEORGE MUNOZ.

NANCY KILLEFER, OF FLORIDA, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF THE TREASURY, VICE GEORGE MUNOZ.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

GEOREGE MUNOZ, OF ILLINOIS, TO BE PRESIDENT OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION, VICE RUTH R. HARKIN, RESIGNED.

EXTENSIONS OF REMARKS

H.R. 1902, THE CHARITABLE DONATION ANTITRUST IMMUNITY ACT OF 1977

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. OXLEY. Mr. Speaker, I am pleased to support H.R. 1902, the Charitable Donation Antitrust Immunity Act of 1997.

This bill continues Congress' efforts, begun in the 104th Congress, to protect charities from abusive litigation. My colleagues may recall that this legislation was sparked by concerns raised by a nationwide class-action lawsuit filed in Federal court in Texas in 1994. That litigation charged that charitable gift annuities and other similar products that are widely used by charities, universities, and other organizations to raise donated funds, were issued in violation of the securities and antitrust laws. That lawsuit caused great concern among the charities and other organizations that were the suit's target, which saw potential liabilities in the billions of dollars as a result of this litigation and the likely copycat suits that would follow.

In 1995, the Commerce Committee moved a bipartisan bill through the Congress to protect these organizations against the securities allegations raised in that lawsuit. That legislation, H.R. 2519, which was supported by the Securities and Exchange Commission, codified and clarified existing administrative exemptions that applied to charitable gift annuities and similar products, which were never intended to fall within the scope of the Federal securities laws as charged by the plaintiffs in the Texas lawsuit. That bill passed unanimously in the Commerce Committee and received a resounding vote of 421 to 0 in this body, whereupon it was passed by the Senate on a voice vote and, shortly thereafter, signed into law by the President.

Concurrent with our efforts in the Commerce Committee, the Judiciary Committee passed companion legislation to address the antitrust aspects of the Texas litigation.

Unfortunately, despite our success in the last Congress, the threat that this litigation presents to charitable and other organizations that use charitable gift annuities and similar products to raise funds has not gone away. The U.S. Court of Appeals for the Fifth Circuit recently held that the 1995 antitrust legislation was not broad enough to prevent the plaintiffs from continuing their litigation in this area. Thus, Chairman HYDE and his colleagues on the Judiciary Committee have introduced legislation that will clarify Congress' intention and, we hope, end the litigation threat to charitable organizations across the country.

I am pleased to continue to support efforts to preserve the ability of America's charities, universities, and other organizations to use charitable gift annuities and similar products to raise needed funds, and urge the President to sign H.R. 1902 so that the needless threat to these organizations can be laid to rest once and for all.

HONORING THE WEST SPRINGFIELD LADY SPARTANS

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. DAVIS of Virginia. Mr. Speaker, I rise today to honor a group of young women who have achieved great feats, not only on the basketball court, but also in the community. I am speaking of the Virginia State High School Basketball Champions, the West Springfield Lady Spartans.

Their success on the basketball court speaks for itself. In addition to winning the State title they were ranked No. 1 in the Washington metropolitan area by the Washington Post and No. 9 in the Nation by the USA Today for the past season. However, it is their endeavors off the court that have made them true champions.

Not only did these ladies manage to maintain a 3.5 GPA as a team, they found time between studying and practicing to become active in community service. Each Saturday after practice the team would participate in the Special Olympic program, where they would teach mentally and physically challenged students the game of basketball. In March they organized a free basketball clinic for young girls between the ages of 5 and 16 that attracted over 100 participants. During the Christmas season the team embodied the spirit of the season by assisting in a charity program which provided toys and clothes to needy children.

I am proud to recognize the Lady Spartans not only for their excellence in basketball, but for graciously donating their talents and energies to benefit others in the Springfield community. The example they have set in the classroom, on the court, and in the community is one that should be emulated by those who follow them.

Mr. Speaker, I know my colleagues will join me today in honoring these fine young student-athletes.

TRIBUTE TO T. NATHAN DOAN

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. BARCIA. Mr. Speaker, all of us have special memories of Christmas time with our families and friends. The excitement of Christmas Eve, the delight of unopened presents on Christmas morning, but most of all, we remember the mystery and magic of Santa Claus. I have had the privilege and honor of knowing the true Santa Claus in T. Nathan Doan, who was a constituent, a friend, and an inspiration to us all.

Nathan Doan, or Nate as he was known to tens of thousands, passed away on May 19, 1997. He will be missed by his family and his friends, but also by the thousands of people whose lives he has so selflessly touched over the span of his lifetime. Each year on Christmas Eve, Nate's car became Santa's magical sleigh soaring Nate and Mrs. Clause, his wife Mary Ida, to the homes of Bay City's children to share the Christmas spirit. One of Santa's many elves would phone ahead to ensure that the children at the next house were ready for the visit from Santa and Mrs. Claus.

Nate started his Santa career back in 1940. He was to be a replacement Santa. Little did he realize then that this was the beginning of a career that would touch the lives of many generations of not only the citizens of Michigan, but citizens across the Nation and the world.

In 1953, Nate attended the Charles W. Howard Santa School in New York. He revisited each year until 1966 when Charles Howard passed on. Nate stepped in to lead the school keeping the legacy alive by training more than 800 Santas. In 1967, 1968, and again in 1980, Nate and his wife, Mary Ida, traveled to Australia to share the magic of Christmas.

Nate was very proud of Bay City and the Bay City School District that employed him for many years. As Santa, he would delight the school children and always knew all the teachers by name. However, Nate was proudest of his role as husband to Mary Ida and father to T. Nathan II and Jeffrey. Their loving support for Nate's legacy as Santa to the worlds' children enabled him to touch us all.

Nate was a deeply religious man and was very active in his church. His divine inspiration manifested itself, not just in his giving, but in his sense of humor. Spending just a little time with Nate meant sore cheeks from laughter and another loving memory of a man with a heart that could always make room for one more person. Nate's caring personality was infectious and always left one with a positive feeling.

Mr. Speaker, the world is a better place because of our Santa, Nate Doan. May his wife and lifetime partner, Mary Ida, and his children, Nate and Jeff, know that our thoughts and prayers are with them. May they also know that Nate will continue to live in the memories of all of us that he so lovingly touched.

FARMLAND PRESERVATION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, June 18, 1997 into the CONGRESSIONAL RECORD.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

FARMLAND PRESERVATION

Farmland is one of this nation's most precious resources. But farmland is fragile: it takes nature 100 to 1,000 years to replace one inch of topsoil. Fifteen tons of topsoil wash down the Mississippi River every second. The United States has made an impressive effort to reduce loss of farmland by erosion, but prime farmland is also being converted to shopping centers and suburbs at a rapid rate. As communities grow and expand, new housing, industry, and roads must be built to support that growth. This growth has many positive aspects to it, with the creation of new wealth and jobs, but concern is growing that unchecked development may be reducing the limited resource of good farmland. There is a general consensus that domestic food production capacity is not currently threatened by the conversion of farmland to other uses, but less certainty about the ability of the United States to meet future export demand.

THE PROBLEM

By some estimates, Indiana is losing more than 70,000 acres of prime farmland each year. Some groups calculate that, over the last decade, the United States has lost more than 10 million acres of farmland—an area almost half the size of Indiana. This is troubling for several reasons.

First, the loss of prime farmland eliminates a productive resource from future use. Almost 20% of the U.S. economy is linked to farm production. A reduction in agricultural productivity could hurt the overall economy.

Second, new development that increases land prices makes it difficult for younger farmers to purchase land. Because the rural population is aging, young farmers will be critical to the future strength of agriculture.

Third, less land could mean higher food prices. In the next fifty years, world food demand is projected to triple. Unless we can increase food production, growing demand will force prices up, hitting moderate income families hardest.

Fourth, the loss of agricultural land decreases the quality of life in small towns and rural areas. Hoosiers value our beautiful countryside and the open spaces that characterize Indiana's landscape. With unplanned development, we risk losing some of our treasured land resources.

Fifth, the loss of prime farmland near growing communities may force farmers to use less productive land. Such farming often requires more chemicals and causes more erosion, thus decreasing water safety and quality.

Sixth, U.S. food production is important to international security. With just 4% of the world's population, the U.S. produces 20% of the world's field crops on 14% of the arable farmland. Yet China, for example, has 25% of the population and just 7% of the arable farmland. U.S. exports will be critical for the future security of many growing countries. Unchecked loss of U.S. farmland could make famine, refugee flows, and political instability more common abroad.

POSSIBLE SOLUTIONS

We must gather more information on the problem and possible solutions. We really do not know how serious the problem is, or the most effective ways to address it. Different agencies give different estimates on how much farmland has been converted to nonfarm use, and whether farmland conversion is a national or a local and regional problem. The President, governors, and other leading officials should make clear policy statements on the importance of agricultural land.

Easements

One popular approach to preservation is a voluntary land use ''easement''. Farmers who want to preserve their land for farming can sell easements to community groups, governments, or conservation organizations to protect the future use of the land. Present and future property owners retain all rights to use the land as they see fit, within the guidelines of the easement. The voluntary easement compensates the farmer for the loss of future commercial or residential development rights.

Federal programs

To encourage the use of easements, Congress created the Farmland Protection Program in the 1996 farm bill. This program provides easement matching funds to states and local communities that have farmland preservation programs. Incentives should also be given to encourage development on land that is less-suited for agriculture. Government at all levels must be sensitive to the adverse effect of its own activities on agricultural land.

State efforts

The State of Indiana has also studied farmland protection, and Governor Frank O'Bannon has announced the creation of a task force to make recommendations on local farmland preservation efforts. This task force will include agricultural, conservation, and business groups, and state and local officials. If the state sets up a formal program, local efforts could get federal matching funds.

Taxes

Current estate tax laws often make it difficult to keep farmland in the family, and to continue its agricultural use. Heirs faced with large tax bills are more likely to sell farmland for development. I support measures in the state legislature and Congress to increase estate tax relief and other incentives to keep land in the family or preserve it for agricultural use.

Land reuse

Another way to encourage farmland preservation is to recycle ''brownfields'', or old industrial sites, rather than taking farmland out of production. Companies are often reluctant to clean up old factories in cities because of environmental regulations and a deteriorating quality of life in urban areas. The clean-up and redevelopment of these sites is in farmers' interests.

CONCLUSION

We must be careful not to raise concerns about federal intervention in land use. Land use and zoning regulations are and should remain the responsibility of local governments. We do have to increase awareness of the risks of farmland conversion, encourage state and local leaders to be aware of those risks, and provide effective options for communities to preserve farmland. Nothing is more important than preserving our nation's natural resource base.

SMALL BUSINESS OWNERS TESTIFY ON PRO-SMALL BUSINESS PROVISIONS OF THE TAXPAYER RELIEF ACT

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. BOEHNER. Mr. Speaker, the House Republican conference organized a public forum to hear from small business owners on the importance of passing the Taxpayer Relief Act. The forum focused on three of the pro-small business provisions in the Taxpayer Relief Act—the home office deduction, capital gains rate reductions, and relief from death taxes.

The compelling testimony from these small business owners from across America are included to demonstrate to my colleagues the debate on the taxpayer Relief Act is not about class warfare, rather it is about helping all Americans and small businesses prosper and succeed to achieve their dreams.

SUSAN THOMAS.

My name is Susan Thomas, President of Best of Service and Sales International, Inc.—a home-based business in Annandale, Virginia. I am pleased to appear today on behalf of the National Association for the Self-Employed (NASE), the national association representing more than 325,000 small business persons and self-employed individuals. The NASE would like to thank the House Republican Conference for organizing this hearing to highlight some very important issues for millions of small business people—particularly the home office deduction. We would like to commend Rep. Jim Talent for sponsoring H.R. 1145—The Home-Based Business Fairness Act, those representatives who joined as co-sponsors, Rep. Mike Pappas for introducing his home office deduction bill, and the members of the Ways & Means Committee who included the home office deduction in their recent tax bill.

My company—Best of Service and Sales International, Inc.—employs 3 individuals to market computer equipment, peripherals, software, and computer supplies to the federal government. In addition, I have started a new venture called Best Travel Services which markets vacations, and educational and group study tours.

I initially started a home-based business several years ago because I was frustrated with working for the large company/corporate culture. I originally setup my business in my home upon leaving Wang Corporation because I had very little working capital at the time. Ironically, it was my intention when I started my business to ultimately move the business out of my home and into commercial office space at a later date. Today, I would not trade my home-based business for any commercial office location anywhere. I love my home office because of the conveniences it affords me. Unfortunately, for businesses like mine, the home office deduction has been under attack.

While I operate a home-based business, I don't take the home office tax deduction on my tax return. Why? Not because the IRS requires businesses that take the deduction to see their clients in their home office or that they should generate their revenue there. I actually meet these unfair and discriminatory tests—tests that no other businesses are required to fulfill. No, the reason I don't take the deduction is the warning that I and millions of others like me got from our accountants. Taking the deduction, my accountant told me, is like waving a red flag at the IRS. . . . a flag saying, ''AUDIT ME!''

This is ridiculous. Congress passes a law to help home-based businesses. The IRS then tries to impose the narrowest interpretation as possible on the law. They lost two court cases, but took the case all the way to the Supreme Court in the Soliman case. After finally convincing the Supreme Court to narrow the deduction, the IRS then audits those who still qualify for it so aggressively that millions of people legitimately entitled to the deduction are afraid to take it.

Look at the numbers. IRS statistics of income show that 1.5 million people claimed the home office deduction in 1994. Yet the number of full-time home-based businesses is

variously estimated at between 7 and 14 million. why don't 80 to 90% of home-based businesses take the deduction. Don't they qualify? I believe a great many of them are just like me. They do qualify, but are forced to choose between the time and stress of an audit or the modest tax savings of the deduction. I choose to forego the deduction.

The current home office deduction limitations are unfair and unwise for other reasons too. All over the country, larger businesses are laying off employees. If we want to help these people get on their feet, we should make it a little easier for them to start a business. The same goes for people who are forced off the welfare rolls under the 1996 welfare reform law. They should be given the opportunity to start up businesses, as self-employed people, with a minimum of up-front costs. Not to mention the need and desire of individuals to be closer to their families in today's day and age. Home-based businesses are an obvious way to help facilitate all of this.

Give us the certainty of an expanded, modernized home office deduction and we will use it. Don't allow the IRS to administratively defeat Congress' original purpose with the deduction. Improve the fairness and clarity of the home office deduction. Not only will more home-based businesses have a better chance to succeed, but more potential home-based businesses will decide to try. And that's better for America.

I would like to thank the House Republican Conference for the opportunity to appear today, and I would also urge the House Conferees to ensure the inclusion of the pro-business, pro-family home office deduction in the budget. Thank you very much.

GIOVANNI CORATOLA,
Franconia, VA, June 25, 1997.

Good morning Mr. Chairman. My name is Giovanni Coratola and I own Port of Italy in Franconia, VA. Thank you for giving me this opportunity to testify today.

My restaurant does not belong to the people in this room. My restaurant does not belong to the federal government. My restaurant belongs to my family and in a sense it belongs to my extended family of employees that have dedicated their lives to making it work. The ownership of my restaurant comes at a high price. I routinely work seven day weeks with 12 to 14 hour weeks not uncommon. I have taken less time off in the 25 years I have been in business than the average worker takes off in one year. The majority of the profits that have been generated from my restaurant have been returned to the business or spent on keeping abreast with changing public demands. Ownership of my restaurant is the result of a high personal commitment from myself, my wife, my family and my employees. Yet upon death, it would be taxed to the point of being taken from those it was meant to be given.

My restaurant does not belong to the people in this room. When I was asked to come here today I inquired what the main objective was to providing relief from this onerous tax. I was told it was being attacked as given tax cuts to the rich. Well, there are two things wrong with this (1) I am not, within any stretch of the imagination, wealthy (2) How can you feel that letting my family keep what we have spent our lives working for is giving us anything that we do not already own and deserve. In all fairness to me and other restaurateurs that have spent their lives building something of value for their families and employees it is time the federal government wean itself from taking in death, what it could not justify in taking while I was alive.

On behalf of myself, my family, and my restaurant family of employees I thank you for allowing me to address you here today. And I suggest that if the federal government wants the right to take the restaurant when I die, I encourage it to take these keys and help me operate it while I'm alive.

JIM ELMER.

Good morning. My name is Jim Elmer, and I am the owner of Jim J. Elmer Construction Co. in Spokane, Washington. I am pleased to have the opportunity to speak with you today in support of the Tax Relief Act of 1997, in particular the proposed capital gains tax reduction.

Our firm constructs buildings for private owners. Most of our work is negotiated. We currently have two (2) projects which have been on hold for the past several years pending a reduction in the capital gains taxes. The projects do not make economic sense for the owners to sell other assets in order to finance their new projects and pay 28% capital gains taxes, with the modest reductions which you proposed, the projects become economically viable for our owners.

The release of these new dollars into our economy will allow us to hire more people in the community and purchase additional building materials for the projects, helping our area's economy to grow.

An addition to the increased economic activity, the capital gains reduction will also benefit our employers directly. Besides providing more employment our employees will be able to help pay for their children's college education, or purchase a new home without being penalized severely by the capital gains taxes.

The capital gains reduction will be a great stimulus to increase economic activity in our area and for our company directly. We support the Ways and Means Bill, and would strongly support further reductions in the future.

Thank you for allowing me to speak. If you should have any questions, I will be happy to answer them. Thank you.

Mr. BOBBY TODD,
Washington, DC, June 25, 1997.

Mr. Chairman, members of the House Republican Conference, thank you for taking the time this morning and listening to America's small business owners. I am Bobby Todd and I own and operate a small print shop, Eagle Printing, here in Washington, DC. I am also a member of National Small Business United, the nation's oldest small business advocacy organization.

I am pleased to be here at such a historic moment for our country. Today, the House of Representatives will vote and pass a budget plan that will balance our nation's budget and make the federal government do something that I have had to do my whole professional and personal life: live within our means. And tomorrow we will see our first tax cut for the middle-class working men and women of our country since the Reagan Administration—and it is long overdue.

It is often said that small business is the engine that drives the American economy and I couldn't agree more. As a middle-class small business owner I want to tell you how welcomed the Tax Payers' Relief Act of 1997 is to me and my family.

At the heart of the tax package for small business owners are the provisions that target small business' bottom line and allow us to compete in this ''global economy'': independent contractor status, extension of EFTPS, the all-important home office deduction and long-overdue death tax relief. Without these and other reforms included in this tax package, my business is at a competitive disadvantage to larger companies, as are hundreds of thousands of other small businesses.

Including the home office deduction is an important piece of this tax bill. By redefining what a home office is, it will allow small entrepreneurs to work at home, stay close to their families and help raise their children. Let me point out to you that under the current law, I could use a room in my neighbor's house to conduct my business and deduct it, but if I did the same exact work in a room in my house I could not. That just doesn't make any sense and is absolutely counter-productive to the small business movement.

As the American economy continues its shift towards smaller and sometimes home-based businesses, making the tax rules easier and clearer for us is essential. Congress couldn't send a clearer message of its support for the small business community than by passing this tax bill.

And, I hope that this is just a first step in the process. I would like nothing more than to change the entire tax system so it truly encourages investment, savings and the entrepreneurial spirit that has made this country so great. But, I will leave those thoughts for another day. Thank you very much for allowing me this time to speak with you.

PAUL JOST,
Alexandria, VA.

Good morning. I'm Paul Jost. I'm the president of Chandler Development Corporation. We are a small business based in Alexandria, Virginia, which buys and manages apartment buildings.

We are members of the NFIB and the National Apartment Association. Our business currently has 35 employees.

I started the business in 1988 raising capital from friends and family. We have just over 100 investors, most of whom are small investors. In addition to the 35 direct jobs we have created, we also employ a number of independent contractors who do such things as maintain the lawns, service the pools, and paint and clean the apartments between residents. In all, we probably provide employment for over 100 people.

The high capital gains tax rate limits my ability to raise capital to finance new acquisitions which would provide more jobs and more housing for families. A high capital gains tax also distorts our ability to make decisions of whether to sell or hold properties. That decision should be based on profitability, not the tax implications.

I believe that a reduction in the capital gains rate would generate more taxes. For example, we own a property in Texas which we would probably sell if the rate were lowered. And that sale would generate substantial tax revenues.

We would use the after-tax profits to purchase several other properties, in Texas and in Virginia. At the current capital gains rate, however, our investors prefer not to sell because too much of the profit would be taken by the federal government.

The net result is that a profitable sale will probably not occur, which hurts us and actually leads to a loss of tax revenue for the federal government. Everybody loses because of bad tax policy.

Last year, we were able to sell a property and buy another using a 1031 like-kind exchange which enabled us to roll our gain into the new property and defer taxes on the gain. That mechanism, however, is very complicated and is only available to those who can afford high priced lawyers and accountants. There are also numerous risks and restrictions involved in such exchanges which make us unlikely to use them in the future. that transaction also did not produce any tax revenue for the federal government.

Everyone (except our lawyers and accountants) would have been better off had the rate

been lower. We would not have had to jump through these hoops and the government would have collected some taxes.

I also believe that the death tax exemption should be increased. While I currently do not have children, I would like to think that I could some day pass on my business to my children. Many of my investors are also concerned with the death tax. This has led some of them to make their investments through trusts in their children's names. This leads to additional paperwork and more profit for our lawyers and accountants. We would all be better off if the exemption were raised and the rules were simplified.

Thank you very much for giving me the change to share my views with you. I know you are busy and I appreciate the time you have given me.

PERSONAL EXPLANATION

SPEECH OF

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1997

Mr. CRANE. Mr. Speaker, on rollcall No. 236, on final passage of H.R. 1119, had I been present, I would have voted ''aye.''

IMPROVING HUMAN RIGHTS IN CHINA

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. MANZULLO. Mr. Speaker, I am pleased to join my colleagues in becoming an original cosponsor of the China Human Rights and Democracy Act of 1997. I especially wish to applaud the actions of my colleagues, Representatives JOHN PORTER, DAVID DREIER, JIM KOLBE, and MATT SALMON, in writing and pushing this legislation. In my opinion, Mr. Speaker, this bill is the right, targeted approach to take in opposing the policies of the People's Republic of China that all Americans find repugnant. As evidenced by the vote last Tuesday, the most-favored-nation [MFN] or normal trade status debate is the wrong place to express our disagreements with the Chinese Government.

This legislation would allow Radio Free Asia to broadcast 24 hours a day to give the Chinese people the truth about their government and current events. In addition, the bill would help various foundations to promote democracy, civil society, and the rule of law in China and would encourage more international exchanges between our two peoples. It would also promote a voluntary code of conduct for United States businesses. The vast majority of United States companies operating in China already provide exemplary models to China of how to conduct business and treat people equally and fairly. This code would help give these U.S. firms concrete goals to measure their success.

The bulk of the legislation focuses on promoting human rights in China. It requires an annual report on human rights conditions in China. The bill also proposes to create a prisoner information registry so that people in the United States could plead for specific political prisoners in China. It would also deny visas to Chinese Government officials who have been involved in human rights abuses or in the proliferation of weapons of mass destruction. The bill would also publish and disseminate a list of Chinese companies that are affiliated with the People's Liberation Army so the American people would know if a particular product they wish to buy is made by a Chinese firm affiliated with the Chinese military.

However, I have one minor but important reservation about the legislation, which I hope can be worked out before it reaches the House floor for a vote. The legislation requires a one-to-one ratio between State Department Foreign Service officers with an expertise in human rights and Commerce Department U.S. Foreign & Commercial Service [US&FCS] officers, who are experts at promoting U.S. exports.

The China Human Rights and Democracy Act mandates that the State Department appoint at least six human rights officers. The problem is that there are 13 US&FCS officers in China, with 9 in Beijing alone. The problem is further compounded by the fact that the Commerce Department currently only has seven of these nine positions in Beijing filled. Plus, one of these officials is really an export control officer who is charged primarily with ensuring that Chinese importers comply with United States export control laws. If the State Department is unable to fund more than the minimum number of six human rights officers, then the unintended consequence of this legislation will force the Commerce Department to withdraw as many as seven US&FCS officers from China to comply with this one-to-one ratio. Thus, the real-life practical effect of the legislation could translate into having only five full-time US&FCS officers for the entire country of China. Compare that with Tokyo, Japan, 12 US&FCS officers, or Seoul, South Korea, 7 US&FCS officers, and I hope you see the need, Mr. Speaker, for more than 5 US&FCS officers for all of China.

Our foreign competitors already have dozens more export promotion officials in China than us. This legislation could place United States exporters at a competitive disadvantage I believe the better way is to have the legislation stress the importance of stationing human rights officers in China but leave the number of these officers up to the discretion of the State Department and not require a one-to-one ratio to US&FCS officers.

Mr. Speaker, with this minor reservation, I am pleased to join on as an original cosponsor to the China Human Rights and Democracy Act of 1997, and I hope to work out this problem through the committee process.

THE TOWN OF MICHIGAMME, MI, CELEBRATES ITS 125TH BIRTHDAY

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. STUPAK. Mr. Speaker, I bring to the attention of the U.S. House of Representatives and the American public the 125th birthday of a proud historic town in the First Congressional District of Michigan, the town of Michigamme. This town, with a population of just over 300 residents, may be considered small by conventional standards, but it holds a big place in the history of the central Upper Peninsula of Michigan and in the hearts of the people who have known it.

Michigamme was founded in 1872 by Jacob Houghton, the brother of the famous Dr. Douglas Houghton, after he discovered iron ore deposits there. Mr. Houghton became the owner and operator of both the iron ore mine and the sawmill of Michigamme. Iron ore mining and timber industry jobs brought hundreds to Michigamme, but the economic panic of 1873 and a forest fire soon reduced the number of available jobs. Michigamme exhibited its resilience as a community by reopening the sawmill and resuming mining. The town bounced back and the population swelled to 1,800 by 1882, a record that has stood intact since that time. In 1881, F.W. Read bought the Michigamme sawmill, and the mines of the area were purchased by the Cleveland Cliffs Iron Co., and the Ford Motor Co. near the turn of the century. Through the early 20th century, Michigamme's rich veins of iron ore and statuesque first-growth timber provided the town with solid industrial economic base.

Michigamme's industrial base was not the only reason that people settled there. Michigamme's location on the shores of beautiful Lake Michigamme have also contributed to its growth and history. The residents of Michigamme have added to the beauty of the town by encouraging a community for the arts and crafts, with several operating gift shops and an annual Christmas Market, widely attended by the surrounding communities. Michigamme has been called the Renaissance Village, because of the artistic community it fosters. The residents of Michigamme know that this is a special place that they can call home.

Mr. Speaker, the residents of Michigamme exemplify the small-town character and spirit which we hear our colleagues speak about with nostalgia in today's fast-paced and impersonal culture. The people of Michigamme, MI, are proud of where they came from and of who they are. They are the type of people who honor their history and look forward to creating a future for their town. They are the type of people who know their neighbor and who call him or her a friend. I would like to extend my congratulations to the people of Michigamme on the 125th birthday of their town, and I am here today to ask my colleagues to join me in wishing them the best for many years to come.

IN HONOR OF THOMAS WILKINS

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1997

Mr. DAVIS of Virginia. Mr. Speaker, it gives me great pleasure to rise today to pay tribute to Thomas Wilkins who is one of this year's winners of the Best of Reston Awards. These awards are made annually by the Reston Chamber of Commerce and Reston Interfaith. The Best of Reston Community Service Award was created to recognize individuals who have made outstanding contributions to community service, and/or who have improved the lives of people in need in Reston, VA.

Thomas Wilkins is honored with this distinction for being a ''man of all seasons.'' He has

served as an active member of the NAACP, and as president of the Reston Association, elected by his peers on the board of directors, who are in turn, elected by Reston citizens. Tom is active in Meals-On-Wheels, and offers his services as a tutor in public schools. He has served on the Stonegate Village Advisory Board, helped children to attend college and served as a founding board member for the Medical Care for Children Partnership. Tom also served as a devoted member of my staff when I was chairman of Fairfax County Board of Supervisors, and has continued to advise me and other political leaders of both parties in northern Virginia.

Mr. Speaker, I know my colleagues join me in honoring the Best of Reston Award winner Thomas Wilkins for his hard work in making Reston, VA, an outstanding place to live and work. His daily heroics deserve recognition and gratitude from a grateful community

Daily Digest

Highlights

House passed H.R. 2014, Taxpayer Relief Act.

House stands adjourned until Tuesday, July 8 for the Independence Day District Work Period.

Senate

Chamber Action

Routine Proceedings, pages S6393–S6667

Measures Introduced: Eleven bills were introduced, as follows: S. 964–974. **Page S6496**

Measures Reported: Reports were made as follows:

S. 231, to establish the National Cave and Karst Research Institute in the State of New Mexico. (S. Rept. No. 105–37)

S. 423, to extend the legislative authority for the Board of Regents of Gunston Hall to establish a memorial to honor George Mason. (S. Rept. No. 105–38)

S. 669, to provide for the acquisition of the Plains Railroad Depot at the Jimmy Carter National Historic Site. (S. Rept. No. 105–39)

S. 731, to extend the legislative authority for construction of the National Peace Garden Memorial. (S. Rept. No. 105–40)

H.R. 173, to amend the Federal Property and Administrative Services Act of 1949 to authorize donation of surplus Federal law enforcement canines to their handlers.

H.R. 680, to amend the Federal Property and Administrative Services Act of 1949 to authorize the transfer to States of surplus personal property for donation to nonprofit providers of necessaries to impoverished families and individuals.

S. 307, to amend the Federal Property and Administrative Services Act of 1949 to authorize the transfer to States of surplus personal property for donation to nonprofit providers of assistance to impoverished families and individuals.

S. 833, to designate the Federal building courthouse at Public Square and Superior Avenue in Cleveland, Ohio, as the ''Howard M. Metzenbaum United States Courthouse''.

S. 861, to amend the Federal Property and Administrative Services Act of 1949 to authorize donation of Federal law enforcement canines that are no longer needed for official purposes to individuals with experience handling canines in the performance of law enforcement duties. **Page S6496**

Measures Passed:

Congressional Adjournment: Senate agreed to H. Con. Res. 108, to provide for an adjournment of the House of Representatives and Senate. **Page S6440**

Revenue Reconciliation: Senate continued consideration of S. 949, to provide for revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998, taking action on amendments/motions proposed thereto, as follows: **Pages S6393–S6473, S6479**

Adopted:

Roth Amendment No. 520, to provide for children's health insurance initiatives. **Pages S6394, S6434–37**

Roth (for Shelby) Amendment No. 553, to express the sense of the Senate regarding reform of the Internal Revenue Code of 1986. **Pages S6469–73**

Roth (for Levin/McCain) Amendment No. 556, to express the sense of the Senate regarding tax treatment of stock options. **Pages S6469–73**

Roth (for Enzi) Amendment No. 557, to express the sense of the Senate on Federal estate tax relief in the ''Balanced Budget Act of 1997''. **Pages S6469–73**

Roth (for Dodd) Amendment No. 558, to amend the Internal Revenue Code of 1986 regarding the treatment of cancellation of student loans. **Pages S6469–73**

Roth (for Grams) Amendment No. 559, to exclude from unrelated business taxable income for certain charitable gambling. **Pages S6469–73**

Roth (for Dorgan) Amendment No. 560, to provide tax relief for taxpayers located in Presidentially declared disaster areas. **Pages S6469–73**

Roth (for Dorgan) Amendment No. 561, to authorize the Secretary of the Treasury to abate the accrual of interest on income tax underpayments by taxpayers located in Presidentially declared disaster areas if the Secretary extends the time for filing returns and payment of tax (and waives any penalties relating to the failure to so file or so pay) for such taxpayers. **Pages S6469–73**

Roth (for Biden) Amendment No. 562, to provide survivor benefits attributable to service by a public safety officer who is killed in the line of duty. **Pages S6469–73**

Roth (for Dodd/D'Amato) Amendment No. 563, to clarify the tax treatment of certain disability benefits received by former police officers or firefighters. **Pages S6469–73**

Roth (for Boxer) Amendment No. 564, to provide for diversification in section 401(k) plan investments. **Pages S6469–73**

Roth (for Daschle) Amendment No. 565, to expand non-Amtrak States' use of the Intercity Passenger Rail Fund. **Pages S6469–73**

Rejected:

By 24 yeas to 75 nays (Vote No. 132), Dorgan Amendment No. 517, to impose a lifetime cap of $1,000,000 on capital gains reduction. **Pages S6394, S6397–99**

By 38 yeas to 61 nays (Vote No. 134), Daschle Amendment No. 527, in the nature of a substitute. **Pages S6401–34**

Withdrawn:

Allard Amendment No. 523, to strike section 881, providing for an extension of the Temporary Federal Unemployment Surtax.

Domenici/Lautenberg Amendment No. 537, to implement the enforcement provisions of the Bipartisan Budget Agreement, enforce the Balanced Budget Act of 1997, extend the Budget Enforcement Act of 1990 through fiscal year 2002, and make technical and conforming changes to the Congressional Budget and Impoundment Control Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985. **Pages S6438–41**

Subsequently, Biden Amendment No. 539 (to Amendment No. 537), to provide for the transfer of funds from the general fund to the Violent Crime Reduction Trust Fund fell when Amendment No. 537 was withdrawn. **Pages S6440–41**

Subsequently, the request to withdraw Amendment No. 537 (listed above) was vitiated, thus Amendment No. 539 (listed above) also remains pending.

A motion to waive the Congressional Budget Act with respect to consideration of Section 602 of the bill. Subsequently, a point of order that section 602 relating to incentives conditioned on other District of Columbia government reform violates section 313(b)(1)(A) of the Congressional Budget Act was sustained, and the provisions were removed from the bill. **Pages S6393, S6447–48**

Pending:

Dorgan Amendment No. 515, to authorize the Secretary of the Treasury to abate the accrual of interest on income tax underpayments by taxpayers located in Presidentially declared disaster areas if the Secretary extends the time for filing returns failure to so file or so pay) for such taxpayers. **Page S6393**

Dorgan Amendment No. 516, to provide tax relief for taxpayers located in Presidentially declared disaster areas. **Page S6393**

Jeffords Amendment No. 522, to provide for a trust fund for District of Columbia school renovations. **Page S6394**

Domenici/Lautenberg Amendment No. 537, to implement the enforcement provisions of the Bipartisan Budget Agreement, enforce the Balanced Budget Act of 1997, extend the Budget Enforcement Act of 1990 through fiscal year 2002, and make technical and conforming changes to the Congressional Budget and Impoundment Control Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985.

Biden Amendment No. 539 (to Amendment No. 537), to provide for the transfer of funds from the general fund to the Violent Crime Reduction Trust Fund.

Nickles Modified Amendment No. 551, to provide for an increase in deduction for health insurance costs of self-employed individuals, and to modify rules for allocating interest expense to tax-exempt interest. **Pages S6460–61, S6479**

Gramm Amendment No. 552, to allow families to decide for themselves how best to use their child tax credit. **Pages S6461–69**

Kerry Amendment No. 554, to allow payroll taxes to be included in the calculation of tax liability for receiving the children's tax credit. **Page S6465**

During consideration of this measure today, Senate also took the following action:

By 36 yeas to 63 nays (Vote 131), three-fifths of those Senators duly chosen and sworn not having voted in the affirmative, Senate rejected a motion to waive the Congressional Budget Act with respect to consideration of Bumpers Amendment No. 518, to repeal the depletion allowance available to certain hardrock mining companies. Subsequently, a point of order that the amendment was in violation of section 305(b)(2) of the Congressional Budget Act was sustained, and the amendment thus fell. **Pages S6394–97**

By 34 yeas to 64 nays (Vote No. 133), three-fifths of those Senators duly chosen and sworn not having voted in the affirmative, Senate rejected a motion to

waive the Congressional Budget Act with respect to consideration of Dorgan motion to refer to the Committee on the Budget with instructions. Subsequently, a point of order that the motion to refer was in violation of section 305(b)(2) of the Congressional Budget Act was sustained, and the motion was ruled out of order. **Pages S6393, S6399–S6401**

By 80 yeas to 19 nays (Vote No. 135), three-fifths of those Senators duly chosen and sworn having voted in the affirmative, Senate agreed to waive the Congressional Budget Act with respect to consideration of Roth Amendment No. 520, listed above. **Page S6437**

By 12 yeas to 86 nays, 1 voting present (Vote No. 136), three-fifths of those Senators duly chosen and sworn not having voted in the affirmative, Senate rejected a motion to waive section 305(b)(2) of the Congressional Budget Act with respect to consideration of Byrd Amendment No. 540, to eliminate tax deductions for advertising and promotion expenditures relating to alcoholic beverages and to increase funding for programs that educate and prevent the abuse of alcohol among our Nation's youth. Subsequently, a point of order that the amendment was not germane was sustained, and the amendment thus fell. **Pages S6442–47**

By 41 yeas to 58 nays (Vote No. 137), three-fifths of those Senators duly chosen and sworn not having voted in the affirmative, Senate rejected a motion to waive the Congressional Budget Act with respect to consideration of Durbin Amendment No. 519, to increase the deduction for health insurance costs of self-employed individuals, and to increase the excise tax on tobacco products. Subsequently, a point of order that the amendment was in violation of section 305(b)(2) of the Congressional Budget Act was sustained, and the amendment thus fell. **Pages S6394, S6449–55**

A unanimous-consent agreement was reached providing for further consideration of the bill, the pending amendments, and amendments to be proposed thereto on Friday, June 27, 1997. **Page S6667**

Removal of Injunction of Secrecy: The injunction of secrecy as removed from the following treaty:

Convention with South Africa (Treaty Doc. 105–9).

The treaty was transmitted to the Senate today, considered as having been read for the first time, and referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed. **Page S6667**

Messages From the President: Senate received the following messages from the President of the United States:

Transmitting the report concerning the national emergency with respect to Libya; referred to the Committee on Banking, Housing, and Urban Affairs. (PM–48). **Page S6494**

Transmitting the annual report of the Corporation for Public Broadcasting for fiscal year 1996; referred to the Committee on Commerce, Science, and Transportation. (PM–49). **Page S6494**

Nominations Received: Senate received the following nominations:

Jerome B. Friedman, of Virginia, to be United States District Judge for the Eastern District of Virginia.

Ronnie L. White, of Missouri, to be United States District Judge for the Eastern District of Missouri.

Robert G. Stanton, of Virginia, to be Director of the National Park Service.

W. Scott Gould, of the District of Columbia, to be Chief Financial Officer, Department of Commerce.

W. Scott Gould, of the District of Columbia, to be an Assistant Secretary of Commerce.

Catherine E. Woteki, of the District of Columbia, to be Under Secretary of Agriculture for Food Safety.

Kneeland C. Youngblood, of Texas, to be a Member of the Board of Directors of the United States Enrichment Corporation for a term expiring February 24, 2002.

Wendy Ruth Sherman, of Maryland, to be Counselor of the Department of State, and to have the rank of Ambassador during her tenure of service.

Gordon D. Giffin, of Georgia, to be Ambassador to Canada.

Maura Harty, of Florida, to be Ambassador to the Republic of Paraguay.

Curtis Warren Kamman, of the District of Columbia, to be Ambassador to the Republic of Colombia.

James F. Mack, of Virginia, to be Ambassador to the Co-operative Republic of Guyana.

Anne Marie Sigmund, of the District of Columbia, to be Ambassador to the Kyrgyz Republic.

Keith C. Smith, of California, to be Ambassador to the Republic of Lithuania.

Daniel V. Speckhard, of Wisconsin, to be Ambassador to the Republic of Belarus.

George Donohue, of Maryland, to be Deputy Administrator of the Federal Aviation Administration.

Gary Gensler, of Maryland, to be an Assistant Secretary of the Treasury.

Nancy Killefer, of Florida, to be an Assistant Secretary of the Treasury.

Nancy Killefer, of Florida, to be Chief Financial Officer, Department of the Treasury.

George Munoz, of Illinois, to be President of the Overseas Private Investment Corporation. **Page S6667**

Messages From the President: Pages S6493–94
Messages From the House: Page S6494
Communications: Pages S6495–96
Executive Reports of Committees: Page S6496
Statements on Introduced Bills: Pages S6496–S6508
Additional Cosponsors: Page S6508
Amendments Submitted: Pages S6508–53
Notices of Hearings: Page S6553
Authority for Committees: Pages S6553–54
Additional Statements: Pages S6554–57
Text of H.R. 2015 as Previously Passed: Pages S6557–S6666

Record Votes: Seven record votes were taken today. (Total–137) Pages S6396–97, S6399, S6401, S6434, S6437, S6447, S6455

Adjournment: Senate convened at 9:30 a.m., and adjourned at 11:22 p.m., until 9 a.m., on Friday, June 27, 1997. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S6667.)

Committee Meetings

(Committees not listed did not meet)

SOCIAL SECURITY REFORM

Committee on Banking, Housing, and Urban Affairs: Subcommittee on Securities resumed hearings on proposals to reform the Social Security system, focusing on the impact of Social Security privatization, receiving testimony from Jose Pinera and Mark M. Klugmann, both of the International Center for Pension Reform, Santiago, Chile.

Subcommittee recessed subject to call.

BUSINESS MEETING

Committee on Commerce, Science, and Transportation: Committee ordered favorably reported the following bills:

S. 738, to reform the statutes relating to Amtrak, and to authorize funds for Amtrak, with amendments. (As approved by the committee, the bill authorizes $1,138,000,000 for fiscal year 1998, $1,058,000,000 for fiscal year 1999, $1,023,000,000 for fiscal year 2000, $989,000,000 for fiscal year 2001, and $955,000,000 for fiscal year 2002.); and

S. 39, to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean, with an amendment in the nature of a substitute.

Also, committee began mark up of S. 442, to establish a national policy against State and local government interference with interstate commerce on the Internet or interactive computer services, and to exercise Congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce via the Internet, but did not complete action thereon, and recessed subject to call.

RECREATION AREAS ACCESSIBILITY

Committee on Energy and Natural Resources: Subcommittee on Forests and Public Land Management concluded hearings on S. 783, to provide for improved access to and use of the Boundary Waters Canoe Area Wilderness in Minnesota, after receiving testimony from Senators Feingold and Wellstone; Lyle Laverty, Director, Recreation, Wilderness and Heritage Programs, Forest Service, Department of Agriculture; Guy Holmes, Wilderness Disability Project, Virginia, Minnesota; David E. Jenkins, American Canoe Association, Springfield, Virginia; Greg Lais, Wilderness Inquiry, Minneapolis, Minnesota; Robert D. LaTourell, Jr., Ely Outfitter's Association, and former Mayor Frank Salerno, both of Ely, Minnesota; and Bill Reffalt, Wilderness Society, Washington, D.C.

NATIONAL PARKS

Committee on Energy and Natural Resources: Subcommittee on National Parks, Historic Preservation, and Recreation concluded hearings on S. 308, to require the Secretary of the Interior to conduct a study concerning grazing use of certain land within and adjacent to Grand Teton National Park, Wyoming, and to extend temporarily certain grazing privileges, and S. 360, to require adoption of a management plan for the Hells Canyon National Recreation Area that allows appropriate use of motorized and nonmotorized river craft in the recreation area, after receiving testimony from Michael Soukup, Associate Director, Natural Resource Stewardship and Science, National Park Service, Department of the Interior; Lyle Laverty, Director, Recreation, Wilderness and Heritage Programs, Forest Service, Department of Agriculture; Carole Finley, Hughes River Expeditions, Inc., Cambridge, Idaho; Darrell Bentz, Intermountain Excursions and Bentz Boats, Lewiston, Idaho; Peter Grubb, River Odysseys West, Coeur d'Alene, Idaho; Richard G. Sherwin, River Access for Tomorrow, Clarkston, Washington; Jack Sterne, Hells Canyon Preservation Council, Sisters, Oregon; and Sandra F. Mitchell, Hells Canyon Alliance, Boise, Idaho.

HOWARD M. METZENBAUM COURTHOUSE

Committee on Environment and Public Works: Committee ordered favorably reported S. 833, to designate the Federal building courthouse at Public Square and

Superior Avenue in Cleveland, Ohio, as the ''Howard M. Metzenbaum United States Courthouse''.

WETLANDS PROTECTION

Committee on Environment and Public Works: Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety concluded oversight hearings on recent administrative changes and judicial decisions relating to Section 404 of the Federal Water Pollution Control Act, focusing on litigation concerning activities subject to Clean Water Act permitting, mitigation banking, and the Environmental Protection Agency's Alaska wetlands initiative, after receiving testimony from Robert H. Wayland, III, Director, Office of Wetlands, Oceans, and Watersheds, Office of Water, Environmental Protection Agency; Michael L. Davis, Deputy Assistant Secretary of the Army for Civil Works; Darrel Seibert, Seibert Development Corporation, Hudson, Ohio, on behalf of the National Association of Home Builders; James Noyes, Los Angeles County Department of Public Works, Los Angeles, California, on behalf of the National Association of Flood and Stormwater Management Agencies; Donald I. Siegel, Syracuse University, Syracuse, New York; Donald F. McKenzie, Wildlife Management Institute, Washington, D.C.; Derb S. Carter, Jr., Southern Environmental Law Center, Chapel Hill, North Carolina; and Thomas W. Winter, Winter Brothers Material Company, St. Louis, Missouri, on behalf of the National Aggregates Association.

GLOBAL CLIMATE NEGOTIATIONS

Committee on Foreign Relations: Subcommittee on International Economic Policy, Export and Trade Promotion resumed hearings to examine current international negotiations intended to curb global greenhouse gas emissions, focusing on United States economic and science considerations, receiving testimony from Jerry J. Jasinowski, National Association of Manufacturers, William J. Cunningham, Jr., AFL–CIO, W. David Montgomery, Charles River Associates, and Robert Repetto, World Resources Institute, all of Washington, D.C.; Patrick J. Michaels, University of Virginia, Charlottesville; and Alan Robock, University of Maryland, College Park.

Subcommittee recessed subject to call.

MEDICARE FRAUD

Committee on Governmental Affairs: Permanent Subcommittee on Investigations held hearings to examine Federal efforts to expose waste, fraud and abuse in the Medicare program, receiving testimony from Senators Grassley and Harkin; Michael F. Mangano, Principal Deputy Inspector General, and Bruce C. Vladeck, Administrator, Health Care Financing Administration, Department of Health and Human Services; Charles L. Owens, Chief, Financial Crimes Section, Federal Bureau of Investigation, Department of Justice; Leslie G. Aronovitz, Associate Director, Health Financing and Systems Issues, Health, Education, and Human Services Division, General Accounting Office; and Pamela H. Bucy, University of Alabama School of Law, Tuscaloosa.

Hearings were recessed subject to call.

GLOBAL TOBACCO SETTLEMENT

Committee on the Judiciary: Committee met to receive a briefing on the terms and parameters of the proposed Global Tobacco Settlement which will mandate a total reformation and restructuring of how tobacco products are manufactured, marketed and distributed in America, focusing on its long-term impact on children and the public health, and its legal and constitutional ramifications from Mississippi Attorney General Michael Moore, Jackson; Meyer G. Koplow, Wachtell, Lipton, Rosen & Katz, New York, New York; and Matthew L. Myers, National Center for Tobacco-Free Kids, Washington, D.C.

Committee recessed subject to call.

BUSINESS MEETING

Committee on Small Business: Committee ordered favorably reported the following bills:

S. 208, to provide Federal contracting opportunities for small business concerns located in historically underutilized business zones, with an amendment in the nature of a substitute; and

An original bill authorizing funds for fiscal years 1998, 1999, and 2000 for programs of the Small Business Administration.

House of Representatives

Chamber Action

Bills Introduced: 34 public bills, H.R. 2072–2105; 1 private bill, H.R. 2106; and 2 resolutions, H. Con. Res. 108 and H. Res. 177, were introduced.

Pages H4834–35

Reports Filed: Reports were filed as follows:

H.R. 1818, to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to authorize appropriations for fiscal years 1998, 1999, 2000, and 2001, amended (H. Rept. 105–155);

H. Res. 178, providing for consideration of H.R. 2016, making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1998 (H.Rept. 105–156);

H. Con. Res. 75, expressing the sense of the Congress that States should work more aggressively to attack the problem of violent crimes committed by repeat offenders and criminals serving abbreviated sentences (H. Rept. 105–157);

H.R. 1847, to improve the criminal law relating to fraud against consumers, amended (H. Rept. 105–158);

H.R. 1898, to amend title 18 of the United States Code to penalize the rape of minors in Federal prisons (H. Rept. 105–159);

H. Res. 154, expressing the sense of the House that the Nation's children are its most valuable assets and that their protection should be the Nation's highest priority (H.Rept. 105–160);

H.R. 103, to expedite State reviews of criminal records of applicants for private security officer employment (H. Rept. 105–161 Part I); and

H.R. 1840, to provide a law enforcement exception to the prohibition on the advertising of certain electronic devices (H. Rept. 105–162).

Pages H4833–34

Guest Chaplain: The prayer was offered by the guest Chaplain, Reverend Lloyd W. Johnson, Jr. of Pekin, Illinois. **Page H4649**

Independence Day District Work Period: The House agreed to H. Con. Res. 108, providing for an adjournment of the House and Senate for the Independence Day district work period. **Page H4661**

Earlier, by a yea-and-nay vote of 230 yeas to 194 nays, Roll No. 242, agreed to H. Res. 176, the rule that provided for consideration of the concurrent resolution. **Pages H4651–61**

Taxpayer Relief Act: By a recorded vote of 253 ayes to 179 noes, Roll No. 245, the House passed H.R. 2014, to provide for reconciliation pursuant to subsections (b)(2) and (d) of section 105 of the concurrent resolution on the budget for fiscal year 1998. **Pages H4668–H4816**

By a recorded vote of 164 ayes to 268 noes, Roll No. 244, rejected the Peterson of Minnesota motion that sought to recommit the bill to the Committee on the Budget with instructions to report it back to the House forthwith with amendments that strike subsection (c) of section 1 and titles I, II, III, IV, V, VI, VII, VIII, IX, XI, XII, XIII, XIV, and XV; redesignate title X, relating to revenues; and establishes additional provisions relating to capital gains reductions, estate and gift taxes, family farms and businesses, child tax credit, and tax reductions related to educational expenses. **Pages H4813–15**

Pursuant to the rule, the amendment printed in the June 24 Congressional Record and numbered 2 was considered as adopted. The amendment modifies the child tax credit; revises the estimated tax safe harbor, requires a study on the impact of repealing the alternative minimum tax depreciation adjustment as it relates to certain corporate taxable income, modifies the deposit rules with respect to commercial air passenger excise taxes, deletes provisions relating to a reduction in tax benefits for ethanol and renewable source methanol, changes the budgetary treatment of certain expiring provisions, and amends the title.

Rejected the Rangel amendment in the nature of a substitute that sought to increase HOPE scholarship credits; extend an income tax exclusion for employer provided educational assistance; authorize interest free bonds and loans for schools with students from poor families; provide tax credits for children of families who earn less than $60,000 per year; provide capital gains exclusions for the sale of a principal residence, allow a deductible capital gain loss when selling a residence, provide a special rate for the sale of farms, business assets, and real estate; create an additional exemption for estates that include a family owned business; extend expiring provisions of various tax credits; expand empowerment zones and enterprise zones; provide various tax credits and incentives including the deduction of remediation costs incurred with toxic waste cleanup and a welfare to work credit (rejected by a recorded vote of 197 ayes to 235 noes, Roll No. 243). **Pages H4777–H4813**

On June 25, the House agreed to H. Res. 174, the rule that provided for consideration of both H.R. 2014, Taxpayer Relief Act and H.R. 2015, Balanced Budget Act. **Pages H4385–H4415**

Late Report—Appropriations: Committee on Appropriations received permission to have until midnight Tuesday, July 1 to file a report on a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1998. **Page H4816**

Late Report—Banking and Financial Services: Committee on Banking and Financial Services received permission to have until midnight Thursday, July 3 to file a report on H.R. 10, to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers. **Page H4817**

Elections in Albania: Considered under unanimous consent, the House agreed to H. Con. Res. 105, expressing the sense of the Congress relating to the elections in Albania scheduled for June 29, 1997. **Pages H4816–17**

Legislative Program: The Chief Deputy Majority Whip announced the legislative program for the week of July 7. **Pages H4817–18**

Extension of Remarks: It was made in order that for today all members be permitted to extend their remarks and to include extraneous material in that section of the Record entitled ''Extension of Remarks''. **Page H4818**

Calendar Wednesday: Agreed to dispense with Calendar Wednesday business of Wednesday, July 9. **Page H4818**

Resignations—Appointments: It was made in order that notwithstanding any adjournment of the House until Tuesday, July 8, 1997, the Speaker, Majority Leader, and Minority Leader be authorized to accept resignations and to make appointments authorized by law or by the House. **Page H4818**

Designation of Speaker Pro Tempore: Read a letter from the Speaker wherein he designates Representative Morella or Representative Davis of Virginia to act as Speaker pro tempore to sign enrolled bills and joint resolutions through July 8, 1997. **Page H4818**

Presidential Messages: Read the following messages from the President:

National Emergency Re Libya: Message wherein he transmits his report concerning the National Emergency with respect to Libya—referred to the Committee on International Relations and ordered printed (H. Doc. 105–101); and **Pages H4818–19**

Public Broadcasting and Public Telecommunications Entities: Message wherein he transmits the FY 1996 Annual Report of the Corporation for Public Broadcasting and the Inventory of the Federal Funds distributed to Public Telecommunications entities by Federal Departments and Agencies—referred to the Committee on Commerce. **Page H4819**

Senate Messages: Messages received today from the Senate appear on pages H4649 and H4819.

Quorum Calls—Votes: One yea-and-nay vote and three recorded votes developed during the proceedings of the House today and appear on pages H4660–61, H4812–13, H4815, and H4815–16. There were no quorum calls.

Adjournment: Met at 10:00 a.m. and pursuant to the provisions of H. Con. Res. 108, adjourned at 7:27 p.m. until 12:30 p.m. on Tuesday, July 8.

Committee Meetings

DAIRY INDEMNITY PROGRAM REAUTHORIZATION

Committee on Agriculture: Subcommittee on Livestock, Dairy, and Poultry approved for full Committee action H.R. 1789, to reauthorize the dairy indemnity program.

Prior to this action, the Committee held a hearing on this legislation. Testimony was heard from Bruce R. Weber, Associate Administrator, Farm Service Agency, USDA; and a public witness.

INTERIOR APPROPRIATIONS

Committee on Appropriations: Ordered reported the Interior appropriations for fiscal year 1998.

OVERSIGHT—FEDERAL MONEY PRODUCTION

Committee on Banking and Financial Services: Subcommittee on Domestic and International Monetary Policy held an oversight hearing on Federal Money Production. Testimony was heard from the following officials of the GAO: Michael E. Motley, Associate Director, Government Business Operations; and Theodore C. Barreaux, Counselor to the Comptroller General; the following officials of the Department of the Treasury: Mary Ellen Withrow, Treasurer; Phillip N. Diehl, Director, U.S. Mint; Larry Rolufs, Director, Bureau of Engraving and Printing; and George Munoz, Assistant Secretary, Management.

HOMELESS HOUSING CONSOLIDATION AND FLEXIBILITY ACT

Committee on Banking and Financial Services: Subcommittee on Housing and Community Opportunity held a hearing on H.R. 217, Homeless Housing Consolidation and Flexibility Act. Testimony was heard from Jacquie Lawing, General Deputy Assistant Secretary, Department of Housing and Urban

Development; Jane Kenny, Commissioner, Department of Community Affairs, State of New Jersey; and public witnesses.

NATIONAL SALVAGE MOTOR VEHICLE CONSUMER PROTECTION ACT

Committee on Commerce: Subcommittee on Telecommunications, Trade, and Consumer Protection held a hearing on H.R. 1839, National Salvage Motor Vehicle Consumer Protection Act of 1997. Testimony was heard from Richard C. Morse, Chief, Odometer Fraud Staff, National Highway Traffic Safety Administration, Department of Transportation; and public witnesses.

CHARTER SCHOOLS

Committee on Education and the Workforce: Subcommittee on Early Childhood, Youth and Families held a hearing on Charter Schools. Testimony was heard from Gerald Tirozzi, Assistant Secretary, Elementary and Secondary Education, Department of Education; and public witnesses.

HIGHER EDUCATION ACT AMENDMENTS

Committee on Education and the Workforce: Subcommittee on Postsecondary Education, Training and Life-Long Learning continued hearings on H.R. 6, Higher Education Act Amendments of 1998. Testimony was heard from public witnesses.

MISCELLANEOUS MEASURE

Committee on Government Reform and Oversight: Subcommittee on Government Management, Information, and Technology approved for full Committee action amended H.R. 404, to amend the Federal Property and Administrative Services Act of 1949 to authorize the transfer to State and local governments of certain surplus property for use for law enforcement or public safety purposes.

GULF WAR SYNDROME—STATUS OF EFFORTS TO IDENTIFY

Committee on Government Reform and Oversight: Subcommittee on Human Resources continued hearings on Status of Efforts to Identify Gulf War Syndrome, with emphasis on Multiple Toxic Exposures. Testimony was heard from Representative Metcalf; Thomas Garthwaite, Deputy Under Secretary, Health, Department of Veterans Affairs; Bernard Rostker, Special Assistant, Gulf War Illness, Department of Defense; and public witnesses.

U.S. ENTERPRISE FUNDS

Committee on International Relations: Held a hearing on United States Enterprise Funds in Eastern Europe and the States of the Former Soviet Union. Testimony was heard from the following officials of the Department of State: Ambassador Richard Morningstar, Special Advisor to the President and the Secretary of State on Assistance to the Newly Independent States and Coordinator of U.S. Assistance to the Newly Independent States; and James Holmes, Coordinator, Eastern European Assistance, Bureau of European and Canadian Affairs; and Tom Dine, Assistant Administrator, Bureau for Europe and the Newly Independent States, AID, U.S. International Development Cooperation Agency.

CIVIL RIGHTS ACT

Committee on the Judiciary: Subcommittee on the Constitution held a hearing on H.R. 1909, Civil Rights Act of 1997. Testimony was heard from Senator McConnell; Representatives Campbell, Norton, Roukema, Mink of Hawaii and Fowler; and public witnesses.

MISCELLANEOUS MEASURES

Committee on the Judiciary: Subcommittee on Immigration and Claims held a hearing on the following: H.R. 371, Hmong Veterans' Naturalization Act of 1997; and a measure to provide for a change with respect to the requirements for a Canadian border boat landing permit pursuant to section 235 of the Immigration and Nationality Act. Testimony was heard from Representative Vento and LaTourette; from the following officials of the Immigration and Naturalization Service, Department of Justice: Louis D. Crocetti, Jr., Associate Commissioner, Examinations; and Donna Kaye Barnes, Chief Inspector; and public witnesses.

ATLANTIC HERRING AND MACKEREL FISHERIES—MORATORIUM ON LARGE FISHING VESSELS

Committee on Resources: Subcommittee on Fisheries Conservation, Wildlife and Oceans held a hearing on H.R. 1855, to impose a moratorium on large fishing vessels in the Atlantic herring and mackerel fisheries. Testimony was heard from Representatives LoBiondo, Delahunt and Tierney; Rolland Schmitten, Assistant Administrator, Fisheries, National Marine Fisheries Service, NOAA, Department of Commerce; and public witnesses.

MILITARY CONSTRUCTION APPROPRIATIONS

Committee on Rules: Granted, by voice vote, an open rule providing 1 hour of debate on H.R. 2016, making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1998. The rule waives points of order against provisions in the bill which do not comply with clause 2 of Rule XXI (prohibiting unauthorized

appropriations and legislation on general appropriations bills), and clause 6 of Rule XXI (prohibiting transfers of unobligated balances).

The rule provides for priority in recognition to those amendments that are preprinted in the Congressional Record. The rule also provides that the Chairman of the Committee of the Whole may postpone recorded votes on any amendment and that the chairman may reduce voting time on postponed questions to 5 minutes, provided that the vote takes place immediately following another recorded vote and that the voting time on the first series of questions be not less than 15 minutes. Finally, the rule provides one motion to recommit, with or without instructions. Testimony was heard from Representatives Packard and Hefner.

DECISION-MAKING IN THE HOUSE—IMPACT OF NEW INFORMATION TECHNOLOGIES

Committee on Rules: Subcommittee on Rules and Organization of the House held a hearing on the impact of new information technologies on decision-making in the House of Representatives. Testimony was heard from public witnesses.

OSHA'S CONTEMPLATED SAFETY AND HEALTH PROGRAM STANDARDS

Committee on Small Business: Held a hearing on OSHA's Contemplated Safety and Health Program Standards. Testimony was heard from Greg Watchman, Acting Assistant Secretary, Occupational Safety and Health, Department of Labor; and public witnesses.

YEAR 2000 REQUIREMENTS—EFFORTS TO ACHIEVE COMPUTER COMPLIANCE

Committee on Veterans' Affairs: Subcommittee on Oversight and Investigations held a hearing on efforts to achieve computer compliance with Year 2000 requirements. Testimony was heard from Representative Horn; Joel C. Willemssen, Director, Information Resources Management, Accounting and Information Management Division, GAO; D. Mark Catlett, Assistant Secretary, Management, Department of Veterans Affairs; and Tom Shope, Acting Director, Division of Electronics and Computer Science, Office of Science and Technology, Center for Devices and Radiological Health, FDA, Department of Health and Human Services.

COMMITTEE MEETINGS FOR FRIDAY JUNE 27, 1997

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Governmental Affairs, business meeting, to discuss issues relating to the campaign financing investigation, time and room to be announced.

House

No committee meetings are scheduled.

Next Meeting of the SENATE

9 a.m., Friday, June 27

Senate Chamber

Program for Friday: Senate will continue consideration of S. 949, Revenue Reconciliation.

Next Meeting of the HOUSE OF REPRESENTATIVES

12:30 p.m., Tuesday, July 8

House of Chamber

Program for Tuesday: To be announced.

Extensions of Remarks, as inserted in this issue

HOUSE

Barcia, James A., Mich., E1331
Boehner, John A., Ohio, E1332
Crane, Philip M., Ill., E1334
Davis, Thomas M., Va., E1331, E1334
Hamilton, Lee H., Ind., E1331
Manzullo, Donald A., Ill., E1334
Oxley, Michael G., Ohio, E1331
Stupak, Bart, Mich., E1334

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