

"95 percent (90 percent for taxable years beginning before January 1, 1980)" and inserting "90 percent".

(b) IMPOSITION OF TAX.—Clause (i) of section 857(b)(5)(A) (relating to imposition of tax in case of failure to meet certain requirements) is amended by striking "95 percent (90 percent in the case of taxable years beginning before January 1, 1980)" and inserting "90 percent".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of enactment of this Act.

TITLE IV—CLARIFICATION OF DEFINITION OF INDEPENDENT CONTRACTOR

SEC. 401. CLARIFICATION OF DEFINITION OF INDEPENDENT CONTRACTOR.

(a) IN GENERAL.—Paragraph (3) of section 856(d) (relating to independent contractor defined) is amended by adding at the end the following flush sentence:

"In the event that any class of stock of either the real estate investment trust or such person is regularly traded on an established securities market, only persons who own, directly or indirectly, more than 5 percent of such class of stock shall be taken into account as owning any of the stock of such class for purposes of applying the 35 percent limitation set forth in subparagraph (B) (but all of the outstanding stock of such class shall be considered outstanding in order to compute the denominator for purpose of determining the applicable percentage of ownership)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

TITLE V—MODIFICATION OF EARNINGS AND PROFITS RULES

SEC. 501. MODIFICATION OF EARNINGS AND PROFITS RULES.

(a) RULES FOR DETERMINING WHETHER REGULATED INVESTMENT COMPANY HAS EARNINGS AND PROFITS FROM NON-RIC YEAR.—Subsection (c) of section 852 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 earnings and profits accumulated in any taxable year to which the provisions of this part did not apply 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)(D) and section 855."

(b) CLARIFICATION OF APPLICATION OF REIT SPILLOVER DIVIDEND RULES TO DISTRIBUTIONS TO MEET QUALIFICATION REQUIREMENT.—Subparagraph (B) of section 857(d)(3) is amended by inserting before the period "and section 858".

(c) APPLICATION OF DEFICIENCY DIVIDEND PROCEDURES.—Paragraph (1) of section 852(e) is amended by adding at the end the following new sentence: "If the determination under subparagraph (A) is solely as a result of the failure to meet the requirements of subsection (a)(2), the preceding sentence shall also apply for purposes of applying subsection (a)(2) to the non-RIC year."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

Mr. GRAHAM. Mr. President, I am pleased to join my colleague, Senator

MACK, in the introduction of the REIT Modernization Act, legislation that would modernize the tax rules that apply to real estate investment trusts ("REITs").

REITs were created in 1960 to give small investors the ability to invest in income producing real estate. But it was not until the early part of this decade that REITs emerged as a significant factor in real estate finance. Their rapid growth then contributed in a major way to the development of real estate markets. The real estate industry is experiencing change today as owners seek to maximize returns by taking greater advantage of their employee expertise and tenant base. This bill will better enable REITs to expand their services to tenants and customers.

The Administration's Fiscal Year 2000 budget includes a proposal to change the rules governing REITs. The legislation that we are introducing today is largely based on that proposal. It would permit REITs to establish taxable subsidiaries to offer services that a REIT cannot offer directly to tenants and third parties. Stringent rules are included to ensure that the subsidiary would be fully subject to taxation. Current rules designed to ensure that REIT income is primarily earned from real estate activities would continue to apply. The bill also modifies the treatment of health care facilities to ensure that patients' lives are not disrupted in the event of an expired lease, and restores the 90% distribution rule that had previously applied to REITs.

REITs play a positive role in the real estate economy that has helped to stabilize property values and provide liquidity to the market. As long as the basic limitations on REIT activities are preserved, those tax rules which impose restraints on REIT activities must be modified. In my own state of Florida, REITs have invested more than \$13 billion in the Florida economy, and are an important source of investment capital that has reinvigorated real estate markets.

I want to thank Senator MACK for his leadership on this issue and I welcome the bipartisan support this measure has received from members of the Senate Finance Committee, along with others, who have joined as cosponsors of the bill. I look forward to working with them in the months ahead.

Mr. MOYNIHAN. Mr. President: I commend the efforts of my respected colleagues from Florida, Senator MACK and Senator GRAHAM, as they work to modernize the tax rules that apply to Real Estate Investment Trusts (REITs). I have worked with the REIT industry over the years and have seen it grow to be a major contributor to the strength of the real estate sector in New York and nationally.

Congress first authorized REITs in 1960 so that investors of modest means could invest in income producing real estate assets. During the last four decades, REITs have provided not only

real estate ownership opportunities for individual investors, but also an important source of capital for real estate investment.

As tax policy makers we have the responsibility to make sure that tax laws governing REITs are updated to reflect the realities of a dynamic market and to maintain a proper competitive balance between real estate owned through the REIT structure and through more traditional corporate and partnership structures. But because REITs are pass-through entities, we also have a responsibility to ensure that they are not used as vehicles for sheltering corporate taxes in a manner inconsistent with Congressional intent. In fact, twice in the last Congress the Finance Committee crafted legislation, later signed into law, to stop inappropriate use of the REIT structure in the case of so-called "stapled entities" and liquidating subsidiaries.

The Administration has included a proposal in its FY 2000 budget that would, among other things, allow REITs to own a taxable REIT subsidiary. The legislation introduced by Senators MACK and GRAHAM builds on the Administration proposal, and would expand the permissible business activities of REITs.

The approach taken in the proposals advanced by the Administration and by Senators MACK and GRAHAM warrant consideration. I have asked my staff to review the legislation and work with the authors of the bill. It is my hope that Congress can enact REIT modernization legislation this year.

ADDITIONAL COSPONSORS

S. 201

At the request of Mr. DODD, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 201, a bill to amend the Family and Medical Leave Act of 1993 to apply the Act to a greater percentage of the United States workforce, and for other purposes.

S. 247

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 247, a bill to amend title 17, United States Code, to reform the copyright law with respect to satellite retransmissions of broadcast signals, and for other purposes.

S. 335

At the request of Ms. COLLINS, the names of the Senator from Nevada (Mr. BRYAN), the Senator from Utah (Mr. HATCH), and the Senator from Delaware (Mr. ROTH) were added as cosponsors of S. 335, a bill to amend chapter 30 of title 39, United States Code, to provide for the nonmailability of certain deceptive matter relating to games of chance, administrative procedures, orders, and civil penalties relating to such matter, and for other purposes.

S. 459

At the request of Mr. BREAUX, the names of the Senator from Kentucky

(Mr. BUNNING) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 459, a bill to amend the Internal Revenue Code of 1986 to increase the State ceiling on private activity bonds.

S. 487

At the request of Mr. GRAMS, the names of the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 487, a bill to amend the Internal Revenue Code of 1986 to provide additional retirement savings opportunities for small employers, including self-employed individuals.

S. 512

At the request of Mr. GORTON, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 512, a bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the Department of Health and Human Services with respect to research on autism.

S. 526

At the request of Mr. GRAHAM, the name of the Senator from Washington (Mr. GORTON) was added as a cosponsor of S. 526, a bill to amend the Internal Revenue Code of 1986 to allow issuance of tax-exempt private activity bonds to finance public-private partnership activities relating to school facilities in public elementary and secondary schools, and for other purposes.

S. 577

At the request of Mr. HATCH, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 577, a bill to provide for injunctive relief in Federal district court to enforce State laws relating to the interstate transportation of intoxicating liquor.

S. 676

At the request of Mr. CAMPBELL, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 676, a bill to locate and secure the return of Zachary Baumel, a citizen of the United States, and other Israeli soldiers missing in action.

S. 763

At the request of Mr. THURMOND, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 763, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, and for other purposes.

S. 879

At the request of Mr. CONRAD, the names of the Senator from Louisiana (Mr. BREAUX) and the Senator from Nebraska (Mr. KERREY) were added as cosponsors of S. 879, a bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period for the depreciation of certain leasehold improvements

S. 1017

At the request of Mr. MACK, the name of the Senator from Missouri (Mr.

BOND) was added as a cosponsor of S. 1017, a bill to amend the Internal Revenue Code of 1986 to increase the State ceiling on the low-income housing credit.

S. 1034

At the request of Mr. AKAKA, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1034, a bill to amend title XVIII of the Social Security Act to increase the amount of payment under the medicare program for pap smear laboratory tests.

SENATE JOINT RESOLUTION 22

At the request of Mr. JEFFORDS, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of Senate Joint Resolution 22, a joint resolution to reauthorize, and modify the conditions for, the consent of Congress to the Northeast Interstate Dairy Compact and to grant the consent of Congress to the Southern Dairy Compact

AMENDMENTS SUBMITTED

VIOLENT AND REPEAT JUVENILE
OFFENDER ACCOUNTABILITY
AND REHABILITATION ACT OF
1999ALLARD (AND OTHERS)
AMENDMENT NO. 351

(Ordered to lie on the table.)

Mr. ALLARD (for himself, Mr. CRAIG, Mr. HELMS, and Mr. ENZI) submitted an amendment intended to be proposed by them to the bill (S.254) to reduce violent juvenile crime, promote accountability by rehabilitation of juvenile criminals, punish and deter violent gang crime, and for other purposes; as follows:

At the appropriate place in the bill, insert the following:

SEC. . CONSTITUTIONALITY OF MEMORIAL SERVICES AND MEMORIALS AT PUBLIC SCHOOLS.

(a) FINDINGS.—The Congress of the United States finds that the saying of a prayer, the reading of a scripture, or the performance of religious music, as part of a memorial service that is held on the campus of a public school in order to honor the memory of any person slain on that campus does not violate the First Amendment to the Constitution of the United States, and that the design and construction of any memorial that is placed on the campus of a public school in order to honor the memory of any person slain on that campus a part of which includes religious symbols, motifs, or sayings does not violate the First Amendment to the Constitution of the United States.

(b) LAWSUITS.—In any lawsuit claiming that the type of memorial or memorial service described in subsection (a) violates the Constitution of the United States—

(1) each party shall pay its own attorney's fees and costs, notwithstanding any other provision of law, and

(2) the Attorney General of the United States is authorized to provide legal assistance to the school district or other governmental entity that is defending the legality of such memorial service.

**KOHL (AND OTHERS) AMENDMENT
NO. 352**

Mr. KOHL (for himself, Mr. HATCH, and Mr. CHAFEE) proposed an amendment to the bill, S. 254, supra; as follows:

At the appropriate place in the bill, in Title ____, General Provisions, insert the following new sections:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Safe Handgun Storage & Child Handgun Safety Act of 1999".

SEC. 2. PURPOSES.

The purposes of this Act are as follows:

(a) To promote the safe storage and use of handguns by consumers.

(b) To prevent unauthorized persons from gaining access to or use of a handgun, including children who may not be in possession of a handgun, unless it is under one the circumstances provided for in the Youth Handgun Safety Act.

(c) To avoid hindering industry from supplying law abiding citizens firearms for all lawful purposes, including hunting, self-defense, collecting and competitive or recreational shooting.

SEC. 3. FIREARMS SAFETY.

(a) UNLAWFUL ACTS—

(1) MANDATORY TRANSFER OF SECURE GUN STORAGE OR SAFETY DEVICE.—Section 922 of title 18, United States Code, is amended by inserting after subsection (y) the following:

"(z) SECURE GUN STORAGE OR SAFETY DEVICE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any licensed manufacturer, licensed importer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than any person licensed under the provisions of this chapter, unless the transferee is provided with a secure gun storage or safety device, as described in section 921(a)(35) of this chapter, for that handgun.

"(2) EXCEPTIONS.—Paragraph (1) does not apply to the—

"(A)(i) manufacture for, transfer to, or possession by, the United States or a State or a department or agency of the United States, or a State or a department, agency, or political subdivision of a State, of a handgun; or

"(ii) transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off duty); or

"(B) transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a handgun for purposes of law enforcement (whether on or off duty);

"(C) transfer to any person of a handgun listed as a curio or relic by the Secretary pursuant to section 921(a)(13); or

"(D) transfer to any person of a handgun for which a secure gun storage or safety device is temporarily unavailable for the reasons described in the exceptions stated in section 923(e), provided that the licensed manufacturer, licensed importer, or licensed dealer delivers to the transferee within 10 calendar days from the date of the delivery of the handgun to the transferee a secure gun storage or safety device for the handgun."

"(3) LIABILITY FOR USE.—(A) Notwithstanding any other provision of law, a person who has lawful possession and control of a handgun, and who uses a secure gun storage or safety device with the handgun, shall be entitled to immunity from a civil liability action as described in this paragraph.

"(B) PROSPECTIVE ACTIONS.—A qualified civil liability action may not be brought in