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Senate

The Senate met at 11 a.m. and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear God, our Creator, Sustainer and Strength, You have given us the gift of life, blessed us with this new week, and given us work to do for Your glory. We admit our need for Your insight and inspiration. You never intended for us to depend solely on our own intellect and understanding. We humbly place our total dependence on Your power to maximize the use of the talents You have entrusted to us. Guide us, Lord. We accept Your absolute reign and rule in our minds.

Thank You for the peace of mind we have when we submit our needs to You. Source of our courage, we unreservedly commit to You our lives and the decisions to be made this week. We relinquish our control and intentionally ask You to take charge. Think and speak through us. Through our Lord and Savior. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

SCHEDULE

Mr. LOTT. Mr. President, I want to say once again how much I appreciated the cooperation that I received from Senators on both sides of the aisle last week. I think last week was a very good week for the Senate. We completed the NATO enlargement debate, and I thought it was a good debate. I thought the Senate showed a great deal of seriousness and maturity in the way they handled the final phases and cast their votes on Thursday night.

We also completed action on the supplemental appropriations bill, which has gone to the President. That way, we will have the funds we need for the defense of our country and to assist with natural disasters that have hit any number of States over the past few months.

Also, on Friday, we did have debate on the workplace development bill—all debate except for the final 1 hour. All amendments were handled. I believe there were five or six amendments that had been pending. So Senator JEFFORDS, Senator DEWINE, and others did a good job getting that debate done on Friday. We will pick that bill back up at 4:30 on Tuesday. There will be 1 hour of debate, followed by final passage on the Workplace Development Act at 5:30 on Tuesday.

Following morning business this morning, the Senate will begin consideration then of H.R. 2676, the IRS reform and restructuring bill, for debate only. It is hoped that Members will come to the floor to offer opening statements and debate this very important piece of legislation.

IRS REFORM

Mr. LOTT. Mr. President, as a member of the Finance Committee, once again, last week I found the hearings on IRS enlightening, in fact, horrifying. We had witness after witness come in and put their own jobs and reputations on the line—if they were IRS employees—to talk about the protection system of mismanagement and misconduct within IRS. We had small businessmen come forward and talk about businesses being raided—in one instance, I think by 64 gun-carrying IRS agents and U.S. marshals—when they had done nothing wrong. We heard great detail about the efforts that have been gone to by management to protect misconduct.

Finally, we heard of targeting of political officials or public officials for audits or for, in one case, an effort to show that this person had been laundering money, and it was not true. Senator Howard Baker, the great former majority leader, came before the committee and told what he had experienced—by the way, even though he was under a lot of pressure not to do so.

We clearly have a culture of intimidation and misconduct at the IRS. It is not something that has just developed; it has been growing and getting worse for the past 15 years. We need serious IRS reform. The House-passed legislation made a major step in the right direction last year, but we have found a lot more abuses. We have come up with more things that need to be done to make the IRS genuinely representative of what the people expect them to be—that is, to do their job, which is not easy, and to protect the truly hard-working and honest IRS agents who are doing their jobs every day, some who came forward and pointed out where problems have been.

We have learned a lot and have come up with some good legislation. There will be some relevant amendments that will need to be offered and debated and voted on. I hope we can come to an agreement that will not allow this bill to become one that is attacked by poison pills or cause its delay or destruction. The American people want this IRS reform. I think to get off in a debate of unrelated issues—whether it is trade issues, many of which I may be for, or health issues, or whatever—would be a big mistake. We ought to have a good debate this Monday and Tuesday. We ought to complete this IRS debate by Wednesday or Thursday night, at the latest. We were able to get our job done last week. I hope we can do it again this week.

Now, in addition to those bills, on Thursday or Friday we may try to take up a couple of other issues. It will depend on how the debate goes. The agriculture research conference report is

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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something we might try to get up Thursday night or Friday, or not later than next Monday. We also have pending before us a number of other important bills, including the higher education legislation and nuclear waste. So there are a number of bills that are waiting.

Again, I ask for the cooperation of the Senators on both sides of the aisle to work with the chairman of the Finance Committee and ranking member to get an agreement on how we can proceed. Let's have a good debate, relevant amendments, and let's complete this job.

Even the President, who originally resisted IRS reform, on his radio show Saturday said what has been happening at IRS is outrageous and that we should act on this legislation and get it to him as quickly as possible. I hope we will move forward, now that we have him involved in this effort, and complete this important legislation.

Mr. President, I note that there are no Senators waiting to speak. I believe the managers of the legislation will be here at noon. From now until noon will be a period of morning business.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KYL). 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.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 12 o'clock noon, at which time, under the previous order, the Senate will proceed, for debate only, to the consideration of H.R. 2676.

Under the previous order, the Senator from North Dakota is recognized at this time.

Mr. DORGAN. Mr. President, my understanding is the 30 minutes that I am able to use under a previous unanimous consent agreement will bump up against the 12 o'clock time. I ask unanimous consent that the 12 o'clock time be modified so I may use the entire 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is permitted to speak until 12:15 p.m.

ISTEA

Mr. DORGAN. Mr. President, I want to visit about a couple of things this morning. First, I want to talk about the highway bill that is in conference between the House and the Senate. It is now May 4, 1998. The highway bill, or a piece of legislation people commonly refer to as ISTEA (the Intermodal Surface Transportation Efficiency Act) was supposed to have been completed last year, but it was not. The highway bill was extended until May 1, and then the authorization for the highway bill expired.

We are now on May 4 without highway legislation that is authorized, and the highway officials and Governors around the country are wondering, appropriately, what is going to happen to this highway bill? With what authority can I obligate money? What about the projects we have to do in our States to build roads and repair bridges?

I don't blame State and local highway officials and others who are rightly furious with the Congress that it has not gotten its work done. It is a shame, in my judgment, that almost a year after the legislation should have been done, not only was the legislation not done, but we have already had an extension and that has expired. Now, here we are with no highway bill at all.

I ask those who run this Congress and those who are convening the conference on the highway bill, let's decide to get this thing done. This isn't rocket science; it is building highways. We know how to do that. If the political will doesn't exist to do what is necessary to reach a compromise on a highway bill, then I suppose that those who run the Congress should say to the Governors and the highway commissioners, ''We can't be counted upon to do this work.''

I hope in the coming days people will understand the urgency of this. I come from the State of North Dakota, and we have a relatively short construction season. It is not fair to our States for this Congress not to do its work on time. We should do it, it ought to be done, and it ought to be done soon.

TOBACCO LEGISLATION

Mr. DORGAN. Mr. President, I came to the floor today to talk for just a moment about the tobacco legislation that is to be brought to the floor of the Senate. My understanding is that we will consider, in the next perhaps month, the tobacco legislation that was enacted by the Senate Commerce Committee, of which I am a member.

The Senate Commerce Committee considered a comprehensive tobacco bill. We passed it, and the vote was 19 to 1. The legislation is controversial, to be sure, and the tobacco industry has now ratcheted up an enormous amount of money and energy directed at trying to kill the bill.

I thought it would be interesting to read into the RECORD a few comments here and there dealing with the tobacco companies and why they are so interested in killing this tobacco legislation. We will see an enormous amount of money spent on advertising to try to kill this legislation.

My colleague, Senator CONRAD from North Dakota, chaired a task force on the issue of tobacco and created a piece of legislation. He has done a wonderful job, in my judgment, dealing this with issue, and the Senate could well take its cues from the work Senator CONRAD has done. Incidentally, the Senate Commerce Committee took much from the legislation Senator CONRAD introduced in the Congress.

The reason we are concerned about the tobacco issue is the targeting of teenagers in this country to get them to smoke. I have said before on the floor that almost no one reaches age 30 and wonders, ''What more could I do to fulfill my life?'' and decides they should start smoking. Almost no one reaches majority age and says, ''Gee, what am I missing?'' and concludes what they have really missed is, they have not smoked and they need to start smoking cigarettes. The reason they don't arrive at that answer is that by that age, they know that cigarettes can kill you.

Mr. President, 300,000 to 400,000 people a year die in this country from smoking and smoking-related causes, and the only future customers for tobacco are kids. The only conceivable future customers for cigarettes are children, and that is why many in this country, myself included, believe it is important for us to say to the tobacco industry, ''Never again shall you target America's children to addict them to tobacco, addict them to nicotine. We won't allow it.'' That is what the tobacco legislation is all about.

What did the tobacco companies know, and when did they know it about the subject of nicotine? We are now hearing a lot of testimony and discussion about that. Tobacco companies have been at the forefront of nicotine research in the last several decades. In fact, the tobacco companies, since the early 1960s, claimed that nicotine was not addictive and anyone who smokes makes a free choice to smoke.

By the 1960s, however, all of the reports we are now seeing, including confidential memoranda and data from a tobacco company, showed us they had developed a very sophisticated understanding of nicotine pharmacology and they knew very well that nicotine was pharmacologically addictive. The release of internal tobacco company documents makes it clear. They realize the impact and significance of nicotine.

In 1963, a British American Tobacco document said:

> Nicotine is by far the most characteristic single constituent in tobacco, and the known physiological effects are positively correlated with smoker response.

In 1969, a draft report to the Philip Morris board of directors said:

> In the past, we at R&D—that is research and development—have said that we're not in the cigarette business, we're in the smoke business. It might be more pointed to observe that the cigarette is the vehicle of smoke, smoke is the vehicle of nicotine and nicotine is the agent of a pleasurable body response.

In a memo from 1978, Brown & Williamson, signed by H.D. Steele says:

> Very few consumers are aware of the effects of nicotine, i.e., its addictive nature and that nicotine is a poison.

That is a tobacco industry paper.

There is little doubt if it were not for the nicotine in tobacco smoke, people would be less inclined to smoke than they are to blow bubbles or to light sparklers.

M.A.H. Russell, 1974.

1983, Brown & Williamson:

Nicotine is the addicting agent in cigarettes.

1983, Brown & Williamson:

Raleigh and Belair smokers are addicted to smoking. . . . They smoke primarily to reduce negative feeling states rather than for pleasure. Given their low income, smoking represents a financial drain on family resources. Saving coupons for household items helps reduce guilt associated with smoking.

How about the health effects of tobacco? What do the tobacco companies know about that?

The vice president of a tobacco company, in 1963, said:

At best, the probabilities are that some combination of constituents of smoke will be found conducive to the onset of cancer or to create an environment in which cancer is more likely to occur.

That is ''at best,'' he says. That is a fellow who helps run a tobacco company.

1970, lung cancer experiments that were done by the general manager of research prepared for the managing director of Gallaher Electronic Telegraph:

One of the striking features of the Auerbach experiment was that practically every dog which smoked suffered significantly from the effects of the smoke either in terms of severe irritation and bronchitis, pre-cancerous changes or cancer.

A top research official for the American Tobacco Company, 1970:

[W]e believe the Auerbach work proves beyond reasonable doubt that fresh whole cigarette smoke is carcinogenic to dog lungs and therefore it is highly likely that it is carcinogenic to human beings.

[T]he results of the research would appear to us to remove the controversy regarding the causation of human lung cancer . . .

How about tobacco companies targeting kids?

1981, Philip Morris, a report from a researcher to the Vice President of Research and Development at Philip Morris. He says:

Today's teenager is tomorrow's potential regular customer, and the overwhelming majority of smokers first begin to smoke while in their teens. At least a part of the success of Marlboro Red during its most rapid growth period was because it became the brand of choice among teenagers who then stuck with it as they grew older.

Teenage smokers. A memorandum from the tobacco industry:

To improve our ability to forecast future trends, this report examines the demographics and smoking behavior of 14–17 year old smokers.

This is a company now that is doing detailed research on 14- to 17-year-old smokers. ''Forecasting future trends,'' that means ''they're our customers. We're interested in them. We want to keep them smoking.''

One company was concerned because their share of teenaged smokers declined while the share of teenagers who purchased a competitive brand increased. That concerned the company a great deal.

Another tobacco industry statement:

It is important to know as much as possible about teenage smoking patterns and attitudes. Today's teenager is tomorrow's potential regular customer. . . . it is during the teenage years that the initial brand choice is made.

And that is the statement from a tobacco company.

Now, the consequences of tobacco smoking are quite clear. Tobacco is a legal product, and in my judgment shall and will be legal in the future. But it is not a legal product for children. An industry that has record profits and has targeted children, because it believes that children are its future customers, is an industry that, in my judgment, is sadly out of touch with its responsibilities.

The U.S. Senate and the Congress has a responsibility to take up the tobacco bill. We passed it out of the Senate Commerce Committee now nearly a month ago under the leadership of Senator MCCAIN. I noted today in the newspapers that Senator MCCAIN indicated that, I believe he said $50 to $100 million is to be spent by the tobacco industry to defeat efforts in Congress to pass a comprehensive tobacco bill.

I hope the American people take note that this industry is the same industry which said tobacco is not addictive when in fact they knew it was addictive. They were saying we are not targeting children when in fact they were targeting children.

I hope the American people understand, as well, that when the tobacco industry launches a massive effort to try to derail the efforts of the Congress to pass a comprehensive tobacco bill, the American people have the capability in this system of ours to make the difference. They can weigh in. They can make their views known about whether or not they believe this Congress shall pass a piece of legislation to stop this industry from targeting America's children and from trying to addict America's children to cigarettes.

Mr. President, my colleague from North Dakota, Senator CONRAD, is on the floor. I would like to yield to him as much time as he consumes to discuss another issue, and at the conclusion of his remarks, it is my intention to follow up on the issue he is going to discuss. Let me yield the time that he consumes to Senator CONRAD.

The PRESIDING OFFICER. The Senator is recognized.

Mr. CONRAD. I thank you very much, and my colleague from North Dakota, Senator DORGAN, for this time.

AGRICULTURE DISASTER IN NORTH DAKOTA

Mr. CONRAD. I have come to the floor this morning to talk about a disaster that is happening in my home State, but it is receiving very little attention. People who are watching and my colleagues might recall that last year we had a set of disasters in North Dakota that had tremendous national publicity and national attention.

We had the worst winter in our history, followed by the most powerful winter storm in 50 years, followed by the worst flood in 500 years; and in the midst of that, fire broke out that destroyed much of downtown Grand Forks, ND. It was really almost apocalyptic. But this year we have another disaster occurring, and it is receiving very little attention. I call it the ''stealth disaster,'' because it is really flying below the radar screen. There are almost no national stories, no national attention. In fact, I believe very few people know this disaster is occurring. But it is occurring and it is an extraordinary disaster that is hurting the farmers of my State.

We are in a wet cycle. This wet cycle has bred disease, disease that cost us about a third of our crop last year. That, coupled with very low prices, has meant that our farmers are not cash-flowing.

I was just home during a series of farm meetings and in each and every stop was told we will lose perhaps 3,000 farmers this year in North Dakota. We only have 30,000. So losing 3,000 in 1 year would really be quite extraordinary.

But these farmers are facing a cash-flow crunch as a result of bad policy, as a result of low prices, as a result of this incredible disease that has broken out. And again, this is a disaster of really staggering proportions in that it gets very little attention, and there is very little the Federal Government is prepared to do.

It is very interesting, if you have a disaster like this. Last year when this disaster occurred, or these sets of disasters occurred in North Dakota, and we searched to find if there was Federal help, we found that indeed there was. The SBA rushed to help. The Federal Emergency Management Agency was there. The Housing and Urban Development Program was there with CDBG funds. There was a marvelous, marvelous response that has helped the devastated communities recover.

But now we have a different kind of crisis and a different kind of disaster. And when we look for assistance, we find there is virtually none. What you will find is, about the only thing that is available is low-interest loans.

Now, additional debt for those who can't cash flow because of a terrible outbreak of disease and because of low prices and because of weak farm policy, saying ''Take on more debt,'' doesn't sound like a very good deal. But that is exactly what we are faced with, because we no longer have a disaster program for farmers; it doesn't exist. The only thing we have is low-interest loans; that is it. When farmers experience a disaster, the Federal response is to help them go further into debt. It doesn't make much sense.

We have a circumstance that is, as I described, dramatic. I brought this chart to show what has happened to North Dakota farm income. I say it was washed away in 1997. In 1996, this chart shows the farm income of our State, $764 million; but in 1997, farm income in our State was reduced to $15 million. That is divided among 30,000 farmers. That means the average net income per farm in North Dakota in 1997 was only $500. That is a reduction in income of 98 percent from 1996 to 1997. That is a disaster.

Let me go to the next chart that shows farm income from 1996 to 1997, quarter by quarter, so that my colleagues can see the pattern. In 1996, you could see it was about equivalent from quarter to quarter, but, boy, we came to the end of the year, 1996, and look what happened to farm income. It fell off the table. I guess in this case we can say it fell off the chart. That is a 98 percent reduction, a farm income of only $15 million in the entire State for the entire year, divided among 30,000 farmers. As I say, that is only $500 apiece.

It is no wonder everywhere I go farmers are saying to me, ''We have a disaster.'' It is not just farmers. In community after community, the bankers are taking me aside and saying, ''Senator, there is something radically wrong with farm policy.'' There is something radically wrong with our disaster programs when farmers can go through these 5 bad years of this incredible wet cycle, and disease develops, and low prices come on to the market, and there is nothing to help these producers. They are going to be washed away every bit as much as the residents of Grand Forks were washed away by the flood waters last year.

Some will say North Dakota is a marginal area; when you have bad weather, you will get hurt. I brought this chart to show the Red River Valley. The Red River Valley has the richest farmland in the world. The Red River Valley used to be the bottom of a great lake, Lake Agassiz. Thousands of years ago, when the lake was there, it built up extraordinarily rich soil. When you come to the Red River Valley of North Dakota, you see the richest farmland anywhere in the world. In places it is 8 feet thick, an incredible lode that is so rich.

When I was growing up, we were told there had never been a farm failure; there had never been a crop failure in the Red River Valley, ever. These last 5 years have seen extraordinary developments, because even in the Red River Valley, the richest farmland in the world, farm income is down precipitously. You can see from 1996 to 1997 farm income, the richest farming area in the world, down 62 percent.

Now the next chart, North Dakota is a place that produces wheat. Indeed we do. We are typically the No. 1 or No. 2 wheat-producing State. Look what happened to the total value of the spring wheat crop. This shows from 1993 to 1997, the crop was about $1 billion in value; in 1993, it declined somewhat; in 1994, came up handsomely; in 1996, it was approaching $1.3 billion. Look what happened last year—a 41 percent decline.

It wasn't just the wheat crop. The No. 2 crop in North Dakota is barley. Of course, those who are listening probably know that barley is used to feed animals. It is also used to brew beer. The barley crop, same pattern: You saw a pretty good increase from 1993 to 1996, and then a steep decline in 1997.

Some have said this is just a blip, this is just a blip in terms of prices. Yes, you have the disease problem. Hopefully, that will pass at some point. But it is disastrous when you lose a third to 40 percent of the crop in one year because of disease and then, on top of that, you have very low prices. That leaves farmers in an incredibly vulnerable position. Some have said, on the price front that is just a blip.

I thought I would bring along this chart that shows prices from 1996 through 1997, month by month, because if you look at that chart, it doesn't look like a blip. In fact, the only blip that occurs is right here, a period of high prices when we were debating the farm bill. At that point, people were told, ''We have reached an era of permanently high farm prices because of export demand; farmers can count on a period going forward of high prices.'' You can see how long that lasted. That lasted about 90 days. Instead, prices started coming down. Both wheat and barley—you can see the wheat prices in blue, the barley prices in red, on the chart, and both of them, from the time we debated the farm bill, have gone down, down, down.

This represents a disaster to the thousands of producers in North Dakota who rely on agricultural income to sustain themselves. We have a disaster occurring, and there needs to be a response. I don't think we want to see washed away 10 percent of the farmers in 1 year—and that is this year. I can tell you, Mr. President, next year is going to be far worse unless conditions change, unless prices firm up, unless there is a Federal response, unless the disease problem changes. And, unfortunately, once you get into a wet cycle, these diseases continue as long as the wet cycle does. The result is devastating, absolutely devastating. I fear that we will face a true calamity next year unless there is a Federal response.

In closing, Mr. President, a troubled agricultural economy is dangerous for rural communities and for our entire Nation. The importance of a strong agricultural economy and the maintenance of a rural infrastructure was perhaps best summed up by William Jennings Bryan when he said, ''Burn down your cities and leave our farms, and your cities will spring up again as if by magic, but destroy our farms and the grass will grow in the streets of every city in the country.''

William Jennings Bryan was right. Agriculture is right at the core of the strength of the American economy. North Dakota is in the first trench. We are the first ones to experience the defects of a national policy that was put in place in 1996. But I alert my colleagues that unless we take action, others will follow. When they have a disease problem, when they face low prices, they will see enormous economic pressure on farm producers, and they, too, will be in a position to lose a significant chunk of their farm families.

That is a tragedy for our State. I believe it is a tragedy for our Nation. I hope very much my colleagues are listening and will understand, just as we responded to a more visible disaster last year, we must fashion a Federal response to this stealth disaster that is occurring this year.

I alert my colleagues that I will be coming to the floor on a regular basis to bring this matter to their attention in the hopes that we can fashion a stronger national policy. So while North Dakota is suffering this year, we might prevent other States from experiencing what we are facing in 1998.

I thank the Chair and yield the floor.

Mr. MOYNIHAN. Mr. President, I rise simply to congratulate the Senator from North Dakota on a clear and persuasive presentation of what is not just a North Dakota problem, but a national problem. The United States is blessed beyond the imaginings of William Jennings Bryan by the degree to which a very small farm population provides the most ample diet the world has ever known for a global nation.

I might say—and it won't come as a surprise to my friend from North Dakota, but not everybody would know—that New York State is a wheat-growing region. In 62 counties, I think we have commercial wheat grown in 50. There are parts of the western areas of the State where if you travel along the Erie Canal, at the level where it is raised above the surrounding land looking north and south, you could be in North Dakota looking at the wheat fields. Those prices affect ours, too. The Senator is right to think that the '96 legislation should be revisited in terms of the economic realities facing those farmers, upon whom we all depend, because we eat that bread and drink that beer.

I thank the Chair.

Mr. CONRAD. Mr. President, I thank my colleague from New York. I am honored to serve with him on the Senate Finance Committee. My wife and I were just telling a colleague the other night that sometimes we have a chance to have dinner with the Senator from New York, and we always feel that it is a privilege because it is like a seminar. There are very few people that have the knowledge bank of the senior Senator from New York. It is an honor to be able to serve with him on the Finance Committee. He has reminded me on more than one occasion that New York is a major agricultural, producing State as well.

I just say to my colleague that our experience with the changes that were made, in terms of eliminating a disaster program for agriculture, is a very bitter pill because now we are experiencing the disaster. The only assistance is low-interest loans. When you have persons that aren't cash flowing, to say that the only help we can extend to you is for you to go deeper into debt, that doesn't seem like much in the way of a helping hand. And it is so totally opposite to what we experienced last year with those extraordinary natural disasters that I think it is important to bring it to the attention of my colleagues. This year we are about to lose—in North Dakota alone—10 percent of the farmers. In one year. And next year will be far worse, unless we take action.

I thank my colleague from New York.

Mr. MOYNIHAN. Mr. President, I will add a historical note here because it suggests the global reach of what might seem to be local problems. I think it is widely agreed that it was the arrival of wheat from western New York in Liverpool through the Erie Canal that led to the repeal of what the British called the ''corn laws''—the British use the term ''corn''; we use the term ''wheat''—which kept the tariffs on wheat so that the vast landlords could remain the vast landlords. American wheat was so much less expensive that the British decided to cease all that and become an industrial nation. And then two generations later, it was the arrival in the Baltic of wheat from North Dakota, South Dakota, and Kansas. The prices were such that the local, aristocratical, landed gentry of Prussia simply could not compete. The next thing you know, you have enormous emigration from that part of the world to the United States through Ellis Island. These are not small events.

The price of food is a very important matter. It is a tribute to American farmers that we don't think much about it any longer because it has become relatively stable. I can speak to the fact that when we began the War on Poverty, under President Johnson, we used as a measure the ''city workers food basket'', which was designed by the Department of Agriculture and measured what is necessary to raise a family of 4 in the city. We said a family needed 3 times that number. Well, this quickly became hopelessly out of date because the price of food kept going down. Now the price will go up. If those prices crash now, prices will rise later. The Senator is on to something important, and I thank him, as one Member of this body.

Mr. CONRAD. I thank the Senator from New York. Mr. President, I might conclude by saying that I was looking at the chart here. While North Dakota suffered a 98 percent reduction in farm income from 1996 to 1997, New York suffered a 44 percent reduction in farm income from 1996 to 1997, one of the worst hit in the country. So North Dakota, unfortunately, leads the pack. We are at the top of the chart in terms of States losing farm income. Unfortunately, the State of New York is also in that top tier. In fact, they ranked fourth in terms of reduction and tied for third, actually, with 44 percent reduction in farm income. So I am certain the producers in your State are suffering as well. We have had the double whammy—not only of low prices, but low prices coupled with this unprecedented outbreak of disease. That is creating a crisis and we simply must respond. I thank the Chair and yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ENZI). 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.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed for debate only to the consideration of H.R. 2676, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Finance, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Internal Revenue Service Restructuring and Reform Act of 1998''.

(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; table of contents.

TITLE I—REORGANIZATION OF STRUCTURE AND MANAGEMENT OF THE INTERNAL REVENUE SERVICE

Subtitle A—Reorganization of the Internal Revenue Service

Sec. 1001. Reorganization of the Internal Revenue Service.
Sec. 1002. IRS mission to focus on taxpayers' needs.

Subtitle B—Executive Branch Governance and Senior Management

Sec. 1101. Internal Revenue Service Oversight Board.
Sec. 1102. Commissioner of Internal Revenue; other officials.
Sec. 1103. Treasury Inspector General for Tax Administration.
Sec. 1104. Other personnel.
Sec. 1105. Prohibition on executive branch influence over taxpayer audits and other investigations.

Subtitle C—Personnel Flexibilities

Sec. 1201. Improvements in personnel flexibilities.
Sec. 1202. Voluntary separation incentive payments.
Sec. 1203. Termination of employment for misconduct.
Sec. 1204. Basis for evaluation of Internal Revenue Service employees.
Sec. 1205. Employee training program.

TITLE II—ELECTRONIC FILING

Sec. 2001. Electronic filing of tax and information returns.
Sec. 2002. Due date for certain information returns.
Sec. 2003. Paperless electronic filing.
Sec. 2004. Return-free tax system.
Sec. 2005. Access to account information.

TITLE III—TAXPAYER PROTECTION AND RIGHTS

Sec. 3000. Short title.

Subtitle A—Burden of Proof

Sec. 3001. Burden of proof.

Subtitle B—Proceedings by Taxpayers

Sec. 3101. Expansion of authority to award costs and certain fees.
Sec. 3102. Civil damages for collection actions.
Sec. 3103. Increase in size of cases permitted on small case calendar.
Sec. 3104. Expansion of Tax Court jurisdiction to responsible person penalties.
Sec. 3105. Actions for refund with respect to certain estates which have elected the installment method of payment.
Sec. 3106. Tax Court jurisdiction to review adverse IRS determination of tax-exempt status of bond issue.
Sec. 3107. Civil action for release of erroneous lien.

Subtitle C—Relief for Innocent Spouses and for Taxpayers Unable To Manage Their Financial Affairs Due to Disabilities

Sec. 3201. Spousal election to limit joint and several liability on joint return.
Sec. 3202. Suspension of statute of limitations on filing refund claims during periods of disability.

Subtitle D—Provisions Relating to Interest and Penalties

Sec. 3301. Elimination of interest rate differential on overlapping periods of interest on income tax overpayments and underpayments.
Sec. 3302. Increase in overpayment rate payable to taxpayers other than corporations.
Sec. 3303. Elimination of penalty on individual's failure to pay for months during period of installment agreement.
Sec. 3304. Mitigation of failure to deposit penalty.
Sec. 3305. Suspension of interest and certain penalties where Secretary fails to contact individual taxpayer.
Sec. 3306. Procedural requirements for imposition of penalties and additions to tax.
Sec. 3307. Personal delivery of notice of penalty under section 6672.
Sec. 3308. Notice of interest charges.

Subtitle E—Protections for Taxpayers Subject to Audit or Collection Activities

PART I—DUE PROCESS

Sec. 3401. Due process in IRS collection actions.

PART II—EXAMINATION ACTIVITIES

Sec. 3411. Uniform application of confidentiality privilege to taxpayer communications with federally authorized practitioners.

Sec. 3412. Limitation on financial status audit techniques.
Sec. 3413. Software trade secrets protection.
Sec. 3414. Threat of audit prohibited to coerce tip reporting alternative commitment agreements.
Sec. 3415. Taxpayers allowed motion to quash all third-party summonses.
Sec. 3416. Service of summonses to third-party recordkeepers permitted by mail.
Sec. 3417. Prohibition on IRS contact of third parties without prior notice.

PART III—COLLECTION ACTIVITIES

SUBPART A—APPROVAL PROCESS

Sec. 3421. Approval process for liens, levies, and seizures.

SUBPART B—LIENS AND LEVIES

Sec. 3431. Modifications to certain levy exemption amounts.
Sec. 3432. Release of levy upon agreement that amount is uncollectible.
Sec. 3433. Levy prohibited during pendency of refund proceedings.
Sec. 3434. Approval required for jeopardy and termination assessments and jeopardy levies.
Sec. 3435. Increase in amount of certain property on which lien not valid.
Sec. 3436. Waiver of early withdrawal tax for IRS levies on employer-sponsored retirement plans or IRAs.

SUBPART C—SEIZURES

Sec. 3441. Prohibition of sales of seized property at less than minimum bid.
Sec. 3442. Accounting of sales of seized property.
Sec. 3443. Uniform asset disposal mechanism.
Sec. 3444. Codification of IRS administrative procedures for seizure of taxpayer's property.
Sec. 3445. Procedures for seizure of residences and businesses.

PART IV—PROVISIONS RELATING TO EXAMINATION AND COLLECTION ACTIVITIES

Sec. 3461. Procedures relating to extensions of statute of limitations by agreement.
Sec. 3462. Offers-in-compromise.
Sec. 3463. Notice of deficiency to specify deadlines for filing Tax Court petition.
Sec. 3464. Refund or credit of overpayments before final determination.
Sec. 3465. IRS procedures relating to appeals of examinations and collections.
Sec. 3466. Application of certain fair debt collection procedures.
Sec. 3467. Guaranteed availability of installment agreements.

Subtitle F—Disclosures to Taxpayers

Sec. 3501. Explanation of joint and several liability.
Sec. 3502. Explanation of taxpayers' rights in interviews with the Internal Revenue Service.
Sec. 3503. Disclosure of criteria for examination selection.
Sec. 3504. Explanations of appeals and collection process.
Sec. 3505. Explanation of reason for refund denial.
Sec. 3506. Statements regarding installment agreements.
Sec. 3507. Notification of change in tax matters partner.

Subtitle G—Low Income Taxpayer Clinics

Sec. 3601. Low income taxpayer clinics.

Subtitle H—Other Matters

Sec. 3701. Cataloging complaints.
Sec. 3702. Archive of records of Internal Revenue Service.
Sec. 3703. Payment of taxes.
Sec. 3704. Clarification of authority of Secretary relating to the making of elections.
Sec. 3705. IRS employee contacts.
Sec. 3706. Use of pseudonyms by IRS employees.
Sec. 3707. Conferences of right in the National Office of IRS.
Sec. 3708. Illegal tax protester designation.
Sec. 3709. Provision of confidential information to Congress by whistleblowers.
Sec. 3710. Listing of local IRS telephone numbers and addresses.
Sec. 3711. Identification of return preparers.
Sec. 3712. Offset of past-due, legally enforceable State income tax obligations against overpayments.
Sec. 3713. Treatment of IRS notices on foreign tax provisions.

Subtitle I—Studies

Sec. 3801. Administration of penalties and interest.
Sec. 3802. Confidentiality of tax return information.

TITLE IV—CONGRESSIONAL ACCOUNTABILITY FOR THE INTERNAL REVENUE SERVICE

Sec. 4001. Century date change.
Sec. 4002. Tax law complexity analysis.

TITLE V—REVENUE PROVISIONS

Sec. 5001. Clarification of deduction for deferred compensation.
Sec. 5002. Modification to foreign tax credit carryback and carryover periods.
Sec. 5003. Clarification and expansion of mathematical error assessment procedures.
Sec. 5004. Termination of exception for certain real estate investment trusts from the treatment of stapled entities.
Sec. 5005. Certain customer receivables ineligible for mark-to-market treatment.
Sec. 5006. Inclusion of rotavirus gastroenteritis to list of taxable vaccines.

TITLE VI—TECHNICAL CORRECTIONS

Sec. 6001. Short title.
Sec. 6002. Definitions.
Sec. 6003. Amendments related to title I of 1997 Act.
Sec. 6004. Amendments related to title II of 1997 Act.
Sec. 6005. Amendments related to title III of 1997 Act.
Sec. 6006. Amendment related to title IV of 1997 Act.
Sec. 6007. Amendments related to title V of 1997 Act.
Sec. 6008. Amendments related to title VII of 1997 Act.
Sec. 6009. Amendments related to title IX of 1997 Act.
Sec. 6010. Amendments related to title X of 1997 Act.
Sec. 6011. Amendments related to title XI of 1997 Act.
Sec. 6012. Amendments related to title XII of 1997 Act.
Sec. 6013. Amendments related to title XIII of 1997 Act.
Sec. 6014. Amendments related to title XIV of 1997 Act.
Sec. 6015. Amendments related to title XV of 1997 Act.
Sec. 6016. Amendments related to title XVI of 1997 Act.
Sec. 6017. Amendments related to Small Business Job Protection Act of 1996.
Sec. 6018. Amendments related to Taxpayer Bill of Rights 2.
Sec. 6019. Amendment related to Omnibus Budget Reconciliation Act of 1993.
Sec. 6020. Amendment related to Revenue Reconciliation Act of 1990.
Sec. 6021. Amendment related to Tax Reform Act of 1986.
Sec. 6022. Miscellaneous clerical and deadwood changes.
Sec. 6023. Effective date.

TITLE I—REORGANIZATION OF STRUCTURE AND MANAGEMENT OF THE INTERNAL REVENUE SERVICE

Subtitle A—Reorganization of the Internal Revenue Service

SEC. 1001. REORGANIZATION OF THE INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—The Commissioner of Internal Revenue shall develop and implement a plan to reorganize the Internal Revenue Service. The plan shall—

(1) supersede any organization or reorganization of the Internal Revenue Service based on any statute or reorganization plan applicable on the effective date of this section;

(2) eliminate or substantially modify the existing organization of the Internal Revenue Service which is based on a national, regional, and district structure;

(3) establish organizational units serving particular groups of taxpayers with similar needs; and

(4) ensure an independent appeals function within the Internal Revenue Service, including the prohibition in the plan of ex parte communications between appeals officers and other Internal Revenue Service employees to the extent that such communications appear to compromise the independence of the appeals officers.

(b) SAVINGS PROVISIONS.—

(1) PRESERVATION OF SPECIFIC TAX RIGHTS AND REMEDIES.—Nothing in the plan developed and implemented under subsection (a) shall be considered to impair any right or remedy, including trial by jury, to recover any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority, or any sum alleged to have been excessive or in any manner wrongfully collected under the internal revenue laws. For the purpose of any action to recover any such tax, penalty, or sum, all statutes, rules, and regulations referring to the collector of internal revenue, the principal officer for the internal revenue district, or the Secretary, shall be deemed to refer to the officer whose act or acts referred to in the preceding sentence gave rise to such action. The venue of any such action shall be the same as under existing law.

(2) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of any function transferred or affected by the reorganization of the Internal Revenue Service or any other administrative unit of the Department of the Treasury under this section, and

(B) which are in effect at the time this section takes effect, or were final before the effective date of this section and are to become effective on or after the effective date of this section,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of the Treasury, the Commissioner of Internal Revenue, or other authorized official, a court of competent jurisdiction, or by operation of law.

(3) PROCEEDINGS NOT AFFECTED.—The provisions of this section shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Department of the Treasury (or any administrative unit of the Department, including the Internal Revenue Service) at the time this section takes effect, with respect to functions transferred or affected by the reorganization under this section but such proceedings and applications shall continue. Orders shall be

issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this paragraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(4) SUITS NOT AFFECTED.—The provisions of this section shall not affect suits commenced before the effective date of this section, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(5) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of the Treasury (or any administrative unit of the Department, including the Internal Revenue Service), or by or against any individual in the official capacity of such individual as an officer of the Department of the Treasury, shall abate by reason of the enactment of this section.

(6) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Department of the Treasury (or any administrative unit of the Department, including the Internal Revenue Service) relating to a function transferred or affected by the reorganization under this section may be continued by the Department of the Treasury through any appropriate administrative unit of the Department, including the Internal Revenue Service with the same effect as if this section had not been enacted.

SEC. 1002. IRS MISSION TO FOCUS ON TAXPAYERS' NEEDS.

The Internal Revenue Service shall review and restate its mission to place a greater emphasis on serving the public and meeting taxpayers' needs.

Subtitle B—Executive Branch Governance and Senior Management

SEC. 1101. INTERNAL REVENUE SERVICE OVERSIGHT BOARD.

(a) IN GENERAL.—Section 7802 (relating to the Commissioner of Internal Revenue) is amended to read as follows:

"SEC. 7802. INTERNAL REVENUE SERVICE OVERSIGHT BOARD.

''(a) ESTABLISHMENT.—There is established within the Department of the Treasury the Internal Revenue Service Oversight Board (hereafter in this subchapter referred to as the 'Oversight Board').

''(b) MEMBERSHIP.—

''(1) COMPOSITION.—The Oversight Board shall be composed of 9 members, as follows:

''(A) 6 members shall be individuals who are not otherwise Federal officers or employees and who are appointed by the President, by and with the advice and consent of the Senate.

''(B) 1 member shall be the Secretary of the Treasury or, if the Secretary so designates, the Deputy Secretary of the Treasury.

''(C) 1 member shall be the Commissioner of Internal Revenue.

''(D) 1 member shall be an individual who is a representative of an organization that represents a substantial number of Internal Revenue Service employees and who is appointed by the President, by and with the advice and consent of the Senate.

''(2) QUALIFICATIONS AND TERMS.—

''(A) QUALIFICATIONS.—Members of the Oversight Board described in paragraph (1)(A) shall be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in 1 or more of the following areas:

''(i) Management of large service organizations.

''(ii) Customer service.

''(iii) Federal tax laws, including tax administration and compliance.

''(iv) Information technology.

''(v) Organization development.

''(vi) The needs and concerns of taxpayers.

In the aggregate, the members of the Oversight Board described in paragraph (1)(A) should collectively bring to bear expertise in all of the areas described in the preceding sentence.

''(B) TERMS.—Each member who is described in subparagraph (A) or (D) of paragraph (1) shall be appointed for a term of 5 years, except that of the members first appointed under paragraph (1)(A)—

''(i) 2 members shall be appointed for a term of 2 years,

''(ii) 2 members shall be appointed for a term of 4 years, and

''(iii) 2 members shall be appointed for a term of 5 years.

''(C) REAPPOINTMENT.—An individual who is described in paragraph (1)(A) may be appointed to no more than two 5-year terms on the Oversight Board.

''(D) VACANCY.—Any vacancy on the Oversight Board shall be filled in the same manner as the original appointment. 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 for the remainder of that term.

''(3) ETHICAL CONSIDERATIONS.—

''(A) FINANCIAL DISCLOSURE.—

''(i) IN GENERAL.—During the entire period that an individual appointed under subparagraph (A) or (D) of paragraph (1) is a member of the Oversight Board, such individual shall be treated as serving as an officer or employee referred to in section 101(f) of the Ethics in Government Act of 1978 for purposes of title I of such Act, except that section 101(d) of such Act shall apply without regard to the number of days of service in the position.

''(ii) REPRESENTED ORGANIZATION.—The organization represented by the individual appointed under paragraph (1)(D) shall file an annual financial report with the Committee on Finance in the Senate and the Committee on Ways and Means in the House of Representatives. Such report shall include information regarding compensation paid to the individual so appointed, other individuals employed by the organization, and membership dues collected by the organization.

''(B) RESTRICTIONS ON POST-EMPLOYMENT.—For purposes of section 207(c) of title 18, United States Code, except as provided in subparagraph (D)(i)(II), an individual appointed under subparagraph (A) or (D) of paragraph (1) shall be treated as an employee referred to in section 207(c)(2)(A)(i) of such title during the entire period the individual is a member of the Board, except that subsections (c)(2)(B) and (f) of section 207 of such title shall not apply.

''(C) PRIVATE MEMBERS WHO ARE SPECIAL GOVERNMENT EMPLOYEES.—If an individual appointed under paragraph (1)(A) is a special Government employee, the following additional rules apply for purposes of chapter 11 of title 18, United States Code:

''(i) RESTRICTION ON REPRESENTATION.—In addition to any restriction under section 205(c) of title 18, United States Code, except as provided in subsections (d) through (i) of section 205 of such title, such individual (except in the proper discharge of official duties) shall not, with or without compensation, represent anyone to or before any officer or employee of—

''(I) the Oversight Board or the Internal Revenue Service on any matter,

''(II) the Department of the Treasury on any matter involving the internal revenue laws or involving the management or operations of the Internal Revenue Service, or

''(III) the Department of Justice with respect to litigation involving a matter described in subclause (I) or (II).

''(ii) COMPENSATION FOR SERVICES PROVIDED BY ANOTHER.—For purposes of section 203 of such title—

''(I) such individual shall not be subject to the restrictions of subsection (a)(1) thereof for sharing in compensation earned by another for representations on matters covered by such section, and

''(II) a person shall not be subject to the restrictions of subsection (a)(2) thereof for sharing such compensation with such individual.

''(D) EXEMPTIONS FOR MEMBER FROM EMPLOYEE ORGANIZATION.—

''(i) EXEMPTION FROM CRIMINAL CONFLICT LAWS.—An individual appointed under paragraph (1)(D) shall not be subject to—

''(I) section 203 or 205 of title 18, United States Code, for acting as an agent or attorney for (or otherwise representing), with or without compensation, the organization described in paragraph (1)(D),

''(II) section 207 of such title for making, with the intent to influence, any communication or appearance before an officer or employee of the United States on behalf of the organization which such individual represented while a member of the Board, or

''(III) section 208 of such title for personal and substantial participation in a particular matter in which all financial interests which would otherwise prohibit the individual's participation are interests of such organization.

''(ii) COMPENSATION.—Nothing in section 203 of title 18, United States Code, shall prohibit an organization represented by the individual appointed under paragraph (1)(D) from giving, promising, or offering compensation to the individual for acting as its agent or attorney or for otherwise representing such organization.

''(4) QUORUM.—5 members of the Oversight Board shall constitute a quorum. A majority of members present and voting shall be required for the Oversight Board to take action.

''(5) REMOVAL.—

''(A) IN GENERAL.—Any member of the Oversight Board appointed under paragraph (1) (A) or (D) may be removed at the will of the President.

''(B) SECRETARY AND COMMISSIONER.—An individual described in subparagraph (B) or (C) of paragraph (1) shall be removed upon termination of service in the office described in such subparagraph.

''(6) CLAIMS.—

''(A) IN GENERAL.—Members of the Oversight Board who are described in paragraph (1) (A) or (D) shall have no personal liability under Federal law with respect to any claim arising out of or resulting from an act or omission by such member within the scope of service as a member.

''(B) EFFECT ON OTHER LAW.—This paragraph shall not be construed—

''(i) to affect any other immunities and protections that may be available to such member under applicable law with respect to such transactions,

''(ii) to affect any other right or remedy against the United States under applicable law, or

''(iii) to limit or alter in any way the immunities that are available under applicable law for Federal officers and employees.

''(c) GENERAL RESPONSIBILITIES.—

''(1) OVERSIGHT.—

''(A) IN GENERAL.—The Oversight Board shall oversee the Internal Revenue Service in its administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party.

''(B) MISSION OF IRS.—As part of its oversight functions described in subparagraph (A), the Oversight Board shall ensure that the organization and operation of the Internal Revenue Service allows it to carry out its mission.

''(C) CONFIDENTIALITY.—The Oversight Board shall ensure that appropriate confidentiality is maintained in the exercise of its duties.

''(2) EXCEPTIONS.—The Oversight Board shall have no responsibilities or authority with respect to—

''(A) the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions,

''(B) specific law enforcement activities of the Internal Revenue Service, including specific compliance activities such as examinations, collection activities, and criminal investigations,

''(C) specific procurement activities of the Internal Revenue Service, or

''(D) except as provided in subsection (d)(3), specific personnel actions.

''(d) SPECIFIC RESPONSIBILITIES.—The Oversight Board shall have the following specific responsibilities:

''(1) STRATEGIC PLANS.—To review and approve strategic plans of the Internal Revenue Service, including the establishment of—

''(A) mission and objectives, and standards of performance relative to either, and

''(B) annual and long-range strategic plans.

''(2) OPERATIONAL PLANS.—To review the operational functions of the Internal Revenue Service, including—

''(A) plans for modernization of the tax system,

''(B) plans for outsourcing or managed competition, and

''(C) plans for training and education.

''(3) MANAGEMENT.—To—

''(A) recommend to the President candidates for appointment as the Commissioner of Internal Revenue and recommend to the President the removal of the Commissioner,

''(B) recommend to the Secretary of the Treasury, after taking into consideration any recommendations of the Commissioner, 3 candidates for appointment as the National Taxpayer Advocate from individuals who have—

''(i) a background in customer service as well as tax law, and

''(ii) experience in representing individual taxpayers,

''(C) recommend to the Secretary of the Treasury the removal of the National Taxpayer Advocate,

''(D) review the Commissioner's selection, evaluation, and compensation of Internal Revenue Service senior executives who have program management responsibility over significant functions of the Internal Revenue Service,

''(E) review and approve the Commissioner's plans for any major reorganization of the Internal Revenue Service, and

''(F) review procedures of the Internal Revenue Service relating to financial audits required by law.

''(4) BUDGET.—To—

''(A) review and approve the budget request of the Internal Revenue Service prepared by the Commissioner,

''(B) submit such budget request to the Secretary of the Treasury, and

''(C) ensure that the budget request supports the annual and long-range strategic plans.

''(5) TAXPAYER PROTECTION.—To ensure the proper treatment of taxpayers by the employees of the Internal Revenue Service.

The Secretary shall submit the budget request referred to in paragraph (4)(B) for any fiscal year to the President who shall submit such request, without revision, to Congress together with the President's annual budget request for the Internal Revenue Service for such fiscal year.

''(e) BOARD PERSONNEL MATTERS.—

''(1) COMPENSATION OF MEMBERS.—

''(A) IN GENERAL.—Each member of the Oversight Board who is described in subsection (b)(1)(A) shall be compensated at a rate of $30,000 per year. All other members shall serve without compensation for such service.

''(B) CHAIRPERSON.—In lieu of the amount specified in subparagraph (A), the Chairperson of the Oversight Board shall be compensated at a rate of $50,000 per year.

''(2) TRAVEL EXPENSES.—The members of the Oversight Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business for purposes of duties as a member of the Oversight Board.

''(3) STAFF.—

''(A) IN GENERAL.—The Chairperson of the Oversight Board may appoint and terminate any personnel that may be necessary to enable the Board to perform its duties.

''(B) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Chairperson of the Oversight Board, a Federal agency shall detail a Federal Government employee to the Oversight Board without reimbursement. Such detail shall be without interruption or loss of civil service status or privilege.

''(4) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Oversight Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

''(f) ADMINISTRATIVE MATTERS.—

''(1) CHAIR.—

''(A) TERM.—The members of the Oversight Board shall elect for a 2-year term a chairperson from among the members appointed under subsection (b)(1)(A).

''(B) POWERS.—Except as otherwise provided by a majority vote of the Oversight Board, the powers of the Chairperson shall include—

''(i) establishing committees,

''(ii) setting meeting places and times,

''(iii) establishing meeting agendas, and

''(iv) developing rules for the conduct of business.

''(2) MEETINGS.—The Oversight Board shall meet at least quarterly and at such other times as the Chairperson determines appropriate.

''(3) REPORTS.—

''(A) ANNUAL.—The Oversight Board shall each year report with respect to the conduct of its responsibilities under this title to the President, the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives and the Committees on Finance, Governmental Affairs, and Appropriations of the Senate.

''(B) ADDITIONAL REPORT.—Upon a determination by the Oversight Board under subsection (c)(1)(B) that the organization and operation of the Internal Revenue Service are not allowing it to carry out its mission, the Oversight Board shall report such determination to the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate.

''(g) TERMINATION OF BOARD.—The Internal Revenue Service Oversight Board established under subsection (a) shall terminate on September 30, 2008.''

(b) RESTRICTION ON DISCLOSURE OF RETURN INFORMATION TO OVERSIGHT BOARD MEMBERS.—Section 6103(h) (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by adding at the end the following new paragraph:

''(5) INTERNAL REVENUE SERVICE OVERSIGHT BOARD.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), and except as provided in subparagraph (B), no return or return information may be disclosed to any member of the Oversight Board described in subparagraph (A) or (D) of section 7802(b)(1) or to any employee or detailee of such Board by reason of their service with the Board. Any request for information not permitted to be disclosed under the preceding sentence, and any contact relating to a specific taxpayer, made by any such individual to an officer or employee of the Internal Revenue Service shall be reported by such officer or employee to the Secretary, the Treasury Inspector General for Tax Administration, and the Joint Committee on Taxation.

''(B) EXCEPTION FOR REPORTS TO THE BOARD.—If—

''(i) the Commissioner or the Treasury Inspector General for Tax Administration prepares any report or other matter for the Oversight Board in order to assist the Board in carrying out its duties, and

''(ii) the Commissioner or such Inspector General determines it is necessary to include any return or return information in such report or other matter to enable the Board to carry out such duties,

such return or return information (other than information regarding taxpayer identity) may be disclosed to members, employees, or detailees of the Board solely for the purpose of carrying out such duties.''

(c) CONFORMING AMENDMENTS.—

(1) Section 4946(c) (relating to definitions and special rules for chapter 42) is amended by striking ''or'' at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting '', or'', and by adding at the end the following new paragraph:

''(7) a member of the Internal Revenue Service Oversight Board.''

(2) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7802 and inserting the following new item:

''Sec. 7802. Internal Revenue Service Oversight Board.''

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) INITIAL NOMINATIONS TO INTERNAL REVENUE SERVICE OVERSIGHT BOARD.—The President shall submit the initial nominations under section 7802 of the Internal Revenue Code of 1986, as added by this section, to the Senate not later than 6 months after the date of the enactment of this Act.

(3) EFFECT ON ACTIONS PRIOR TO APPOINTMENT OF OVERSIGHT BOARD.—Nothing in this section shall be construed to invalidate the actions and authority of the Internal Revenue Service prior to the appointment of the members of the Internal Revenue Service Oversight Board.

(4) SPECIAL RULE FOR REORGANIZATION PLAN.—The authority of the Internal Revenue Service Oversight Board under section 7802(d)(3)(E) of such Code (as so added) to approve major reorganization plans shall not apply to the reorganization plan under section 1001 of this Act.

SEC. 1102. COMMISSIONER OF INTERNAL REVENUE; OTHER OFFICIALS.

(a) IN GENERAL.—Section 7803 (relating to other personnel) is amended to read as follows:

''SEC. 7803. COMMISSIONER OF INTERNAL REVENUE; OTHER OFFICIALS.

''(a) COMMISSIONER OF INTERNAL REVENUE.—

''(1) APPOINTMENT.—

''(A) IN GENERAL.—There shall be in the Department of the Treasury a Commissioner of Internal Revenue who shall be appointed by the President, by and with the advice and consent of the Senate, to a 5-year term. Such appointment shall be made from individuals who, among other qualifications, have a demonstrated ability in management.

''(B) VACANCY.—Any individual appointed to fill a vacancy in the position of Commissioner occurring before the expiration of the term for which such individual's predecessor was appointed shall be appointed only for the remainder of that term.

''(C) REMOVAL.—The Commissioner may be removed at the will of the President.

''(D) REAPPOINTMENT.—The Commissioner may be appointed to more than one 5-year term.

''(2) DUTIES.—The Commissioner shall have such duties and powers as the Secretary may prescribe, including the power to—

''(A) administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party,

''(B) recommend to the President a candidate for appointment as Chief Counsel for the Internal Revenue Service when a vacancy occurs, and recommend to the President the removal of such Chief Counsel, and

''(C) recommend to the Oversight Board candidates for appointment as National Taxpayer Advocate when a vacancy occurs.

If the Secretary determines not to delegate a power specified in subparagraph (A), (B), or (C), such determination may not take effect until 30 days after the Secretary notifies the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives and the Committees on Finance, Governmental Affairs, and Appropriations of the Senate.

''(3) CONSULTATION WITH BOARD.—The Commissioner shall consult with the Oversight Board on all matters set forth in paragraphs (2) and (3) (other than paragraph (3)(A)) of section 7802(d).

''(b) CHIEF COUNSEL FOR THE INTERNAL REVENUE SERVICE.—

''(1) APPOINTMENT.—There shall be in the Department of the Treasury a Chief Counsel for the Internal Revenue Service who shall be appointed by the President, by and with the consent of the Senate.

''(2) DUTIES.—The Chief Counsel shall be the chief law officer for the Internal Revenue Service and shall perform such duties as may be prescribed by the Secretary, including the duty—

''(A) to be legal advisor to the Commissioner and the Commissioner's officers and employees,

''(B) to furnish legal opinions for the preparation and review of rulings and memoranda of technical advice,

''(C) to prepare, review, and assist in the preparation of proposed legislation, treaties, regulations, and Executive Orders relating to laws which affect the Internal Revenue Service,

''(D) to represent the Commissioner in cases before the Tax Court, and

''(E) to determine which civil actions should be litigated under the laws relating to the Internal Revenue Service and prepare recommendations for the Department of Justice regarding the commencement of such actions.

If the Secretary determines not to delegate a power specified in subparagraph (A), (B), (C), (D), or (E), such determination may not take effect until 30 days after the Secretary notifies the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives and the Committees on Finance, Governmental Affairs, and Appropriations of the Senate.

''(3) REPORT TO COMMISSIONER.—The Chief Counsel shall report directly to the Commissioner of Internal Revenue.

''(c) OFFICE OF THE TAXPAYER ADVOCATE.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the 'Office of the Taxpayer Advocate'.

''(B) NATIONAL TAXPAYER ADVOCATE.—

''(i) IN GENERAL.—The Office of the Taxpayer Advocate shall be under the supervision and direction of an official to be known as the 'National Taxpayer Advocate'. The National Taxpayer Advocate shall report directly to the Commissioner of Internal Revenue and shall be entitled to compensation at the same rate as the highest level official reporting directly to the Commissioner of Internal Revenue.

''(ii) APPOINTMENT.—The National Taxpayer Advocate shall be appointed by the Secretary of the Treasury from among the 3 individuals nominated by the Oversight Board under section 7802(d)(3).

''(iii) RESTRICTION ON EMPLOYMENT.—An individual may be appointed as the National Taxpayer Advocate only if such individual was not an officer or employee of the Internal Revenue Service during the 2-year period ending with such appointment and such individual agrees not to accept any employment with the Internal Revenue Service for at least 5 years after ceasing to be the National Taxpayer Advocate.

''(2) FUNCTIONS OF OFFICE.—

''(A) IN GENERAL.—It shall be the function of the Office of Taxpayer Advocate to—

''(i) assist taxpayers in resolving problems with the Internal Revenue Service,

''(ii) identify areas in which taxpayers have problems in dealings with the Internal Revenue Service,

''(iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems identified under clause (ii), and

''(iv) identify potential legislative changes which may be appropriate to mitigate such problems.

''(B) ANNUAL REPORTS.—

''(i) OBJECTIVES.—Not later than June 30 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Office of the Taxpayer Advocate for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

''(ii) ACTIVITIES.—Not later than December 31 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Office of the Taxpayer Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—

''(I) identify the initiatives the Office of the Taxpayer Advocate has taken on improving taxpayer services and Internal Revenue Service responsiveness,

''(II) contain recommendations received from individuals with the authority to issue Taxpayer Assistance Orders under section 7811,

''(III) contain a summary of at least 20 of the most serious problems encountered by taxpayers, including a description of the nature of such problems,

''(IV) contain an inventory of the items described in subclauses (I), (II), and (III) for which action has been taken and the result of such action,

''(V) contain an inventory of the items described in subclauses (I), (II), and (III) for which action remains to be completed and the period during which each item has remained on such inventory,

''(VI) contain an inventory of the items described in subclauses (I), (II), and (III) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and identify any Internal Revenue Service official who is responsible for such inaction,

''(VII) identify any Taxpayer Assistance Order which was not honored by the Internal Revenue Service in a timely manner, as specified under section 7811(b),

''(VIII) contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers,

''(IX) identify areas of the tax law that impose significant compliance burdens on taxpayers or the Internal Revenue Service, including specific recommendations for remedying these problems,

''(X) identify the 10 most litigated issues for each category of taxpayers, including recommendations for mitigating such disputes, and

''(XI) include such other information as the National Taxpayer Advocate may deem advisable.

''(iii) REPORT TO BE SUBMITTED DIRECTLY.—Each report required under this subparagraph shall be provided directly to the committees described in clause (i) without any prior review or comment from the Commissioner, the Secretary of the Treasury, the Oversight Board, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget.

''(C) OTHER RESPONSIBILITIES.—The National Taxpayer Advocate shall—

''(i) monitor the coverage and geographic allocation of local offices of taxpayer advocates,

''(ii) develop guidance to be distributed to all Internal Revenue Service officers and employees outlining the criteria for referral of taxpayer inquiries to local offices of taxpayer advocates,

''(iii) ensure that the local telephone number for each local office of the taxpayer advocate is published and available to taxpayers served by the office, and

''(iv) in conjunction with the Commissioner, develop career paths for local taxpayer advocates choosing to make a career in the Office of the Taxpayer Advocate.

''(D) PERSONNEL ACTIONS.—

''(i) IN GENERAL.—The National Taxpayer Advocate shall have the responsibility and authority to—

''(I) appoint at least 1 local taxpayer advocate for each State, and

''(II) evaluate and take personnel actions (including dismissal) with respect to any employee of any local office of a taxpayer advocate described in subclause (I).

''(ii) CONSULTATION.—The National Taxpayer Advocate may consult with the appropriate supervisory personnel of the Internal Revenue Service in carrying out the National Taxpayer Advocate's responsibilities under this subparagraph.

''(3) RESPONSIBILITIES OF COMMISSIONER.—The Commissioner shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the National Taxpayer Advocate within 3 months after submission to the Commissioner.

''(4) OPERATION OF LOCAL OFFICES.—

''(A) IN GENERAL.—Each local taxpayer advocate—

''(i) shall report directly to the National Taxpayer Advocate,

''(ii) may consult with the appropriate supervisory personnel of the Internal Revenue Service regarding the daily operation of the local office of the taxpayer advocate,

''(iii) shall, at the initial meeting with any taxpayer seeking the assistance of a local office of the taxpayer advocate, notify such taxpayer that the office operates independently of any other Internal Revenue Service office and reports directly to Congress through the National Taxpayer Advocate, and

''(iv) may, at the taxpayer advocate's discretion, not disclose to the Internal Revenue Service contact with, or information provided by, such taxpayer.

''(B) MAINTENANCE OF INDEPENDENT COMMUNICATIONS.—Each local office of the taxpayer advocate shall maintain a separate phone, facsimile, and other electronic communication access, and a separate post office address.

''(d) ADDITIONAL DUTIES OF THE TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—

''(1) ANNUAL REPORTING.—The Treasury Inspector General for Tax Administration shall include in one of the semiannual reports under section 5 of the Inspector General Act of 1978—

''(A) an evaluation of the compliance of the Internal Revenue Service with—

''(i) restrictions under section 1204 of the Internal Revenue Service Restructuring and Reform Act of 1998 on the use of enforcement statistics to evaluate Internal Revenue Service employees,

''(ii) restrictions under section 7521 on directly contacting taxpayers who have indicated that they prefer their representatives be contacted,

''(iii) required procedures under section 6320 for approval of a notice of a lien,

''(iv) required procedures under subchapter D of chapter 64 for seizure of property for collection of taxes, including required procedures under section 6330 for approval of a levy or notice of levy, and

''(v) restrictions under section 3708 of the Internal Revenue Service Restructuring and Reform Act of 1998 on designation of taxpayers,

''(B) a review and a certification of whether or not the Secretary is complying with the requirements of section 6103(e)(8) to disclose information to an individual filing a joint return on collection activity involving the other individual filing the return,

''(C) information regarding extensions of the statute of limitations for assessment and collection of tax under section 6501 and the provision of notice to taxpayers regarding requests for such extension,

''(D) an evaluation of the adequacy and security of the technology of the Internal Revenue Service,

''(E) any termination or mitigation under section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998, and

''(F) information regarding improper denial of requests for information from the Internal Revenue Service identified under paragraph (2).

''(2) SEMIANNUAL REPORTS.—

''(A) IN GENERAL.—The Treasury Inspector General for Tax Administration shall include in each semiannual report under section 5 of the Inspector General Act of 1978—

''(i) the number of taxpayer complaints during the reporting period;

''(ii) the number of employee misconduct and taxpayer abuse allegations received during the period from taxpayers, Internal Revenue Service employees, and other sources;

''(iii) a summary of the status of such complaints and allegations; and

''(iv) a summary of the disposition of such complaints and allegations, including the outcome of any Department of Justice action and any monies paid as a settlement of such complaints and allegations.

''(B) Clauses (iii) and (iv) of subparagraph (B) shall only apply to complaints and allegations of serious employee misconduct.

''(3) OTHER RESPONSIBILITIES.—The Treasury Inspector General for Tax Administration shall—

''(A) conduct periodic audits of not less than 1 percent of the total number of determinations made by the Internal Revenue Service to deny written requests to disclose information to taxpayers on the basis of section 6103 of this title or section 552(b)(7) of title 5, United States Code, and

''(B) establish and maintain a toll-free telephone number for taxpayers to use to confidentially register complaints of misconduct by Internal Revenue Service employees and incorporate the telephone number in the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1).''

(b) NOTICE OF RIGHT TO CONTACT OFFICE INCLUDED IN NOTICE OF DEFICIENCY.—Section 6212(a) (relating to notice of deficiency) is amended by adding at the end the following: ''Such notice shall include a notice to the taxpayer of the taxpayer's right to contact a local office of the taxpayer advocate and the location and phone number of the appropriate office.''

(c) EXPANSION OF AUTHORITY TO ISSUE TAXPAYER ASSISTANCE ORDERS.—Section 7811(a) (relating to taxpayer assistance orders) is amended to read as follows:

''(a) AUTHORITY TO ISSUE.—

''(1) IN GENERAL.—Upon application filed by a taxpayer with the Office of the Taxpayer Advocate (in such form, manner, and at such time as the Secretary shall by regulations prescribe), the National Taxpayer Advocate may issue a Taxpayer Assistance Order if, in the determination of the National Taxpayer Advocate—

''(A) the taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered by the Secretary, or

''(B) the issuance of a Taxpayer Assistance Order is otherwise appropriate considering the circumstances of the taxpayer.

''(2) DETERMINATION OF HARDSHIP.—For purposes of paragraph (1), a significant hardship shall include—

''(A) an immediate threat of adverse action,

''(B) a delay of more than 30 days in resolving taxpayer account problems,

''(C) the incurring by the taxpayer of significant costs (including fees for professional representation) if relief is not granted, or

''(D) irreparable injury to, or a long-term adverse impact on, the taxpayer if relief is not granted.

''(3) STANDARD WHERE ADMINISTRATIVE GUIDANCE NOT FOLLOWED.—In cases where any Internal Revenue Service employee is not following applicable published administrative guidance (including the Internal Revenue Manual), the National Taxpayer Advocate shall construe the factors taken into account in determining whether to issue a taxpayer assistance order in the manner most favorable to the taxpayer.''

(d) CONFORMING AMENDMENTS RELATING TO NATIONAL TAXPAYER ADVOCATE.—

(1) The following provisions are each amended by striking ''Taxpayer Advocate'' each place it appears and inserting ''National Taxpayer Advocate'':

(A) Section 6323(j)(1)(D) (relating to withdrawal of notice in certain circumstances).

(B) Section 6343(d)(2)(D) (relating to return of property in certain cases).

(C) Section 7811(b)(2)(D) (relating to terms of a Taxpayer Assistance Order).

(D) Section 7811(c) (relating to authority to modify or rescind).

(E) Section 7811(d)(2) (relating to suspension of running of period of limitation).

(F) Section 7811(e) (relating to independent action of Taxpayer Advocate).

(G) Section 7811(f) (relating to Taxpayer Advocate).

(2) Section 7811(d)(1) (relating to suspension of running of period of limitation) is amended by striking ''Taxpayer Advocate's'' and inserting ''National Taxpayer Advocate's''.

(3) The headings of subsections (e) and (f) of section 7811 are each amended by striking ''TAXPAYER ADVOCATE'' and inserting ''NATIONAL TAXPAYER ADVOCATE''.

(e) ADDITIONAL CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7803 and inserting the following new item:

''Sec. 7803. Commissioner of Internal Revenue; other officials.''

(2) Section 5109 of title 5, United States Code, is amended by striking subsection (b) and redesignating subsection (c) as subsection (b).

(3) Section 7611(f)(1) (relating to restrictions on church tax inquiries and examinations) is amended by striking ''Assistant Commissioner for Employee Plans and Exempt Organizations of the Internal Revenue Service'' and inserting ''Secretary''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) CHIEF COUNSEL.—Section 7803(b)(3) of the Internal Revenue Code of 1986, as added by this section, shall take effect on the date that is 90 days after the date of the enactment of this Act.

(3) NATIONAL TAXPAYER ADVOCATE.—During the period before the appointment of the Internal Revenue Service Oversight Board and notwithstanding section 7803(c)(1)(B)(ii) of the Internal Revenue Code of 1986, as added by this section, the National Taxpayer Advocate shall be appointed by the Secretary of the Treasury from among individuals who have a background in customer service as well as tax law and who have experience in representing individual taxpayers. The Commissioner of Internal Revenue shall submit to the Secretary a list of nominations for consideration under the preceding sentence.

(4) CURRENT OFFICERS.—

(A) In the case of an individual serving as Commissioner of Internal Revenue on the date of the enactment of this Act who was appointed to such position before such date, the 5-year term required by section 7803(a)(1) of the Internal Revenue Code of 1986, as added by this section, shall begin as of the date of such appointment.

(B) Clauses (ii) and (iii) of section 7803(c)(1)(B) of such Code, as added by this section, shall not apply to the individual serving as Taxpayer Advocate on the date of the enactment of this Act.

SEC. 1103. TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.

(a) ESTABLISHMENT OF 2 INSPECTORS GENERAL IN THE DEPARTMENT OF THE TREASURY.—Section 2 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking the matter following paragraph (3) and inserting the following: ''there is established—

''(A) in each of such establishments an office of Inspector General, subject to subparagraph (B); and

''(B) in the establishment of the Department of the Treasury—

''(i) an Office of Inspector General of the Department of the Treasury; and

''(ii) an Office of Treasury Inspector General for Tax Administration.''

(b) AMENDMENTS TO SECTION 8D OF THE INSPECTOR GENERAL ACT OF 1978.—

(1) LIMITATION ON AUTHORITY OF INSPECTOR GENERAL.—Section 8D(a) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

''(4) The Secretary of the Treasury may not exercise any power under paragraph (1) or (2) with respect to the Treasury Inspector General for Tax Administration.''

(2) DUTIES OF INSPECTOR GENERAL OF THE DEPARTMENT OF THE TREASURY; RELATIONSHIP TO THE TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—Section 8D(b) of such Act is amended—

(A) by inserting ''(1)'' after ''(b)''; and

(B) by adding at the end the following:

''(2) The Inspector General of the Department of the Treasury shall exercise all duties and responsibilities of an Inspector General for the Department of the Treasury other than the duties and responsibilities exercised by the Treasury Inspector General for Tax Administration.

''(3) The Secretary of the Treasury shall establish procedures under which the Inspector General of the Department of the Treasury and the Treasury Inspector General for Tax Administration will—

''(A) determine how audits and investigations are allocated in cases of overlapping jurisdiction, and

''(B) provide for coordination, cooperation, and efficiency in the conduct of such audits and investigations.''

(3) ACCESS TO RETURNS AND RETURN INFORMATION.—Section 8D(e) of such Act is amended—

(A) in paragraph (1), by striking ''Inspector General'' and inserting ''Treasury Inspector General for Tax Administration'';

(B) in paragraph (2), by striking all beginning with ''(2)'' through subparagraph (B);

(C)(i) by redesignating subparagraph (C) of paragraph (2) as paragraph (2) of such subsection; and

(ii) in such redesignated paragraph (2), by striking ''Inspector General'' and inserting

''Treasury Inspector General for Tax Administration''; and

(D)(i) by redesignating subparagraph (D) of such paragraph as paragraph (3) of such subsection; and

(ii) in such redesignated paragraph (3), by striking ''Inspector General'' and inserting ''Treasury Inspector General for Tax Administration''.

(4) EFFECT ON CERTAIN FINAL DECISIONS OF THE SECRETARY.—Section 8D(f) of such Act is amended by striking ''Inspector General'' and inserting ''Inspector General of the Department of the Treasury or the Treasury Inspector General for Tax Administration''.

(5) REPEAL OF LIMITATION ON REPORTS TO THE ATTORNEY GENERAL.—Section 8D of such Act is amended by striking subsection (g).

(6) TRANSMISSION OF REPORTS.—Section 8D(h) of such Act is amended—

(A) by striking ''(h)'' and inserting ''(g)(1)'';

(B) by striking ''and the Committees on Government Operations and Ways and Means of the House of Representatives'' and inserting ''and the Committees on Government Reform and Oversight and Ways and Means of the House of Representatives''; and

(C) by adding at the end the following:

''(2) Any report made by the Treasury Inspector General for Tax Administration that is required to be transmitted by the Secretary of the Treasury to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under such subsection, to the Internal Revenue Service Oversight Board and the Commissioner of Internal Revenue.''

(7) TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—Section 8D of the Act is amended by adding at the end the following:

''(h) The Treasury Inspector General for Tax Administration shall exercise all duties and responsibilities of an Inspector General of an establishment with respect to the Department of the Treasury and the Secretary of the Treasury on all matters relating to the Internal Revenue Service. The Treasury Inspector General for Tax Administration shall have sole authority under this Act to conduct an audit or investigation of the Internal Revenue Service Oversight Board and the Chief Counsel for the Internal Revenue Service.

''(i) In addition to the requirements of the first sentence of section 3(a), the Treasury Inspector General for Tax Administration should have experience in tax administration and demonstrated ability to lead a large and complex organization.

''(j) An individual appointed to the position of Treasury Inspector General for Tax Administration, the Assistant Inspector General for Auditing of the Office of the Treasury Inspector General for Tax Administration under section 3(d)(1), the Assistant Inspector General for Investigations of the Office of the Treasury Inspector General for Tax Administration under section 3(d)(2), or any position of Deputy Inspector General of the Office of the Treasury Inspector General for Tax Administration may not be an employee of the Internal Revenue Service—

''(1) during the 2-year period preceding the date of appointment to such position; or

''(2) during the 5-year period following the date such individual ends service in such position.

''(k)(1) In addition to the duties and responsibilities exercised by an inspector general of an establishment, the Treasury Inspector General for Tax Administration—

''(A) shall have the duty to enforce criminal provisions under section 7608(b) of the Internal Revenue Code of 1986;

''(B) in addition to the functions authorized under section 7608(b)(2) of such Code, may carry firearms;

''(C) shall be responsible for protecting the Internal Revenue Service against external attempts to corrupt or threaten employees of the Internal Revenue Service; and

''(D) may designate any employee in the Office of the Treasury Inspector General for Tax Administration to enforce such laws and perform such functions referred to under subparagraphs (A), (B), and (C).

''(2)(A) In performing a law enforcement function under paragraph (1), the Treasury Inspector General for Tax Administration shall report any reasonable grounds to believe there has been a violation of Federal criminal law to the Attorney General at an appropriate time as determined by the Treasury Inspector General for Tax Administration, notwithstanding section 4(d).

''(B) In the administration of section 5(d) and subsection (g)(2) of this section, the Secretary of the Treasury may transmit the required report with respect to the Treasury Inspector General for Tax Administration at an appropriate time as determined by the Secretary, if the problem, abuse, or deficiency relates to—

''(i) the performance of a law enforcement function under paragraph (1); and

''(ii) sensitive information concerning matters under subsection (a)(1)(A) through (F).

''(3) Nothing in this subsection shall be construed to affect the authority of any other person to carry out or enforce any provision specified in paragraph (1).

''(l)(1) The Treasury Inspector General for Tax Administration shall timely conduct an audit or investigation relating to the Internal Revenue Service upon the written request of the Commissioner of Internal Revenue or the Internal Revenue Service Oversight Board.

''(2)(A) Any final report of an audit conducted by the Treasury Inspector General for Tax Administration shall be timely submitted by the Inspector General to the Commissioner of Internal Revenue and the Internal Revenue Service Oversight Board.

''(B) The Treasury Inspector General for Tax Administration shall periodically submit to the Commissioner and Board a list of investigations for which a final report has been completed by the Inspector General and shall provide a copy of any such report upon request of the Commissioner or Board.

''(C) This paragraph applies regardless of whether the applicable audit or investigation is requested under paragraph (1).''

(c) TRANSFER OF FUNCTIONS.—

(1) IN GENERAL.—Section 9(a)(1) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended in subparagraph (L)—

(A) by inserting ''(i)'' after ''(L)'';

(B) by inserting ''and'' after the semicolon; and

(C) by adding at the end the following:

''(ii) of the Treasury Inspector General for Tax Administration, effective 180 days after the date of the enactment of the Internal Revenue Service Restructuring and Reform Act of 1998, the Office of Chief Inspector of the Internal Revenue Service;''.

(2) TERMINATION OF OFFICE OF CHIEF INSPECTOR.—Effective upon the transfer of functions under the amendment made by paragraph (1), the Office of Chief Inspector of the Internal Revenue Service is terminated.

(3) RETENTION OF CERTAIN INTERNAL AUDIT PERSONNEL.—In making the transfer under the amendment made by paragraph (1), the Commissioner of Internal Revenue shall designate and retain an appropriate number (not in excess of 300) of internal audit full-time equivalent employee positions necessary for management relating to the Internal Revenue Service.

(4) ADDITIONAL PERSONNEL TRANSFERS.—Effective 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall transfer 21 full-time equivalent positions from the Office of the Inspector General of the Department of the Treasury to the Office of the Treasury Inspector General for Tax Administration.

(d) AUDITS AND REPORTS OF AGENCY FINANCIAL STATEMENTS.—Subject to section 3521(g) of title 31, United States Code—

(1) the Inspector General of the Department of the Treasury shall, subject to paragraph (2)—

(A) audit each financial statement in accordance with section 3521(e) of such title; and

(B) prepare and submit each report required under section 3521(f) of such title; and

(2) the Treasury Inspector General for Tax Administration shall—

(A) audit that portion of each financial statement referred to under paragraph (1)(A) that relates to custodial and administrative accounts of the Internal Revenue Service; and

(B) prepare that portion of each report referred to under paragraph (1)(B) that relates to custodial and administrative accounts of the Internal Revenue Service.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TRANSFER OF FUNCTIONS.—Section 8D(b) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking ''and the internal audits and internal investigations performed by the Office of Assistant Commissioner (Inspection) of the Internal Revenue Service''.

(2) AMENDMENTS RELATING TO REFERENCES TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF THE TREASURY.—

(A) LIMITATION ON AUTHORITY.—Section 8D(a) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(i) in the first sentence of paragraph (1), by inserting ''of the Department of the Treasury'' after ''Inspector General'';

(ii) in paragraph (2), by inserting ''of the Department of the Treasury'' after ''prohibit the Inspector General''; and

(iii) in paragraph (3)—

(I) in the first sentence, by inserting ''of the Department of the Treasury'' after ''notify the Inspector General''; and

(II) in the second sentence, by inserting ''of the Department of the Treasury'' after ''notice, the Inspector General''.

(B) DUTIES.—Section 8D(b) of such Act is amended in the second sentence by inserting ''of the Department of the Treasury'' after ''Inspector General''.

(C) AUDITS AND INVESTIGATIONS.—Section 8D (c) and (d) of such Act are amended by inserting ''of the Department of the Treasury'' after ''Inspector General'' each place it appears.

(3) REFERENCES.—The second section 8G of the Inspector General Act of 1978 (relating to rule of construction of special provisions) is amended—

(A) by striking ''SEC. 8G'' and inserting ''SEC. 8H'';

(B) by striking ''or 8E'' and inserting ''8E or 8F''; and

(C) by striking ''section 8F(a)'' and inserting ''section 8G(a)''.

(4) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 7608(b)(1) of the Internal Revenue Code of 1986 is amended by striking ''or of the Internal Security Division''.

SEC. 1104. OTHER PERSONNEL.

(a) IN GENERAL.—Section 7804 (relating to the effect of reorganization plans) is amended to read as follows:

''SEC. 7804. OTHER PERSONNEL.

''(a) APPOINTMENT AND SUPERVISION.—Unless otherwise prescribed by the Secretary, the Commissioner of Internal Revenue is authorized to employ such number of persons as the Commissioner deems proper for the administration and enforcement of the internal revenue laws, and the Commissioner shall issue all necessary directions, instructions, orders, and rules applicable to such persons.

''(b) POSTS OF DUTY OF EMPLOYEES IN FIELD SERVICE OR TRAVELING.—Unless otherwise prescribed by the Secretary—

''(1) DESIGNATION OF POST OF DUTY.—The Commissioner shall determine and designate the

posts of duty of all such persons engaged in field work or traveling on official business outside of the District of Columbia.

''(2) DETAIL OF PERSONNEL FROM FIELD SERVICE.—The Commissioner may order any such person engaged in field work to duty in the District of Columbia, for such periods as the Commissioner may prescribe, and to any designated post of duty outside the District of Columbia upon the completion of such duty.

''(c) DELINQUENT INTERNAL REVENUE OFFICERS AND EMPLOYEES.—If any officer or employee of the Treasury Department acting in connection with the internal revenue laws fails to account for and pay over any amount of money or property collected or received by him in connection with the internal revenue laws, the Secretary shall issue notice and demand to such officer or employee for payment of the amount which he failed to account for and pay over, and, upon failure to pay the amount demanded within the time specified in such notice, the amount so demanded shall be deemed imposed upon such officer or employee and assessed upon the date of such notice and demand, and the provisions of chapter 64 and all other provisions of law relating to the collection of assessed taxes shall be applicable in respect of such amount.''

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 6344 is amended by striking ''section 7803(d)'' and inserting ''section 7804(c)''.

(2) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7804 and inserting the following new item:

''Sec. 7804. Other personnel.''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1105. PROHIBITION ON EXECUTIVE BRANCH INFLUENCE OVER TAXPAYER AUDITS AND OTHER INVESTIGATIONS.

(a) IN GENERAL.—Part I of subchapter A of chapter 75 (relating to crimes, other offenses, and forfeitures) is amended by adding after section 7216 the following new section:

''SEC. 7217. PROHIBITION ON EXECUTIVE BRANCH INFLUENCE OVER TAXPAYER AUDITS AND OTHER INVESTIGATIONS.

''(a) PROHIBITION.—It shall be unlawful for any applicable person to request, directly or indirectly, any officer or employee of the Internal Revenue Service to conduct or terminate an audit or other investigation of any particular taxpayer with respect to the tax liability of such taxpayer.

''(b) REPORTING REQUIREMENT.—Any officer or employee of the Internal Revenue Service receiving any request prohibited by subsection (a) shall report the receipt of such request to the Treasury Inspector General for Tax Administration.

''(c) EXCEPTIONS.—Subsection (a) shall not apply to any written request made—

''(1) to an applicable person by or on behalf of the taxpayer and forwarded by such applicable person to the Internal Revenue Service,

''(2) by an applicable person for disclosure of return or return information under section 6103 if such request is made in accordance with the requirements of such section, or

''(3) by the Secretary of the Treasury as a consequence of the implementation of a change in tax policy.

''(d) PENALTY.—Any person who willfully violates subsection (a) or fails to report under subsection (b) shall be punished upon conviction by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

''(e) APPLICABLE PERSON.—For purposes of this section, the term 'applicable person' means—

''(1) the President, the Vice President, any employee of the executive office of the President, and any employee of the executive office of the Vice President, and

''(2) any individual (other than the Attorney General of the United States) serving in a position specified in section 5312 of title 5, United States Code.''

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter A of chapter 75 is amended by adding after the item relating to section 7216 the following new item:

''Sec. 7217. Prohibition on executive branch influence over taxpayer audits and other investigations.''

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

Subtitle C—Personnel Flexibilities

SEC. 1201. IMPROVEMENTS IN PERSONNEL FLEXIBILITIES.

(a) IN GENERAL.—Part III of title 5, United States Code, is amended by adding at the end the following new subpart:

''Subpart I—Miscellaneous

''CHAPTER 95—PERSONNEL FLEXIBILITIES RELATING TO THE INTERNAL REVENUE SERVICE

''Sec.
''9501. Internal Revenue Service personnel flexibilities.
''9502. Pay authority for critical positions.
''9503. Streamlined critical pay authority.
''9504. Recruitment, retention, and relocation incentives.
''9505. Performance awards for senior executives.
''9506. Limited appointments to career reserved Senior Executive Service positions.
''9507. Streamlined demonstration project authority.
''9508. General workforce performance management system.
''9509. General workforce classification and pay.
''9510. General workforce staffing.

''§ 9501. Internal Revenue Service personnel flexibilities

''(a) Any flexibilities provided by sections 9502 through 9510 of this chapter shall be exercised in a manner consistent with—

''(1) chapter 23 (relating to merit system principles and prohibited personnel practices);

''(2) provisions relating to preference eligibles;

''(3) except as otherwise specifically provided, section 5307 (relating to the aggregate limitation on pay);

''(4) except as otherwise specifically provided, chapter 71 (relating to labor-management relations); and

''(5) subject to subsections (b) and (c) of section 1104, as though such authorities were delegated to the Secretary of the Treasury under section 1104(a)(2).

''(b) The Secretary of the Treasury shall provide the Office of Personnel Management with any information that Office requires in carrying out its responsibilities under this section.

''(c) Employees within a unit to which a labor organization is accorded exclusive recognition under chapter 71 shall not be subject to any flexibility provided by sections 9507 through 9510 of this chapter unless the exclusive representative and the Internal Revenue Service have entered into a written agreement which specifically provides for the exercise of that flexibility. Such written agreement may be imposed by the Federal Services Impasses Panel under section 7119.

''§ 9502. Pay authority for critical positions

''(a) When the Secretary of the Treasury seeks a grant of authority under section 5377 for critical pay for 1 or more positions at the Internal Revenue Service, the Office of Management and Budget may fix the rate of basic pay, notwithstanding sections 5377(d)(2) and 5307, at any rate up to the salary set in accordance with section 104 of title 3.

''(b) Notwithstanding section 5307, no allowance, differential, bonus, award, or similar cash payment may be paid to any employee receiving critical pay at a rate fixed under subsection (a), in any calendar year if, or to the extent that, the employee's total annual compensation will exceed the maximum amount of total annual compensation payable at the salary set in accordance with section 104 of title 3.

''§ 9503. Streamlined critical pay authority

''(a) Notwithstanding section 9502, and without regard to the provisions of this title governing appointments in the competitive service or the Senior Executive Service and chapters 51 and 53 (relating to classification and pay rates), the Secretary of the Treasury may, for a period of 10 years after the date of enactment of this section, establish, fix the compensation of, and appoint individuals to, designated critical administrative, technical, and professional positions needed to carry out the functions of the Internal Revenue Service, if—

''(1) the positions—

''(A) require expertise of an extremely high level in an administrative, technical, or professional field; and

''(B) are critical to the Internal Revenue Service's successful accomplishment of an important mission;

''(2) exercise of the authority is necessary to recruit or retain an individual exceptionally well qualified for the position;

''(3) the number of such positions does not exceed 40 at any one time;

''(4) designation of such positions are approved by the Secretary of the Treasury;

''(5) the terms of such appointments are limited to no more than 4 years;

''(6) appointees to such positions were not Internal Revenue Service employees immediately prior to such appointment;

''(7) total annual compensation for any appointee to such positions does not exceed the highest total annual compensation payable at the rate determined under section 104 of title 3; and

''(8) all such positions are excluded from the collective bargaining unit.

''(b) Individuals appointed under this section shall not be considered to be employees for purposes of subchapter II of chapter 75.

''§ 9504. Recruitment, retention, and relocation incentives

''For a period of 10 years after the date of enactment of this section and subject to approval by the Office of Personnel Management, the Secretary of the Treasury may provide for variations from sections 5753 and 5754 governing payment of recruitment, relocation, and retention incentives.

''§ 9505. Performance awards for senior executives

''(a) For a period of 10 years after the date of enactment of this section, Internal Revenue Service senior executives who have program management responsibility over significant functions of the Internal Revenue Service may be paid a performance bonus without regard to the limitation in section 5384(b)(2) if the Secretary of the Treasury finds such award warranted based on the executive's performance.

''(b) In evaluating an executive's performance for purposes of an award under this section, the Secretary of the Treasury shall take into account the executive's contributions toward the successful accomplishment of goals and objectives established under the Government Performance and Results Act of 1993, division E of the Clinger-Cohen Act of 1996 (Public Law 104–106; 110 Stat. 679), Revenue Procedure 64–22 (as in effect on July 30, 1997), taxpayer service surveys, and other performance metrics or plans established in consultation with the Internal Revenue Service Oversight Board.

''(c) Any award in excess of 20 percent of an executive's rate of basic pay shall be approved by the Secretary of the Treasury.

''(d) Notwithstanding section 5384(b)(3), the Secretary of the Treasury shall determine the aggregate amount of performance awards available to be paid during any fiscal year under this section and section 5384 to career senior executives in the Internal Revenue Service. Such amount may not exceed an amount equal to 5 percent of the aggregate amount of basic pay paid to career senior executives in the Internal Revenue Service during the preceding fiscal year. The Internal Revenue Service shall not be included in the determination under section 5384(b)(3) of the aggregate amount of performance awards payable to career senior executives in the Department of the Treasury other than the Internal Revenue Service.

''(e) Notwithstanding section 5307, a performance bonus award may not be paid to an executive in a calendar year if, or to the extent that, the executive's total annual compensation will exceed the maximum amount of total annual compensation payable at the rate determined under section 104 of title 3.

"§ 9506. Limited appointments to career reserved Senior Executive Service positions

''(a) In the application of section 3132, a 'career reserved position' in the Internal Revenue Service means a position designated under section 3132(b) which may be filled only by—

''(1) a career appointee, or

''(2) a limited emergency appointee or a limited term appointee—

''(A) who, immediately upon entering the career reserved position, was serving under a career or career-conditional appointment outside the Senior Executive Service; or

''(B) whose limited emergency or limited term appointment is approved in advance by the Office of Personnel Management.

''(b)(1) The number of positions described under subsection (a) which are filled by an appointee as described under paragraph (2) of such subsection may not exceed 10 percent of the total number of Senior Executive Service positions in the Internal Revenue Service.

''(2) Notwithstanding section 3132—

''(A) the term of an appointee described under subsection (a)(2) may be for any period not to exceed 3 years; and

''(B) such an appointee may serve—

''(i) 2 such terms; or

''(ii) 2 such terms in addition to any unexpired term applicable at the time of appointment.

"§ 9507. Streamlined demonstration project authority

''(a) The exercise of any of the flexibilities under sections 9502 through 9510 shall not affect the authority of the Secretary of the Treasury to implement for the Internal Revenue Service a demonstration project subject to chapter 47, as provided in subsection (b).

''(b) In applying section 4703 to a demonstration project described in section 4701(a)(4) which involves the Internal Revenue Service—

''(1) section 4703(b)(1) shall be deemed to read as follows:

'''(1) develop a plan for such project which describes its purpose, the employees to be covered, the project itself, its anticipated outcomes, and the method of evaluating the project;';

''(2) section 4703(b)(3) shall not apply;

''(3) the 180-day notification period in section 4703(b)(4) shall be deemed to be a notification period of 30 days;

''(4) section 4703(b)(6) shall be deemed to read as follows:

'''(6) provides each House of Congress with the final version of the plan.';

''(5) section 4703(c)(1) shall be deemed to read as follows:

'''(1) subchapter V of chapter 63 or subpart G of part III of this title;';

''(6) the requirements of paragraphs (1)(A) and (2) of section 4703(d) shall not apply; and

''(7) notwithstanding section 4703(d)(1)(B), based on an evaluation as provided in section 4703(h), the Office of Personnel Management and the Secretary of the Treasury, except as otherwise provided by this subsection, may waive the termination date of a demonstration project under section 4703(d).

''(c) At least 90 days before waiving the termination date under subsection (b)(7), the Office of Personnel Management shall publish in the Federal Register a notice of its intention to waive the termination date and shall inform in writing both Houses of Congress of its intention.

"§ 9508. General workforce performance management system

''(a) In lieu of a performance appraisal system established under section 4302, the Secretary of the Treasury may establish for all or part of the Internal Revenue Service a performance management system that—

''(1) maintains individual accountability by—

''(A) establishing 1 or more retention standards for each employee related to the work of the employee and expressed in terms of individual performance, and communicating such retention standards to employees;

''(B) making periodic determinations of whether each employee meets or does not meet the employee's established retention standards; and

''(C) taking actions, in accordance with applicable laws and regulations, with respect to any employee whose performance does not meet established retention standards, including denying any increases in basic pay, promotions, and credit for performance under section 3502, and taking 1 or more of the following actions:

''(i) Reassignment.

''(ii) An action under chapter 43 or chapter 75 of this title.

''(iii) Any other appropriate action to resolve the performance problem; and

''(2) except as provided under section 1204 of the Internal Revenue Service Restructuring and Reform Act of 1998, strengthens the system's effectiveness by—

''(A) establishing goals or objectives for individual, group, or organizational performance (or any combination thereof), consistent with the Internal Revenue Service's performance planning procedures, including those established under the Government Performance and Results Act of 1993, division E of the Clinger-Cohen Act of 1996 (Public Law 104–106; 110 Stat. 679), Revenue Procedure 64–22 (as in effect on July 30, 1997), and taxpayer service surveys, and communicating such goals or objectives to employees;

''(B) using such goals and objectives to make performance distinctions among employees or groups of employees; and

''(C) using performance assessments as a basis for granting employee awards, adjusting an employee's rate of basic pay, and other appropriate personnel actions, in accordance with applicable laws and regulations.

''(b)(1) For purposes of subsection (a)(2), the term 'performance assessment' means a determination of whether or not retention standards established under subsection (a)(1)(A) are met, and any additional performance determination made on the basis of performance goals and objectives established under subsection (a)(2)(A).

''(2) For purposes of this title, the term 'unacceptable performance' with respect to an employee of the Internal Revenue Service covered by a performance management system established under this section means performance of the employee which fails to meet a retention standard established under this section.

''(c)(1) The Secretary of the Treasury may establish an awards program designed to provide incentives for and recognition of organizational, group, and individual achievements by providing for granting awards to employees who, as individuals or members of a group, contribute to meeting the performance goals and objectives established under this chapter by such means as a superior individual or group accomplishment, a documented productivity gain, or sustained superior performance.

''(2) A cash award under subchapter I of chapter 45 may be granted to an employee of the Internal Revenue Service without the need for any approval under section 4502(b).

''(d)(1) In applying sections 4303(b)(1)(A) and 7513(b)(1) to employees of the Internal Revenue Service, '30 days' may be deemed to be '15 days'.

''(2) Notwithstanding the second sentence of section 5335(c), an employee of the Internal Revenue Service shall not have a right to appeal the denial of a periodic step increase under section 5335 to the Merit Systems Protection Board.

"§ 9509. General workforce classification and pay

''(a) For purposes of this section, the term 'broad-banded system' means a system for grouping positions for pay, job evaluation, and other purposes that is different from the system established under chapter 51 and subchapter III of chapter 53 as a result of combining grades and related ranges of rates of pay in 1 or more occupational series.

''(b)(1)(A) The Secretary of the Treasury may, subject to criteria to be prescribed by the Office of Personnel Management, establish 1 or more broad-banded systems covering all or any portion of the Internal Revenue Service workforce.

''(B) With the approval of the Office of Personnel Management, a broad-banded system established under this section may either include or consist of positions that otherwise would be subject to subchapter IV of chapter 53 or section 5376.

''(2) The Office of Personnel Management may require the Secretary of the Treasury to submit information relating to broad-banded systems at the Internal Revenue Service.

''(3) Except as otherwise provided under this section, employees under a broad-banded system shall continue to be subject to the laws and regulations covering employees under the pay system that otherwise would apply to such employees.

''(4) The criteria to be prescribed by the Office of Personnel Management shall, at a minimum—

''(A) ensure that the structure of any broad-banded system maintains the principle of equal pay for substantially equal work;

''(B) establish the minimum and maximum number of grades that may be combined into pay bands;

''(C) establish requirements for setting minimum and maximum rates of pay in a pay band;

''(D) establish requirements for adjusting the pay of an employee within a pay band;

''(E) establish requirements for setting the pay of a supervisory employee whose position is in a pay band or who supervises employees whose positions are in pay bands; and

''(F) establish requirements and methodologies for setting the pay of an employee upon conversion to a broad-banded system, initial appointment, change of position or type of appointment (including promotion, demotion, transfer, reassignment, reinstatement, placement in another pay band, or movement to a different geographic location), and movement between a broad-banded system and another pay system.

''(c) With the approval of the Office of Personnel Management and in accordance with a plan for implementation submitted by the Secretary of the Treasury, the Secretary may, with respect to Internal Revenue Service employees who are covered by a broad-banded system established under this section, provide for variations from the provisions of subchapter VI of chapter 53.

"§ 9510. General workforce staffing

''(a)(1) Except as otherwise provided by this section, an employee of the Internal Revenue Service may be selected for a permanent appointment in the competitive service in the Internal Revenue Service through internal competitive promotion procedures if—

''(A) the employee has completed, in the competitive service, 2 years of current continuous service under a term appointment or any combination of term appointments;

''(B) such term appointment or appointments were made under competitive procedures prescribed for permanent appointments;

''(C) the employee's performance under such term appointment or appointments met established retention standards, or, if not covered by a performance management system established under section 9508, was rated at the fully successful level or higher (or equivalent thereof); and

''(D) the vacancy announcement for the term appointment from which the conversion is made stated that there was a potential for subsequent conversion to a permanent appointment.

''(2) An appointment under this section may be made only to a position in the same line of work as a position to which the employee received a term appointment under competitive procedures.

''(b)(1) Notwithstanding subchapter I of chapter 33, the Secretary of the Treasury may establish category rating systems for evaluating applicants for Internal Revenue Service positions in the competitive service under which qualified candidates are divided into 2 or more quality categories on the basis of relative degrees of merit, rather than assigned individual numerical ratings.

''(2) Each applicant who meets the minimum qualification requirements for the position to be filled shall be assigned to an appropriate category based on an evaluation of the applicant's knowledge, skills, and abilities relative to those needed for successful performance in the position to be filled.

''(3) Within each quality category established under paragraph (1), preference eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at or higher than GS–9 (or equivalent), preference eligibles who have a compensable service-connected disability of 10 percent or more, and who meet the minimum qualification standards, shall be listed in the highest quality category.

''(4) An appointing authority may select any applicant from the highest quality category or, if fewer than 3 candidates have been assigned to the highest quality category, from a merged category consisting of the highest and second highest quality categories.

''(5) Notwithstanding paragraph (4), the appointing authority may not pass over a preference eligible in the same or higher category from which selection is made unless the requirements of section 3317(b) or 3318(b), as applicable, are satisfied.

''(c) The Secretary of the Treasury may detail employees among the offices of the Internal Revenue Service without regard to the 120-day limitation in section 3341(b).

''(d) Notwithstanding any other provision of law, the Secretary of the Treasury may establish a probationary period under section 3321 of up to 3 years for Internal Revenue Service positions if the Secretary of the Treasury determines that the nature of the work is such that a shorter period is insufficient to demonstrate complete proficiency in the position.

''(e) Nothing in this section exempts the Secretary of the Treasury from—

''(1) any employment priority established under direction of the President for the placement of surplus or displaced employees; or

''(2) any obligation under a court order or decree relating to the employment practices of the Internal Revenue Service or the Department of the Treasury.''.

(b) CLERICAL AMENDMENT.—The table of sections for part III of title 5, United States Code, is amended by adding at the end the following:

''Subpart I—Miscellaneous

''95. Personnel flexibilities relating to the Internal Revenue Service ..... 9501''.

SEC. 1202. VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

(a) DEFINITION.—In this section, the term ''employee'' means an employee (as defined by section 2105 of title 5, United States Code) who is employed by the Internal Revenue Service serving under an appointment without time limitation, and has been currently employed for a continuous period of at least 3 years, but does not include—

(1) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system;

(2) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under the applicable retirement system referred to in paragraph (1);

(3) an employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

(4) an employee who, upon completing an additional period of service as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 5597 note), would qualify for a voluntary separation incentive payment under section 3 of such Act;

(5) an employee who has previously received any voluntary separation incentive payment by the Federal Government under this section or any other authority and has not repaid such payment;

(6) an employee covered by statutory reemployment rights who is on transfer to another organization; or

(7) any employee who, during the 24-month period preceding the date of separation, has received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the 12-month period preceding the date of separation, received a retention allowance under section 5754 of title 5, United States Code.

(b) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—The Commissioner of Internal Revenue may pay voluntary separation incentive payments under this section to any employee to the extent necessary to carry out the plan to reorganize the Internal Revenue Service under section 1001.

(2) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment—

(A) shall be paid in a lump sum after the employee's separation;

(B) shall be paid from appropriations or funds available for the payment of the basic pay of the employees;

(C) shall be equal to the lesser of—

(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

(ii) an amount determined by an agency head not to exceed $25,000;

(D) may not be made except in the case of any qualifying employee who voluntarily separates (whether by retirement or resignation) before January 1, 2003;

(E) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(F) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(c) ADDITIONAL INTERNAL REVENUE SERVICE CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 of title 5, United States Code, the Internal Revenue Service shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this section.

(2) DEFINITION.—In paragraph (1), the term ''final basic pay'', with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(d) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who has received a voluntary separation incentive payment under this section and accepts any employment for compensation with the Government of the United States, or who works for any agency of the United States Government through a personal services contract, within 5 years after the date of the separation on which the payment is based shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment to the Internal Revenue Service.

(e) EFFECT ON INTERNAL REVENUE SERVICE EMPLOYMENT LEVELS.—

(1) INTENDED EFFECT.—Voluntary separations under this section are not intended to necessarily reduce the total number of full-time equivalent positions in the Internal Revenue Service.

(2) USE OF VOLUNTARY SEPARATIONS.—The Internal Revenue Service may redeploy or use the full-time equivalent positions vacated by voluntary separations under this section to make other positions available to more critical locations or more critical occupations.

SEC. 1203. TERMINATION OF EMPLOYMENT FOR MISCONDUCT.

(a) IN GENERAL.—Subject to subsection (c), the Commissioner of Internal Revenue shall terminate the employment of any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties. Such termination shall be a removal for cause on charges of misconduct.

(b) ACTS OR OMISSIONS.—The acts or omissions referred to under subsection (a) are—

(1) failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets;

(2) providing a false statement under oath with respect to a material matter involving a taxpayer;

(3) violation of the civil rights of a taxpayer or other employee of the Internal Revenue Service;

(4) falsifying or destroying documents to conceal mistakes made by the employee with respect to a matter involving a taxpayer;

(5) assault or battery on a taxpayer or other employee of the Internal Revenue Service;

(6) violations of the Internal Revenue Code of 1986, Department of Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer or other employee of the Internal Revenue Service; and

(7) willful misuse of the provisions of section 6103 of the Internal Revenue Code of 1986 for the purpose of concealing information from a congressional inquiry.

(c) DETERMINATION OF COMMISSIONER.—

(1) IN GENERAL.—The Commissioner of Internal Revenue may take a personnel action other than termination for an act or omission under subsection (a).

(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner of Internal Revenue and may not be delegated to any other officer. The Commissioner of Internal Revenue, in his sole discretion, may establish a procedure which will be used to determine whether an individual should be referred to the Commissioner of Internal Revenue for a determination by the Commissioner under paragraph (1).

(3) NO APPEAL.—Any determination of the Commissioner of Internal Revenue under this

subsection may not be appealed in any administrative or judicial proceeding.

SEC. 1204. BASIS FOR EVALUATION OF INTERNAL REVENUE SERVICE EMPLOYEES.

(a) IN GENERAL.—The Internal Revenue Service shall not use records of tax enforcement results—

(1) to evaluate employees and their immediate supervisors; or

(2) to impose or suggest production quotas or goals with respect to individuals described in paragraph (1).

(b) TAXPAYER SERVICE.—The Internal Revenue Service shall use the fair and equitable treatment of taxpayers by employees as one of the standards for evaluating employee performance.

(c) CERTIFICATION.—Each appropriate supervisor shall certify quarterly by letter to the Commissioner of Internal Revenue that tax enforcement results are not used in a manner prohibited by subsection (a).

(d) TECHNICAL AND CONFORMING AMENDMENT.—Section 6231 of the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100–647; 102 Stat. 3734) is repealed.

(e) EFFECTIVE DATE.—This section shall apply to evaluations conducted on or after the date of the enactment of this Act.

SEC. 1205. EMPLOYEE TRAINING PROGRAM.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Commissioner of Internal Revenue shall implement an employee training program and shall submit an employee training plan to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(b) CONTENTS.—The plan submitted under subsection (a) shall—

(1) detail a comprehensive employee training program to ensure adequate customer service training;

(2) detail a schedule for training and the fiscal years during which the training will occur;

(3) detail the funding of the program and relevant information to demonstrate the priority and commitment of resources to the plan;

(4) review the organizational design of customer service;

(5) provide for the implementation of a performance development system; and

(6) provide for at least 16 hours of conflict management training during fiscal year 1999 for employees conducting collection activities.

TITLE II—ELECTRONIC FILING

SEC. 2001. ELECTRONIC FILING OF TAX AND INFORMATION RETURNS.

(a) IN GENERAL.—It is the policy of the Congress that—

(1) paperless filing should be the preferred and most convenient means of filing tax and information returns, and

(2) it should be the goal of the Internal Revenue Service to have at least 80 percent of all such returns filed electronically by the year 2007.

(b) STRATEGIC PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary's delegate (hereafter in this section referred to as the ''Secretary'') shall establish a plan to eliminate barriers, provide incentives, and use competitive market forces to increase electronic filing gradually over the next 10 years while maintaining processing times for paper returns at 40 days. To the extent practicable, such plan shall provide that all returns prepared electronically for taxable years beginning after 2001 shall be filed electronically.

(2) ELECTRONIC COMMERCE ADVISORY GROUP.—To ensure that the Secretary receives input from the private sector in the development and implementation of the plan required by paragraph (1), the Secretary shall convene an electronic commerce advisory group to include representatives from the small business community and from the tax practitioner, preparer, and computerized tax processor communities and other representatives from the electronic filing industry.

(c) PROMOTION OF ELECTRONIC FILING AND INCENTIVES.—Section 6011 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) PROMOTION OF ELECTRONIC FILING.—

''(1) IN GENERAL.—The Secretary is authorized to promote the benefits of and encourage the use of electronic tax administration programs, as they become available, through the use of mass communications and other means.

''(2) INCENTIVES.—The Secretary may implement procedures to provide for the payment of appropriate incentives for electronically filed returns.''

(d) ANNUAL REPORTS.—Not later than June 30 of each calendar year after 1998, the Chairperson of the Internal Revenue Service Oversight Board, the Secretary of the Treasury, and the Chairperson of the electronic commerce advisory group established under subsection (b)(2) shall report to the Committees on Ways and Means, Appropriations, and Government Reform and Oversight of the House of Representatives and the Committees on Finance, Appropriations, and Governmental Affairs of the Senate on—

(1) the progress of the Internal Revenue Service in meeting the goal of receiving electronically 80 percent of tax and information returns by 2007;

(2) the status of the plan required by subsection (b); and

(3) the legislative changes necessary to assist the Internal Revenue Service in meeting such goal.

SEC. 2002. DUE DATE FOR CERTAIN INFORMATION RETURNS.

(a) INFORMATION RETURNS FILED ELECTRONICALLY.—Section 6071 (relating to time for filing returns and other documents) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

''(b) ELECTRONICALLY FILED INFORMATION RETURNS.—Returns made under subparts B and C of part III of this subchapter which are filed electronically shall be filed on or before March 31 of the year following the calendar year to which such returns relate.''

(b) STUDY RELATING TO TIME FOR PROVIDING NOTICE TO RECIPIENTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall conduct a study evaluating the effect of extending the deadline for providing statements to persons with respect to whom information is required to be furnished under subparts B and C of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (other than section 6051 of such Code) from January 31 to February 15 of the year in which the return to which the statement relates is required to be filed.

(2) REPORT.—Not later than December 31, 1998, the Secretary of the Treasury shall submit a report on the study under paragraph (1) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to returns required to be filed after December 31, 1999.

SEC. 2003. PAPERLESS ELECTRONIC FILING.

(a) IN GENERAL.—Section 6061 (relating to signing of returns and other documents) is amended—

(1) by striking ''Except as otherwise provided by'' and inserting the following:

''(a) GENERAL RULE.—Except as otherwise provided by subsection (b) and'', and

(2) by adding at the end the following new subsection:

''(b) ELECTRONIC SIGNATURES.—

''(1) IN GENERAL.—The Secretary shall develop procedures for the acceptance of signatures in digital or other electronic form. Until such time as such procedures are in place, the Secretary may provide for alternative methods of subscribing all returns, declarations, statements, or other documents required or permitted to be made or written under internal revenue laws and regulations.

''(2) TREATMENT OF ALTERNATIVE METHODS.—Notwithstanding any other provision of law, any return, declaration, statement, or other document filed and verified, signed, or subscribed under any method adopted under paragraph (1) shall be treated for all purposes (both civil and criminal, including penalties for perjury) in the same manner as though signed and subscribed. Any such return, declaration, statement, or other document shall be presumed to have been actually submitted and subscribed by the person on whose behalf it was submitted.

''(3) PUBLISHED GUIDANCE.—The Secretary shall publish guidance as appropriate to define and implement any method adopted under paragraph (1).''

(b) ACKNOWLEDGMENT OF ELECTRONIC FILING.—Section 7502(c) is amended to read as follows:

''(c) REGISTERED AND CERTIFIED MAILING; ELECTRONIC FILING.—

''(1) REGISTERED MAIL.—For purposes of this section, if any return, claim, statement, or other document, or payment, is sent by United States registered mail—

''(A) such registration shall be prima facie evidence that the return, claim, statement, or other document was delivered to the agency, officer, or office to which addressed, and

''(B) the date of registration shall be deemed the postmark date.

''(2) CERTIFIED MAIL; ELECTRONIC FILING.—The Secretary is authorized to provide by regulations the extent to which the provisions of paragraph (1) with respect to prima facie evidence of delivery and the postmark date shall apply to certified mail and electronic filing.''

(c) ESTABLISHMENT OF PROCEDURES FOR OTHER INFORMATION.—In the case of taxable periods beginning after December 31, 1998, the Secretary of the Treasury or the Secretary's delegate shall, to the extent practicable, establish procedures to accept, in electronic form, any other information, statements, elections, or schedules, from taxpayers filing returns electronically, so that such taxpayers will not be required to file any paper.

(d) PROCEDURES FOR AUTHORIZING DISCLOSURE ELECTRONICALLY.—The Secretary shall establish procedures for taxpayers to designate, on electronically filed returns, persons to whom information may be disclosed under section 6103(c) of the Internal Revenue Code of 1986.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 2004. RETURN-FREE TAX SYSTEM.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall develop procedures for the implementation of a return-free tax system under which appropriate individuals would be permitted to comply with the Internal Revenue Code of 1986 without making the return required under section 6012 of such Code for taxable years beginning after 2007.

(b) REPORT.—Not later than June 30 of each calendar year after 1999, such Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on—

(1) what additional resources the Internal Revenue Service would need to implement such a system,

(2) the changes to the Internal Revenue Code of 1986 that could enhance the use of such a system,

(3) the procedures developed pursuant to subsection (a), and

(4) the number and classes of taxpayers that would be permitted to use the procedures developed pursuant to subsection (a).

SEC. 2005. ACCESS TO ACCOUNT INFORMATION.

(a) IN GENERAL.—Not later than December 31, 2006, the Secretary of the Treasury or the Secretary's delegate shall develop procedures under which a taxpayer filing returns electronically (and their designees under section 6103(c) of the Internal Revenue Code of 1986) would be able to review the taxpayer's account electronically, but only if all necessary safeguards to ensure the privacy of such account information are in place.

(b) REPORT.—Not later than December 31, 2003, the Secretary of the Treasury shall report on the progress the Secretary is making on the development of procedures under subsection (a) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

TITLE III—TAXPAYER PROTECTION AND RIGHTS

SEC. 3000. SHORT TITLE.

This title may be cited as the ''Taxpayer Bill of Rights 3''.

Subtitle A—Burden of Proof

SEC. 3001. BURDEN OF PROOF.

(a) IN GENERAL.—Chapter 76 (relating to judicial proceedings) is amended by adding at the end the following new subchapter:

''Subchapter E—Burden of Proof

''Sec. 7491. Burden of proof.

''SEC. 7491. BURDEN OF PROOF.

''(a) BURDEN SHIFTS WHERE TAXPAYER PRODUCES CREDIBLE EVIDENCE.—

''(1) GENERAL RULE.—If, in any court proceeding, a taxpayer introduces credible evidence with respect to any factual issue relevant to ascertaining the income tax liability of the taxpayer, the Secretary shall have the burden of proof with respect to such issue.

''(2) LIMITATIONS.—Paragraph (1) shall apply with respect to an issue only if—

''(A) the taxpayer has complied with the requirements under this title to substantiate any item,

''(B) the taxpayer has maintained all records required under this title and has cooperated with reasonable requests by the Secretary for witnesses, information, documents, meetings, and interviews, and

''(C) in the case of a partnership, corporation, or trust, the taxpayer is described in section 7430(c)(4)(A)(ii).

''(3) COORDINATION.—Paragraph (1) shall not apply to any issue if any other provision of this title provides for a specific burden of proof with respect to such issue.

''(b) USE OF STATISTICAL INFORMATION ON UNRELATED TAXPAYERS.—In the case of an individual taxpayer, the Secretary shall have the burden of proof in any court proceeding with respect to any item of income which was reconstructed by the Secretary solely through the use of statistical information on unrelated taxpayers.

''(c) PENALTIES.—Notwithstanding any other provision of this title, the Secretary shall have the burden of production in any court proceeding with respect to the liability of any individual for any penalty, addition to tax, or additional amount imposed by this title.''

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 76 is amended by adding at the end the following new item:

''SUBCHAPTER E. Burden of proof.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to court proceedings arising in connection with examinations commencing after the date of the enactment of this Act.

Subtitle B—Proceedings by Taxpayers

SEC. 3101. EXPANSION OF AUTHORITY TO AWARD COSTS AND CERTAIN FEES.

(a) AWARD OF ALL REASONABLE ATTORNEYS FEES.—

(1) IN GENERAL.—Section 7430(c)(1) (relating to reasonable litigation costs) is amended—

(A) by striking clause (iii) of subparagraph (B) and inserting:

''(iii) reasonable fees paid or incurred for the services of attorneys in connection with the court proceeding.'', and

(B) by striking the last 2 sentences.

(2) CONFORMING AMENDMENT.—Section 7430(c)(2)(B) is amended by striking ''or (iii)''.

(b) AWARD OF ADMINISTRATIVE COSTS INCURRED AFTER 30-DAY LETTER.—Paragraph (2) of section 7430(c) is amended by striking the last sentence and inserting the following new flush sentence:

''Such term shall only include costs incurred on or after whichever of the following is the earliest: (i) the date of the receipt by the taxpayer of the notice of the decision of the Internal Revenue Service Office of Appeals, (ii) the date of the notice of deficiency, or (iii) the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent.''

(c) AWARD OF FEES FOR CERTAIN ADDITIONAL SERVICES.—Paragraph (3) of section 7430(c) is amended to read as follows:

''(3) ATTORNEYS FEES.—

''(A) IN GENERAL.—For purposes of paragraphs (1) and (2), fees for the services of an individual (whether or not an attorney) who is authorized to practice before the Tax Court or before the Internal Revenue Service shall be treated as fees for the services of an attorney.

''(B) PRO BONO SERVICES.—The court may award reasonable attorneys fees under subsection (a) in excess of the attorneys fees paid or incurred if such fees are less than the reasonable attorneys fees because an individual is representing the prevailing party for no fee or for a fee which (taking into account all the facts and circumstances) is no more than a nominal fee. This subparagraph shall apply only if such award is paid to such individual or such individual's employer.''

(d) DETERMINATION OF WHETHER POSITION OF UNITED STATES IS SUBSTANTIALLY JUSTIFIED.—Subparagraph (B) of section 7430(c)(4) is amended by redesignating clause (iii) as clause (iv) and by inserting after clause (ii) the following new clause:

''(iii) EFFECT OF LOSING ON SUBSTANTIALLY SIMILAR ISSUES.—In determining for purposes of clause (i) whether the position of the United States was substantially justified, the court shall take into account whether the United States has lost in courts of appeal for other circuits on substantially similar issues.''

(e) TAXPAYER TREATED AS PREVAILING IF JUDGMENT IS LESS THAN TAXPAYER'S OFFER.—

(1) IN GENERAL.—Section 7430(c)(4) (defining prevailing party) is amended by adding at the end the following new subparagraph:

''(E) SPECIAL RULES WHERE JUDGMENT LESS THAN TAXPAYER'S OFFER.—

''(i) IN GENERAL.—A party to a court proceeding meeting the requirements of subparagraph (A)(ii) shall be treated as the prevailing party if the liability of the taxpayer pursuant to the judgment in the proceeding (determined without regard to interest) is equal to or less than the liability of the taxpayer which would have been so determined if the United States had accepted a qualified offer of the party under subsection (g).

''(ii) EXCEPTIONS.—This subparagraph shall not apply to—

''(I) any judgment issued pursuant to a settlement, or

''(II) any proceeding in which the amount of tax liability is not in issue, including any declaratory judgment proceeding, any proceeding to enforce or quash any summons issued pursuant to this title, and any action to restrain disclosure under section 6110(f).

''(iii) SPECIAL RULES.—If this subparagraph applies to any court proceeding—

''(I) the determination under clause (i) shall be made by reference to the last qualified offer made with respect to the tax liability at issue in the proceeding, and

''(II) reasonable administrative and litigation costs shall only include costs incurred on and after the date of such offer.

''(iv) COORDINATION.—This subparagraph shall not apply to a party which is a prevailing party under any other provision of this paragraph.''

(2) QUALIFIED OFFER.—Section 7430 is amended by adding at the end the following new subsection:

''(g) QUALIFIED OFFER.—For purposes of subsection (c)(4)—

''(1) IN GENERAL.—The term 'qualified offer' means a written offer which—

''(A) is made by the taxpayer to the United States during the qualified offer period,

''(B) specifies the amount of the taxpayer's liability (determined without regard to interest),

''(C) is designated at the time it is made as a qualified offer for purposes of this section, and

''(D) remains open during the period beginning on the date it is made and ending on the earliest of the date the offer is rejected, the date the trial begins, or the 90th day after the date the offer is made.

''(2) QUALIFIED OFFER PERIOD.—For purposes of this subsection, the term 'qualified offer period' means the period—

''(A) beginning on the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent, and

''(B) ending on the date which is 30 days before the date the case is first set for trial.''

(f) AWARD OF ATTORNEYS FEES IN UNAUTHORIZED INSPECTION AND DISCLOSURE CASES.—Section 7431(c) (relating to damages) is amended by striking the period at the end of paragraph (2) and inserting '', plus'', and by adding at the end the following new paragraph:

''(3) in the case of a plaintiff which is described in section 7430(c)(4)(A)(ii), reasonable attorneys fees, except that if the defendant is the United States, reasonable attorneys fees may be awarded only if the plaintiff is the prevailing party (as determined under section 7430(c)(4)).''

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to costs incurred (and, in the case of the amendment made by subsection (c), services performed) more than 180 days after the date of the enactment of this Act.

SEC. 3102. CIVIL DAMAGES FOR COLLECTION ACTIONS.

(a) EXTENSION TO NEGLIGENCE ACTIONS.—

(1) IN GENERAL.—Section 7433 (relating to civil damages for certain unauthorized collection actions) is amended—

(A) in subsection (a), by inserting '', or by reason of negligence,'' after ''recklessly or intentionally'', and

(B) in subsection (b)—

(i) in the matter preceding paragraph (1), by inserting ''($100,000, in the case of negligence)'' after ''$1,000,000'', and

(ii) in paragraph (1), by inserting ''or negligent'' after ''reckless or intentional''.

(2) REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED.—Paragraph (1) of section 7433(d) is amended to read as follows:

''(1) REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED.—A judgment for damages shall not be awarded under subsection (b) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.''

(b) DAMAGES ALLOWED IN CIVIL ACTIONS BY PERSONS OTHER THAN TAXPAYERS.—Section 7426 is amended by redesignating subsection (h) as subsection (i) and by adding after subsection (g) the following new subsection:

''(h) RECOVERY OF DAMAGES PERMITTED IN CERTAIN CASES.—

''(1) IN GENERAL.—Notwithstanding subsection (b), if, in any action brought under this section, there is a finding that any officer or employee of the Internal Revenue Service recklessly or intentionally, or by reason of negligence, disregarded any provision of this title the defendant shall be liable to the plaintiff in an amount equal to the lesser of $1,000,000 ($100,000 in the case of negligence) or the sum of—

''(A) actual, direct economic damages sustained by the plaintiff as a proximate result of the reckless or intentional or negligent actions of the officer or employee (reduced by any amount of such damages awarded under subsection (b)), and

''(B) the costs of the action.

''(2) REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED.—A judgment for damages shall not be awarded under this section unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.''

(c) CIVIL DAMAGES FOR IRS VIOLATIONS OF BANKRUPTCY PROCEDURES.—

(1) IN GENERAL.—Section 7433 (relating to civil damages for certain unauthorized collection actions) is amended by adding at the end the following new subsection:

''(e) ACTIONS FOR VIOLATIONS OF CERTAIN BANKRUPTCY PROCEDURES.—

''(1) IN GENERAL.—If, in connection with any collection of Federal tax with respect to a taxpayer, any officer or employee of the Internal Revenue Service willfully violates any provision of section 362 (relating to automatic stay) or 524 (relating to effect of discharge) of title 11, United States Code, or any regulation promulgated under such section, such taxpayer may petition the bankruptcy court to recover damages against the United States.

''(2) REMEDY TO BE EXCLUSIVE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), notwithstanding section 105 of such title 11, such petition shall be the exclusive remedy for recovering damages resulting from such actions.

''(B) CERTAIN OTHER ACTIONS PERMITTED.—Subparagraph (A) shall not apply to an action under section 362(h) of such title 11 for a violation of a stay provided by section 362 of such title; except that—

''(i) administrative and litigation costs in connection with such an action may only be awarded under section 7430, and

''(ii) administrative costs may be awarded only if incurred on or after the date that the bankruptcy petition is filed.''

(2) CONFORMING AMENDMENT.—Subsection (b) of section 7433 is amended by inserting ''or petition filed under subsection (e)'' after ''subsection (a)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to actions of officers or employees of the Internal Revenue Service after the date of the enactment of this Act.

SEC. 3103. INCREASE IN SIZE OF CASES PERMITTED ON SMALL CASE CALENDAR.

(a) IN GENERAL.—Section 7463 (relating to disputes involving $10,000 or less) is amended by striking ''$10,000'' each place it appears (including the section heading) and inserting ''$50,000''.

(b) CONFORMING AMENDMENTS.—

(1) Sections 7436(c)(1) and 7443A(b)(3) are each amended by striking ''$10,000'' and inserting ''$50,000''.

(2) The table of sections for part II of subchapter C of chapter 76 is amended by striking ''$10,000'' in the item relating to section 7463 and inserting ''$50,000''.

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

SEC. 3104. EXPANSION OF TAX COURT JURISDICTION TO RESPONSIBLE PERSON PENALTIES.

(a) IN GENERAL.—Section 6672 (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

''(c) PETITION FOR REVIEW BY TAX COURT.—

''(1) IN GENERAL.—A person may petition the Tax Court (and the Tax Court shall have jurisdiction) to determine the person's liability under subsection (a) if such petition is filed during the 90-day period beginning on the day on which notice and demand of the penalty under subsection (a) is made on such person.

''(2) RESTRICTIONS APPLICABLE TO COLLECTION OF ASSESSMENT.—

''(A) IN GENERAL.—Except as otherwise provided in section 6851 or 6861, no levy or proceeding in court for collection of any assessment of any penalty under subsection (a) shall be made, begun, or prosecuted until the expiration of the 90-day period described in paragraph (1), or, if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final. Rules similar to the rules of section 7485 shall apply with respect to the collection of such assessment.

''(B) AUTHORITY TO ENJOIN COLLECTION ACTIONS.—Notwithstanding the provisions of section 7421(a), the beginning of any levy or proceeding in court for collection of any assessment of any penalty under subsection (a) during the time the prohibition under subparagraph (A) is in force may be enjoined by a proceeding in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction under this subparagraph to enjoin any action or proceeding unless a timely petition has been filed under paragraph (1) and then only in respect of the amount of the assessment to which such petition relates.

''(3) SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS.—The running of the period of limitations in section 6502 on the collection of the assessment to which the petition under paragraph (1) relates shall be suspended for the period during which the Secretary is prohibited by paragraph (2)(A) from collecting by levy or a proceeding in court and for 60 days thereafter.

''(4) APPLICABLE RULES.—

''(A) CREDIT OR REFUND ALLOWED.—Notwithstanding any other law or rule of law (other than section 6512(b), 7121, or 7122), credit or refund shall be allowed or made to the extent attributable to the application of this subsection.

''(B) LIMITATION ON TAX COURT JURISDICTION.—If a suit for refund is begun, the Tax Court shall lose jurisdiction of the action under this subsection to whatever extent jurisdiction is acquired by the district court or the United States Court of Federal Claims over the taxable periods that are the subject of the suit for refund.''

(b) CONFORMING AMENDMENTS.—

(1) Section 7103(a)(4) is amended by striking ''6672(b)'' and inserting ''6672(d)''.

(2) Section 7421(a) is amended by striking ''6672(b)'' and inserting ''6672 (c) and (d)''.

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

SEC. 3105. ACTIONS FOR REFUND WITH RESPECT TO CERTAIN ESTATES WHICH HAVE ELECTED THE INSTALLMENT METHOD OF PAYMENT.

(a) IN GENERAL.—Section 7422 is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

''(j) SPECIAL RULE FOR ACTIONS WITH RESPECT TO ESTATES FOR WHICH AN ELECTION UNDER SECTION 6166 IS MADE.—

''(1) IN GENERAL.—The district courts of the United States and the United States Court of Federal Claims shall not fail to have jurisdiction over any action brought by the representative of an estate to which this subsection applies to determine the correct amount of the estate tax liability of such estate (or for any refund with respect thereto) solely because the full amount of such liability has not been paid by reason of an election under section 6166 with respect to such estate.

''(2) ESTATES TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any estate if, as of the date the action is filed—

''(A) no portion of the installments payable under section 6166 have been accelerated,

''(B) all such installments the due date for which is on or before the date the action is filed have been paid,

''(C) there is no case pending in the Tax Court with respect to the tax imposed by section 2001 on the estate and, if a notice of deficiency under section 6212 with respect to such tax has been issued, the time for filing a petition with the Tax Court with respect to such notice has expired, and

''(D) no proceeding for declaratory judgment under section 7479 is pending.

''(3) PROHIBITION ON COLLECTION OF DISALLOWED LIABILITY.—If the court redetermines under paragraph (1) the estate tax liability of an estate, no part of such liability which is disallowed by a decision of such court which has become final may be collected by the Secretary, and amounts paid in excess of the installments determined by the court as currently due and payable shall be refunded.''

(b) EXTENSION OF TIME TO FILE REFUND SUIT.—Section 7479 (relating to declaratory judgments relating to eligibility of estate with respect to installment payments under section 6166) is amended by adding at the end the following new subsection:

''(c) EXTENSION OF TIME TO FILE REFUND SUIT.—The 2-year period in section 6532(a)(1) for filing suit for refund after disallowance of a claim shall be suspended during the 90-day period after the mailing of the notice referred to in subsection (b)(3) and, if a pleading has been filed with the Tax Court under this section, until the decision of the Tax Court has become final.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any claim for refund filed after the date of the enactment of this Act.

SEC. 3106. TAX COURT JURISDICTION TO REVIEW ADVERSE IRS DETERMINATION OF TAX-EXEMPT STATUS OF BOND ISSUE.

(a) IN GENERAL.—Section 7478 (relating to declaratory judgments relating to status of certain governmental obligations) is amended—

(1) by striking ''prospective obligations will be'' both places it appears in subsection (a) and inserting ''previously issued or prospective obligations is or will be'', and

(2) by striking subsection (b)(1) and inserting the following:

''(1) PETITIONER.—Except as provided in subsection (c), a pleading may be filed under this section only by the issuer or prospective issuer.''

(b) NOTICE REQUIREMENT.—Section 7478(b) is amended by adding at the end the following:

''(4) NOTICE TO HOLDERS OF PREVIOUSLY ISSUED OBLIGATIONS.—

''(A) IN GENERAL.—If an issuer of previously issued obligations files a pleading under this section, the court shall not issue a declaratory judgment or decree under this section unless it determines that the petitioner has provided adequate notice to holders of such obligations within 10 days of the filing of the pleading.

''(B) DELIVERY OF NOTICE.—The notice under subparagraph (A) shall be given using the most practicable of the following methods:

''(i) In person.

''(ii) By certified or registered mail sent to the holder's last known address.

''(iii) By printing in appropriate publications.

''(C) CONTENTS OF THE NOTICE.—The notice under subparagraph (A) shall include a statement of the holder's right to intervene in, and participate in, any proceeding under this section with respect to obligations held or formerly held by the holder.''

(c) INTERVENTION; OTHER RULES.—Section 7478 is amended by adding at the end the following:

''(c) BONDHOLDER INTERVENTION.—If an issuer of previously issued obligations files a pleading under this section, then the Tax Court shall permit any person who demonstrates to the satisfaction of the court that such person was or is a holder of any of such previously issued obligations to intervene in, and participate in, the proceedings before the court with respect to such pleading, on such terms and conditions as shall be established by the court.

''(d) PERIOD OF LIMITATIONS, COLLECTION, AND IMPOSITION OF INTEREST AND PENALTIES STAYED PENDING CONCLUSION OF PROCEEDINGS.—

''(1) IN GENERAL.—If an issuer of previously issued obligations files a pleading under this section—

''(A) the running of the period of limitations in sections 6501 and 6502 on the assessment and the collection of any tax due by a person (whether or not a party to a proceeding under this section) on the interest paid on such previously issued obligations,

''(B) the collection of such tax due, and

''(C) the imposition of any interest, penalties, additions to tax, or additional amounts in respect to any such unpaid tax,

shall be suspended from the date of such filing until the date on which the decision of the Tax Court becomes final.

''(2) CROSS REFERENCE.—

''For additional suspension of running of period of limitation, see section 6503.''

(d) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—Except as provided in paragraph (2), the amendments made by this section shall apply to determinations made after the date of the enactment of this Act.

(2) SPECIAL RULE.—Notwithstanding section 7478(b)(3) of the Internal Revenue Code of 1986, in the case of a technical advice memorandum which—

(A) provides that any interest on any obligation which is part of an issue (or portion thereof) is not exempt from taxation under the Internal Revenue Code of 1986, and

(B) was publicly released within 1 year of the date of the enactment of this Act,

a pleading may be filed under section 7478 of such Code with respect to such memorandum not later than the 90th day after such date.

SEC. 3107. CIVIL ACTION FOR RELEASE OF ERRONEOUS LIEN.

(a) RIGHT OF SUBSTITUTION OF VALUE.—Subsection (b) of section 6325 (relating to release of lien or discharge of property) is amended by adding at the end the following new paragraph:

''(4) RIGHT OF SUBSTITUTION OF VALUE.—

''(A) IN GENERAL.—At the request of the owner of any property subject to any lien imposed by this chapter, the Secretary shall issue a certificate of discharge of such property if such owner—

''(i) deposits with the Secretary an amount of money equal to the value of the interest of the United States (as determined by the Secretary) in the property, or

''(ii) furnishes a bond acceptable to the Secretary in a like amount.

''(B) REFUND OF DEPOSIT WITH INTEREST AND RELEASE OF BOND.—The Secretary shall refund the amount so deposited (and shall pay interest at the overpayment rate under section 6621), and shall release such bond, to the extent that the Secretary determines that—

''(i) the unsatisfied liability giving rise to the lien can be satisfied from a source other than such property, or

''(ii) the value of the interest of the United States in the property is less than the Secretary's prior determination of such value.

''(C) USE OF DEPOSIT, ETC., IF ACTION TO CONTEST LIEN NOT FILED.—If no action is filed under section 7426(a)(4) within the period prescribed therefor, the Secretary shall, within 60 days after the expiration of such period—

''(i) apply the amount deposited, or collect on such bond, to the extent necessary to satisfy the unsatisfied liability secured by the lien, and

''(ii) refund (with interest as described in subparagraph (B)) any portion of the amount deposited which is not used to satisfy such liability.

''(D) EXCEPTION.—Subparagraph (A) shall not apply if the owner of the property is the person whose unsatisfied liability gave rise to the lien.''

(b) CIVIL ACTION TO RELEASE ERRONEOUS LIEN.—

(1) IN GENERAL.—Subsection (a) of section 7426 (relating to civil actions by persons other than taxpayers) is amended by adding at the end the following new paragraph:

''(4) SUBSTITUTION OF VALUE.—If a certificate of discharge is issued to any person under section 6325(b)(4) with respect to any property, such person may, within 120 days after the day on which such certificate is issued, bring a civil action against the United States in a district court of the United States for a determination of whether the value of the interest of the United States (if any) in such property is less than the value determined by the Secretary. No other action may be brought by such person for such a determination.''

(2) FORM OF RELIEF.—

(A) IN GENERAL.—Subsection (b) of section 7426 is amended by adding at the end the following new paragraph:

''(5) SUBSTITUTION OF VALUE.—If the court determines that the Secretary's determination of the value of the interest of the United States in the property for purposes of section 6325(b)(4) exceeds the actual value of such interest, the court shall grant a judgment ordering a refund of the amount deposited, and a release of the bond, to the extent that the aggregate of the amounts thereof exceeds such value determined by the court.''

(B) INTEREST ALLOWED ON REFUND OF DEPOSIT.—Subsection (g) of section 7426 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) in the case of a judgment pursuant to subsection (b)(5) which orders a refund of any amount, from the date the Secretary received such amount to the date of payment of such judgment.''

(3) SUSPENSION OF RUNNING OF STATUTE OF LIMITATION.—Subsection (f) of section 6503 is amended to read as follows:

''(f) WRONGFUL SEIZURE OF OR LIEN ON PROPERTY OF THIRD PARTY.—

''(1) WRONGFUL SEIZURE.—The running of the period under section 6502 shall be suspended for a period equal to the period from the date property (including money) of a third party is wrongfully seized or received by the Secretary to the date the Secretary returns property pursuant to section 6343(b) or the date on which a judgment secured pursuant to section 7426 with respect to such property becomes final, and for 30 days thereafter. The running of such period shall be suspended under this paragraph only with respect to the amount of such assessment equal to the amount of money or the value of specific property returned.

''(2) WRONGFUL LIEN.—In the case of any assessment for which a lien was made on any property, the running of the period under section 6502 shall be suspended for a period equal to the period beginning on the date any person becomes entitled to a certificate under section 6325(b)(4) with respect to such property and ending on the date which is 30 days after the earlier of—

''(A) the earliest date on which the Secretary no longer holds any amount as a deposit or bond provided under section 6325(b)(4) by reason of such deposit or bond being used to satisfy the unpaid tax or being refunded or released, or

''(B) the date that the judgment secured under section 7426(b)(5) becomes final.

The running of such period shall be suspended under this paragraph only with respect to the amount of such assessment equal to the value of the interest of the United States in the property plus interest, penalties, additions to the tax, and additional amounts attributable thereto.''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle C—Relief for Innocent Spouses and for Taxpayers Unable To Manage Their Financial Affairs Due to Disabilities

SEC. 3201. SPOUSAL ELECTION TO LIMIT JOINT AND SEVERAL LIABILITY ON JOINT RETURN.

(a) IN GENERAL.—Subpart B of part II of subchapter A of chapter 61 is amended by inserting after section 6014 the following new section:

''SEC. 6015. ELECTION TO LIMIT JOINT AND SEVERAL LIABILITY ON JOINT RETURN.

''(a) ELECTION TO LIMIT LIABILITY.—

''(1) IN GENERAL.—Notwithstanding section 6013(d)(3), and except as provided in paragraphs (2) and (3), if an individual who has made a joint return for any taxable year elects the application of this section—

''(A) the individual's liability for any tax shown on the return which remains unpaid as of the payment due date shall not exceed the individual's separate return amount determined under subsection (b), and

''(B) the individual's liability for any deficiency which is assessed shall not exceed the portion of such deficiency properly allocable to the individual under subsection (c).

''(2) BURDEN OF PROOF.—Except as provided in paragraph (3) (B) or (C), each individual who elects the application of this section shall have the burden of proof with respect to establishing the individual's separate return amount and the portion of any deficiency allocable to such individual.

''(3) ELECTION.—

''(A) IN GENERAL.—An election under this subsection for any taxable year shall be made not later than 2 years after the date on which the Secretary has begun collection activities with respect to the individual making the election.

''(B) CERTAIN TAXPAYERS INELIGIBLE TO ELECT.—If the Secretary demonstrates that assets were transferred between individuals filing a joint return as part of a fraudulent scheme by such individuals, an election under this section by either individual shall be invalid (and section 6013(d)(3) shall apply to the joint return).

''(C) ELECTION NOT VALID WITH RESPECT TO CERTAIN DEFICIENCIES.—If the Secretary demonstrates that an individual making an election under this section had actual knowledge of any item giving rise to a deficiency (or portion thereof) which is not allocable to such individual under subsection (c), such election shall not apply to such deficiency (or portion).

''(b) SEPARATE RETURN AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The term 'separate return amount' means, with respect to an individual, an amount equal to the excess (if any) of—

''(A) the tax liability of the individual which would have been determined (on the basis of the items shown on the joint return) for the taxable year if the individual had filed a separate return, over

''(B) the aggregate payments of such tax properly allocable to such individual.

''(2) SPECIAL RULES FOR COMPUTING TAX LIABILITIES AND PAYMENT.—

''(A) TREATMENT OF CERTAIN CREDITS.—The credits allowed by sections 31, 33, and 34 for any taxable year—

''(i) shall not be taken into account in determining the amount of tax shown on a return or the tax liability of an individual filing a separate return, but

''(ii) shall be taken into account in determining the aggregate payments of tax of the individual to whom such credits are properly allocable.

''(B) MATHEMATICAL AND CLERICAL ERRORS.—Tax shown on a return shall include any tax assessed on account of a mathematical or clerical error (within the meaning of section 6213(g)(2)) appearing on the return.

''(3) PAYMENT DUE DATE.—The term 'payment due date' means the date prescribed for payment of the tax (determined with regard to any extension of time for payment).

''(c) ALLOCATION OF DEFICIENCY.—For purposes of subsection (a)(1)(B)—

''(1) IN GENERAL.—The portion of any deficiency on a joint return allocated to an individual shall be the amount which bears the same ratio to such deficiency as the net amount of items taken into account in computing the deficiency and allocable to the individual under paragraph (3) bears to the net amount of all items taken into account in computing the deficiency.

''(2) SEPARATE TREATMENT OF CERTAIN ITEMS.—If a deficiency (or portion thereof) is attributable to—

''(A) the disallowance of a credit, or

''(B) any tax (other than tax imposed by section 1 or 55) required to be included with the joint return,

and such item is allocated to 1 individual under paragraph (3), such deficiency (or portion) shall be allocated to such individual. Any such item shall not be taken into account under paragraph (1).

''(3) ALLOCATION OF ITEMS GIVING RISE TO THE DEFICIENCY.—For purposes of this subsection—

''(A) IN GENERAL.—Any item giving rise to a deficiency on a joint return shall be allocated to individuals filing the return in the same manner as it would have been allocated if the individuals had filed separate returns for the taxable year.

''(B) EXCEPTION WHERE OTHER SPOUSE BENEFITS.—Under rules prescribed by the Secretary, an item otherwise allocable to an individual under subparagraph (A) shall be allocated to the other individual filing the joint return to the extent the item gave rise to a tax benefit on the joint return to the other individual.

''(C) EXCEPTION FOR FRAUD.—The Secretary may provide for an allocation of any item in a manner not prescribed by subparagraph (A) if the Secretary establishes that such allocation is appropriate due to fraud of 1 or both individuals.

''(d) PETITION FOR REVIEW BY TAX COURT.—

''(1) IN GENERAL.—In the case of an individual who elects to have this section apply—

''(A) IN GENERAL.—The individual may petition the Tax Court (and the Tax Court shall have jurisdiction) to determine the appropriate relief available to the individual under this section if such petition is filed during the 90-day period beginning on the date on which the Secretary mails by certified or registered mail a notice to such individual of the Secretary's determination of relief available to the spouse. Notwithstanding the preceding sentence, an individual may file such petition at any time after the date which is 6 months after the date such election is filed with the Secretary and before the close of such 90-day period.

''(B) RESTRICTIONS APPLICABLE TO COLLECTION OF ASSESSMENT.—

''(i) IN GENERAL.—Except as otherwise provided in section 6851 or 6861, no levy or proceeding in court shall be made, begun, or prosecuted against the spouse making an election under subsection (a) for collection of any assessment to which such election relates until the expiration of the 90-day period described in subparagraph (A), or, if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final. Rules similar to the rules of section 7485 shall apply with respect to the collection of such assessment.

''(ii) AUTHORITY TO ENJOIN COLLECTION ACTIONS.—Notwithstanding the provisions of section 7421(a), the beginning of such levy or proceeding during the time the prohibition under clause (i) is in force may be enjoined by a proceeding in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction under this subparagraph to enjoin any action or proceeding unless a timely petition has been filed under subparagraph (A) and then only in respect of the amount of the assessment to which the election under subsection (a) relates.

''(2) SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS.—The running of the period of limitations in section 6502 on the collection of the assessment to which the petition under paragraph (1)(A) relates shall be suspended for the period during which the Secretary is prohibited by paragraph (1)(B) from collecting by levy or a proceeding in court and for 60 days thereafter.

''(3) APPLICABLE RULES.—

''(A) ALLOWANCE OF CREDIT OR REFUND.—Except as provided in subparagraph (B), notwithstanding any other law or rule of law (other than section 6512(b), 7121, or 7122), credit or refund shall be allowed or made to the extent attributable to the application of this section.

''(B) RES JUDICATA.—In the case of any election under subsection (a), if a decision of the Tax Court in any prior proceeding for the same taxable year has become final, such decision shall be conclusive except with respect to the qualification of the individual for relief which was not an issue in such proceeding. The exception contained in the preceding sentence shall not apply if the Tax Court determines that the individual participated meaningfully in such prior proceeding.

''(C) LIMITATION ON TAX COURT JURISDICTION.—If a suit for refund is begun by either individual filing the joint return pursuant to section 6532—

''(i) the Tax Court shall lose jurisdiction of the individual's action under this section to whatever extent jurisdiction is acquired by the district court or the United States Court of Federal Claims over the taxable years that are the subject of the suit for refund, and

''(ii) the court acquiring jurisdiction shall have jurisdiction over the petition filed under this subsection.

''(4) NOTICE TO OTHER SPOUSE.—The Tax Court shall establish rules which provide the individual filing a joint return but not making the election under subsection (a) with adequate notice and an opportunity to become a party to a proceeding under this subsection.

''(e) EQUITABLE RELIEF.—Under procedures prescribed by the Secretary, if—

''(1) a separate return amount determined under subsection (b) or an allocation of deficiency under subsection (c) is attributable to an item being allocated to an individual,

''(2) the individual establishes that he or she did not know, and had no reason to know, of such item, and

''(3) taking into account all the facts and circumstances, it is inequitable to hold the individual liable for any unpaid tax or any deficiency (or any portion of either) attributable to such item,

the Secretary may provide that, for purposes of this section, such item shall not be allocated to such individual but shall be allocated to the other individual filing the joint return.

''(f) OTHER RULES.—For purposes of this section—

''(1) COMMUNITY PROPERTY LAWS DISREGARDED.—Any determination under this section shall be made without regard to community property laws.

''(2) LIMITATIONS ON SEPARATE RETURNS DISREGARDED.—If an item of deduction or credit is disallowed in its entirety solely because a separate return is filed, such disallowance shall be disregarded and the item shall be computed as if a joint return had been filed and then allocated between the spouses appropriately. A similar rule shall apply for purposes of section 86.

''(3) CHILD'S LIABILITY.—If the liability of a child of a taxpayer is included on a joint return, such liability shall be disregarded in computing the separate liability of either spouse and such liability shall be allocated appropriately between the spouses.

''(g) LIABILITY INCREASED BY REASON OF TRANSFERS OF PROPERTY TO AVOID TAX.—

''(1) IN GENERAL.—Notwithstanding any other provision of this section, any limitation on the tax liability of an individual electing the application of this section shall be increased by the value of any disqualified asset transferred to the individual.

''(2) DISQUALIFIED ASSET.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'disqualified asset' means any property or right to property transferred to an individual making the election under this section with respect to a joint return by the other individual filing such joint return if the principal purpose of the transfer was the avoidance of tax or payment of tax.

''(B) PRESUMPTION.—

''(i) IN GENERAL.—For purposes of subparagraph (A), except as provided in clause (ii), any transfer which is made after the date which is 1 year before—

''(I) in the case of any unpaid tax to which subsection (a)(1)(A) applies, the payment due date of such unpaid tax, and

''(II) in the case of any deficiency to which subsection (a)(1)(B) applies, the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent,

shall be presumed to have as its principal purpose the avoidance of tax or payment of tax.

''(ii) EXCEPTIONS.—Clause (i) shall not apply to any transfer—

''(I) pursuant to a decree of divorce or separate maintenance or a written instrument incident to such a decree, or

''(II) which an individual establishes did not have as its principal purpose the avoidance of tax or payment of tax.

''(h) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out the provisions of this section, including—

''(1) regulations providing methods for allocation of items other than the methods under subsection (c)(3), and

''(2) regulations providing the opportunity for an individual to have notice of, and an opportunity to participate in, any administrative proceeding with respect to an election made under subsection (a) by the other individual filing the joint return.''

(b) SEPARATE FORM FOR APPLYING FOR SPOUSAL RELIEF.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall develop a separate form with instructions for use by taxpayers in applying for relief under section 6015(a) of the Internal Revenue Code of 1986, as added by this section.

(c) SEPARATE NOTICE TO EACH FILER.—The Secretary of the Treasury shall, wherever practicable, send any notice relating to a joint return under section 6013 of the Internal Revenue Code of 1986 separately to each individual filing the joint return.

(d) CONFORMING AMENDMENTS.—

(1) Section 6013 is amended by striking subsection (e).

(2) Subparagraph (A) of section 6230(c)(5) is amended by striking ''section 6013(e)'' and inserting ''section 6015''.

(3) Section 7421(a) is amended by inserting ''6015(d),'' after ''sections''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart B of part II of subchapter A of chapter 61 is amended by inserting after the item relating to section 6014 the following new item:

''Sec. 6015. Election to limit joint and several liability on joint return.''

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to any liability for tax arising after the date of the enactment of this Act and any liability for tax arising on or before such date but remaining unpaid as of such date.

(2) 2-YEAR PERIOD.—The 2-year period under section 6015(a)(3)(A) of the Internal Revenue Code of 1986 shall not expire before the date which is 2 years after the date of the first collection activity after the date of the enactment of this Act.

SEC. 3202. 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 UNABLE TO MANAGE FINANCIAL AFFAIRS DUE TO DISABILITY.—

''(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 a medically determinable physical or mental impairment of the individual 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 periods of disability before, on, or after the date of the enactment of this Act but shall not apply to any claim for credit or refund which (without regard to such amendment) is barred by the operation of any law or rule of law (including res judicata) as of January 1, 1998.

Subtitle D—Provisions Relating to Interest and Penalties

SEC. 3301. ELIMINATION OF INTEREST RATE DIFFERENTIAL ON OVERLAPPING PERIODS OF INTEREST ON INCOME TAX OVERPAYMENTS AND UNDERPAYMENTS.

(a) IN GENERAL.—Section 6621 (relating to determination of rate of interest) is amended by adding at the end the following new subsection:

''(d) ELIMINATION OF INTEREST ON OVERLAPPING PERIODS OF INCOME TAX OVERPAYMENTS AND UNDERPAYMENTS.—To the extent that, for any period, interest is payable under subchapter A and allowable under subchapter B on equivalent underpayments and overpayments by the same taxpayer of tax imposed by chapters 1 and 2, the net rate of interest under this section on such amounts shall be zero for such period.''

(b) CONFORMING AMENDMENT.—Subsection (f) of section 6601 (relating to satisfaction by credits) is amended by adding at the end the following new sentence: ''The preceding sentence shall not apply to the extent that section 6621(d) applies.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest for calendar quarters beginning after the date of the enactment of this Act.

SEC. 3302. INCREASE IN OVERPAYMENT RATE PAYABLE TO TAXPAYERS OTHER THAN CORPORATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 6621(a)(1) (defining overpayment rate) is amended to read as follows:

''(B) 3 percentage points (2 percentage points in the case of a corporation).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to interest for calendar quarters beginning after the date of the enactment of this Act.

SEC. 3303. ELIMINATION OF PENALTY ON INDIVIDUAL'S FAILURE TO PAY FOR MONTHS DURING PERIOD OF INSTALLMENT AGREEMENT.

(a) IN GENERAL.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end the following new subsection:

''(h) LIMITATION ON PENALTY ON INDIVIDUAL'S FAILURE TO PAY FOR MONTHS DURING PERIOD OF INSTALLMENT AGREEMENT.—In the case of an individual who files a return of tax on or before the due date for the return (including extensions), no addition to the tax shall be imposed under paragraph (2) or (3) of subsection (a) with respect to the individual's liability for tax relating to the return for any month during which an installment agreement under section 6159 is in effect for the payment of such tax.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply for purposes of determining additions to the tax for months beginning after the date of the enactment of this Act.

SEC. 3304. MITIGATION OF FAILURE TO DEPOSIT PENALTY.

(a) TAXPAYER MAY DESIGNATE PERIODS TO WHICH DEPOSITS APPLY.—Section 6656 (relating to underpayment of deposits) is amended by adding at the end the following new subsection:

''(e) DESIGNATION OF PERIODS TO WHICH DEPOSITS APPLY.—

''(1) IN GENERAL.—A person may designate the period or periods to which a deposit is to be applied for purposes of this section.

''(2) TIME FOR MAKING DESIGNATION.—A person shall make any designation under paragraph (1) on or before the later of—

''(A) the date the deposit is made, or

''(B) the 90th day after the earlier of the dates determined under subsection (b)(1)(B) with respect to a notice covering the period to which the deposit would be applied but for a designation under this subsection.''

(b) EXPANSION OF EXEMPTION FOR FIRST-TIME DEPOSITS.—

(1) IN GENERAL.—Paragraph (2) of section 6656(c) (relating to exemption for first-time depositors of employment taxes) is amended to read as follows:

''(2) such failure—

''(A) occurs during the 1st quarter that such person was required to deposit any employment tax, or

''(B) if such person is required to change the frequency of deposits of any employment tax, relates to the first deposit to which such change applies, and''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to deposits required to be made after the 180th day after the date of the enactment of this Act.

SEC. 3305. SUSPENSION OF INTEREST AND CERTAIN PENALTIES WHERE SECRETARY FAILS TO CONTACT INDIVIDUAL TAXPAYER.

(a) IN GENERAL.—Section 6404 (relating to abatements) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) SUSPENSION OF INTEREST AND CERTAIN PENALTIES WHERE SECRETARY FAILS TO CONTACT TAXPAYER.—

''(1) IN GENERAL.—In the case of an individual who files a return of tax imposed by subtitle A for a taxable year on or before the due date for the return (including extensions), if the Secretary does not provide a notice of deficiency to the taxpayer before the close of the 1-year period beginning on the later of—

''(A) the date on which the return is filed, or

''(B) the due date of the return without regard to extensions,

the Secretary shall suspend the imposition of any interest, penalty, addition to tax, or additional amount with respect to any failure relating to the return which is computed by reference to the period of time the failure continues to exist and which is properly allocable to the suspension period.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

''(A) any penalty imposed by section 6651,

''(B) any interest, penalty, addition to tax, or additional amount in a case involving fraud, or

''(C) any criminal penalty.

''(3) SUSPENSION PERIOD.—For purposes of this subsection, the term 'suspension period' means the period—

''(A) beginning on the day after the close of the 1-year period under paragraph (1), and

''(B) ending on the date which is 21 days after the date on which notice and demand for payment of tax relating to such return is made by the Secretary.''

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

SEC. 3306. PROCEDURAL REQUIREMENTS FOR IMPOSITION OF PENALTIES AND ADDITIONS TO TAX.

(a) IN GENERAL.—Chapter 68 (relating to additions to the tax, additional amounts, and assessable penalties) is amended by adding at the end the following new subchapter:

Subchapter C—Procedural Requirements

''Sec. 6751. Procedural requirements.

''SEC. 6751. PROCEDURAL REQUIREMENTS.

''(a) COMPUTATION OF PENALTY INCLUDED IN NOTICE.—The Secretary shall include with each notice of penalty under this title information with respect to the name of the penalty, the section of this title under which the penalty is imposed, and a computation of the penalty.

''(b) APPROVAL OF ASSESSMENT.—

''(1) IN GENERAL.—No penalty under this title shall be assessed unless the initial determination of such assessment is personally approved (in writing) by the immediate supervisor of the individual making such determination or such higher level official as the Secretary may designate.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

''(A) any addition to tax under section 6651, 6654, or 6655, or

''(B) any other penalty automatically calculated through electronic means.

''(c) PENALTIES.—For purposes of this section, the term 'penalty' includes any addition to tax or any additional amount.''

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 68 is amended by adding at the end the following new item:

''SUBCHAPTER C. Procedural requirements.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to notices issued, and penalties assessed, after the 180th day after the date of the enactment of this Act.

SEC. 3307. PERSONAL DELIVERY OF NOTICE OF PENALTY UNDER SECTION 6672.

(a) IN GENERAL.—Paragraph (1) of section 6672(b) (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by inserting ''or in person'' after ''section 6212(b)''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6672(b) is amended by inserting ''(or, in the case of such a notice delivered in person, such delivery)'' after ''paragraph (1)''.

(2) Paragraph (3) of section 6672(b) is amended by inserting ''or delivered in person'' after ''mailed'' each place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 3308. NOTICE OF INTEREST CHARGES.

(a) IN GENERAL.—Chapter 67 (relating to interest) is amended by adding at the end the following new subchapter:

"Subchapter D—Notice requirements

"Sec. 6631. Notice requirements.

"SEC. 6631. NOTICE REQUIREMENTS.

"The Secretary shall include with each notice to an individual taxpayer which includes an amount of interest required to be paid by such taxpayer under this title information with respect to the section of this title under which the interest is imposed and a computation of the interest."

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 67 is amended by adding at the end the following new item:

"SUBCHAPTER D. Notice requirements."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to notices issued after June 30, 2000.

Subtitle E—Protections for Taxpayers Subject to Audit or Collection Activities

PART I—DUE PROCESS

SEC. 3401. DUE PROCESS IN IRS COLLECTION ACTIONS.

(a) NOTICE AND OPPORTUNITY FOR HEARING BEFORE FILING OF NOTICE OF LIEN.—Subchapter C of chapter 64 (relating to lien for taxes) is amended by inserting before the table of sections the following:

"Part I. Due process for liens.

"Part II. Liens.

"PART I—DUE PROCESS FOR LIENS

"Sec. 6320. Notice and opportunity for hearing before filing of notice of lien.

"SEC. 6320. NOTICE AND OPPORTUNITY FOR HEARING BEFORE FILING OF NOTICE OF LIEN.

"(a) REQUIREMENT OF NOTICE.—

"(1) IN GENERAL.—No notice of lien may be filed under section 6323 unless the Secretary has notified in writing the person described in section 6321 of the Secretary's intention to file such a notice of lien.

"(2) TIME AND METHOD FOR NOTICE.—The notice required under paragraph (1) shall be—

"(A) given in person,

"(B) left at the dwelling or usual place of business of such person, or

"(C) sent by certified or registered mail to such person's last known address,

not less than 30 days before the day of the filing of the notice of lien.

"(3) INFORMATION INCLUDED WITH NOTICE.—The notice required under paragraph (1) shall include in simple and nontechnical terms—

"(A) the amount of unpaid tax,

"(B) the right of the person to request a hearing during the 30-day period described in paragraph (2),

"(C) the administrative appeals available to the taxpayer with respect to such lien and the procedures relating to such appeals, and

"(D) the provisions of this title and procedures relating to the release of liens on property.

"(b) RIGHT TO FAIR HEARING.—

"(1) IN GENERAL.—If the person requests a hearing under subsection (a)(3)(B), such hearing shall be held by the Internal Revenue Service Office of Appeals.

"(2) IMPARTIAL OFFICER.—The hearing under this subsection shall be conducted by an officer or employee who has had no involvement with respect to the unpaid tax specified in subsection (a)(3)(A) before the first hearing under this section. A taxpayer may waive the requirement of this paragraph.

"(c) CONDUCT OF HEARING; REVIEW; SUSPENSIONS.—For purposes of this section, subsections (c), (d) (other than paragraph (2)(B) thereof), and (e) of section 6330 shall apply.

"PART II—LIENS".

(b) NOTICE AND OPPORTUNITY FOR HEARING BEFORE LEVY.—Subchapter D of chapter 64 (relating to seizure of property for collection of taxes) is amended by inserting before the table of sections the following:

"Part I. Due process for collections.

"Part II. Levy.

"PART I—DUE PROCESS FOR COLLECTIONS

"Sec. 6330. Notice and opportunity for hearing before levy.

"SEC. 6330. NOTICE AND OPPORTUNITY FOR HEARING BEFORE LEVY.

"(a) REQUIREMENT OF NOTICE BEFORE LEVY.—

"(1) IN GENERAL.—No levy may be made on any property or right to property of any person unless the Secretary has notified such person in writing of the Secretary's intention to make such a levy.

"(2) TIME AND METHOD FOR NOTICE.—

"(A) IN GENERAL.—The notice required under paragraph (1) shall be—

"(i) given in person,

"(ii) left at the dwelling or usual place of business of such person, or

"(iii) sent by certified or registered mail to such person's last known address,

not less than 30 days before the day of the levy.

"(B) LONGER PERIOD FOR LIFE INSURANCE AND ENDOWMENT CONTRACTS.—In the case of a levy on an organization with respect to a life insurance or endowment contract issued by such organization, subparagraph (A) shall be applied by substituting '90 days' for '30 days'.

"(3) INFORMATION INCLUDED WITH NOTICE.—The notice required under paragraph (1) shall include in simple and nontechnical terms—

"(A) the amount of unpaid tax,

"(B) the right of the person to request a hearing during the applicable period under paragraph (2), and

"(C) the proposed action by the Secretary and the rights of the person with respect to such action, including a brief statement which sets forth—

"(i) the provisions of this title relating to levy and sale of property,

"(ii) the procedures applicable to the levy and sale of property under this title,

"(iii) the administrative appeals available to the taxpayer with respect to such levy and sale and the procedures relating to such appeals,

"(iv) the alternatives available to taxpayers which could prevent levy on the property (including installment agreements under section 6159), and

"(v) the provisions of this title and procedures relating to redemption of property and release of liens on property.

"(b) RIGHT TO FAIR HEARING.—

"(1) IN GENERAL.—If the person requests a hearing under subsection (a)(3)(B), such hearing shall be held by the Internal Revenue Service Office of Appeals.

"(2) IMPARTIAL OFFICER.—The hearing under this subsection shall be conducted by an officer or employee who has had no prior involvement with respect to the unpaid tax specified in subsection (a)(3)(A) before the first hearing under this section or section 6320. A taxpayer may waive the requirement of this paragraph.

"(c) MATTERS CONSIDERED AT HEARING.—In the case of any hearing conducted under this section—

"(1) REQUIREMENT OF INVESTIGATION.—The Secretary shall verify at the hearing that the requirements of any applicable law or administrative procedure have been met.

"(2) ISSUES AT HEARING.—The person may raise at the hearing any relevant issue relating to the unpaid tax or the proposed levy, including—

"(A) challenges to the underlying tax liability as to existence or amount,

"(B) appropriate spousal defenses,

"(C) challenges to the appropriateness of collection actions, and

"(D) offers of collection alternatives, which may include the posting of a bond, the substitution of other assets, an installment agreement, or an offer-in-compromise.

"(3) BASIS FOR THE DETERMINATION.—The determination by an appeals officer under this subsection shall take into consideration—

"(A) the verification presented under paragraph (1),

"(B) the issues raised under paragraph (2), and

"(C) whether the proposed collection action balances the need for the efficient collection of taxes with the legitimate concern of the person that the collection action be no more intrusive than necessary.

"(4) CERTAIN ISSUES PRECLUDED.—An issue may not be raised at the hearing if—

"(A) the issue was raised at a previous hearing under this section or section 6320 or in any other previous administrative or judicial proceeding, and

"(B) the person seeking to raise the issue participated meaningfully in such hearing or proceeding.

This paragraph shall not apply to any issue with respect to which subsection (d)(2)(B) applies.

"(d) PROCEEDING AFTER HEARING.—

"(1) JUDICIAL REVIEW OF DETERMINATION.—The person may appeal a determination under this subsection to the Tax Court within 30 days of the date of such determination.

"(2) JURISDICTION RETAINED AT IRS OFFICE OF APPEALS.—The Internal Revenue Service Office of Appeals shall retain jurisdiction with respect to any determination made under this section, including subsequent hearings requested by the person who requested the original hearing on issues regarding—

"(A) collection actions taken or proposed with respect to such determination, and

"(B) after the person has exhausted all administrative remedies, a change in circumstances with respect to such person which affects such determination.

"(e) SUSPENSION OF COLLECTIONS AND STATUTE OF LIMITATIONS.—If a hearing is requested under subsection (a)(3)(B), the levy actions which are the subject of the requested hearing and the running of any period of limitations under section 6502 (relating to collection after assessment), section 6531 (relating to criminal prosecutions), or section 6532 (relating to other suits) shall be suspended for the period during which such hearing, and appeals therein, are pending. In no event shall any such period expire before the 90th day after the day on which there is a final determination in such hearing.

"(f) JEOPARDY COLLECTION.—If the Secretary has made a finding under the last sentence of section 6331(a) that the collection of tax is in jeopardy, this section shall not apply, except that the taxpayer shall be given the opportunity for the hearing described in this section within a reasonable period of time after the levy.

"PART II—LEVY".

(c) REVIEW BY SPECIAL TRIAL JUDGES ALLOWED.—

(1) IN GENERAL.—Section 7443(b) (relating to proceedings which may be assigned to special trial judges) is amended by striking "and" at the end of paragraph (3), by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following:

"(4) any proceeding under section 6320 or 6330, and".

(2) AUTHORITY TO MAKE DECISIONS.—Section 7443(c) (relating to authority to make court decisions) is amended by striking "or (3)" and inserting "(3), or (4)".

(d) CONFORMING AMENDMENT.—Section 6331 is amended by striking subsection (d).

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to collection actions initiated after the date which is 180 days after the date of the enactment of this Act.

PART II—EXAMINATION ACTIVITIES

SEC. 3411. UNIFORM APPLICATION OF CONFIDENTIALITY PRIVILEGE TO TAXPAYER COMMUNICATIONS WITH FEDERALLY AUTHORIZED PRACTITIONERS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7525. UNIFORM APPLICATION OF CONFIDENTIALITY PRIVILEGE TO TAXPAYER COMMUNICATIONS WITH FEDERALLY AUTHORIZED PRACTITIONERS.

''(a) GENERAL RULE.—With respect to tax advice, the same common law protections of confidentiality which apply to a communication between a taxpayer and an attorney shall also apply to a communication between a taxpayer and any federally authorized tax practitioner to the extent the communication would be considered a privileged communication if it were between a taxpayer and an attorney.

''(b) LIMITATIONS.—Subsection (a) may only be asserted in—

''(1) any noncriminal tax matter before the Internal Revenue Service, and

''(2) any noncriminal tax proceeding in Federal court with respect to such matter.

''(c) DEFINITIONS.—For purposes of this section—

''(1) FEDERALLY AUTHORIZED TAX PRACTITIONER.—The term 'federally authorized tax practitioner' means any individual who is authorized under Federal law to practice before the Internal Revenue Service if such practice is subject to Federal regulation under section 330 of title 31, United States Code.

''(2) TAX ADVICE.—The term 'tax advice' means advice given by an individual with respect to a matter which is within the scope of the individual's authority to practice described in paragraph (1).''

(b) CONFORMING AMENDMENT.—The table of sections for such chapter 77 is amended by adding at the end the following new item:

''Sec. 7525. Uniform application of confidentiality privilege to taxpayer communications with federally authorized practitioners.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 3412. LIMITATION ON FINANCIAL STATUS AUDIT TECHNIQUES.

Section 7602 (relating to examination of books and witnesses) is amended by adding at the end the following new subsection:

''(d) LIMITATION ON EXAMINATION ON UNREPORTED INCOME.—The Secretary shall not use financial status or economic reality examination techniques to determine the existence of unreported income of any taxpayer unless the Secretary has a reasonable indication that there is a likelihood of such unreported income.''

SEC. 3413. SOFTWARE TRADE SECRETS PROTECTION.

(a) IN GENERAL.—Subchapter A of chapter 78 (relating to examination and inspection) is amended by redesignating section 7612 as section 7613 and by inserting after 7611 the following:

"SEC. 7612. SPECIAL PROCEDURES FOR SUMMONSES FOR COMPUTER SOFTWARE.

''(a) GENERAL RULE.—For purposes of this title—

''(1) except as provided in subsection (b), no summons may be issued under this title, and the Secretary may not begin any action under section 7604 to enforce any summons, to produce or analyze any computer software source code, and

''(2) any software and related materials which are provided to the Secretary under this title shall be subject to the safeguards under subsection (c).

''(b) CIRCUMSTANCES UNDER WHICH COMPUTER SOFTWARE SOURCE CODE MAY BE PROVIDED.—

''(1) IN GENERAL.—Subsection (a)(1) shall not apply to any portion, item, or component of computer software source code if—

''(A) the Secretary is unable to otherwise reasonably ascertain the correctness of any item on a return from—

''(i) the taxpayer's books, papers, records, or other data, or

''(ii) the computer software executable code (and any modifications thereof) to which such source code relates and any associated data which, when executed, produces the output to ascertain the correctness of the item,

''(B) the Secretary identifies with reasonable specificity the portion, item, or component of such source code needed to verify the correctness of such item on the return, and

''(C) the Secretary determines that the need for the portion, item, or component of such source code with respect to such item outweighs the risks of unauthorized disclosure of trade secrets.

''(2) EXCEPTIONS.—Subsection (a)(1) shall not apply to—

''(A) any inquiry into any offense connected with the administration or enforcement of the internal revenue laws,

''(B) any computer software source code developed by the taxpayer or a related person for internal use by the taxpayer or such person, or

''(C) any communications between the owner of the source code and the taxpayer or related persons.

''(3) COOPERATION REQUIRED.—For purposes of paragraph (1), the Secretary shall be treated as meeting the requirements of subparagraphs (A) and (B) of such paragraph if—

''(A) the Secretary determines that it is not feasible to determine the correctness of an item without access to the computer software executable code and associated data described in paragraph (1)(A)(ii),

''(B) the Secretary makes a formal request to the taxpayer for such code and data and to the owner of the computer software source code for such executable code, and

''(C) such code and data is not provided within 180 days of such request.

''(4) RIGHT TO CONTEST SUMMONS.—In any proceeding brought under section 7604 to enforce a summons issued under the authority of this subsection, the court shall, at the request of any party, hold a hearing to determine whether the applicable requirements of this subsection have been met.

''(c) SAFEGUARDS TO ENSURE PROTECTION OF TRADE SECRETS AND OTHER CONFIDENTIAL INFORMATION.—

''(1) ENTRY OF PROTECTIVE ORDER.—In any court proceeding to enforce a summons for any portion of software, the court may receive evidence and issue any order necessary to prevent the disclosure of trade secrets or other confidential information with respect to such software, including –requiring that any information be placed under seal to be opened only as directed by the court.

''(2) PROTECTION OF SOFTWARE.—Notwithstanding any other provision of this section, and in addition to any protections ordered pursuant to paragraph (1), in the case of software that comes into the possession or control of the Secretary in the course of any examination with respect to any taxpayer—

''(A) the software may be used only in connection with the examination of such taxpayer's return, any appeal by the taxpayer to the Internal Revenue Service Office of Appeals, any judicial proceeding (and any appeals therefrom), and any inquiry into any offense connected with the administration or enforcement of the internal revenue laws,

''(B) the Secretary shall provide, in advance, to the taxpayer and the owner of the software a written list of the names of all individuals who will analyze or otherwise have access to the software,

''(C) the software shall be maintained in a secure area or place, and, in the case of computer software source code, shall not be removed from the owner's place of business unless the owner permits, or a court orders, such removal,

''(D) the software may not be copied except as necessary to perform such analysis, and the Secretary shall number all copies made and certify in writing that no other copies have been (or will be) made,

''(E) at the end of the period during which the software may be used under subparagraph (A)—

''(i) the software and all copies thereof shall be returned to the person from whom they were obtained and any copies thereof made under subparagraph (D) on the hard drive of a machine or other mass storage device shall be permanently deleted, and

''(ii) the Secretary shall obtain from any person who analyzes or otherwise had access to such software a written certification under penalty of perjury that all copies and related materials have been returned and that no copies were made of them,

''(F) the software may not be decompiled or disassembled, and

''(G) the Secretary shall provide to the taxpayer and the owner of any interest in such software, as the case may be, a written agreement, between the Secretary and any person who is not an officer or employee of the United States and who will analyze or otherwise have access to such software, which provides that such person agrees not to—

''(i) disclose such software to any person other than authorized employees or agents of the Secretary during and after employment by the Secretary, or

''(ii) participate for 2 years in the development of software which is intended for a similar purpose as the software examined.

For purposes of subparagraph (C), the owner shall make available any necessary equipment or materials for analysis of computer software source code required to be conducted on the owner's premises. The owner of any interest in the software shall be considered a party to any agreement described in subparagraph (G).

''(d) DEFINITIONS.—For purposes of this section—

''(1) SOFTWARE.—The term 'software' includes computer software source code and computer software executable code.

''(2) COMPUTER SOFTWARE SOURCE CODE.—The term 'computer software source code' means—

''(A) the code written by a programmer using a programming language which is comprehensible to appropriately trained persons, is not machine readable, and is not capable of directly being used to give instructions to a computer,

''(B) related programmers' notes, design documents, memoranda, and similar documentation, and

''(C) related customer communications.

''(3) COMPUTER SOFTWARE EXECUTABLE CODE.—The term 'computer software executable code' means—

''(A) any object code, machine code, or other code readable by a computer when loaded into its memory and used directly by such computer to execute instructions, and

''(B) any related user manuals.

''(4) OWNER.—The term 'owner' shall, with respect to any software, include the developer of the software.

''(5) RELATED PERSON.—A person shall be treated as related to another person if such persons are related persons under section 267 or 707(b).''

(b) UNAUTHORIZED DISCLOSURE OF SOFTWARE.—Section 7213 (relating to unauthorized disclosure of information) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following:

''(d) DISCLOSURE OF SOFTWARE.—Any person who willfully divulges or makes known software (as defined in section 7612(d)(1)) to any person in violation of section 7612 shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $5,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution.''

(c) APPLICATION OF SPECIAL PROCEDURES FOR THIRD-PARTY SUMMONSES.—Paragraph (2) of section 7603(b), as amended by section 3416(a), is amended by striking ''and'' at the end of subparagraph (H), by striking a period at the end of subparagraph (I) and inserting '', and'', and by adding at the end the following:

''(J) any owner or developer of a computer software source code (as defined in section 7612(d)(2)).

Subparagraph (J) shall apply only with respect to a summons requiring the production of the source code referred to in subparagraph (J) or the program and data described in section 7612(b)(1)(A)(ii) to which such source code relates.''

(d) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 78 is amended by striking the item relating to section 7612 and by inserting the following:

''Sec. 7612. Special procedures for summonses for computer software.

''Sec. 7613. Cross references.''

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to summonses issued, and software acquired, after the date of the enactment of this Act.

(2) SOFTWARE PROTECTION.—In the case of any software acquired on or before such date of enactment, the requirements of section 7612(a)(2) of the Internal Revenue Code of 1986 (as added by such amendments) shall apply after the 90th day after such date. The preceding sentence shall not apply to the requirement under section 7612(c)(2)(G)(ii) of such Code (as so added).

SEC. 3414. THREAT OF AUDIT PROHIBITED TO COERCE TIP REPORTING ALTERNATIVE COMMITMENT AGREEMENTS.

The Secretary of the Treasury or the Secretary's delegate shall instruct employees of the Internal Revenue Service that they may not threaten to audit any taxpayer in an attempt to coerce the taxpayer into entering into a Tip Reporting Alternative Commitment Agreement.

SEC. 3415. TAXPAYERS ALLOWED MOTION TO QUASH ALL THIRD-PARTY SUMMONSES.

(a) IN GENERAL.—Paragraph (1) of section 7609(a) (relating to summonses to which section applies) is amended by striking so much of such paragraph as precedes ''notice of the summons'' and inserting the following:

''(1) IN GENERAL.—If any summons to which this section applies requires the giving of testimony on, or the production of any portion of records made or kept on, any person (other than the person summoned) who is identified in the summons, then''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 7609 is amended by striking paragraphs (3) and (4), by redesignating paragraph (5) as paragraph (3), and by striking in paragraph (3) (as so redesignated) ''subsection (c)(2)(B)'' and inserting ''subsection (c)(2)(D)''.

(2) Subsection (c) of section 7609 is amended to read as follows:

''(c) SUMMONS TO WHICH SECTION APPLIES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply to any summons issued under paragraph (2) of section 7602(a) or under section 6420(e)(2), 6421(g)(2), or 6427(j)(2).

''(2) EXCEPTIONS.—This section shall not apply to any summons—

''(A) served on the person with respect to whose liability the summons is issued, or any officer or employee of such person,

''(B) issued to determine whether or not records of the business transactions or affairs of an identified person have been made or kept,

''(C) issued solely to determine the identity of any person having a numbered account (or similar arrangement) with a bank or other institution described in section 7603(b)(2)(A),

''(D) issued in aid of the collection of—

''(i) an assessment made or judgment rendered against the person with respect to whose liability the summons is issued, or

''(ii) the liability at law or in equity of any transferee or fiduciary of any person referred to in clause (i),

''(E)(i) issued by a criminal investigator of the Internal Revenue Service in connection with the investigation of an offense connected with the administration or enforcement of the internal revenue laws, and

''(ii) served on any person who is not a third-party recordkeeper (as defined in section 7603(b)), or

''(F) described in subsection (f) or (g).

''(3) RECORDS.—For purposes of this section, the term 'records' includes books, papers, and other data.''

(3) Paragraph (2) of section 7609(e) is amended by striking ''third-party recordkeeper's'' and all that follows through ''subsection (f)'' and inserting ''summoned party's response to the summons''.

(4) Subsection (f) of section 7609 is amended—

(A) by striking ''described in subsection (c)'' and inserting ''described in subsection (c)(1)'', and

(B) by inserting ''or testimony'' after ''records'' in paragraph (3).

(5) Subsection (g) of section 7609 is amended by striking ''In the case of any summons described in subsection (c), the provisions of subsections (a)(1) and (b) shall not apply if'' and inserting ''A summons is described in this subsection if''.

(6)(A) Subsection (i) of section 7609 is amended by striking ''THIRD-PARTY RECORDKEEPER AND'' in the subsection heading.

(B) Paragraph (1) of section 7609(i) is amended by striking ''described in subsection (c), the third-party recordkeeper'' and inserting ''to which this section applies for the production of records, the summoned party''.

(C) Paragraph (2) of section 7609(i) is amended—

(i) by striking ''RECORDKEEPER'' in the heading and inserting ''SUMMONED PARTY'', and

(ii) by striking ''the third-party recordkeeper'' and inserting ''the summoned party''.

(D) Paragraph (3) of section 7609(i) is amended to read as follows:

''(3) PROTECTION FOR SUMMONED PARTY WHO DISCLOSES.—Any summoned party, or agent or employee thereof, making a disclosure of records or testimony pursuant to this section in good faith reliance on the certificate of the Secretary or an order of a court requiring production of records or the giving of such testimony shall not be liable to any customer or other person for such disclosure.''

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

SEC. 3416. SERVICE OF SUMMONSES TO THIRD-PARTY RECORDKEEPERS PERMITTED BY MAIL.

(a) IN GENERAL.—Section 7603 (relating to service of summons) is amended by striking ''A summons issued'' and inserting ''(a) IN GENERAL.—A summons issued'' and by adding at the end the following new subsection:

''(b) SERVICE BY MAIL TO THIRD-PARTY RECORDKEEPERS.—

''(1) IN GENERAL.—A summons referred to in subsection (a) for the production of books, papers, records, or other data by a third-party recordkeeper may also be served by certified or registered mail to the last known address of such recordkeeper.

''(2) THIRD-PARTY RECORDKEEPER.—For purposes of paragraph (1), the term 'third-party recordkeeper' means—

''(A) any mutual savings bank, cooperative bank, domestic building and loan association, or other savings institution chartered and supervised as a savings and loan or similar association under Federal or State law, any bank (as defined in section 581), or any credit union (within the meaning of section 501(c)(14)(A));

''(B) any consumer reporting agency (as defined under section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)));

''(C) any person extending credit through the use of credit cards or similar devices;

''(D) any broker (as defined in section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)));

''(E) any attorney;

''(F) any accountant;

''(G) any barter exchange (as defined in section 6045(c)(3));

''(H) any regulated investment company (as defined in section 851) and any agent of such regulated investment company when acting as an agent thereof, and

''(I) any enrolled agent.''

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

SEC. 3417. PROHIBITION ON IRS CONTACT OF THIRD PARTIES WITHOUT PRIOR NOTICE.

(a) IN GENERAL.—Section 7602 (relating to examination of books and witnesses), as amended by section 3412, 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) LIMITATION OF AUTHORITY TO CONTACT THIRD PARTIES.—An officer or employee of the Internal Revenue Service may not contact any person other than the taxpayer with respect to the determination or collection of the tax liability of such taxpayer without providing reasonable notice to the taxpayer that such contact will be made. This subsection shall not apply—

''(1) to any contact which the taxpayer has authorized,

''(2) if the Secretary determines for good cause shown that such notice would jeopardize collection of any tax, or

''(3) with respect to any pending criminal investigation.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to contacts made after the 180th day after the date of the enactment of this Act.

PART III—COLLECTION ACTIVITIES

Subpart A—Approval Process

SEC. 3421. APPROVAL PROCESS FOR LIENS, LEVIES, AND SEIZURES.

(a) IN GENERAL.—The Commissioner of Internal Revenue shall develop and implement procedures under which—

(1) a determination by an employee to file a notice of lien or levy with respect to, or to levy or seize, any property or right to property would, where appropriate, be required to be reviewed by a supervisor of the employee before the action was taken, and

(2) appropriate disciplinary action would be taken against the employee or supervisor where the procedures under paragraph (1) were not followed.

(b) REVIEW PROCESS.—The review process under subsection (a)(1) may include a certification that the employee has—

(1) reviewed the taxpayer's information,

(2) verified that a balance is due, and

(3) affirmed that the action proposed to be taken is appropriate given the taxpayer's circumstances, considering the amount due and the value of the property or right to property.

Subpart B—Liens and Levies

SEC. 3431. MODIFICATIONS TO CERTAIN LEVY EXEMPTION AMOUNTS.

(a) FUEL, ETC.—Section 6334(a)(2) (relating to fuel, provisions, furniture, and personal effects)

is amended by striking ''$2,500'' and inserting ''$10,000''.

(b) BOOKS, ETC.—Section 6334(a)(3) (relating to books and tools of a trade, business, or profession) is amended by striking ''$1,250'' and inserting ''$5,000''.

(c) CONFORMING AMENDMENT .—Section 6334(g)(1) (relating to inflation adjustment) is amended—

(1) by striking ''1997'' and inserting ''1999'', and

(2) by striking ''1996'' in subparagraph (B) and inserting ''1998''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to levies issued after the date of the enactment of this Act.

SEC. 3432. RELEASE OF LEVY UPON AGREEMENT THAT AMOUNT IS UNCOLLECTIBLE.

(a) IN GENERAL.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end the following new subsection:

''(e) IMMEDIATE RELEASE OF LEVY UPON AGREEMENT THAT AMOUNT IS NOT COLLECTIBLE.—In the case of a levy on the salary or wages payable to or received by the taxpayer, upon agreement with the taxpayer that the tax is not collectible, the Secretary shall immediately release such levy before any intervening salary or wage payment period.''

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

SEC. 3433. LEVY PROHIBITED DURING PENDENCY OF REFUND PROCEEDINGS.

(a) IN GENERAL.—Section 6331 (relating to levy and distraint) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

''(i) NO LEVY DURING PENDENCY OF PROCEEDINGS FOR REFUND OF DIVISIBLE TAX.—

''(1) IN GENERAL.—No levy may be made under subsection (a) on the property or rights to property of any person with respect to any unpaid divisible tax during the pendency of any proceeding brought by such person in a proper court for the recovery of any portion of such divisible tax which was paid by such person if—

''(A) the decision in such proceeding would be res judicata with respect to such unpaid tax, or

''(B) such person would be collaterally estopped from contesting such unpaid tax by reason of such proceeding.

''(2) DIVISIBLE TAX.—For purposes of paragraph (1), the term 'divisible tax' means—

''(A) any tax imposed by subtitle C, and

''(B) the penalty imposed by section 6672 with respect to any such tax.

''(3) EXCEPTIONS.—

''(A) CERTAIN UNPAID TAXES.—This subsection shall not apply with respect to any unpaid tax if—

''(i) the taxpayer files a written notice with the Secretary which waives the restriction imposed by this subsection on levy with respect to such tax, or

''(ii) the Secretary finds that the collection of such tax is in jeopardy.

''(B) CERTAIN LEVIES.—This subsection shall not apply to—

''(i) any levy to carry out an offset under section 6402, and

''(ii) any levy which was first made before the date that the applicable proceeding under this subsection commenced.

''(4) LIMITATION ON COLLECTION ACTIVITY; AUTHORITY TO ENJOIN COLLECTION.—

''(A) LIMITATION ON COLLECTION.—No proceeding in court for the collection of any unpaid tax to which paragraph (1) applies shall be begun by the Secretary during the pendency of a proceeding under such paragraph. This subparagraph shall not apply to—

''(i) any counterclaim in a proceeding under such paragraph, or

''(ii) any proceeding relating to a proceeding under such paragraph.

''(B) AUTHORITY TO ENJOIN.—Notwithstanding section 7421(a), a levy or collection proceeding prohibited by this subsection may be enjoined (during the period such prohibition is in force) by the court in which the proceeding under paragraph (1) is brought.

''(5) SUSPENSION OF STATUTE OF LIMITATIONS ON COLLECTION.—The period of limitations under section 6502 shall be suspended for the period during which the Secretary is prohibited under this subsection from making a levy.

''(6) PENDENCY OF PROCEEDING.—For purposes of this subsection, a proceeding is pending beginning on the date such proceeding commences and ending on the date the decision in such proceeding becomes final.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to unpaid tax attributable to taxable periods beginning after December 31, 1998.

SEC. 3434. APPROVAL REQUIRED FOR JEOPARDY AND TERMINATION ASSESSMENTS AND JEOPARDY LEVIES.

(a) IN GENERAL.—Paragraph (1) of section 7429(a) (relating to review of jeopardy levy or assessment procedures) is amended to read as follows:

''(1) ADMINISTRATIVE REVIEW.—

''(A) PRIOR APPROVAL REQUIRED.—No assessment may be made under section 6851(a), 6852(a), 6861(a), or 6862, and no levy may be made under section 6331(a) less than 30 days after notice and demand for payment is made, unless the Chief Counsel for the Internal Revenue Service (or such Counsel's delegate) personally approves (in writing) such assessment or levy.

''(B) INFORMATION TO TAXPAYER.—Within 5 days after the day on which such an assessment or levy is made, the Secretary shall provide the taxpayer with a written statement of the information upon which the Secretary relied in making such assessment or levy.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxes assessed and levies made after the date of the enactment of this Act.

SEC. 3435. INCREASE IN AMOUNT OF CERTAIN PROPERTY ON WHICH LIEN NOT VALID.

(a) CERTAIN PROPERTY.—

(1) IN GENERAL.—Subsection (b) of section 6323 (relating to validity and priority against certain persons) is amended—

(A) by striking ''$250'' in paragraph (4) (relating to personal property purchased in casual sale) and inserting ''$1,000'', and

(B) by striking ''$1,000'' in paragraph (7) (relating to residential property subject to a mechanic's lien for certain repairs and improvements) and inserting ''$5,000''.

(2) INFLATION ADJUSTMENT.—Subsection (i) of section 6323 (relating to special rules) is amended by adding at the end the following new paragraph:

''(4) COST-OF-LIVING ADJUSTMENT.—In the case of notices of liens imposed by section 6321 which are filed in any calendar year after 1998, each of the dollar amounts under paragraph (4) or (7) of subsection (b) 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, determined 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 $10, such amount shall be rounded to the nearest multiple of $10.''

(b) EXPANSION OF TREATMENT OF PASSBOOK LOANS.—Paragraph (10) of section 6323(b) is amended—

(1) by striking ''PASSBOOK LOANS'' in the heading and inserting ''DEPOSIT-SECURED LOANS'',

(2) by striking '', evidenced by a passbook,'', and

(3) by striking all that follows ''secured by such account'' and inserting a period.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 3436. WAIVER OF EARLY WITHDRAWAL TAX FOR IRS LEVIES ON EMPLOYER-SPONSORED RETIREMENT PLANS OR IRAS.

(a) IN GENERAL.—Section 72(t)(2)(A) (relating to subsection not to apply to certain distributions) is amended by striking ''or'' at the end of clauses (iv) and (v), by striking the period at the end of clause (vi) and inserting '', or'', and by adding at the end the following new clause:

''(vii) made on account of a levy under section 6331 on the qualified retirement plan.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to levies made after the date of the enactment of this Act.

Subpart C—Seizures

SEC. 3441. PROHIBITION OF SALES OF SEIZED PROPERTY AT LESS THAN MINIMUM BID.

(a) IN GENERAL.—Section 6335(e)(1)(A)(i) (relating to determinations relating to minimum price) is amended by striking ''a minimum price for which such property shall be sold'' and inserting ''a minimum price below which such property shall not be sold''.

(b) REFERENCE TO PENALTY FOR VIOLATION.—Section 6335(e) is amended by adding at the end the following new paragraph:

''(4) CROSS REFERENCE.—

"For provision providing for civil damages for violation of paragraph (1)(A)(i), see section 7433."

SEC. 3442. ACCOUNTING OF SALES OF SEIZED PROPERTY.

(a) IN GENERAL.—Section 6340 (relating to records of sale) is amended—

(1) in subsection (a)—

(A) by striking ''real'', and

(B) by inserting ''or certificate of sale of personal property'' after ''deed'', and

(2) by adding at the end the following new subsection:

''(c) ACCOUNTING TO TAXPAYER.—The taxpayer with respect to whose liability the sale was conducted or who redeemed the property shall be furnished—

''(1) the record under subsection (a) (other than the names of the purchasers),

''(2) the amount from such sale applied to the taxpayer's liability, and

''(3) the remaining balance of such liability.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to seizures occurring after the date of the enactment of this Act.

SEC. 3443. UNIFORM ASSET DISPOSAL MECHANISM.

Not later than the date which is 2 years after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary's delegate shall implement a uniform asset disposal mechanism for sales under section 6335 of the Internal Revenue Code of 1986. The mechanism should be designed to remove any participation in such sales by revenue officers of the Internal Revenue Service and should consider the use of outsourcing.

SEC. 3444. CODIFICATION OF IRS ADMINISTRATIVE PROCEDURES FOR SEIZURE OF TAXPAYER'S PROPERTY.

(a) IN GENERAL.—Section 6331 (relating to levy and distraint), as amended by section 3401(c), is amended by inserting after subsection (c) the following new subsection:

''(d) NO LEVY BEFORE INVESTIGATION OF STATUS OF PROPERTY.—

''(1) IN GENERAL.—For purposes of applying the provisions of this subchapter, no levy may be made on any property or right to property until a thorough investigation of the status of such property has been completed.

''(2) ELEMENTS IN INVESTIGATION.—For purposes of paragraph (1), an investigation of the status of any property shall include—

''(A) a verification of the taxpayer's liability,

''(B) the completion of an analysis under subsection (f),

''(C) the determination that the equity in such property is sufficient to yield net proceeds from the sale of such property to apply to such liability, and

''(D) a thorough consideration of alternative collection methods.''

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 3445. PROCEDURES FOR SEIZURE OF RESIDENCES AND BUSINESSES.

(a) IN GENERAL.—Section 6334(a)(13) (relating to property exempt from levy) is amended to read as follows:

''(13) RESIDENCES EXEMPT IN SMALL DEFICIENCY CASES AND PRINCIPAL RESIDENCES AND CERTAIN BUSINESS ASSETS EXEMPT IN ABSENCE OF CERTAIN APPROVAL OR JEOPARDY.—

''(A) RESIDENCES IN SMALL DEFICIENCY CASES.—If the amount of the levy does not exceed $5,000, any real property used as a residence by the taxpayer or any other individual.

''(B) PRINCIPAL RESIDENCES AND CERTAIN BUSINESS ASSETS.—Except to the extent provided in subsection (e), the principal residence of the taxpayer (within the meaning of section 121), and assets used in the trade or business of an individual taxpayer.''

(b) CONFORMING AMENDMENTS.—Section 6334(e) is amended—

(1) by striking ''subsection (a)(13)'' and inserting ''subsection (a)(13)(B)'',

(2) by adding at the end the following new flush sentence:

''An official may not approve a levy under paragraph (1) unless the official determines that the taxpayer's other assets subject to collection are insufficient to pay the amount due, together with expenses of the proceedings.'', and

(3) by inserting ''AND CERTAIN BUSINESS ASSETS'' after ''PRINCIPAL RESIDENCE'' in the heading.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

PART IV—PROVISIONS RELATING TO EXAMINATION AND COLLECTION ACTIVITIES

SEC. 3461. PROCEDURES RELATING TO EXTENSIONS OF STATUTE OF LIMITATIONS BY AGREEMENT.

(a) REPEAL OF AUTHORITY TO EXTEND 10-YEAR COLLECTION PERIOD AFTER ASSESSMENT.—Section 6502(a) (relating to length of period after collection) is amended—

(1) by striking paragraph (2) and inserting:

''(2) if there is a release of levy under section 6343 after such 10-year period, prior to the expiration of any period for collection agreed upon in writing by the Secretary and the taxpayer before such release.'', and

(2) by striking the first sentence in the matter following paragraph (2).

(b) NOTICE TO TAXPAYER OF RIGHT TO REFUSE OR LIMIT EXTENSION.—Paragraph (4) of section 6501(c) (relating to the period for limitations on assessment and collection) is amended—

(1) by striking ''Where'' and inserting the following:

''(A) IN GENERAL.—Where'', and

(2) by adding at the end the following new subparagraph:

''(B) NOTICE TO TAXPAYER OF RIGHT TO REFUSE OR LIMIT EXTENSION.—The Secretary shall notify the taxpayer of the taxpayer's right to refuse to extend the period of limitations, or to limit such extension to particular issues or to a particular period of time, on each occasion when the taxpayer is requested to provide such consent.''

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to requests to extend the period of limitations made after the date of the enactment of this Act.

(2) PRIOR REQUEST.—If, in any request to extend the period of limitations made on or before the date of the enactment of this Act, a taxpayer agreed to extend such period beyond the 10-year period referred to in section 6502(a) of the Internal Revenue Code of 1986, such extension shall expire on the later of—

(A) the last day of such 10-year period, or

(B) the date which is 180 days after such date of the enactment.

SEC. 3462. OFFERS-IN-COMPROMISE.

(a) STANDARDS FOR EVALUATION OF OFFERS-IN-COMPROMISE.—Section 7122 (relating to offers-in-compromise) is amended by adding at the end the following new subsection:

''(c) STANDARDS FOR EVALUATION OF OFFERS.—

''(1) IN GENERAL.—The Secretary shall prescribe guidelines for officers and employees of the Internal Revenue Service to determine whether an offer-in-compromise is adequate.

''(2) ALLOWANCES FOR BASIC LIVING EXPENSES.—

''(A) IN GENERAL.—In prescribing guidelines under paragraph (1), the Secretary shall develop and publish schedules of national and local allowances designed to provide that taxpayers entering into a compromise have an adequate means to provide for basic living expenses.

''(B) USE OF SCHEDULES.—The guidelines shall provide that officers and employees of the Internal Revenue Service shall determine, on the basis of the facts and circumstances of each taxpayer, whether the use of the schedules published under subparagraph (A) is appropriate and shall not use the schedules to the extent such use would result in the taxpayer not having adequate means to provide for basic living expenses.

''(3) SPECIAL RULES RELATING TO TREATMENT OF OFFERS.—The guidelines under paragraph (1) shall provide that—

''(A) an officer or employee of the Internal Revenue Service shall not reject an offer-in-compromise from a low-income taxpayer solely on the basis of the amount of the offer, and

''(B) in the case of an offer-in-compromise which relates only to issues of liability of the taxpayer—

''(i) such offer shall not be rejected solely because the Secretary is unable to locate the taxpayer's return or return information for verification of such liability, and

''(ii) the taxpayer shall not be required to provide a financial statement.''

(b) LEVY PROHIBITED WHILE OFFER-IN-COMPROMISE PENDING.—Section 6331 (relating to levy and distraint), as amended by section 3433, is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

''(j) NO LEVY WHILE CERTAIN OFFERS PENDING.—

''(1) OFFER IN COMPROMISE PENDING.—No levy may be made under subsection (a) on the property or rights to property of any person with respect to any unpaid tax—

''(A) during the period that an offer by such person in compromise under section 7122 of such unpaid tax is pending with the Secretary, and

''(B) if such offer is rejected by the Secretary, during the 30 days thereafter (and, if an appeal of such rejection is filed within such 30 days, during the period that such appeal is pending).

For purposes of subparagraph (A), an offer is pending beginning on the date the Secretary accepts such offer for processing.

''(2) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (3), (4), and (5) of subsection (i) shall apply for purposes of this subsection.''

(c) REVIEW OF REJECTIONS OF OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—

(1) IN GENERAL.—Section 7122 (relating to compromises), as amended by subsection (a), is amended by adding at the end the following:

''(d) ADMINISTRATIVE REVIEW.—The Secretary shall establish procedures—

''(1) for an independent administrative review of any rejection of a proposed offer-in-compromise or installment agreement made by a taxpayer under this section or section 6159 before such rejection is communicated to the taxpayer, and

''(2) which allow a taxpayer to appeal any rejection of such offer or agreement to the Internal Revenue Service Office of Appeals.''

(2) CONFORMING AMENDMENT.—Section 6159 (relating to installment agreements) is amended by adding at the end the following new subsection:

''(d) CROSS REFERENCE.—

''For rights to administrative review and appeal, see section 7122(d).''

(d) PREPARATION OF STATEMENT RELATING TO OFFERS-IN-COMPROMISE.—The Secretary of the Treasury shall prepare a statement which sets forth in simple, nontechnical terms the rights of a taxpayer and the obligations of the Internal Revenue Service relating to offers-in-compromise. Such statement shall—

(1) advise taxpayers who have entered into a compromise of the advantages of promptly notifying the Internal Revenue Service of any change of address or marital status,

(2) provide notice to taxpayers that in the case of a compromise terminated due to the actions of 1 spouse or former spouse, the Internal Revenue Service will, upon application, reinstate such compromise with the spouse or former spouse who remains in compliance with such compromise, and

(3) provide notice to the taxpayer that the taxpayer may appeal the rejection of an offer-in-compromise to the Internal Revenue Service Office of Appeals.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to proposed offers-in-compromise and installment agreements submitted after the date of the enactment of this Act.

(2) SUSPENSION OF COLLECTION BY LEVY.—The amendment made by subsection (b) shall apply to offers-in-compromise pending on or made after the 60th day after the date of the enactment of this Act.

SEC. 3463. NOTICE OF DEFICIENCY TO SPECIFY DEADLINES FOR FILING TAX COURT PETITION.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall include on each notice of deficiency under section 6212 of the Internal Revenue Code of 1986 the date determined by such Secretary (or delegate) as the last day on which the taxpayer may file a petition with the Tax Court.

(b) LATER FILING DEADLINES SPECIFIED ON NOTICE OF DEFICIENCY TO BE BINDING.—Subsection (a) of section 6213 (relating to restrictions applicable to deficiencies; petition to Tax Court) is amended by adding at the end the following new sentence: ''Any petition filed with the Tax Court on or before the last date specified for filing such petition by the Secretary in the notice of deficiency shall be treated as timely filed.''

(c) EFFECTIVE DATE.—Subsection (a) and the amendment made by subsection (b) shall apply to notices mailed after December 31, 1998.

SEC. 3464. REFUND OR CREDIT OF OVERPAYMENTS BEFORE FINAL DETERMINATION.

(a) TAX COURT PROCEEDINGS.—Subsection (a) of section 6213 is amended—

(1) by striking '', including the Tax Court.'' and inserting '', including the Tax Court, and a refund may be ordered by such court of any amount collected within the period during which the Secretary is prohibited from collecting by levy or through a proceeding in court under the provisions of this subsection.'', and

(2) by striking ''to enjoin any action or proceeding'' and inserting ''to enjoin any action or proceeding or order any refund''.

(b) OTHER PROCEEDINGS.—Subsection (a) of section 6512 is amended by striking the period at the end of paragraph (4) and inserting '', and'', and by inserting after paragraph (4) the following new paragraphs:

''(5) As to any amount collected within the period during which the Secretary is prohibited from making the assessment or from collecting by levy or through a proceeding in court under the provisions of section 6213(a), and

''(6) As to overpayments the Secretary is authorized to refund or credit pending appeal as provided in subsection (b).''

(c) REFUND OR CREDIT PENDING APPEAL.—Paragraph (1) of section 6512(b) is amended by adding at the end the following new sentence: ''If a notice of appeal in respect of the decision of the Tax Court is filed under section 7483, the Secretary is authorized to refund or credit the overpayment determined by the Tax Court to the extent the overpayment is not contested on appeal.''

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 3465. IRS PROCEDURES RELATING TO APPEALS OF EXAMINATIONS AND COLLECTIONS.

(a) DISPUTE RESOLUTION PROCEDURES.—

(1) IN GENERAL.—Chapter 74 (relating to closing agreements and compromises) is amended by redesignating section 7123 as section 7124 and by inserting after section 7122 the following new section:

''SEC. 7123. APPEALS DISPUTE RESOLUTION PROCEDURES.

''(a) EARLY REFERRAL TO APPEALS PROCEDURES.—The Secretary shall prescribe procedures by which any taxpayer may request early referral of 1 or more unresolved issues from the examination or collection division to the Internal Revenue Service Office of Appeals.

''(b) ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.—

''(1) MEDIATION.—The Secretary shall prescribe procedures under which a taxpayer or the Internal Revenue Service Office of Appeals may request non-binding mediation on any issue unresolved at the conclusion of—

''(A) appeals procedures, or

''(B) unsuccessful attempts to enter into a closing agreement under section 7121 or a compromise under section 7122.

''(2) ARBITRATION.—The Secretary shall establish a pilot program under which a taxpayer and the Internal Revenue Service Office of Appeals may jointly request binding arbitration on any issue unresolved at the conclusion of—

''(A) appeals procedures, or

''(B) unsuccessful attempts to enter into a closing agreement under section 7121 or a compromise under section 7122.''

(2) CONFORMING AMENDMENT.—The table of sections for chapter 74 is amended by striking the item relating to section 7123 and inserting the following new items:

''Sec. 7123. Appeals dispute resolution procedures.

''Sec. 7124. Cross references.''

(b) APPEALS OFFICERS IN EACH STATE.—The Commissioner of Internal Revenue shall ensure that an appeals officer is regularly available within each State.

(c) APPEALS VIDEOCONFERENCING ALTERNATIVE FOR RURAL AREAS.—The Commissioner of Internal Revenue shall consider the use of the videoconferencing of appeals conferences between appeals officers and taxpayers seeking appeals in rural or remote areas.

SEC. 3466. APPLICATION OF CERTAIN FAIR DEBT COLLECTION PROCEDURES.

(a) IN GENERAL.—Subchapter A of chapter 64 (relating to collection) is amended by inserting after section 6303 the following new section:

''SEC. 6304. FAIR TAX COLLECTION PRACTICES.

''(a) COMMUNICATION WITH THE TAXPAYER.—Without the prior consent of the taxpayer given directly to the Secretary or the express permission of a court of competent jurisdiction, the Secretary may not communicate with a taxpayer in connection with the collection of any unpaid tax—

''(1) at any unusual time or place or a time or place known or which should be known to be inconvenient to the taxpayer;

''(2) if the Secretary knows the taxpayer is represented by any person authorized to practice before the Internal Revenue Service with respect to such unpaid tax and has knowledge of, or can readily ascertain, such person's name and address, unless such person fails to respond within a reasonable period of time to a communication from the Secretary or unless such person consents to direct communication with the taxpayer; or

''(3) at the taxpayer's place of employment if the Secretary knows or has reason to know that the taxpayer's employer prohibits the taxpayer from receiving such communication.

In the absence of knowledge of circumstances to the contrary, the Secretary shall assume that the convenient time for communicating with a taxpayer is after 8 a.m. and before 9 p.m., local time at the taxpayer's location.

''(b) PROHIBITION OF HARASSMENT AND ABUSE.—The Secretary may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of any unpaid tax. Without limiting the general application of the foregoing, the following conduct is a violation of this subsection:

''(1) The use or threat of use of violence or other criminal means to harm the physical person, reputation, or property of any person.

''(2) The use of obscene or profane language or language the natural consequence of which is to abuse the hearer or reader.

''(3) Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

''(4) Except as provided under rules similar to the rules in section 804 of the Fair Debt Collection Practices Act (15 U.S.C. 1692b), the placement of telephone calls without meaningful disclosure of the caller's identity.

''(c) CIVIL ACTION FOR VIOLATIONS OF SECTION.—

''For civil action for violations of this section, see section 7433.''

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 64 is amended by inserting after the item relating to section 6303 the following new item:

''Sec. 6304. Fair tax collection practices.''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 3467. GUARANTEED AVAILABILITY OF INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) SECRETARY REQUIRED TO ENTER INTO INSTALLMENT AGREEMENTS IN CERTAIN CASES.—In the case of a liability for tax of an individual under subtitle A, the Secretary shall enter into an agreement to accept the payment of such tax in installments if, as of the date the individual offers to enter into the agreement—

''(1) the aggregate amount of such liability (determined without regard to interest, penalties, additions to the tax, and additional amounts) does not exceed $10,000,

''(2) the taxpayer (and, if such liability relates to a joint return, the taxpayer's spouse) has not, during any of the preceding 5 taxable years—

''(A) failed to file any return of tax imposed by subtitle A,

''(B) failed to pay any tax required to be shown on any such return, or

''(C) entered into an installment agreement under this section for payment of any tax imposed by subtitle A,

''(3) the Secretary determines that the taxpayer is financially unable to pay such liability in full when due (and the taxpayer submits such information as the Secretary may require to make such determination),

''(4) the agreement requires full payment of such liability within 3 years, and

''(5) the taxpayer agrees to comply with the provisions of this title for the period such agreement is in effect.''

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

Subtitle F—Disclosures to Taxpayers

SEC. 3501. EXPLANATION OF JOINT AND SEVERAL LIABILITY.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, establish procedures to clearly alert married taxpayers of their joint and several liabilities on all appropriate publications and instructions.

(b) RIGHT TO LIMIT LIABILITY.—The procedures under subsection (a) shall include requirements that notice of an individual's right to limit joint and several liability under section 6015 of the Internal Revenue Code of 1986 shall be included in the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1) and in any collection-related notices.

SEC. 3502. EXPLANATION OF TAXPAYERS' RIGHTS IN INTERVIEWS WITH THE INTERNAL REVENUE SERVICE.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, revise the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1) to more clearly inform taxpayers of their rights—

(1) to be represented at interviews with the Internal Revenue Service by any person authorized to practice before the Internal Revenue Service, and

(2) to suspend an interview pursuant to section 7521(b)(2) of the Internal Revenue Code of 1986.

SEC. 3503. DISCLOSURE OF CRITERIA FOR EXAMINATION SELECTION.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, incorporate into the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1) a statement which sets forth in simple and nontechnical terms the criteria and procedures for selecting taxpayers for examination. Such statement shall not include any information the disclosure of which would be detrimental to law enforcement, but shall specify the general procedures used by the Internal Revenue Service, including whether taxpayers are selected for examination on the basis of information available in the media or on the basis of information provided to the Internal Revenue Service by informants.

(b) TRANSMISSION TO COMMITTEES OF CONGRESS.—The Secretary shall transmit drafts of the statement required under subsection (a) (or proposed revisions to any such statement) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the same day.

SEC. 3504. EXPLANATIONS OF APPEALS AND COLLECTION PROCESS.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable

but not later than 180 days after the date of the enactment of this Act, include with any 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals an explanation of the entire process from examination through collection with respect to such proposed deficiency, including the assistance available to the taxpayer from the National Taxpayer Advocate at various points in the process.

SEC. 3505. EXPLANATION OF REASON FOR REFUND DENIAL.

(a) IN GENERAL.—Section 6402 (relating to authority to make credits or refunds) is amended by adding at the end the following new subsection:

''(j) EXPLANATION OF REASON FOR REFUND DENIAL.—In the case of a denial of a claim for refund, the Secretary shall provide the taxpayer with an explanation for such denial.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to denials issued after the 180th day after the date of the enactment of this Act.

SEC. 3506. STATEMENTS REGARDING INSTALLMENT AGREEMENTS.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable but not later than 180 days after the date of the enactment of this Act, provide each taxpayer who has an installment agreement in effect under section 6159 of the Internal Revenue Code of 1986 an annual statement setting forth the initial balance at the beginning of the year, the payments made during the year, and the remaining balance as of the end of the year.

SEC. 3507. NOTIFICATION OF CHANGE IN TAX MATTERS PARTNER.

(a) IN GENERAL.—Section 6231(a)(7) (defining tax matters partner) is amended by adding at the end the following new sentence: ''The Secretary shall, within 30 days of selecting a tax matters partner under the preceding sentence, notify all partners required to receive notice under section 6223(a) of the name and address of the individual selected.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to selections of tax matters partners made by the Secretary of the Treasury after the date of the enactment of this Act.

Subtitle G—Low Income Taxpayer Clinics

SEC. 3601. LOW INCOME TAXPAYER CLINICS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions), as amended by section 3411, is amended by adding at the end the following new section:

''SEC. 7526. LOW INCOME TAXPAYER CLINICS.

''(a) IN GENERAL.—The Secretary may, subject to the availability of appropriated funds, make grants to provide matching funds for the development, expansion, or continuation of qualified low income taxpayer clinics.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED LOW INCOME TAXPAYER CLINIC.—

''(A) IN GENERAL.—The term 'qualified low income taxpayer clinic' means a clinic which—

''(i) does not charge more than a nominal fee for its services (except for reimbursement of actual costs incurred), and

''(ii)(I) represents low income taxpayers in controversies with the Internal Revenue Service, or

''(II) operates programs to inform individuals for whom English is a second language about their rights and responsibilities under this title.

''(B) REPRESENTATION OF LOW INCOME TAXPAYERS.—A clinic meets the requirements of subparagraph (A)(ii)(I) if—

''(i) at least 90 percent of the taxpayers represented by the clinic have incomes which do not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget, and

''(ii) the amount in controversy for any taxable year generally does not exceed the amount specified in section 7463.

''(2) CLINIC.—The term 'clinic' includes—

''(A) a clinical program at an accredited law, business, or accounting school in which students represent low income taxpayers in controversies arising under this title, and

''(B) an organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1) through representation of taxpayers or referral of taxpayers to qualified representatives.

''(3) QUALIFIED REPRESENTATIVE.—The term 'qualified representative' means any individual (whether or not an attorney) who is authorized to practice before the Internal Revenue Service or the applicable court.

''(c) SPECIAL RULES AND LIMITATIONS.—

''(1) AGGREGATE LIMITATION.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than $3,000,000 per year (exclusive of costs of administering the program) to grants under this section.

''(2) LIMITATION ON ANNUAL GRANTS TO A CLINIC.—The aggregate amount of grants which may be made under this section to a clinic for a year shall not exceed $100,000.

''(3) MULTI-YEAR GRANTS.—Upon application of a qualified low income taxpayer clinic, the Secretary is authorized to award a multi-year grant not to exceed 3 years.

''(4) CRITERIA FOR AWARDS.—In determining whether to make a grant under this section, the Secretary shall consider—

''(A) the numbers of taxpayers who will be served by the clinic, including the number of taxpayers in the geographical area for whom English is a second language,

''(B) the existence of other low income taxpayer clinics serving the same population,

''(C) the quality of the program offered by the low income taxpayer clinic, including the qualifications of its administrators and qualified representatives, and its record, if any, in providing service to low income taxpayers, and

''(D) alternative funding sources available to the clinic, including amounts received from other grants and contributions, and the endowment and resources of the institution sponsoring the clinic.

''(5) REQUIREMENT OF MATCHING FUNDS.—A low income taxpayer clinic must provide matching funds on a dollar for dollar basis for all grants provided under this section. Matching funds may include—

''(A) the salary (including fringe benefits) of individuals performing services for the clinic, and

''(B) the cost of equipment used in the clinic. Indirect expenses, including general overhead of the institution sponsoring the clinic, shall not be counted as matching funds.''

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new section:

''Sec. 7526. Low income taxpayer clinics.''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle H—Other Matters

SEC. 3701. CATALOGING COMPLAINTS.

In collecting data for the report required under section 1211 of Taxpayer Bill of Rights 2 (Public Law 104–168), the Secretary of the Treasury or the Secretary's delegate shall maintain records of taxpayer complaints of misconduct by Internal Revenue Service employees on an individual employee basis.

SEC. 3702. ARCHIVE OF RECORDS OF INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Subsection (l) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph:

''(17) DISCLOSURE TO NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.—The Secretary shall, upon written request from the Archivist of the United States, disclose or authorize the disclosure of returns and return information to officers and employees of the National Archives and Records Administration for purposes of, and only to the extent necessary in, the appraisal of records for destruction or retention. No such officer or employee shall, except to the extent authorized by subsections (f), (i)(7), or (p), disclose any return or return information disclosed under the preceding sentence to any person other than to the Secretary, or to another officer or employee of the National Archives and Records Administration whose official duties require such disclosure for purposes of such appraisal.''

(b) CONFORMING AMENDMENTS.—Section 6103(p) is amended—

(1) in paragraph (3)(A), by striking ''or (16)'' and inserting ''(16), or (17)'',

(2) in paragraph (4), by striking ''or (14)'' and inserting '', (14), or (17)'' in the matter preceding subparagraph (A), and

(3) in paragraph (4)(F)(ii), by striking ''or (15)'' and inserting '', (15), or (17)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made by the Archivist of the United States after the date of the enactment of this Act.

SEC. 3703. PAYMENT OF TAXES.

The Secretary of the Treasury or the Secretary's delegate shall establish such rules, regulations, and procedures as are necessary to allow payment of taxes by check or money order made payable to the United States Treasury.

SEC. 3704. CLARIFICATION OF AUTHORITY OF SECRETARY RELATING TO THE MAKING OF ELECTIONS.

Subsection (d) of section 7805 is amended by striking ''by regulations or forms''.

SEC. 3705. IRS EMPLOYEE CONTACTS.

(a) NOTICE.—The Secretary of the Treasury or the Secretary's delegate shall provide that any correspondence or notice received by a taxpayer from the Internal Revenue Service shall include in a prominent manner the name and telephone number of an Internal Revenue Service employee the taxpayer may contact with respect to the correspondence or notice.

(b) SINGLE CONTACT.—The Secretary of the Treasury or the Secretary's delegate shall develop a procedure under which, to the extent practicable and if advantageous to the taxpayer, one Internal Revenue Service employee shall be assigned to handle a taxpayer's matter until it is resolved.

(c) EFFECTIVE DATE.—This section shall take effect 60 days after the date of the enactment of this Act.

SEC. 3706. USE OF PSEUDONYMS BY IRS EMPLOYEES.

(a) IN GENERAL.—Any employee of the Internal Revenue Service may use a pseudonym only if—

(1) adequate justification for the use of a pseudonym is provided by the employee, including protection of personal safety, and

(2) such use is approved by the employee's supervisor before the pseudonym is used.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to requests made after the date of the enactment of this Act.

SEC. 3707. CONFERENCES OF RIGHT IN THE NATIONAL OFFICE OF IRS.

(a) IN GENERAL.—In any conference of right in the National Office of the Internal Revenue Service, participation in such conference shall, upon request of the taxpayer, be limited to personnel of the National Office.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to requests made after the date of the enactment of this Act.

SEC. 3708. ILLEGAL TAX PROTESTER DESIGNATION.

(a) PROHIBITION.—The officers and employees of the Internal Revenue Service—

(1) shall not designate taxpayers as illegal tax protesters (or any similar designation), and

(2) in the case of any such designation made on or before the date of the enactment of this Act—

(A) shall remove such designation from the individual master file, and

(B) shall disregard any such designation not located in the individual master file.

(b) DESIGNATION OF NONFILERS ALLOWED.—An officer or employee of the Internal Revenue Service may designate any appropriate taxpayer as a nonfiler, but shall remove such designation once the taxpayer has filed income tax returns for 2 consecutive taxable years and paid all taxes shown on such returns.

(c) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 3709. PROVISION OF CONFIDENTIAL INFORMATION TO CONGRESS BY WHISTLEBLOWERS.

(a) IN GENERAL.—Paragraph (1) of section 6103(f) (relating to disclosure of confidential information to committees of Congress) is amended—

(1) by striking ''Upon written'' and inserting the following:

''(A) WRITTEN REQUEST BY CHAIRMAN.—Upon written''; and

(2) by adding at the end the following new subparagraph:

''(B) WHISTLEBLOWER INFORMATION.—Any person who otherwise has or had access to any return or return information under this section may disclose such return or return information to a chairman of a committee referred to in subparagraph (A) or the chief of staff of the Joint Committee of Taxation only if—

''(i) the disclosure is for the purpose of alleging an incident of employee misconduct or taxpayer abuse, and

''(ii) the chairman of the committee to which the disclosure is made (or either chairman in the case of disclosure to the chief of staff) gives prior written approval for the disclosure.''

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 3710. LISTING OF LOCAL IRS TELEPHONE NUMBERS AND ADDRESSES.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, provide that the local telephone numbers and addresses of Internal Revenue Service offices located in any particular area be listed in the telephone book for that area.

SEC. 3711. IDENTIFICATION OF RETURN PREPARERS.

(a) IN GENERAL.—The last sentence of section 6109(a) (relating to identifying numbers) is amended by striking ''For purposes of this subsection'' and inserting ''For purposes of paragraphs (1), (2), and (3)''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 3712. OFFSET OF PAST-DUE, LEGALLY ENFORCEABLE STATE INCOME TAX OBLIGATIONS AGAINST OVERPAYMENTS.

(a) IN GENERAL.—Section 6402 (relating to authority to make credits or refunds) 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 INCOME TAX OBLIGATIONS.—

''(1) IN GENERAL.—Upon receiving notice from any State that a named person owes a past-due, legally enforceable State income 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 income 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 income 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 income 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 income tax obligation.

''(5) PAST-DUE, LEGALLY ENFORCEABLE STATE INCOME TAX OBLIGATION.—For purposes of this subsection, the term 'past-due, legally enforceable State income tax obligation' means a debt—

''(A) which resulted from a judgment which—

''(i) was rendered by a court of competent jurisdiction which has determined an amount of State income tax to be due, and

''(ii) is no longer subject to judicial review, and

''(B) which has not been delinquent for more than 10 years.

For purposes of this paragraph, the term 'State income 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 income tax obligations and the necessary information that must be contained in or accompany such notices. The regulations shall specify the types of State income 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 INCOME 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) 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. 3713. TREATMENT OF IRS NOTICES ON FOREIGN TAX PROVISIONS.

(a) NOTICE 98–11.—

(1) MORATORIUM.—The Secretary of the Treasury or his delegate shall not implement final or temporary regulations with respect to Internal Revenue Service Notice 98–11 during the period—

(A) beginning on January 16, 1998, and

(B) ending on the date which is 6 months after the date of the enactment of this Act.

(2) SENSE OF SENATE REGARDING NOTICE.—It is the sense of the Senate that—

(A) the Secretary of the Treasury or his delegate should withdraw Internal Revenue Service Notice 98–11 and the regulations issued with respect to such notice, and

(B) Congress, not the Department of the Treasury or the Internal Revenue Service, should determine the policy issues with respect to the treatment of hybrid transactions under subpart F of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1986.

(b) NOTICE 98–5.—It is the sense of the Senate that—

(1) the Secretary of the Treasury or his delegate should limit any regulations issued with respect to Internal Revenue Service Notice 98–5 to the specific transactions contained in such notice, and

(2) such regulations should—

(A) not affect transactions undertaken in the ordinary course of business,

(B) not have an effective date before the earlier of the dates described in subparagraph (A) or (B) of section 7805(b)(1) of the Internal Revenue Code of 1986, and

(C) be issued in accordance with normal regulatory procedures which include an opportunity for comment.

Nothing in the preceding sentence shall be construed as expressing any intent by the Senate to limit the Secretary's ability to address abusive transactions.

Subtitle I—Studies

SEC. 3801. ADMINISTRATION OF PENALTIES AND INTEREST.

The Joint Committee on Taxation and the Secretary of the Treasury shall each conduct a separate study—

(1) reviewing the administration and implementation by the Internal Revenue Service of the interest and penalty provisions of the Internal Revenue Code of 1986 (including the penalty reform provisions of the Omnibus Budget Reconciliation Act of 1989), and

(2) making any legislative and administrative recommendations the Committee or the Secretary deems appropriate to simplify penalty or interest administration and reduce taxpayer burden.

Such studies 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 9 months after the date of the enactment of this Act.

SEC. 3802. CONFIDENTIALITY OF TAX RETURN INFORMATION.

The Joint Committee on Taxation and the Secretary of the Treasury shall each conduct a separate study of the scope and use of provisions regarding taxpayer confidentiality, and shall report the findings of such study, together with such recommendations as the Committee or the Secretary deems appropriate, to the Congress not later than one year after the date of the enactment of this Act. Such study shall examine—

(1) the present protections for taxpayer privacy,

(2) any need for third parties to use tax return information,

(3) whether greater levels of voluntary compliance may be achieved by allowing the public to know who is legally required to file tax returns, but does not file tax returns, and

(4) the interrelationship of the taxpayer confidentiality provisions in the Internal Revenue Code of 1986 with such provisions in other Federal law, including section 552a of title 5, United States Code (commonly known as the ''Freedom of Information Act'').

TITLE IV—CONGRESSIONAL ACCOUNTABILITY FOR THE INTERNAL REVENUE SERVICE

SEC. 4001. CENTURY DATE CHANGE.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Internal Revenue Service should place a high priority on resolving the century date change computing problems.

(b) REPORT ON EFFECT OF LEGISLATION ON CENTURY DATE CHANGE.—The Commissioner of Internal Revenue shall expeditiously submit a report to Congress on—

(1) the overall impact of this Act on the ability of the Internal Revenue Service to resolve the century date change computing problems, and

(2) provisions of this Act that will require significant amounts of computer programming prior to December 31, 1999, in order to carry out such provisions.

SEC. 4002. TAX LAW COMPLEXITY ANALYSIS.

(a) COMMISSIONER STUDY.—

(1) IN GENERAL.—The Commissioner of Internal Revenue shall conduct each year an analysis of the sources of the complexity of the administration of the Federal tax laws. Such analysis may include an analysis of—

(A) questions frequently asked by taxpayers with respect to return filing,

(B) common errors made by taxpayers in filling out their returns,

(C) areas of law which frequently result in disagreements between taxpayers and the Internal Revenue Service,

(D) major areas of law in which there is no (or incomplete) published guidance or in which the law is uncertain,

(E) areas in which revenue officers make frequent errors interpreting or applying the law,

(F) the impact of recent legislation on complexity, and

(G) forms supplied by the Internal Revenue Service, including the time it takes for taxpayers to complete and review forms, the number of taxpayers who use each form, and how recent legislation has affected the time it takes to complete and review forms.

(2) REPORT.—The Commissioner shall each year report the results of the analysis conducted under paragraph (1) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, including any recommendations for reducing the complexity of the administration of the Federal tax laws.

(b) ANALYSIS TO ACCOMPANY CERTAIN LEGISLATION.—

(1) IN GENERAL.—The Joint Committee on Taxation, in consultation with the Internal Revenue Service and the Department of the Treasury, shall include a tax complexity analysis in each report for legislation, or provide such analysis to members of the committee reporting the legislation as soon as practicable after the report is filed, if—

(A) such legislation is reported by the Committee on Finance in the Senate, the Committee on Ways and Means of the House of Representatives, or any committee of conference, and

(B) such legislation includes a provision which would directly or indirectly amend the Internal Revenue Code of 1986 and which has widespread applicability to individuals or small businesses.

(2) TAX COMPLEXITY ANALYSIS.—For purposes of this subsection, the term ''tax complexity analysis'' means, with respect to any legislation, a report on the complexity and administrative difficulties of each provision described in paragraph (1)(B) which—

(A) includes—

(i) an estimate of the number of taxpayers affected by the provision, and

(ii) if applicable, the income level of taxpayers affected by the provision, and

(B) should include (if determinable)—

(i) the extent to which tax forms supplied by the Internal Revenue Service would require revision and whether any new forms would be required,

(ii) the extent to which taxpayers would be required to keep additional records,

(iii) the estimated cost to taxpayers to comply with the provision,

(iv) the extent to which enactment of the provision would require the Internal Revenue Service to develop or modify regulatory guidance,

(v) the extent to which the provision may result in disagreements between taxpayers and the Internal Revenue Service, and

(vi) any expected impact on the Internal Revenue Service from the provision (including the impact on internal training, revision of the Internal Revenue Manual, reprogramming of computers, and the extent to which the Internal Revenue Service would be required to divert or redirect resources in response to the provision).

(3) EFFECTIVE DATE.—This subsection shall apply to legislation considered on or after January 1, 1999.

TITLE V—REVENUE PROVISIONS

SEC. 5001. CLARIFICATION OF DEDUCTION FOR DEFERRED COMPENSATION.

(a) IN GENERAL.—Section 404(a) (relating to deduction for contributions of an employer to an employee's trust or annuity plan and compensation under a deferred-payment plan) is amended by adding at the end the following new paragraph:

''(11) DETERMINATIONS RELATING TO DEFERRED COMPENSATION.—For purposes of determining under this section—

''(A) whether compensation of an employee is deferred compensation, and

''(B) when deferred compensation is paid,

no amount shall be treated as received by the employee, or paid, until it is actually received by the employee.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by the amendment made by subsection (a) to change its method of accounting for its first taxable year ending 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 of the Treasury, 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 in such first taxable year.

SEC. 5002. MODIFICATION TO FOREIGN TAX CREDIT CARRYBACK AND CARRYOVER PERIODS.

(a) IN GENERAL.—Section 904(c) (relating to limitation on credit) is amended—

(1) by striking ''in the second preceding taxable year,'', and

(2) by striking ''or fifth'' and inserting ''fifth, sixth, or seventh''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to credits arising in taxable years ending after the date of the enactment of this Act.

SEC. 5003. CLARIFICATION AND EXPANSION OF MATHEMATICAL ERROR ASSESSMENT PROCEDURES.

(a) TIN DEEMED INCORRECT IF INFORMATION ON RETURN DIFFERS WITH AGENCY RECORDS.—Section 6213(g)(2) (defining mathematical or clerical error) is amended by adding at the end the following flush sentence:

''A taxpayer shall be treated as having omitted a correct TIN for purposes of the preceding sentence if information provided by the taxpayer on the return with respect to the individual whose TIN was provided differs from the information the Secretary obtains from the person issuing the TIN.''

(b) EXPANSION OF MATHEMATICAL ERROR PROCEDURES TO CASES WHERE TIN ESTABLISHES INDIVIDUAL NOT ELIGIBLE FOR TAX CREDIT.—Section 6213(g)(2), as amended by title VI of this Act, is amended by striking ''and'' at the end of subparagraph (J), by striking the period at the end of the subparagraph (K) and inserting '', and'', and by adding at the end the following new subparagraph:

''(L) the inclusion on a return of a TIN required to be included on the return under section 21, 24, or 32 if—

''(i) such TIN is of an individual whose age affects the amount of the credit under such section, and

''(ii) the computation of the credit on the return reflects the treatment of such individual as being of an age different from the individual's age based on such TIN.''

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

SEC. 5004. TERMINATION OF EXCEPTION FOR CERTAIN REAL ESTATE INVESTMENT TRUSTS FROM THE TREATMENT OF STAPLED ENTITIES.

(a) IN GENERAL.—Notwithstanding paragraph (3) of section 136(c) of the Tax Reform Act of 1984 (relating to stapled stock; stapled entities), the REIT gross income provisions shall be applied by treating the activities and gross income of members of the stapled REIT group properly allocable to any nonqualified real property interest held by the exempt REIT or any stapled entity which is a member of such group (or treated under subsection (c) as held by such

REIT or stapled entity) as the activities and gross income of the exempt REIT in the same manner as if the exempt REIT and such group were 1 entity.

(b) NONQUALIFIED REAL PROPERTY INTEREST.—For purposes of this section—

(1) IN GENERAL.—The term ''nonqualified real property interest'' means, with respect to any exempt REIT, any interest in real property acquired after March 26, 1998, by the exempt REIT or any stapled entity.

(2) EXCEPTION FOR BINDING CONTRACTS, ETC.—Such term shall not include any interest in real property acquired after March 26, 1998, by the exempt REIT or any stapled entity if—

(A) the acquisition is pursuant to a written agreement which was binding on such date and at all times thereafter on such REIT or stapled entity, or

(B) the acquisition is described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

(3) IMPROVEMENTS AND LEASES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term ''nonqualified real property interest'' shall not include—

(i) any improvement to land owned or leased by the exempt REIT or any member of the stapled REIT group, and

(ii) any repair to, or improvement of, any improvement owned or leased by the exempt REIT or any member of the stapled REIT group,

if such ownership or leasehold interest is a qualified real property interest.

(B) LEASES.—Such term shall not include any lease of a qualified real property interest.

(C) TERMINATION WHERE CHANGE IN USE.—

(i) IN GENERAL.—Subparagraph (A) shall not apply to any improvement placed in service after December 31, 1999, which is part of a change in the use of the property to which such improvement relates unless the cost of such improvement does not exceed 200 percent of—

(I) the cost of such property, or

(II) if such property is substituted basis property (as defined in section 7701(a)(42) of the Internal Revenue Code of 1986), the fair market value of the property at the time of acquisition.

(ii) BINDING CONTRACTS.—For purposes of clause (i), an improvement shall be treated as placed in service before January 1, 2000, if such improvement is placed in service before January 1, 2004, pursuant to a binding contract in effect on December 31, 1999, and at all times thereafter.

(4) TREATMENT OF ENTITIES WHICH ARE NOT STAPLED, ETC. ON MARCH 26, 1998.—Notwithstanding any other provision of this section, all interests in real property held by an exempt REIT or any stapled entity with respect to such REIT (or treated under subsection (c) as held by such REIT or stapled entity) shall be treated as nonqualified real property interests unless—

(A) such stapled entity was a stapled entity with respect to such REIT as of March 26, 1998, and at all times thereafter, and

(B) as of March 26, 1998, and at all times thereafter, such REIT was a real estate investment trust.

(5) QUALIFIED REAL PROPERTY INTEREST.—The term ''qualified real property interest'' means any interest in real property other than a nonqualified real property interest.

(c) TREATMENT OF PROPERTY HELD BY 10-PERCENT SUBSIDIARIES.—For purposes of this section—

(1) IN GENERAL.—Any exempt REIT and any stapled entity shall be treated as holding their proportionate shares of each interest in real property held by any 10-percent subsidiary entity of the exempt REIT or stapled entity, as the case may be.

(2) PROPERTY HELD BY 10-PERCENT SUBSIDIARIES TREATED AS NONQUALIFIED.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any interest in real property held by a 10-percent subsidiary entity of an exempt REIT or stapled entity shall be treated as a nonqualified real property interest.

(B) EXCEPTION FOR INTERESTS IN REAL PROPERTY HELD ON MARCH 26, 1998, ETC.—In the case of an entity which was a 10-percent subsidiary entity of an exempt REIT or stapled entity on March 26, 1998, and at all times thereafter, an interest in real property held by such subsidiary entity shall be treated as a qualified real property interest if such interest would be so treated if held directly by the exempt REIT or the stapled entity.

(3) REDUCTION IN QUALIFIED REAL PROPERTY INTERESTS IF INCREASE IN OWNERSHIP OF SUBSIDIARY.—If, after March 26, 1998, an exempt REIT or stapled entity increases its ownership interest in a subsidiary entity to which paragraph (2)(B) applies above its ownership interest in such subsidiary entity as of such date, the additional portion of each interest in real property which is treated as held by the exempt REIT or stapled entity by reason of such increased ownership shall be treated as a nonqualified real property interest.

(4) SPECIAL RULES FOR DETERMINING OWNERSHIP.—For purposes of this subsection—

(A) percentage ownership of an entity shall be determined in accordance with subsection (e)(4),

(B) interests in the entity which are acquired by the exempt REIT or stapled entity in any acquisition described in an agreement, announcement, or filing described in subsection (b)(2) shall be treated as acquired on March 26, 1998, and

(C) except as provided in guidance prescribed by the Secretary, any change in proportionate ownership which is attributable solely to fluctuations in the relative fair market values of different classes of stock shall not be taken into account.

(d) TREATMENT OF PROPERTY SECURED BY MORTGAGE HELD BY EXEMPT REIT OR MEMBER OF STAPLED REIT GROUP.—

(1) IN GENERAL.—In the case of any nonqualified obligation held by an exempt REIT or any member of the stapled REIT group, the REIT gross income provisions shall be applied by treating the exempt REIT as having impermissible tenant service income equal to—

(A) the interest income from such obligation which is properly allocable to the property described in paragraph (2), and

(B) the income of any member of the stapled REIT group from services described in paragraph (2) with respect to such property.

If the income referred to in subparagraph (A) or (B) is of a 10-percent subsidiary entity, only the portion of such income which is properly allocable to the exempt REIT's or the stapled entity's interest in the subsidiary entity shall be taken into account.

(2) NONQUALIFIED OBLIGATION.—Except as otherwise provided in this subsection, the term ''nonqualified obligation'' means any obligation secured by a mortgage on an interest in real property if the income of any member of the stapled REIT group for services furnished with respect to such property would be impermissible tenant service income were such property held by the exempt REIT and such services furnished by the exempt REIT.

(3) EXCEPTION FOR CERTAIN MARKET RATE OBLIGATIONS.—Such term shall not include any obligation—

(A) payments under which would be treated as interest if received by a REIT, and

(B) the rate of interest on which does not exceed an arm's length rate.

(4) EXCEPTION FOR EXISTING OBLIGATIONS.—Such term shall not include any obligation—

(A) which is secured on March 26, 1998, by an interest in real property, and

(B) which is held on such date by the exempt REIT or any entity which is a member of the stapled REIT group on such date and at all times thereafter,

but only so long as such obligation is secured by such interest. The preceding sentence shall not cease to apply by reason of the refinancing of the obligation if (immediately after the refinancing) the principal amount of the obligation resulting from the refinancing does not exceed the principal amount of the refinanced obligation (immediately before the refinancing).

(5) TREATMENT OF ENTITIES WHICH ARE NOT STAPLED, ETC. ON MARCH 26, 1998.—A rule similar to the rule of subsection (b)(4) shall apply for purposes of this subsection.

(6) INCREASE IN AMOUNT OF NONQUALIFIED OBLIGATIONS IF INCREASE IN OWNERSHIP OF SUBSIDIARY.—A rule similar to the rule of subsection (c)(3) shall apply for purposes of this subsection.

(7) COORDINATION WITH SUBSECTION (a).—This subsection shall not apply to the portion of any interest in real property that the exempt REIT or stapled entity holds or is treated as holding under this section without regard to this subsection.

(e) DEFINITIONS.—For purposes of this section—

(1) REIT GROSS INCOME PROVISIONS.—The term ''REIT gross income provisions'' means—

(A) paragraphs (2), (3), and (6) of section 856(c) of the Internal Revenue Code of 1986, and

(B) section 857(b)(5) of such Code.

(2) EXEMPT REIT.—The term ''exempt REIT'' means a real estate investment trust to which section 269B of the Internal Revenue Code of 1986 does not apply by reason of paragraph (3) of section 136(c) of the Tax Reform Act of 1984.

(3) STAPLED REIT GROUP.—The term ''stapled REIT group'' means, with respect to an exempt REIT, the group consisting of—

(A) all entities which are stapled entities with respect to the exempt REIT, and

(B) all entities which are 10-percent subsidiary entities of the exempt REIT or any such stapled entity.

(4) 10-PERCENT SUBSIDIARY ENTITY.—

(A) IN GENERAL.—The term ''10-percent subsidiary entity'' means, with respect to any exempt REIT or stapled entity, any entity in which the exempt REIT or stapled entity (as the case may be) directly or indirectly holds at least a 10-percent interest.

(B) EXCEPTION FOR CERTAIN C CORPORATION SUBSIDIARIES OF REITS.—A corporation which would, but for this subparagraph, be treated as a 10-percent subsidiary of an exempt REIT shall not be so treated if such corporation is taxable under section 11 of the Internal Revenue Code of 1986.

(C) 10-PERCENT INTEREST.—The term ''10-percent interest'' means—

(i) in the case of an interest in a corporation, ownership of 10 percent (by vote or value) of the stock in such corporation,

(ii) in the case of an interest in a partnership, ownership of 10 percent of the assets or net profits interest in the partnership, and

(iii) in any other case, ownership of 10 percent of the beneficial interests in the entity.

(5) OTHER DEFINITIONS.—Terms used in this section which are used in section 269B or section 856 of such Code shall have the respective meanings given such terms by such section.

(f) GUIDANCE.—The Secretary may prescribe such guidance as may be necessary or appropriate to carry out the purposes of this section, including guidance to prevent the avoidance of such purposes and to prevent the double counting of income.

(g) EFFECTIVE DATE.—This section shall apply to taxable years ending after March 26, 1998.

SEC. 5005. CERTAIN CUSTOMER RECEIVABLES INELIGIBLE FOR MARK-TO-MARKET TREATMENT.

(a) CERTAIN RECEIVABLES NOT ELIGIBLE FOR MARK TO MARKET.—Section 475(c) (relating to definitions) is amended by adding at the end the following new paragraph:

''(4) SPECIAL RULES FOR CERTAIN RECEIVABLES.—

''(A) IN GENERAL.—Paragraph (2)(C) shall not include any note, bond, debenture, or other evidence of indebtedness which is nonfinancial customer paper.

''(B) NONFINANCIAL CUSTOMER PAPER.—For purposes of subparagraph (A), the term 'nonfinancial customer paper' means any receivable—

''(i) arising out of the sale of goods or services by a person the principal activity of which is the selling or providing of nonfinancial goods and services, and

''(ii) held by such person (or a person who bears a relationship to such person described in section 267(b) or 707(b)) at all times since issue.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by the amendments made by this section to change its method of accounting for its first taxable year ending 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 of the Treasury, 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. 5006. INCLUSION OF ROTAVIRUS GASTROENTERITIS TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(1) (defining taxable vaccine) is amended by adding at the end the following new subparagraph:

''(K) Any vaccine against rotavirus gastroenteritis.''

(b) EFFECTIVE DATE.—

(1) SALES.—The amendment made by this section shall apply to sales after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1), in the case of sales on or before the date of the enactment of this Act for which delivery is made after such date, the delivery date shall be considered the sale date.

TITLE VI—TECHNICAL CORRECTIONS

SEC. 6001. SHORT TITLE.

This title may be cited as the ''Tax Technical Corrections Act of 1998''.

SEC. 6002. DEFINITIONS.

For purposes of this title—

(1) 1986 CODE.—The term ''1986 Code'' means the Internal Revenue Code of 1986.

(2) 1997 ACT.—The term ''1997 Act'' means the Taxpayer Relief Act of 1997.

SEC. 6003. AMENDMENTS RELATED TO TITLE I OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 101(a) OF 1997 ACT.—

(1) Subsection (d) of section 24 of the 1986 Code is amended—

(A) by striking paragraphs (3) and (4),

(B) by redesignating paragraph (5) as paragraph (3), and

(C) by striking paragraphs (1) and (2) and inserting the following new paragraphs:

''(1) IN GENERAL.—In the case of a taxpayer with 3 or more qualifying children for any taxable year, the aggregate credits allowed under subpart C shall be increased by the lesser of—

''(A) the credit which would be allowed under this section without regard to this subsection and the limitation under section 26(a), or

''(B) the amount by which the aggregate amount of credits allowed by this subpart (without regard to this subsection) would increase if the limitation imposed by section 26(a) were increased by the excess (if any) of—

''(i) the taxpayer's social security taxes for the taxable year, over

''(ii) the credit allowed under section 32 (determined without regard to subsection (n)) for the taxable year.

The amount of the credit allowed under this subsection shall not be treated as a credit allowed under this subpart and shall reduce the amount of credit otherwise allowable under subsection (a) without regard to section 26(a).

''(2) REDUCTION OF CREDIT TO TAXPAYER SUBJECT TO ALTERNATIVE MINIMUM TAX.—The credit determined under this subsection for the taxable year shall be reduced by the excess (if any) of—

''(A) the amount of tax imposed by section 55 (relating to alternative minimum tax) with respect to such taxpayer for such taxable year, over

''(B) the amount of the reduction under section 32(h) with respect to such taxpayer for such taxable year.''

(2) Paragraph (3) of section 24(d) of the 1986 Code (as redesignated by paragraph (1)) is amended by striking ''paragraph (3)'' and inserting ''paragraph (1)''.

(b) AMENDMENTS RELATED TO SECTION 101(b) OF 1997 ACT.—

(1) The subsection (m) of section 32 of the 1986 Code added by section 101(b) of the 1997 Act is amended to read as follows:

''(n) SUPPLEMENTAL CHILD CREDIT.—

''(1) IN GENERAL.—In the case of a taxpayer with respect to whom a credit is allowed under section 24(a) for the taxable year, the credit otherwise allowable under this section shall be increased by the lesser of—

''(A) the excess of—

''(i) the credits allowed under subpart A (determined after the application of section 26 and without regard to this subsection), over

''(ii) the credits which would be allowed under subpart A after the application of section 26, determined without regard to section 24 and this subsection, or

''(B) the excess of—

''(i) the sum of the credits allowed under this part (determined without regard to sections 31, 33, and 34 and this subsection), over

''(ii) the sum of the regular tax and the social security taxes (as defined in section 24(d)).

The credit determined under this subsection shall be allowed without regard to any other provision of this section, including subsection (d).

''(2) COORDINATION WITH OTHER CREDITS.—The amount of the credit under this subsection shall reduce the amount of the credits otherwise allowable under subpart A for the taxable year (determined after the application of section 26), but the amount of the credit under this subsection (and such reduction) shall not be taken into account in determining the amount of any other credit allowable under this part.''.

SEC. 6004. AMENDMENTS RELATED TO TITLE II OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 201 OF 1997 ACT.—

(1) The item relating to section 25A in the table of sections for subpart A of part IV of subchapter A of chapter 1 of the 1986 Code is amended to read as follows:

''Sec. 25A. Hope and Lifetime Learning credits.''

(2) Subsection (a) of section 6050S of the 1986 Code is amended to read as follows:

''(a) IN GENERAL.—Any person—

''(1) which is an eligible educational institution—

''(A) which receives payments for qualified tuition and related expenses with respect to any individual for any calendar year, or

''(B) which makes reimbursements or refunds (or similar amounts) to any individual of qualified tuition and related expenses,

''(2) which is engaged in a trade or business of making payments to any individual under an insurance arrangement as reimbursements or refunds (or similar amounts) of qualified tuition and related expenses, or

''(3) except as provided in regulations, which is engaged in a trade or business and, in the course of which, receives from any individual interest aggregating $600 or more for any calendar year on 1 or more qualified education loans,

shall make the return described in subsection (b) with respect to the individual at such time as the Secretary may by regulations prescribe.''

(3) Subparagraph (A) of section 201(c)(2) of the 1997 Act is amended to read as follows:

''(A) Subparagraph (B) of section 6724(d)(1) (relating to definitions) is amended by redesignating clauses (x) through (xv) as clauses (xi) through (xvi), respectively, and by inserting after clause (ix) the following new clause:

''''(x) section 6050S (relating to returns relating to payments for qualified tuition and related expenses),'''.

(b) AMENDMENT RELATED TO SECTION 202 OF 1997 ACT.—Paragraph (1) of section 221(e) of the 1986 Code is amended by inserting ''by the taxpayer'' after ''incurred'' the first place it appears.

(c) AMENDMENTS RELATED TO SECTION 211 OF 1997 ACT.—

(1) Paragraph (3) of section 135(c) of the 1986 Code is amended to read as follows:

''(3) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' has the meaning given such term by section 529(e)(5).''

(2) Subparagraph (A) of section 529(c)(3) of the 1986 Code is amended by striking ''section 72(b)'' and inserting ''section 72''.

(3) Paragraph (2) of section 529(e) of the 1986 Code is amended to read as follows:

''(2) MEMBER OF FAMILY.—The term 'member of the family' means, with respect to any designated beneficiary—

''(A) the spouse of such beneficiary,

''(B) an individual who bears a relationship to such beneficiary which is described in paragraphs (1) through (8) of section 152(a), and

''(C) the spouse of any individual described in subparagraph (B).''

(d) AMENDMENTS RELATED TO SECTION 213 OF 1997 ACT.—

(1) Section 530(b)(1) of the 1986 Code (defining education individual retirement account) is amended by inserting ''an individual who is'' before ''the designated beneficiary'' in the material preceding subparagraph (A).

(2)(A) Section 530(b)(1)(E) of the 1986 Code (defining education individual retirement account) is amended to read as follows:

''(E) Except as provided in subsection (d)(7), any balance to the credit of the designated beneficiary on the date on which the beneficiary attains age 30 shall be distributed within 30 days after such date to the beneficiary or, if the beneficiary dies before attaining age 30, shall be distributed within 30 days after the date of death of such beneficiary.''

(B) Paragraph (7) of section 530(d) of the 1986 Code is amended by inserting at the end the following new sentence: ''In applying the preceding sentence, members of the family of the designated beneficiary shall be treated in the same manner as the spouse under such paragraph (8).''

(C) Subsection (d) of section 530 of the 1986 Code is amended by adding at the end the following new paragraph:

''(8) DEEMED DISTRIBUTION ON REQUIRED DISTRIBUTION DATE.—In any case in which a distribution is required under subsection (b)(1)(E), any balance to the credit of a designated beneficiary as of the close of the 30-day period referred to in such subsection for making such distribution shall be deemed distributed at the close of such period.''

(3)(A) Paragraph (1) of section 530(d) of the 1986 Code is amended by striking ''section 72(b)'' and inserting ''section 72''.

(B) Subsection (e) of section 72 of the 1986 Code is amended by inserting after paragraph (8) the following new paragraph:

''(9) EXTENSION OF PARAGRAPH (2)(B) TO QUALIFIED STATE TUITION PROGRAMS AND EDUCATIONAL INDIVIDUAL RETIREMENT ACCOUNTS.—Notwithstanding any other provision of this subsection, paragraph (2)(B) shall apply to amounts received under a qualified State tuition program (as defined in section 529(b)) or under an education individual retirement account (as defined in section 530(b)). The rule of paragraph (8)(B) shall apply for purposes of this paragraph.''

(4) Paragraph (2) of section 135(d) of the 1986 Code is amended to read as follows:

''(2) COORDINATION WITH OTHER HIGHER EDUCATION BENEFITS.—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—

''(A) 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, and

''(B) the amount of such expenses which are taken into account in determining the exclusion under section 530(d)(2).''

(5) Section 530(d)(2) (relating to distributions for qualified higher education expenses) is amended by adding at the end the following new subparagraph:

''(D) DISALLOWANCE OF EXCLUDED AMOUNTS AS CREDIT OR DEDUCTION.—No deduction or credit shall be allowed to the taxpayer under any other section of this chapter for any qualified education expenses to the extent taken into account in determining the amount of the exclusion under this paragraph.''

(6) Section 530(d)(4)(B) of the 1986 Code (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by adding at the end the following new clause:

''(iv) an amount which is includible in gross income solely because the taxpayer elected under paragraph (2)(C) to waive the application of paragraph (2) for the taxable year.''

(7) So much of section 530(d)(4)(C) of the 1986 Code as precedes clause (ii) thereof is amended to read as follows:

''(C) CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Subparagraph (A) shall not apply to the distribution of any contribution made during a taxable year on behalf of the designated beneficiary if—

''(i) such distribution is made on or before the day prescribed by law (including extensions of time) for filing the beneficiary's return of tax for the taxable year or, if the beneficiary is not required to file such a return, the 15th day of the 4th month of the taxable year following the taxable year, and''.

(8) Subparagraph (C) of section 135(c)(2) of the 1986 Code is amended—

(A) by inserting ''AND EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS'' in the heading after ''PROGRAM'', and

(B) by striking ''section 529(c)(3)(A)'' and inserting ''section 72''.

(9) Paragraph (1) of section 4973(e) of the 1986 Code is amended to read as follows:

''(1) IN GENERAL.—In the case of education individual retirement accounts maintained for the benefit of any 1 beneficiary, the term 'excess contributions' means the sum of—

''(A) the amount by which the amount contributed for the taxable year to such accounts exceeds $500 (or, if less, the sum of the maximum amounts permitted to be contributed under section 530(c) by the contributors to such accounts for such year),

''(B) if any amount is contributed during such year to a qualified State tuition program for the benefit of such beneficiary, any amount contributed to such accounts for any taxable year, and

''(C) the amount determined under this subsection for the preceding taxable year, reduced by the sum of—

''(i) the distributions out of the accounts for the taxable year which are included in gross income, and

''(ii) the excess (if any) of the maximum amount which may be contributed to the accounts for the taxable year (other than excess contributions within the meaning of subparagraphs (A) and (B)) over the amount contributed to the accounts for the taxable year.''

(e) AMENDMENTS RELATED TO SECTION 224 OF 1997 ACT.—

(1) Clauses (vi) and (vii) of section 170(e)(6)(B) of the 1986 Code are each amended by striking ''entity's'' and inserting ''donee's''.

(2) Clause (iv) of section 170(e)(6)(B) of the 1986 Code is amended by striking ''organization or entity'' and inserting ''donee''.

(3) Subclause (I) of section 170(e)(6)(C)(ii) of the 1986 Code is amended by striking ''an entity'' and inserting ''a donee''.

(4) Section 170(e)(6)(F) of the 1986 Code (relating to termination) is amended by striking ''1999'' and inserting ''2000''.

(f) AMENDMENTS RELATED TO SECTION 225 OF 1997 ACT.—

(1) The last sentence of section 108(f)(2) of the 1986 Code is amended to read as follows:

''The term 'student loan' includes any loan made by an educational organization described in section 170(b)(1)(A)(ii) or by an organization exempt from tax under section 501(a) to refinance a loan to an individual to assist the individual in attending any such educational organization but only if the refinancing loan is pursuant to a program of the refinancing organization which is designed as described in subparagraph (D)(ii).''

(2) Section 108(f)(3) of the 1986 Code is amended by striking ''(or by an organization described in paragraph (2)(E) from funds provided by an organization described in paragraph (2)(D))''.

(g) AMENDMENTS RELATED TO SECTION 226 OF 1997 ACT.—

(1) Section 226(a) of the 1997 Act is amended by striking ''section 1397E'' and inserting ''section 1397D''.

(2) Section 1397E(d)(4)(B) of the 1986 Code is amended by striking ''local education agency as defined'' and inserting ''local educational agency as defined''.

(3) Section 1397E is amended by adding at the end the following new subsection:

''(h) CREDIT TREATED AS ALLOWED UNDER PART IV OF SUBCHAPTER A.—For purposes of subtitle F, the credit allowed by this section shall be treated as a credit allowable under part IV of subchapter A of this chapter.''

SEC. 6005. AMENDMENTS RELATED TO TITLE III OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 301 OF 1997 ACT.—

(1) Section 219(g) of the 1986 Code is amended—

(A) by inserting ''or the individual's spouse'' after ''individual'' in paragraph (1), and

(B) by striking paragraph (7) and inserting:

''(7) SPECIAL RULE FOR SPOUSES WHO ARE NOT ACTIVE PARTICIPANTS.—If this subsection applies to an individual for any taxable year solely because their spouse is an active participant, then, in applying this subsection to the individual (but not their spouse)—

''(A) the applicable dollar amount under paragraph (3)(B)(i) shall be $150,000, and

''(B) the amount applicable under paragraph (2)(A)(ii) shall be $10,000.''

(2) Paragraph (2) of section 301(a) of the 1997 Act is amended by inserting ''after '$10,000' '' before the period.

(b) AMENDMENTS RELATED TO SECTION 302 OF 1997 ACT.—

(1) Section 408A(c)(3)(A) of the 1986 Code is amended by striking ''shall be reduced'' and inserting ''shall not exceed an amount equal to the amount determined under paragraph (2)(A) for such taxable year, reduced''.

(2) Section 408A(c)(3) of the 1986 Code (relating to limits based on modified adjusted gross income) is amended—

(A) by inserting ''or a married individual filing a separate return'' after ''joint return'' in subparagraph (A)(ii),

(B) in subparagraph (B)—

(i) by inserting '', for the taxable year of the distribution to which such contribution relates'' after ''if'', and

(ii) by striking ''for such taxable year'' in clause (i), and

(C) by striking ''and the deduction under section 219 shall be taken into account'' in subparagraph (C)(i).

(3)(A) Section 408A(d)(2) of the 1986 Code (defining qualified distribution) is amended by striking subparagraph (B) and inserting the following:

''(B) DISTRIBUTIONS WITHIN NONEXCLUSION PERIOD.—A payment or distribution from a Roth IRA shall not be treated as a qualified distribution under subparagraph (A) if such payment or distribution is made within the 5-taxable year period beginning with the 1st taxable year for which the individual made a contribution to a Roth IRA (or such individual's spouse made a contribution to a Roth IRA) established for such individual.''

(B) Section 408A(d)(2) of the 1986 Code is amended by adding at the end the following new subparagraph:

''(C) DISTRIBUTIONS OF EXCESS CONTRIBUTIONS AND EARNINGS.—The term 'qualified distribution' shall not include any distribution of any contribution described in section 408(d)(4) and any net income allocable to the contribution.''

(4) Section 408A(d)(3) of the 1986 Code (relating to rollovers from IRAs other than Roth IRAs) is amended—

(A) by striking clause (iii) of subparagraph (A) and inserting:

''(iii) unless the taxpayer elects not to have this clause apply for any taxable year, any amount required to be included in gross income for such taxable year by reason of this paragraph for any distribution before January 1, 1999, shall be so included ratably over the 4-taxable year period beginning with such taxable year.

Any election under clause (iii) for any distributions during a taxable year may not be changed after the due date for such taxable year.''; and

(B) by adding at the end the following:

''(F) SPECIAL RULES FOR CONTRIBUTIONS TO WHICH 4-YEAR AVERAGING APPLIES.—In the case of a qualified rollover contribution to a Roth IRA of a distribution to which subparagraph (A)(iii) applied, the following rules shall apply:

''(i) ACCELERATION OF INCLUSION.—

''(I) IN GENERAL.—The amount required to be included in gross income for each of the first 3 taxable years in the 4-year period under subparagraph (A)(iii) shall be increased by the aggregate distributions from Roth IRAs for such taxable year which are allocable under paragraph (4) to the portion of such qualified rollover contribution required to be included in gross income under subparagraph (A)(i).

''(II) LIMITATION ON AGGREGATE AMOUNT INCLUDED.—The amount required to be included in gross income for any taxable year under subparagraph (A)(iii) shall not exceed the aggregate amount required to be included in gross income under subparagraph (A)(iii) for all taxable years in the 4-year period (without regard to subclause (I)) reduced by amounts included for all preceding taxable years.

''(ii) DEATH OF DISTRIBUTEE.—

''(I) IN GENERAL.—If the individual required to include amounts in gross income under such subparagraph dies before all of such amounts are included, all remaining amounts shall be included in gross income for the taxable year which includes the date of death.

''(II) SPECIAL RULE FOR SURVIVING SPOUSE.—If the spouse of the individual described in subclause (I) acquires the individual's entire interest in any Roth IRA to which such qualified rollover contribution is properly allocable, the

spouse may elect to treat the remaining amounts described in subclause (I) as includible in the spouse's gross income in the taxable years of the spouse ending with or within the taxable years of such individual in which such amounts would otherwise have been includible. Any such election may not be made or changed after the due date for the spouse's taxable year which includes the date of death.

''(G) SPECIAL RULE FOR APPLYING SECTION 72.—

''(i) IN GENERAL.—If—

''(I) any portion of a distribution from a Roth IRA is properly allocable to a qualified rollover contribution described in this paragraph, and

''(II) such distribution is made within the 5-taxable year period beginning with the taxable year in which such contribution was made,

then section 72(t) shall be applied as if such portion were includible in gross income.

''(ii) LIMITATION.—Clause (i) shall apply only to the extent of the amount of the qualified rollover contribution includible in gross income under subparagraph (A)(i).''

(5)(A) Section 408A(d)(4) of the 1986 Code is amended to read as follows:

''(4) AGGREGATION AND ORDERING RULES.—

''(A) AGGREGATION RULES.—Section 408(d)(2) shall be applied separately with respect to Roth IRAs and other individual retirement plans.

''(B) ORDERING RULES.—For purposes of applying this section and section 72 to any distribution from a Roth IRA, such distribution shall be treated as made—

''(i) from contributions to the extent that the amount of such distribution, when added to all previous distributions from the Roth IRA, does not exceed the aggregate contributions to the Roth IRA, and

''(ii) from such contributions in the following order:

''(I) Contributions other than qualified rollover contributions to which paragraph (3) applies.

''(II) Qualified rollover contributions to which paragraph (3) applies on a first-in, first-out basis.

Any distribution allocated to a qualified rollover contribution under clause (ii)(II) shall be allocated first to the portion of such contribution required to be included in gross income.''

(B) Section 408A(d)(1) of the 1986 Code is amended to read as follows:

''(1) EXCLUSION.—Any qualified distribution from a Roth IRA shall not be includible in gross income.''

(6)(A) Section 408A(d) of the 1986 Code (relating to distribution rules) is amended by adding at the end the following:

''(6) TAXPAYER MAY MAKE ADJUSTMENTS BEFORE DUE DATE.—

''(A) IN GENERAL.—Except as provided by the Secretary, if, on or before the due date for any taxable year, a taxpayer transfers in a trustee-to-trustee transfer any contribution to an individual retirement plan made during such taxable year from such plan to any other individual retirement plan, then, for purposes of this chapter, such contribution shall be treated as having been made to the transferee plan (and not the transferor plan).

''(B) SPECIAL RULES.—

''(i) TRANSFER OF EARNINGS.—Subparagraph (A) shall not apply to the transfer of any contribution unless such transfer is accompanied by any net income allocable to such contribution.

''(ii) NO DEDUCTION.—Subparagraph (A) shall apply to the transfer of any contribution only to the extent no deduction was allowed with respect to the contribution to the transferor plan.''

(B) Section 408A(d)(3) of the 1986 Code, as amended by this subsection, is amended by striking subparagraph (D) and by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively.

(7) Section 408A(d) of the 1986 Code, as amended by paragraph (6), is amended by adding at the end the following new paragraph:

''(7) DUE DATE.—For purposes of this subsection, the due date for any taxable year is the date prescribed by law (including extensions of time) for filing the taxpayer's return for such taxable year.''

(8)(A) Section 4973(f) of the 1986 Code is amended—

(i) by striking ''such accounts'' in paragraph (1)(A) and inserting ''Roth IRAs'', and

(ii) by striking ''to the accounts'' in paragraph (2)(B) and inserting ''by the individual to all individual retirement plans''.

(B) Section 4973(b) of the 1986 Code is amended—

(i) by inserting ''a contribution to a Roth IRA or'' after ''other than'' in paragraph (1)(A), and

(ii) by inserting ''(including the amount contributed to a Roth IRA)'' after ''annuities'' in paragraph (2)(C).

(C) Section 302(b) of the 1997 Act is amended by striking ''Section 4973(b)'' and inserting ''Section 4973''.

(9) Section 408A of the 1986 Code is amended by adding at the end the following new subsection:

''(f) INDIVIDUAL RETIREMENT PLAN.—For purposes of this section—

''(1) a simplified employee pension or a simple retirement account may not be designated as a Roth IRA, and

''(2) contributions to any such pension or account shall not be taken into account for purposes of subsection (c)(2)(B).''

(c) AMENDMENTS RELATED TO SECTION 303 OF 1997 ACT.—

(1) Section 72(t)(8)(E) of the 1986 Code is amended—

(A) by striking ''120 days'' and inserting ''120th day'', and

(B) by striking ''60 days'' and inserting ''60th day''.

(2)(A) Section 402(c)(4) of the 1986 Code is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', by inserting at the end the following new subparagraph:

''(C) any hardship distribution described in section 401(k)(2)(B)(i)(IV).''

(B) Section 403(b)(8)(B) of the 1986 Code is amended by inserting ''(including paragraph (4)(C) thereof)'' after ''section 402(c)''.

(C) The amendments made by this paragraph shall apply to distributions after December 31, 1998.

(d) AMENDMENTS RELATED TO SECTION 311 OF 1997 ACT.—

(1) Subsection (h) of section 1 of the 1986 Code (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) 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 lesser of—

''(I) the amount of taxable income taxed at a rate below 28 percent, or

''(II) taxable income reduced by the adjusted net capital gain,

''(B) 10 percent of so much of the 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 below 28 percent, over

''(ii) the taxable income reduced by the adjusted net capital gain,

''(C) 20 percent of the adjusted net capital gain (or, if less, taxable income) in excess of the amount on which a tax is determined under subparagraph (B),

''(D) 25 percent of the excess (if any) of—

''(i) the unrecaptured section 1250 gain (or, if less, the net capital gain), over

''(ii) the excess (if any) of—

''(I) the sum of the amount on which tax is determined under subparagraph (A) plus the net capital gain, over

''(II) taxable income, and

''(E) 28 percent of the amount of taxable income in excess of the sum of the amounts on which tax is determined under the preceding subparagraphs of this paragraph.

''(2) REDUCED CAPITAL GAIN RATES FOR QUALIFIED 5-YEAR GAIN.—

''(A) REDUCTION IN 10-PERCENT RATE.—In the case of any taxable year beginning after December 31, 2000, the rate under paragraph (1)(B) shall be 8 percent with respect to so much of the amount to which the 10-percent rate would otherwise apply as does not exceed qualified 5-year gain, and 10 percent with respect to the remainder of such amount.

''(B) REDUCTION IN 20-PERCENT RATE.—The rate under paragraph (1)(C) shall be 18 percent with respect to so much of the amount to which the 20-percent rate would otherwise apply as does not exceed the lesser of—

''(i) the excess of qualified 5-year gain over the amount of such gain taken into account under subparagraph (A) of this paragraph, or

''(ii) the amount of qualified 5-year gain (determined by taking into account only property the holding period for which begins after December 31, 2000),

and 20 percent with respect to the remainder of such amount. For purposes of determining under the preceding sentence whether the holding period of property begins after December 31, 2000, the holding period of property acquired pursuant to the exercise of an option (or other right or obligation to acquire property) shall include the period such option (or other right or obligation) was held.

''(3) 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).

''(4) ADJUSTED NET CAPITAL GAIN.—For purposes of this subsection, the term 'adjusted net capital gain' means net capital gain reduced (but not below zero) by the sum of—

''(A) unrecaptured section 1250 gain, and

''(B) 28 percent rate gain.

''(5) 28 PERCENT RATE GAIN.—For purposes of this subsection—

''(A) IN GENERAL.—The term '28 percent rate gain' means the excess (if any) of—

''(i) the sum of—

''(I) the aggregate long-term capital gain from property held for more than 1 year but not more than 18 months,

''(II) collectibles gain, and

''(III) section 1202 gain, over

''(ii) the sum of—

''(I) the aggregate long-term capital loss (not described in subclause (IV)) from property referred to in clause (i)(I),

''(II) collectibles loss,

''(III) the net short-term capital loss, and

''(IV) the amount of long-term capital loss carried under section 1212(b)(1)(B) to the taxable year.

''(B) SPECIAL RULES.—

''(i) SHORT SALE GAINS AND HOLDING PERIODS.—Rules similar to the rules of section 1233(b) shall apply where the substantially identical property has been held more than 1 year but not more than 18 months; except that, for purposes of such rules—

''(I) section 1233(b)(1) shall be applied by substituting '18 months' for '1 year' each place it appears, and

''(II) the holding period of such property shall be treated as being 1 year on the day before the earlier of the date of the closing of the short sale or the date such property is disposed of.

''(ii) LONG-TERM LOSSES.—Section 1233(d) shall be applied separately by substituting '18 months' for '1 year' each place it appears.

''(iii) OPTIONS.—A rule similar to the rule of section 1092(f) shall apply where the stock was held for more than 18 months.

''(iv) SECTION 1256 CONTRACTS.—Amounts treated as long-term capital gain or loss under section 1256(a)(3) shall be treated as attributable to property held for more than 18 months.

''(6) COLLECTIBLES GAIN AND LOSS.—For purposes of this subsection—

''(A) IN GENERAL.—The terms 'collectibles gain' and 'collectibles loss' mean gain or loss (respectively) 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 18 months but only to the extent such gain is taken into account in computing gross income and such loss is taken into account in computing taxable income.

''(B) 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.

''(7) UNRECAPTURED SECTION 1250 GAIN.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'unrecaptured section 1250 gain' means the excess (if any) of—

''(i) the amount of long-term capital gain (not otherwise treated as ordinary income) which would be treated as ordinary income if—

''(I) section 1250(b)(1) included all depreciation and the applicable percentage under section 1250(a) were 100 percent, and

''(II) only gain from property held for more than 18 months were taken into account, over

''(ii) the excess (if any) of—

''(I) the amount described in paragraph (5)(A)(ii), over

''(II) the amount described in paragraph (5)(A)(i).

''(B) LIMITATION WITH RESPECT TO SECTION 1231 PROPERTY.—The amount described in subparagraph (A)(i) from sales, exchanges, and conversions described in section 1231(a)(3)(A) for any taxable year shall not exceed the net section 1231 gain (as defined in section 1231(c)(3)) for such year.

''(8) SECTION 1202 GAIN.—For purposes of this subsection, the term 'section 1202 gain' means an amount equal to the gain excluded from gross income under section 1202(a).

''(9) QUALIFIED 5-YEAR GAIN.—For purposes of this subsection, the term 'qualified 5-year gain' means the aggregate long-term capital gain from property held for more than 5 years. The determination under the preceding sentence shall be made without regard to collectibles gain, gain described in paragraph (7)(A)(i), and section 1202 gain.

''(10) COORDINATION WITH RECAPTURE OF NET ORDINARY LOSSES UNDER SECTION 1231.—If any amount is treated as ordinary income under section 1231(c), such amount shall be allocated among the separate categories of net section 1231 gain (as defined in section 1231(c)(3)) in such manner as the Secretary may by forms or regulations prescribe.

''(11) REGULATIONS.—The Secretary may prescribe such regulations as are appropriate (including regulations requiring reporting) to apply this subsection in the case of sales and exchanges by pass-thru entities and of interests in such entities.

''(12) PASS-THRU ENTITY DEFINED.—For purposes of this subsection, the term 'pass-thru entity' means—

''(A) a regulated investment company,

''(B) a real estate investment trust,

''(C) an S corporation,

''(D) a partnership,

''(E) an estate or trust,

''(F) a common trust fund,

''(G) a foreign investment company which is described in section 1246(b)(1) and for which an election is in effect under section 1247, and

''(H) a qualified electing fund (as defined in section 1295).

''(13) SPECIAL RULES FOR PERIODS DURING 1997.—

''(A) DETERMINATION OF 28 PERCENT RATE GAIN.—In applying paragraph (5)—

''(i) the amount determined under subclause (I) of paragraph (5)(A)(i) shall include long-term capital gain (not otherwise described in paragraph (5)(A)(i)) which is properly taken into account for the portion of the taxable year before May 7, 1997,

''(ii) the amounts determined under subclause (I) of paragraph (5)(A)(ii) shall include long-term capital loss (not otherwise described in paragraph (5)(A)(ii)) which is properly taken into account for the portion of the taxable year before May 7, 1997, and

''(iii) clauses (i)(I) and (ii)(I) of paragraph (5)(A) shall be applied by not taking into account any gain and loss on property held for more than 1 year but not more than 18 months which is properly taken into account for the portion of the taxable year after May 6, 1997, and before July 29, 1997.

''(B) OTHER SPECIAL RULES.—

''(i) DETERMINATION OF UNRECAPTURED SECTION 1250 GAIN NOT TO INCLUDE PRE-MAY 7, 1997 GAIN.—The amount determined under paragraph (7)(A)(i) shall not include gain properly taken into account for the portion of the taxable year before May 7, 1997.

''(ii) OTHER TRANSITIONAL RULES FOR 18-MONTH HOLDING PERIOD.—Paragraphs (6)(A) and (7)(A)(i)(II) shall be applied by substituting '1 year' for '18 months' with respect to gain properly taken into account for the portion of the taxable year after May 6, 1997, and before July 29, 1997.

''(C) SPECIAL RULES FOR PASS-THRU ENTITIES.—In applying this paragraph 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.''

(2) Paragraph (3) of section 55(b) of the 1986 Code is amended to read as follows:

''(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 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 lesser of—

''(i) the net capital gain, or

''(ii) the sum of—

''(I) the adjusted net capital gain, plus

''(II) the unrecaptured section 1250 gain, plus

''(B) 10 percent of so much of the 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) 20 percent of the adjusted net capital gain (or, if less, taxable excess) in excess of the amount on which tax is determined under subparagraph (B), plus

''(D) 25 percent of the amount of taxable excess in excess of the sum of the amounts on which tax is determined under the preceding subparagraphs of this paragraph.

In the case of taxable years beginning after December 31, 2000, rules similar to the rules of section 1(h)(2) shall apply for purposes of subparagraphs (B) and (C). Terms used in this paragraph which are also used in section 1(h) shall have the respective meanings given such terms by section 1(h) but computed with the adjustments under this part.''

(3) Section 57(a)(7) of the 1986 Code is amended by adding at the end the following new sentence: ''In the case of stock the holding period of which begins after December 31, 2000 (determined with the application of the last sentence of section 1(h)(2)(B)), the preceding sentence shall be applied by substituting '28 percent' for '42 percent'.''

(4) Paragraphs (11) and (12) of section 1223, and section 1235(a), of the 1986 Code are each amended by striking ''1 year'' each place it appears and inserting ''18 months''.

(e) AMENDMENTS RELATED TO SECTION 312 OF 1997 ACT.—

(1) Paragraph (2) of section 121(b) of the 1986 Code is amended to read as follows:

''(2) SPECIAL RULES FOR JOINT RETURNS.—In the case of a husband and wife who make a joint return for the taxable year of the sale or exchange of the property—

''(A) $500,000 LIMITATION FOR CERTAIN JOINT RETURNS.—Paragraph (1) shall be applied by substituting '$500,000' for '$250,000' if—

''(i) either spouse meets the ownership requirements of subsection (a) with respect to such property,

''(ii) both spouses meet the use requirements of subsection (a) with respect to such property, and

''(iii) neither spouse is ineligible for the benefits of subsection (a) with respect to such property by reason of paragraph (3).

''(B) OTHER JOINT RETURNS.—If such spouses do not meet the requirements of subparagraph (A), the limitation under paragraph (1) shall be the sum of the limitations under paragraph (1) to which each spouse would be entitled if such spouses had not been married. For purposes of the preceding sentence, each spouse shall be treated as owning the property during the period that either spouse owned the property.''

(2) Section 121(c)(1) of the 1986 Code is amended to read as follows:

''(1) IN GENERAL.—In the case of a sale or exchange to which this subsection applies, the ownership and use requirements of subsection (a), and subsection (b)(3), shall not apply; but the dollar limitation under paragraph (1) or (2) of subsection (b), whichever is applicable, shall be equal to—

''(A) the amount which bears the same ratio to such limitation (determined without regard to this paragraph) as

''(B)(i) 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

''(ii) 2 years.''

(3) Section 312(d)(2) of the 1997 Act (relating to sales before date of the enactment) is amended by inserting ''on or'' before ''before'' each place it appears in the text and heading.

(f) AMENDMENT RELATED TO SECTION 313 OF 1997 ACT.—Section 1045 of the 1986 Code is amended by adding at the end the following new subsection:

''(c) LIMITATION ON APPLICATION TO PARTNERSHIPS AND S CORPORATIONS.—Subsection (a) shall apply to a partnership or S corporation for a taxable year only if at all times during such taxable year all of the partners in the partnership, or all of the shareholders of the S corporation, are natural persons, estates, or trusts (other than trusts having any beneficiary which is a C corporation).''

SEC. 6006. AMENDMENT RELATED TO TITLE IV OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 401 OF 1997 ACT.—Paragraph (1) of section 55(e) of the 1986 Code is amended to read as follows:

''(1) IN GENERAL.—

''(A) $7,500,000 GROSS RECEIPTS TEST.—The tentative minimum tax of a corporation shall be zero for any taxable year if the corporation's average annual gross receipts for all 3-taxable-year periods ending before such taxable year

does not exceed $7,500,000. For purposes of the preceding sentence, only taxable years beginning after December 31, 1993, shall be taken into account.

''(B) $5,000,000 GROSS RECEIPTS TEST FOR FIRST 3-YEAR PERIOD.—Subparagraph (A) shall be applied by substituting '$5,000,000' for '$7,500,000' for the first 3-taxable-year period (or portion thereof) of the corporation which is taken into account under subparagraph (A).

''(C) FIRST TAXABLE YEAR CORPORATION IN EXISTENCE.—If such taxable year is the first taxable year that such corporation is in existence, the tentative minimum tax of such corporation for such year shall be zero.

''(D) SPECIAL RULES.—For purposes of this paragraph, the rules of paragraphs (2) and (3) of section 448(c) shall apply.''

(b) AMENDMENT RELATED TO SECTION 402 OF 1997 ACT.—Subsection (c) of section 168 of the 1986 Code is amended—

(1) by striking paragraph (2), and

(2) by striking the portion of such subsection preceding the table in paragraph (1) and inserting the following:

''(c) APPLICABLE RECOVERY PERIOD.—For purposes of this section, the applicable recovery period shall be determined in accordance with the following table:''.

SEC. 6007. AMENDMENTS RELATED TO TITLE V OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 501 OF 1997 ACT.—

(1) Paragraph (2) of section 2001(c) of the 1986 Code is amended by striking ''$10,000,000'' and all that follows and inserting ''$10,000,000. The amount of the increase under the preceding sentence shall not exceed the sum of the applicable credit amount under section 2010(c) (determined without regard to section 2057(a)(3), and $359,200.''

(2) Subsection (c) of section 2631 of the 1986 Code is amended to read as follows:

''(c) INFLATION ADJUSTMENT.—

''(1) IN GENERAL.—In the case of any calendar year after 1998, the $1,000,000 amount contained in subsection (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.

''(2) ALLOCATION OF INCREASE.—Any increase under paragraph (1) for any calendar year shall apply only to generation-skipping transfers made during or after such calendar year; except that no such increase for calendar years after the calendar year in which the transferor dies shall apply to transfers by such transferor.''

(3) Subsection (f) of section 501 of the 1997 Act is amended by inserting ''(other than the amendment made by subsection (d))'' after ''this section''.

(b) AMENDMENTS RELATED TO SECTION 502 OF 1997 ACT.—

(1)(A) Section 2033A of the 1986 Code is hereby moved to the end of part IV of subchapter A of chapter 11 of the 1986 Code and redesignated as section 2057.

(B) So much of such section 2057 (as so redesignated) as precedes subsection (b) thereof is amended to read as follows:

''SEC. 2057. FAMILY-OWNED BUSINESS INTERESTS.

''(a) GENERAL RULE.—

''(1) ALLOWANCE OF DEDUCTION.—For purposes of the tax imposed by section 2001, in the case of an estate of a decedent to which this section applies, the value of the taxable estate shall be determined by deducting from the value of the gross estate the adjusted value of the qualified family-owned business interests of the decedent which are described in subsection (b)(2).

''(2) MAXIMUM DEDUCTION.—The deduction allowed by this section shall not exceed $675,000.

''(3) COORDINATION WITH UNIFIED CREDIT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), if this section applies to an estate, the applicable exclusion amount under section 2010 shall be $625,000.

''(B) INCREASE IN UNIFIED CREDIT IF DEDUCTION IS LESS THAN $675,000.—If the deduction allowed by this section is less than $675,000, the amount of the applicable exclusion amount under section 2010 shall be increased (but not above the amount which would apply to the estate without regard to this section) by the excess of $675,000 over the amount of the deduction allowed.''

(C) Subparagraph (A) of section 2057(b)(2) of the 1986 Code (as so redesignated) is amended by striking ''(without regard to this section)''.

(D) Subsection (c) of section 2057 of the 1986 Code (as so redesignated) is amended by striking ''(determined without regard to this section)''.

(E) The table of sections for part III of subchapter A of chapter 11 of the 1986 Code is amended by striking the item relating to section 2033A.

(F) The table of sections for part IV of such subchapter is amended by adding at the end the following new item:

''Sec. 2057. Family-owned business interests.''

(2) Section 2057(b)(3) of the 1986 Code (as so redesignated) is amended to read as follows:

''(3) INCLUDIBLE GIFTS OF INTERESTS.—The amount of the gifts of qualified family-owned business interests determined under this paragraph is the sum of—

''(A) the amount of such gifts from the decedent to members of the decedent's family taken into account under section 2001(b)(1)(B), plus

''(B) 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.''

(3)(A) Section 2057(e)(2)(C) of the 1986 Code (as so redesignated) is amended by striking ''(as defined in section 543(a))'' and inserting ''(as defined in section 543(a) without regard to paragraph (2)(B) thereof) if such trade or business were a corporation''.

(B) Clause (ii) of section 2057(e)(2)(D) of the 1986 Code (as so redesignated) is amended by striking ''income of which is described in section 543(a) or'' and inserting ''personal holding company income (as defined in subparagraph (C)) or income described''.

(4) Paragraph (2) of section 2057(f) of the 1986 Code (as so redesignated) is amended—

(A) by striking ''(as determined under rules similar to the rules of section 2032A(c)(2)(B))'', and

(B) by adding at the end the following new subparagraph:

''(C) ADJUSTED TAX DIFFERENCE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—The adjusted tax difference attributable to a qualified family-owned business interest is the amount which bears the same ratio to the adjusted tax difference with respect to the estate (determined under clause (ii)) as the value of such interest bears to the value of all qualified family-owned business interests described in subsection (b)(2).

''(ii) ADJUSTED TAX DIFFERENCE WITH RESPECT TO THE ESTATE.—For purposes of clause (i), the term 'adjusted tax difference with respect to the estate' means the excess of what would have been the estate tax liability but for the election under this section over the estate tax liability. For purposes of this clause, the term 'estate tax liability' means the tax imposed by section 2001 reduced by the credits allowable against such tax.''

(5)(A) Paragraph (1) of section 2057(e) of the 1986 Code (as so redesignated) is amended by adding at the end the following:

''For purposes of the preceding sentence, a decedent shall be treated as engaged in a trade or business if any member of the decedent's family is engaged in such trade or business.''

(B) Subsection (f) of section 2057 of the 1986 Code (as so redesignated) is amended by adding at the end the following new paragraph:

''(3) USE IN TRADE OR BUSINESS BY FAMILY MEMBERS.—A qualified heir shall not be treated as disposing of an interest described in subsection (e)(1)(A) by reason of ceasing to be engaged in a trade or business so long as the property to which such interest relates is used in a trade or business by any member of such individual's family.''

(6) Paragraph (1) of section 2057(g) of the 1986 Code (as so redesignated) is amended by striking ''or (M)''.

(7) Paragraph (3) of section 2057(i) of the 1986 Code (as so redesignated) is amended by redesignating subparagraphs (L), (M), and (N) as subparagraphs (N), (O), and (P), respectively, and by inserting after subparagraph (K) the following new subparagraphs:

''(L) Section 2032A(g) (relating to application to interests in partnerships, corporations, and trusts).

''(M) Subsections (h) and (i) of section 2032A.''

(c) AMENDMENTS RELATED TO SECTION 503 OF THE 1997 ACT.—

(1) Clause (iii) of section 6166(b)(7)(A) of the 1986 Code is amended to read as follows:

''(iii) for purposes of applying section 6601(j), the 2-percent portion (as defined in such section) shall be treated as being zero.''

(2) Clause (iii) of section 6166(b)(8)(A) of the 1986 Code is amended to read as follows:

''(iii) 2-PERCENT INTEREST RATE NOT TO APPLY.—For purposes of applying section 6601(j), the 2-percent portion (as defined in such section) shall be treated as being zero.''

(d) AMENDMENT RELATED TO SECTION 505 OF THE 1997 ACT.—Paragraphs (1) and (2) of section 7479(a) of the 1986 Code are each amended by striking ''an estate,'' and inserting ''an estate (or with respect to any property included therein),''.

(e) AMENDMENTS RELATED TO SECTION 506 OF THE 1997 ACT.—

(1) Paragraph (1) of section 506(e) of the 1997 Act is amended by striking ''and (c)'' and inserting '', (c), and (d)''.

(2)(A) Paragraph (9) of section 6501(c) of the 1986 Code is amended by striking the last sentence.

(B) Subsection (f) of section 2001 of the 1986 Code is amended to read as follows:

''(f) VALUATION OF GIFTS.—

''(1) IN GENERAL—If the time has expired under section 6501 within which a tax may be assessed under chapter 12 (or under corresponding provisions of prior laws) on—

''(A) the transfer of property by gift made during a preceding calendar period (as defined in section 2502(b)), or

''(B) an increase in taxable gifts required under section 2701(d),

the value thereof shall, for purposes of computing the tax under this chapter, be the value as finally determined for purposes of chapter 12.

''(2) FINAL DETERMINATION.—For purposes of paragraph (1), a value shall be treated as finally determined for purposes of chapter 12 if—

''(A) the value is shown on a return under such chapter and such value is not contested by the Secretary before the expiration of the time referred to in paragraph (1) with respect to such return,

''(B) in a case not described in subparagraph (A), the value is specified by the Secretary and such value is not timely contested by the taxpayer, or

''(C) the value is determined by a court or pursuant to a settlement agreement with the Secretary.''

(B) Subsection (c) of section 2504 of the 1986 Code is amended to read as follows:

''(c) VALUATION OF GIFTS.—If the time has expired under section 6501 within which a tax may be assessed under this chapter 12 (or under corresponding provisions of prior laws) on—

''(1) the transfer of property by gift made during a preceding calendar period (as defined in section 2502(b)), or

''(2) an increase in taxable gifts required under section 2701(d),

the value thereof shall, for purposes of computing the tax under this chapter, be the value as finally determined (within the meaning of section 2001(f)(2)) for purposes of this chapter.''

(f) AMENDMENTS RELATED TO SECTION 507 OF 1997 ACT.—

(1) Paragraph (3) of section 1(g) of the 1986 Code is amended by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(2) Section 641 of the 1986 Code is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(3) Paragraph (4) of section 1361(e) of the 1986 Code is amended by striking ''section 641(d)'' and inserting ''section 641(c)''.

(4) Subparagraph (A) of section 6103(e)(1) of the 1986 Code is amended by striking clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(g) AMENDMENTS RELATED TO SECTION 508 OF 1997 ACT.—

(1) Subsection (c) of section 2031 of the 1986 Code is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) TREATMENT OF EASEMENTS GRANTED AFTER DEATH.—In any case in which the qualified conservation easement is granted after the date of the decedent's death and on or before the due date (including extensions) for filing the return of tax imposed by section 2001, the deduction under section 2055(f) with respect to such easement shall be allowed to the estate but only if no charitable deduction is allowed under chapter 1 to any person with respect to the grant of such easement.''

(2) The first sentence of paragraph (6) of section 2031(c) of the 1986 Code is amended by striking all that follows ''shall be made'' and inserting ''on or before the due date (including extensions) for filing the return of tax imposed by section 2001 and shall be made on such return.''

SEC. 6008. AMENDMENTS RELATED TO TITLE VII OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 1400 OF 1986 CODE.—Section 1400(b)(2)(B) of the 1986 Code is amended by inserting ''as determined on the basis of the 1990 census'' after ''percent''.

(b) AMENDMENT RELATED TO SECTION 1400A OF 1986 CODE.—Subsection (a) of section 1400A of the 1986 Code is amended by inserting before the period ''and section 1394(b)(3)(B)(iii) shall be applied without regard to the employee residency requirement''.

(c) AMENDMENTS RELATED TO SECTION 1400B OF 1986 CODE.—

(1) Section 1400B(b) of the 1986 Code is amended by inserting after paragraph (4) the following new paragraph:

''(5) TREATMENT OF DC ZONE TERMINATION.—The termination of the designation of the DC Zone shall be disregarded for purposes of determining whether any property is a DC Zone asset.''

(2) Paragraph (6) of section 1400B(b) of the 1986 Code is amended by striking ''(4)(A)(ii)'' and inserting ''(4)(A)(i) or (ii)''.

(3) Section 1400B(c) of the 1986 Code is amended by striking ''entity which is an''.

(4) Section 1400B(d)(2) of the 1986 Code is amended by inserting ''as determined on the basis of the 1990 census'' after ''percent''.

(d) AMENDMENTS RELATED TO SECTION 1400C OF 1986 CODE.—

(1) Paragraph (1) of section 1400C(b) of the 1986 Code is amended by inserting ''and subsection (d)'' after ''this subsection''.

(2) Paragraph (1) of section 1400C(c) of the 1986 Code is amended to read as follows:

''(1) IN GENERAL.—The term 'first-time homebuyer' means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence in the District of Columbia during the 1-year period ending on the date of the purchase of the principal residence to which this section applies.''

(3) Subparagraph (B) of section 1400C(e)(2) of the 1986 Code is amended by inserting before the period ''on the date the taxpayer first occupies such residence''.

(4) Paragraph (3) of section 1400C(e) of the 1986 Code is amended by striking all that follows ''principal residence'' and inserting ''on the date such residence is purchased.''

(5) Subsection (i) of section 1400C of the 1986 Code is amended to read as follows:

''(i) APPLICATION OF SECTION.—This section shall apply to property purchased after August 4, 1997, and before January 1, 2001.''

(6) Subsection (c) of section 23 of the 1986 Code is amended by inserting ''and section 1400C'' after ''other than this section''.

(7) Subparagraph (C) of section 25(e)(1) of the 1986 Code is amended by striking ''section 23'' and inserting ''sections 23 and 1400C''.

SEC. 6009. AMENDMENTS RELATED TO TITLE IX OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 901 OF 1997 ACT.—Section 9503(c)(7) of the 1986 Code is amended—

(1) by striking ''resulting from the amendments made by'' and inserting ''(and transfers to the Mass Transit Account) resulting from the amendments made by subsections (a) and (b) of section 901 of'', and

(2) by inserting before the period ''and deposits in the Highway Trust Fund (and transfers to the Mass Transit Account) shall be treated as made when they would have been required to be made without regard to section 901(e) of the Taxpayer Relief Act of 1997''.

(b) AMENDMENT RELATED TO SECTION 907 OF 1997 ACT.—Paragraph (2) of section 9503(e) of the 1986 Code is amended by striking the last sentence and inserting the following new sentence: ''For purposes of the preceding sentence, the term 'mass transit portion' means, for any fuel with respect to which tax was imposed under section 4041 or 4081 and deposited into the Highway Trust Fund, the amount determined at the rate of—

''(A) except as otherwise provided in this sentence, 2.86 cents per gallon,

''(B) 1.43 cents per gallon in the case of any partially exempt methanol or ethanol fuel (as defined in section 4041(m)) none of the alcohol in which consists of ethanol,

''(C) 1.86 cents per gallon in the case of liquefied natural gas,

''(D) 2.13 cents per gallon in the case of liquefied petroleum gas, and

''(E) 9.71 cents per MCF (determined at standard temperature and pressure) in the case of compressed natural gas.''

(c) AMENDMENT RELATED TO SECTION 908 OF 1997 ACT.—Paragraph (6) of section 5041(b) of the 1986 Code is amended by inserting ''which is a still wine'' after ''hard cider''.

(d) AMENDMENT RELATED TO SECTION 964 OF 1997 ACT.—

(1) IN GENERAL.—Subparagraph (C) of section 7704(g)(3) of the 1986 Code is amended by striking the period at the end and inserting ''and shall be paid by the partnership. Section 6655 shall be applied to such partnership with respect to such tax in the same manner as if the partnership were a corporation, such tax were imposed by section 11, and references in such section to taxable income were references to the gross income referred to in subparagraph (A).''

(2) EFFECTIVE DATE.—The second sentence of section 7704(g)(3)(C) of the 1986 Code (as added by paragraph (1)) shall apply to taxable years beginning after the date of the enactment of this Act.

(e) AMENDMENT RELATED TO SECTION 971 OF 1997 ACT.—Clause (ii) of section 280F(a)(1)(C) is amended by striking ''subparagraph (A)'' and inserting ''subparagraphs (A) and (B)''.

(f) AMENDMENT RELATED TO SECTION 976 OF 1997 ACT.—Section 6103(d)(5) of the 1986 Code is amended by striking ''section 967 of the Taxpayer Relief Act of 1997.'' and inserting ''section 976 of the Taxpayer Relief Act of 1997. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect to disclosures or inspections made pursuant to this paragraph.''

(g) AMENDMENT RELATED TO SECTION 977 OF 1997 ACT.—Paragraph (2) of section 977(e) of the 1997 Act is amended to read as follows:

''(2) NON-AMTRAK STATE.—The term 'non-Amtrak State' means any State which is not receiving intercity passenger rail service from the Corporation as of the date of the enactment of this Act.''

SEC. 6010. AMENDMENTS RELATED TO TITLE X OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 1001 OF 1997 ACT.—

(1) Paragraph (2) of section 1259(b) of the 1986 Code is amended—

(A) by striking ''debt'' each place it appears in subparagraph (A) and inserting ''position'',

(B) by striking ''and'' at the end of subparagraph (A), and

(C) by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) any hedge with respect to a position described in subparagraph (A), and''.

(2) Section 1259(d)(1) of the 1986 Code is amended by inserting ''(including cash)'' after ''property''.

(3) Subparagraph (D) of section 475(f)(1) of the 1986 Code is amended by adding at the end the following new sentence: ''Subsection (d)(3) shall not apply under the preceding sentence for purposes of applying sections 1402 and 7704.''

(4) Subparagraph (C) of section 1001(d)(3) of the 1997 Act is amended by striking ''within the 30-day period beginning on'' and inserting ''before the close of the 30th day after''.

(b) AMENDMENT RELATED TO SECTION 1011 OF 1997 ACT.—Paragraph (1) of section 1059(g) of the 1986 Code is amended by striking ''and in the case of stock held by pass-thru entities'' and inserting '', in the case of stock held by pass-thru entities, and in the case of consolidated groups''.

(c) AMENDMENTS RELATED TO SECTION 1012 OF 1997 ACT.—

(1) Paragraph (1) of section 1012(d) of the 1997 Act is amended by striking ''1997, pursuant'' and inserting ''1997; except that the amendment made by subsection (a) shall apply to such distributions only if pursuant''.

(2) Subparagraph (A) of section 355(e)(3) of the 1986 Code is amended—

(A) by striking ''shall not be treated as described in'' and inserting ''shall not be taken into account in applying'', and

(B) by striking clause (iv) and inserting the following new clause:

''(iv) The acquisition of stock in the distributing corporation or any controlled corporation to the extent that the percentage of stock owned directly or indirectly in such corporation by each person owning stock in such corporation immediately before the acquisition does not decrease.''

(3)(A) Subsection (c) of section 351 of the 1986 Code is amended to read as follows:

''(c) SPECIAL RULES WHERE DISTRIBUTION TO SHAREHOLDERS.—

''(1) IN GENERAL.—In determining control for purposes of this section, 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.

''(2) SPECIAL RULE FOR SECTION 355.—If the requirements of section 355 (or so much of section

356 as relates to section 355) are met with respect to a distribution described in paragraph (1), then, solely for purposes of determining the tax treatment of the transfers of property to the controlled corporation by the distributing corporation, the fact that the shareholders of the distributing corporation dispose of part or all of the distributed stock shall not be taken into account in determining control for purposes of this section.''

(B) Clause (ii) of section 368(a)(2)(H) of the 1986 Code is amended to read as follows:

''(ii) in the case of a transaction with respect to which the requirements of section 355 (or so much of section 356 as relates to section 355) are met, the fact that the shareholders of the distributing corporation dispose of part or all of the distributed stock shall not be taken into account.''

(d) AMENDMENTS RELATED TO SECTION 1013 OF 1997 ACT.—

(1) Paragraph (5) of section 304(b) of the 1986 Code is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(2) Subsection (b) of section 304 of the 1986 Code is amended by adding at the end the following new paragraph:

''(6) AVOIDANCE OF MULTIPLE INCLUSIONS, ETC.—In the case of any acquisition to which subsection (a) applies in which the acquiring corporation or the issuing corporation is a foreign corporation, the Secretary shall prescribe such regulations as are appropriate in order to eliminate a multiple inclusion of any item in income by reason of this subpart and to provide appropriate basis adjustments (including modifications to the application of sections 959 and 961).''

(e) AMENDMENTS RELATED TO SECTION 1014 OF 1997 ACT.—

(1) Paragraph (1) of section 351(g) of the 1986 Code is amended by adding ''and'' at the end of subparagraph (A) and by striking subparagraphs (B) and (C) and inserting the following new subparagraph:

''(B) if (and only if) the transferor receives stock other than nonqualified preferred stock—

''(i) subsection (b) shall apply to such transferor, and

''(ii) such nonqualified preferred stock shall be treated as other property for purposes of applying subsection (b).''

(2) Clause (ii) of section 354(a)(2)(C) of 1986 Code is amended by adding at the end the following new subclause:

''(III) EXTENSION OF STATUTE OF LIMITATIONS.—The statutory period for the assessment of any deficiency attributable to a corporation failing to be a family-owned corporation shall not expire before the expiration of 3 years after the date the Secretary is notified by the corporation (in such manner as the Secretary may prescribe) of such failure, and 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.''

(f) AMENDMENT RELATED TO SECTION 1024 OF 1997 ACT.—Section 6331(h)(1) of the 1986 Code is amended by striking ''The effect of a levy'' and inserting ''If the Secretary approves a levy under this subsection, the effect of such levy''.

(g) AMENDMENTS RELATED TO SECTION 1031 OF 1997 ACT.—

(1) Subsection (l) of section 4041 of the 1986 Code is amended by striking ''subsection (e) or (f)'' and inserting ''subsection (f) or (g)''.

(2) Subsection (b) of section 9502 of the 1986 Code is amended by moving the sentence added at the end of paragraph (1) to the end of such subsection.

(3) Subsection (c) of section 6421 of the 1986 Code is amended—

(A) by striking ''(2)(A)'' and inserting ''(2)'', and

(B) by adding at the end the following sentence: ''Subsection (a) shall not apply to gasoline to which this subsection applies.''

(h) AMENDMENTS RELATED TO SECTION 1032 OF 1997 ACT.—

(1) Section 1032(a) of the 1997 Act is amended by striking ''Subsection (a) of section 4083'' and inserting ''Paragraph (1) of section 4083(a)''.

(2) Section 1032(e)(12)(A) of the 1997 Act shall be applied as if ''gasoline, diesel fuel,'' were the material proposed to be stricken.

(3) Paragraph (1) of section 4101(e) of the 1986 Code is amended by striking ''dyed diesel fuel and kerosene'' and inserting ''such fuel in a dyed form''.

(i) AMENDMENT RELATED TO SECTION 1034 OF 1997 ACT.—Paragraph (3) of section 4251(d) of the 1986 Code is amended by striking ''other similar arrangement'' and inserting ''any other similar arrangement''.

(j) AMENDMENTS RELATED TO SECTION 1041 OF 1997 ACT.—

(1) Subparagraph (A) of section 512(b)(13) of the 1986 Code is amended by inserting ''or accrues'' after ''receives''.

(2) Subclause (I) of section 512(b)(13)(B)(i) of the 1986 Code is amended by striking ''(as defined in section 513A(a)(5)(A))''.

(3) Paragraph (2) of section 1041(b) of the 1997 Act is amended to read as follows:

''(2) BINDING CONTRACTS.—The amendments made by this section shall not apply to any amount received or accrued during the first 2 taxable years beginning on or after the date of the enactment of this Act if such amount is received or accrued pursuant to a written binding contract in effect on June 8, 1997, and at all times thereafter before such amount is received or accrued. The preceding sentence shall not apply to any amount which would (but for the exercise of an option to accelerate payment of such amount) be received or accrued after such 2 taxable years.''

(k) AMENDMENTS RELATED TO SECTION 1053 OF 1997 ACT.—

(1) Section 853 of the 1986 Code is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) TREATMENT OF TAXES NOT ALLOWED AS A CREDIT UNDER SECTION 901(k).—This section shall not apply to any tax with respect to which the regulated investment company is not allowed a credit under section 901 by reason of section 901(k).''

(2) Subsection (c) of section 853 of the 1986 Code is amended by striking the last sentence.

(l) AMENDMENT RELATED TO SECTION 1055 OF 1997 ACT.—Section 6611(g)(1) of the 1986 Code is amended by striking ''(e), and (h)'' and inserting ''and (e)''.

(m) AMENDMENT RELATED TO SECTION 1061 OF 1997 ACT.—Subsection (c) of section 751 of the 1986 Code is amended by striking ''731'' each place it appears and inserting ''731, 732,''.

(n) AMENDMENT RELATED TO SECTION 1083 OF 1997 ACT.—Section 1083(a)(2) of the 1997 Act is amended—

(1) by striking ''21'' and inserting ''20'', and

(2) by striking ''22'' and inserting ''21''.

(o) AMENDMENT RELATED TO SECTION 1084 OF 1997 ACT.—

(1) Paragraph (3) of section 264(a) of the 1986 Code is amended by striking ''subsection (c)'' and inserting ''subsection (d)''.

(2) Paragraph (4) of section 264(a) of the 1986 Code is amended by striking ''subsection (d)'' and inserting ''subsection (e)''.

(3)(A) Paragraph (4) of section 264(f) of the 1986 Code is amended by adding at the end the following new subparagraph:

''(E) MASTER CONTRACTS.—If coverage for each insured under a master contract is treated as a separate contract for purposes of sections 817(h), 7702, and 7702A, coverage for each such insured shall be treated as a separate contract for purposes of subparagraph (A). For purposes of the preceding sentence, the term 'master contract' shall not include any group life insurance contract (as defined in section 848(e)(2)).''

(B) The second sentence of section 1084(d) of the 1997 Act is amended by striking ''but'' and all that follows and inserting ''except that, in the case of a master contract (within the meaning of section 264(f)(4)(E) of the Internal Revenue Code of 1986), the addition of covered lives shall be treated as a new contract only with respect to such additional covered lives.''

(4)(A) Clause (iv) of section 264(f)(5)(A) of the 1986 Code is amended by striking the second sentence.

(B) Subparagraph (B) of section 6724(d)(1) of the 1986 Code is amended by striking ''or'' at the end of clause (xv), by striking the period at the end of clause (xvi) and inserting '', or'', and by adding at the end the following new clause:

''(xvii) section 264(f)(5)(A)(iv) (relating to reporting with respect to certain life insurance and annuity contracts).''

(C) Paragraph (2) of section 6724(d) of the 1986 Code is amended by striking ''or'' at the end of subparagraph (Y), by striking the period at the end of subparagraph (Z) and inserting ''or'', and by adding at the end the following new subparagraph:

''(AA) section 264(f)(5)(A)(iv) (relating to reporting with respect to certain life insurance and annuity contracts).''

(p) AMENDMENTS RELATED TO SECTION 1085 OF 1997 ACT.—

(1) Paragraph (5) of section 32(c) of the 1986 Code is amended—

(A) by inserting before the period at the end of subparagraph (A) ''and increased by the amounts described in subparagraph (C)'',

(B) by adding ''or'' at the end of clause (iii) of subparagraph (B), and

(C) by striking all that follows subclause (II) of subparagraph (B)(iv) and inserting the following:

''(III) other trades or businesses.

For purposes of clause (iv), there shall not be taken into account items which are attributable to a trade or business which consists of the performance of services by the taxpayer as an employee.

''(C) CERTAIN AMOUNTS INCLUDED.—An amount is described in this subparagraph if it is—

''(i) interest received or accrued during the taxable year which is exempt from tax imposed by this chapter, or

''(ii) amounts received as a pension or annuity, and any distributions or payments received from an individual retirement plan, by the taxpayer during the taxable year to the extent not included in gross income.

Clause (ii) shall not include any amount which is not includible in gross income by reason of a trustee-to-trustee transfer or a rollover distribution.''

(2) Clause (v) of section 32(c)(2)(B) of the 1986 Code is amended by inserting ''shall be taken into account'' before '', but only''.

(3) The text of paragraph (3) of section 1085(a) of the 1997 Act is amended to read as follows: ''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 (I), by striking the period at the end of subparagraph (J) and inserting '', and'', and by inserting after subparagraph (J) the following new subparagraph:

''(K) an omission of information required by section 32(k)(2) (relating to taxpayers making improper prior claims of earned income credit).''

(q) AMENDMENT RELATED TO SECTION 1088 OF 1997 ACT.—Section 1088(b)(2)(C) of the 1997 Act is amended by inserting ''more than 1 year'' before ''after''.

(r) AMENDMENT RELATED TO SECTION 1089 OF 1997 ACT.—Paragraphs (1)(C) and (2)(C) of section 664(d) of the 1986 Code are each amended by adding '', and'' at the end.

SEC. 6011. AMENDMENTS RELATED TO TITLE XI OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 1103 OF 1997 ACT.—The paragraph (3) of section 59(a) added by section 1103 of the 1997 Act is redesignated as paragraph (4).

(b) AMENDMENTS RELATED TO SECTION 1121 OF 1997 ACT.—

(1) Subsection (e) of section 1297 of the 1986 Code is amended by adding at the end the following new paragraph:

''(4) TREATMENT OF HOLDERS OF OPTIONS.—Paragraph (1) shall not apply to stock treated as owned by a person by reason of section 1298(a)(4) (relating to the treatment of a person that has an option to acquire stock as owning such stock) unless such person establishes that such stock is owned (within the meaning of section 958(a)) by a United States shareholder (as defined in section 951(b)) who is not exempt from tax under this chapter.''

(2) Section 1298(a)(2)(B) of the 1986 Code is amended by adding at the end the following new sentence: ''Section 1297(e) shall not apply in determining whether a corporation is a passive foreign investment company for purposes of this subparagraph.''

(c) AMENDMENTS RELATED TO SECTION 1122 OF 1997 ACT.—

(1) Section 672(f)(3)(B) of the 1986 Code is amended by striking ''section 1296'' and inserting ''section 1297''.

(2) Paragraph (1) of section 1291(d) of the 1986 Code is amended by adding at the end the following new sentence: ''In the case of stock which is marked to market under section 475 or any other provision of this chapter, this section shall not apply, except that rules similar to the rules of section 1296(j) shall apply.''

(3) Subsection (d) of section 1296 of the 1986 Code is amended by adding at the end the following new sentence: ''In the case of a regulated investment company which elected to mark to market the stock held by such company as of the last day of the taxable year preceding such company's first taxable year for which such company elects the application of this section, the amount referred to in paragraph (1) shall include amounts included in gross income under such mark to market with respect to such stock for prior taxable years.''

(d) AMENDMENT RELATED TO SECTION 1123 OF 1997 ACT.—The subsection (e) of section 1297 of the 1986 Code added by section 1123 of the 1997 Act is redesignated as subsection (f).

(e) AMENDMENTS RELATED TO SECTION 1131 OF 1997 ACT.—

(1) Section 991 of the 1986 Code is amended by striking ''except for the tax imposed by chapter 5''.

(2) Section 6013 of the 1986 Code is amended by striking ''chapters 1 and 5'' each place it appears in paragraphs (1)(A) and (5) of subsection (g) and in subsection (h)(1) and inserting ''chapter 1'' .

(f) AMENDMENT RELATED TO SECTION 1144 OF 1997 ACT.—Paragraphs (1) and (2) of section 1144(c) of the 1997 Act are each amended by striking ''6038B(b)'' and inserting ''6038B(c) (as redesignated by subsection (b))''.

SEC. 6012. AMENDMENTS RELATED TO TITLE XII OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 1204 OF 1997 ACT.—The last sentence of section 162(a) of the 1986 Code is amended by striking ''investigate'' and all that follows and inserting ''investigate or prosecute, or provide support services for the investigation or prosecution of, a Federal crime.''

(b) AMENDMENTS RELATED TO SECTION 1205 OF 1997 ACT.—

(1) Section 6311(e)(1) of the 1986 Code is amended by striking ''section 6103(k)(8)'' and inserting ''section 6103(k)(9)''.

(2) Paragraph (8) of section 6103(k) of the 1986 Code (as added by section 1205(c)(1) of the 1997 Act) is redesignated as paragraph (9).

(3) The subsection (g) of section 7431 of the 1986 Code added by section 1205 of the 1997 Act is redesignated as subsection (h) and is amended by striking ''(8)'' in the heading and inserting ''(9)''.

(4) Section 1205(c)(3) of the 1997 Act shall be applied as if it read as follows:

''(3) Section 6103(p)(3)(A), as amended by section 1026(b)(1)(A) of the 1997 Act, is amended by striking ''or (8)'' and inserting ''(8), or (9)''.

(5) Section 1213(b) of the 1997 Act is amended by striking ''section 6724(d)(1)(A)'' and inserting ''section 6724(d)(1)''.

(c) AMENDMENT RELATED TO SECTION 1221 OF 1997 ACT.—Paragraph (2) of section 774(d) of the 1986 Act is amended by inserting before the period ''or 857(b)(3)(D)''.

(d) AMENDMENT RELATED TO SECTION 1226 OF 1997 ACT.—Section 1226 of the 1997 Act is amended by striking ''ending on or'' and inserting ''beginning''.

(e) AMENDMENT RELATED TO SECTION 1231 OF 1997 ACT.—Subsection (c) of section 6211 of the 1986 Code is amended—

(1) by striking ''SUBCHAPTER C'' in the heading and inserting ''SUBCHAPTERS C AND D'', and

(2) by striking ''subchapter C'' in the text and inserting ''subchapters C and D''.

(f) AMENDMENT RELATED TO SECTION 1256 OF 1997 ACT.—Subparagraph (A) of section 857(d)(3) of the 1986 Code is amended by striking ''earliest accumulated earnings and profits (other than earnings and profits to which subsection (a)(2)(A) applies)'' and inserting ''earliest earnings and profits accumulated in any taxable year to which the provisions of this part did not apply''.

(g) AMENDMENT RELATED TO SECTION 1285 OF 1997 ACT.—Section 7430(b) of the 1986 Code is amended by redesignating paragraph (5) as paragraph (4).

SEC. 6013. AMENDMENTS RELATED TO TITLE XIII OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 1305 OF 1997 ACT.—

(1) Section 646 of the 1986 Code is redesignated as section 645.

(2) The item relating to section 646 in the table of sections for subpart A of part I of subchapter J of chapter 1 of the 1986 Code is amended by striking ''Sec. 646'' and inserting ''Sec. 645''.

(3) Paragraph (1) of section 2652(b) of the 1986 Code is amended by striking ''section 646'' and inserting ''section 645''.

(4)(A) Paragraph (1) of section 2652(b) of the 1986 Code is amended by striking the second sentence.

(B) Subsection (b) of section 2654 of the 1986 Code is amended by adding at the end the following new sentence: ''For purposes of this subsection, a trust shall be treated as part of an estate during any period that the trust is so treated under section 645.''

(b) AMENDMENTS RELATED TO SECTION 1309 OF 1997 ACT.—

(1) Subsection (b) of section 685 of the 1986 Code is amended by adding at the end the following flush sentence:

''A trust shall not fail to be treated as meeting the requirement of paragraph (6) by reason of the death of an individual but only during the 60-day period beginning on the date of such death.''

(2) Subsection (f) of section 685 of the 1986 Code is amended by inserting before the period at the end ''and of trusts terminated during the year''.

SEC. 6014. AMENDMENTS RELATED TO TITLE XIV OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 1422 OF 1997 ACT.—Section 5364 of the 1986 Code is amended by striking ''Wine imported or brought into'' and inserting ''Natural wine (as defined in section 5381) imported or brought into''.

(b) AMENDMENT RELATED TO SECTION 1434 OF 1997 ACT.—Paragraph (2) of section 4052(f) of the 1986 Code is amended by striking ''this section'' and inserting ''such section''.

(c) AMENDMENT RELATED TO SECTION 1436 OF 1997 ACT.—Paragraph (2) of section 4091(a) of the 1986 Code is amended by inserting ''or on which tax has been credited or refunded'' after ''such paragraph''.

(d) AMENDMENT RELATED TO SECTION 1453 OF 1997 ACT.—Subparagraph (D) of section 7430(c)(4) of the 1986 Code is amended by striking ''subparagraph (A)(iii)'' and inserting ''subparagraph (A)(ii)''.

SEC. 6015. AMENDMENTS RELATED TO TITLE XV OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 1501 OF 1997 ACT.—The paragraph (8) of section 408(p) of the 1986 Code added by section 1501(b) of the 1997 Act is redesignated as paragraph (9).

(b) AMENDMENT RELATED TO SECTION 1505 OF 1997 ACT.—Section 1505(d)(2) of the 1997 Act is amended by striking ''(b)(12)'' and inserting ''(b)(12)(A)(i)''.

(c) AMENDMENTS RELATED TO SECTION 1529 OF 1997 ACT.—

(1) Section 1529(a) of the 1997 Act is amended to read as follows:

''(a) GENERAL RULE.—Amounts to which this section applies which are received by an individual (or the survivors of the individual) as a result of hypertension or heart disease of the individual shall be excludable from gross income under section 104(a)(1) of the Internal Revenue Code of 1986.''

(2) Section 1529(b)(1)(B) of the 1997 Act is amended to read as follows:

''(B) under—

''(i) 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 hired before July 1, 1992, or

''(ii) any other statute, ordinance, labor agreement, or similar provision as a disability pension payment or in the nature of a disability pension payment attributable to employment as a police officer or fireman, but only if the individual is referred to in the State law described in clause (i); and''.

(d) AMENDMENT RELATED TO SECTION 1530 OF 1997 ACT.—Subparagraph (C) of section 404(a)(9) of the 1986 Code (as added by section 1530 of the 1997 Act) is redesignated as subparagraph (D) and is amended by striking ''A qualified'' and inserting ''QUALIFIED GRATUITOUS TRANSFERS.—A qualified''.

(e) AMENDMENT RELATED TO SECTION 1531 OF 1997 ACT.—Subsection (f) of section 9811 of the 1986 Code (as added by section 1531 of the 1997 Act) is redesignated as subsection (e).

SEC. 6016. AMENDMENTS RELATED TO TITLE XVI OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 1601(d) OF 1997 ACT.—

(1) AMENDMENTS RELATED TO SECTION 1601(d)(1)—

(A) Section 408(p)(2)(D)(i) of the 1986 Code is amended by striking ''or (B)'' in the last sentence.

(B) Section 408(p) of the 1986 Code is amended by adding at the end the following:

''(10) SPECIAL RULES FOR ACQUISITIONS, DISPOSITIONS, AND SIMILAR TRANSACTIONS.—

''(A) IN GENERAL.—An employer which fails to meet any applicable requirement by reason of an acquisition, disposition, or similar transaction shall not be treated as failing to meet such requirement during the transition period if—

''(i) the employer satisfies requirements similar to the requirements of section 410(b)(6)(C)(i)(II), and

''(ii) the qualified salary reduction arrangement maintained by the employer would satisfy the requirements of this subsection after the transaction if the employer which maintained the arrangement before the transaction had remained a separate employer.

''(B) APPLICABLE REQUIREMENT.—For purposes of this paragraph, the term 'applicable requirement' means—

''(i) the requirement under paragraph (2)(A)(i) that an employer be an eligible employer,

''(ii) the requirement under paragraph (2)(D) that an arrangement be the only plan of an employer, and

''(iii) the participation requirements under paragraph (4).

''(C) TRANSITION PERIOD.—For purposes of this paragraph, the term 'transition period'

means the period beginning on the date of any transaction described in subparagraph (A) and ending on the last day of the second calendar year following the calendar year in which such transaction occurs.''

(C) Section 408(p)(2) of the 1986 Code is amended—

(i) by striking ''the preceding sentence shall apply only in accordance with rules similar to the rules of section 410(b)(6)(C)(i)'' in the last sentence of subparagraph (C)(i)(II) and inserting ''the preceding sentence shall not apply'', and

(ii) by striking clause (iii) of subparagraph (D).

(2) AMENDMENT TO SECTION 1601(d)(4).—Section 1601(d)(4)(A) of the 1997 Act is amended—

(A) by striking ''Section 403(b)(11)'' and inserting ''Paragraphs (7)(A)(ii) and (11) of section 403(b)'', and

(B) by striking ''403(b)(1)'' in clause (ii) and inserting ''403(b)(10)''.

(b) AMENDMENT RELATED TO SECTION 1601(f)(4) OF 1997 ACT.—Subsection (d) of section 6427 of the 1986 Code is amended—

(1) by striking ''HELICOPTERS'' in the heading and inserting ''OTHER AIRCRAFT USES'', and

(2) by inserting ''or a fixed-wing aircraft'' after ''helicopter''.

SEC. 6017. AMENDMENTS RELATED TO SMALL BUSINESS JOB PROTECTION ACT OF 1996.

(a) AMENDMENT RELATING TO SECTION 1116.—Subparagraph (C) of section 1116(b)(2) of the Small Business Job Protection Act of 1996 is amended by striking ''chapter 68'' and inserting ''chapter 61''.

(b) AMENDMENT RELATING TO SECTION 1421.—Section 408(d)(7) of the 1986 Code is amended—

(1) by inserting ''or 402(k)'' after ''section 402(h)'' in subparagraph (B) thereof, and

(2) by inserting ''OR SIMPLE RETIREMENT ACCOUNTS'' after ''PENSIONS'' in the heading thereof.

(c) AMENDMENT RELATING TO SECTION 1431.—Subparagraph (E) of section 1431(c)(1) of the Small Business Job Protection Act of 1996 is amended to read as follows:

''(E) Section 414(q)(5), as redesignated by subparagraph (A), is amended by striking 'under paragraph (4) or the number of officers taken into account under paragraph (5)' ''.

(d) AMENDMENT RELATING TO SECTION 1604.—Paragraph (3) of section 1604(b) of such Act is amended—

(1) by striking ''such Code'' and inserting ''the Internal Revenue Code of 1986'', and

(2) by striking ''such date of enactment'' and inserting ''the date of the enactment of this Act''.

(e) AMENDMENT RELATING TO SECTION 1609.—Paragraph (1) of section 1609(h) of such Act is amended by striking ''paragraph (3)(A)(i)'' and inserting ''paragraph (3)(A)''.

(f) AMENDMENTS RELATING TO SECTION 1807.—

(1) Subparagraph (A) of section 23(b)(2) of the 1986 Code (relating to income limitation on credit for adoption expenses) is amended by inserting ''(determined without regard to subsection (c))'' after ''for any taxable year''.

(2) Paragraph (3) of section 1807(c) of the Small Business Job Protection Act of 1996 is amended by striking ''Clause (i)'' and inserting ''Clause (ii)''.

(g) AMENDMENT RELATING TO SECTION 1903.—Subsection (b) of section 1903 of such Act shall be applied as if ''or'' in the material proposed to be stricken were capitalized.

(h) EFFECTIVE DATE.—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.

SEC. 6018. AMENDMENTS RELATED TO TAXPAYER BILL OF RIGHTS 2.

(a) IN GENERAL.—Subsection (b) of section 6104 of the 1986 Code is amended by adding at the end the following new sentence: ''In the case of an organization described in section 501(d), this subsection shall not apply to copies referred to in section 6031(b) with respect to such organization.''

(b) PUBLIC INSPECTION.—Subparagraph (C) of section 6104(e)(1) of the 1986 Code is amended by adding at the end the following new sentence: ''In the case of an organization described in section 501(d), subparagraph (A) shall not require the disclosure of the copies referred to in section 6031(b) with respect to such organization.''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 6019. AMENDMENT RELATED TO OMNIBUS BUDGET RECONCILIATION ACT OF 1993.

(a) IN GENERAL.—Section 196(c) of the 1986 Code is amended by striking ''and'' at the end of paragraph (6), by striking the period at the end of paragraph (7), and insert '', and'', and by adding at the end the following new paragraph:

''(8) the employer social security credit determined under section 45B(a).''

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 13443 of the Revenue Reconciliation Act of 1993.

SEC. 6020. AMENDMENT RELATED TO REVENUE RECONCILIATION ACT OF 1990.

(a) IDENTIFICATION REQUIREMENT FOR INDIVIDUALS ELIGIBLE FOR EARNED INCOME CREDIT.—Subparagraph (F) of section 32(c)(1) of the 1986 Code is amended by striking ''The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—'' and inserting ''No credit shall be allowed under this section to an eligible individual who does not include on the return of tax for the taxable year—''.

(b) IDENTIFICATION REQUIREMENT FOR QUALIFYING CHILDREN UNDER EARNED INCOME CREDIT.—

(1) IN GENERAL.—Clause (i) of section 32(c)(3)(D) of the 1986 Code is amended—

(A) by striking ''The requirements of this subparagraph are met'' and inserting ''A qualifying child shall not be taken into account under subsection (b)'',

(B) by striking ''each'' and inserting ''the'', and

(C) by striking ''(without regard to this subparagraph)''.

(2) INDIVIDUALS WHO DO NOT INCLUDE TIN, ETC., OF ANY QUALIFYING CHILD.—Paragraph (1) of section 32(c) of the 1986 Code is amended by adding at the end the following new subparagraph:

''(G) INDIVIDUALS WHO DO NOT INCLUDE TIN, ETC., OF ANY QUALIFYING CHILD.—No credit shall be allowed under this section to any eligible individual who has 1 or more qualifying children if no qualifying child of such individual is taken into account under subsection (b) by reason of paragraph (3)(D).''

(3) CONFORMING AMENDMENT.—Subparagraph (A) of section 32(c)(3) is amended by inserting ''and'' at the end of clause (ii), by striking '', and'' at the end of clause (iii) and inserting a period, and by striking clause (iv).

(c) EFFECTIVE DATES.—

(1) ELIGIBLE INDIVIDUALS.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 451 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(2) QUALIFYING CHILDREN.—The amendments made by subsection (b) shall take effect as if included in the amendments made by section 11111 of Revenue Reconciliation Act of 1990.

SEC. 6021. AMENDMENT RELATED TO TAX REFORM ACT OF 1986.

(a) IN GENERAL.—Section 6401(b)(1) of the 1986 Code is amended by striking ''and D'' and inserting ''D, and G''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 701(b) of the Tax Reform Act of 1986.

SEC. 6022. MISCELLANEOUS CLERICAL AND DEADWOOD CHANGES.

(1) The heading for subparagraph (B) of section 45A(b)(1) of the 1986 Code is amended by striking ''TARGETED JOBS CREDIT'' and inserting ''WORK OPPORTUNITY CREDIT''.

(2) The subsection heading for section 59(b) of the 1986 Code is amended by striking ''SECTION 936 CREDIT'' and inserting ''CREDITS UNDER SECTION 30A OR 936''.

(3) Subsection (n) of section 72 of the 1986 Code is amended by inserting ''(as in effect on the day before the date of the enactment of the Small Business Job Protection Act of 1996)'' after ''section 101(b)(2)(D)''.

(4) Subparagraph (A) of section 72(t)(3) of the 1986 Code is amended by striking ''(A)(v),'' and inserting ''(A)(v)''.

(5) Clause (ii) of section 142(f)(3)(A) of the 1986 Code is amended by striking ''1997, (''' and inserting ''1997 (''.

(6) The last sentence of paragraph (3) of section 501(n) of the 1986 Code is amended by striking ''subparagraph (C)(ii)'' and inserting ''subparagraph (E)(ii)''.

(7) The heading for subclause (II) of section 512(b)(17)(B)(ii) of the 1986 Code is amended by striking ''RULE'' and inserting ''RULE''.

(8) Clause (ii) of section 543(d)(5)(A) of the 1986 Code is amended by striking ''section 563(c)'' and inserting ''section 563(d)''.

(9) Subparagraph (B) of section 871(f)(2) of the 1986 Code is amended by striking ''(19 U.S.C. 2462)'' and inserting ''19 U.S.C. 2461 et seq.)''.

(10) Paragraph (2) of section 1017(a) of the 1986 Code is amended by striking ''(b)(2)(D)'' and inserting ''(b)(2)(E)''.

(11) Subparagraph (D) of section 1250(d)(4) of the 1986 Code is amended by striking ''the last sentence of section 1033(b)'' and inserting ''section 1033(b)(2)''.

(12) Paragraph (5) of section 3121(a) of the 1986 Code is amended—

(A) by striking the semicolon at the end of subparagraph (F) and inserting a comma,

(B) by striking ''or'' at the end of subparagraph (G), and

(C) by striking the period at the end of subparagraph (I) and inserting a semicolon.

(13) Paragraph (19) of section 3401(a) of the 1986 Code is amended by inserting ''for'' before ''any benefit provided to''.

(14) Paragraph (21) of section 3401(a) of the 1986 Code is amended by inserting ''for'' before ''any payment made''.

(15) Sections 4092(b) and 6427(q)(2) of the 1986 Code are each amended by striking ''section 4041(c)(4)'' and inserting ''section 4041(c)(2)''.

(16) Sections 4221(c) and 4222(d) of the 1986 Code are each amended by striking ''4053(a)(6)'' and inserting ''4053(6)''.

(17)(A) The heading of section 4973 of the 1986 Code is amended to read as follows:

''SEC. 4973. TAX ON EXCESS CONTRIBUTIONS TO CERTAIN TAX-FAVORED ACCOUNTS AND ANNUITIES.''

(B) The item relating to section 4973 in the table of sections for chapter 43 of the 1986 Code is amended to read as follows:

''Sec. 4973. Tax on excess contributions to certain tax-favored accounts and annuities.''

(18) Section 4975 of the 1986 Code is amended—

(A) in subsection (c)(3) by striking ''exempt for the tax'' and inserting ''exempt from the tax'', and

(B) in subsection (i) by striking ''Secretary of Treasury'' and inserting ''Secretary of the Treasury''.

(19) Paragraph (1) of section 6039(a) of the 1986 Code is amended by inserting ''to any person'' after ''transfers''.

(20) Subparagraph (A) of section 6050R(b)(2) of the 1986 Code is amended by striking the

semicolon at the end thereof and inserting a comma.

(21) Subparagraph (A) of section 6103(h)(4) of the 1986 Code is amended by inserting ''if'' before ''the taxpayer is a party to''.

(22) Paragraph (5) of section 6416(b) of the 1986 Code is amended by striking ''section 4216(e)(1)'' each place it appears and inserting ''section 4216(d)(1)''.

(23)(A) Section 6421 of the 1986 Code is amended by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

(B) Subsection (b) of section 34 of the 1986 Code is amended by striking ''section 6421(j)'' and inserting ''section 6421(i)''.

(C) Subsections (a) and (b) of section 6421 of the 1986 Code are each amended by striking ''subsection (j)'' and inserting ''subsection (i)''.

(24) Paragraph (3) of section 6427(f) of the 1986 Code is amended by striking '', (e),''.

(25)(A) Section 6427 of the 1986 Code, as amended by paragraph (2), is amended by redesignating subsections (n), (p), (q), and (r) as subsections (m), (n), (o), and (p), respectively.

(B) Paragraphs (1) and (2)(A) of section 6427(i) of the 1986 Code are each amended by striking ''(q)'' and inserting ''(o)''.

(26) Subsection (m) of section 6501 of the 1986 Code is amended by striking ''election under'' and all that follows through ''(or any'' and inserting ''election under section 30(d)(4), 40(f), 43, 45B, 45C(d)(4), or 51(j) (or any''.

(27) The paragraph heading of paragraph (2) of section 7702B(e) of the 1986 Code is amended by inserting ''SECTION'' after ''APPLICATION OF''.

(28) Paragraph (3) of section 7435(b) of the 1986 Code is amended by striking ''attorneys fees'' and inserting ''attorneys' fees''.

(29) Subparagraph (B) of section 7872(f)(2) of the 1986 Code is amended by striking ''foregone'' and inserting ''forgone''.

(30) Subsection (e) of section 9502 of the 1986 Code is amended to read as follows:

''(e) CERTAIN TAXES ON ALCOHOL MIXTURES TO REMAIN IN GENERAL FUND.—For purposes of this section, the amounts which would (but for this subsection) be required to be appropriated under subparagraphs (A), (C), and (D) of subsection (b)(1) shall be reduced by—

''(1) 0.6 cent per gallon in the case of taxes imposed on any mixture at least 10 percent of which is alcohol (as defined in section 4081(c)(3)) if any portion of such alcohol is ethanol, and

''(2) 0.67 cent per gallon in the case of fuel used in producing a mixture described in paragraph (1).''

(31)(A) Clause (i) of section 9503(c)(2)(A) of the 1986 Code is amended by adding ''and'' at the end of subclause (II), by striking subclause (III), and by redesignating subclause (IV) as subclause (III).

(B) Clause (ii) of such section is amended by striking ''gasoline, special fuels, and lubricating oil'' each place it appears and inserting ''fuel''.

(32) The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 6023. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title shall take effect as if included in the provisions of the Taxpayer Relief Act of 1997 to which they relate.

PRIVILEGE OF THE FLOOR

Mr. ROTH. Mr. President, I ask unanimous consent that the following staff from the Joint Committee on Taxation be granted floor privileges during consideration of the IRS restructuring bill, H.R. 2676: Thomas A. Barthold, Lauralee A. Matthews, Alysa M. McDaniel, John F. Navratil, Joseph W. Nega, Judy K. Owens, Lindy L. Paull, Oren S. Penn, Cecily W. Rock, Melbert E. Schwarz, Carolyn E. Smith, Maxine B. Terry, Michael A. Udell, and Barry L. Wold.

I further ask unanimous consent that Eric Thorson of the Finance Committee staff also be granted floor privileges during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, the need for this Internal Revenue Service restructuring legislation is clear. Last summer, the National Commission on Restructuring—following an extensive review of the IRS—issued a report to revamp the agency.

Last September, the Finance Committee held 3 days of hearings regarding practices and procedures of the Internal Revenue Service, which raised even more startling problems that have been festering within the IRS for years.

Following these hearings, the agency's new Commissioner, Charles Rossotti, released a report that validated the concerns we raised, and he made a commitment to reform the Service. Likewise, in response to these hearings, the House considered and passed an IRS restructuring bill in November, and the Finance Committee began the new year with a series of five hearings on restructuring, which included testimony from past IRS Commissioners. Those restructuring hearings were followed with what can only be considered the most in-depth IRS oversight hearings ever, which concluded only last Friday. Throughout this extensive effort at oversight restructuring, my colleagues and I have been working on the legislation before us today. Our staffs have been meeting. There have been countless hours, late nights, and early mornings spent to develop a restructured bill that is strong, thorough, and workable. I appreciate these efforts. I also compliment the House on its swift action on the earlier version, and recognize the very effective leadership of Ways and Means Committee Chairman BILL ARCHER. Their efforts provided a solid foundation for restructuring the agency, and made it clear that Congress is ready to respond to the demands of the American people and reform the IRS. That, again, became clear when the Senate Finance Committee voted 20 to nothing in support of the legislation which we are about to consider—legislation that takes a major step toward changing the way that the IRS does business with the American people.

I call this legislation a major step because it provides greater protections and reforms that were included in the House bill. It goes much further than the House bill, offering powerful provisions to correct the abuses and inefficiencies our extensive investigation and oversight efforts have uncovered. But I also want to refer to this effort as a step, because I believe reform of the IRS must be an ongoing process. It must be a process of continued vigilance, constructive hearings, and cooperation between Congress and the executive branch. But anyone who reads all this legislation proposes will realize that it is a strong product of a collective effort. If this legislation were a collegiate athlete, it would be considered a blue-chip recruit. While it is not perfect, it is ready to play and includes numerous provisions that strengthen taxpayer protections. It makes IRS employees more accountable, provides enhanced oversight, gives the Commissioner the tools necessary to bring the IRS into the next century, and offers greater due process to taxpayers who are trying to comply with our complex tax laws.

The legislation pending before us today allows Commissioner Rossotti to eliminate the current national office, regional office, and the district office structure of the IRS. It gives him the authority to replace these antiquated management models with operating units that will directly serve particular groups of taxpayers, better meeting their needs and making the agency much more efficient and user friendly.

Commissioner Rossotti should be complimented on his tremendous work and managerial skills. His plan to restructure the agency is as bold as it is necessary, and this legislation gives him the authority he needs to move forward.

One of the major concerns we've listened to throughout our oversight initiative—a theme that repeated itself over and over again—was that the taxpayers who get caught in the IRS hall of mirrors have no place to turn that is truly independent and structured to represent their concerns. With this legislation, we require the agency to establish an independent Office of Appeals—one that may not be influenced by tax collection employees or auditors. Appeals officers will be made available in every state, and they will be better able to work with taxpayers who proceed through the appeals process.

We heard a lot about the need for independence in our hearings. Agency employees themselves made it clear that there is no dependable and consistent mechanism in place to represent taxpayer interests. Just as this bill will give the appeals process greater independence, it will also make the Office of Taxpayer Advocate as well as local problem resolution officers more independent. In the future, the Secretary of Treasury, rather than the Commissioner will appoint the National Taxpayer Advocate. And the Taxpayer Advocate will be just that.

Criteria to fill this position will include that the Advocate must not be an IRS employee two years before and five years after holding this position. In addition, this bill provides the Advocate with much greater discretion to issue an assistance order to help taxpayers.

In an effort to ensure that independent review and accountability become part of the IRS culture—top to bottom—our legislation creates a nine-

member IRS Oversight Board—a board composed of six experts from various professional fields in the private sector, the Commissioner, the Secretary of Treasury, and a representative of IRS employees.

As we heard in our oversight hearings, one of the key elements missing in the current agency is a powerful influence independent enough from management and the senior executive corps that it can monitor and hold managers and executives accountable for their actions, and the actions of their employees. Under our legislation, the Oversight Board will have broad responsibility and will ensure that the IRS has procedures in place to carry out its mission.

In order to help prevent the types of abuses disclosed in our Finance Committee hearings, the Board will have ''big picture'' authority over law enforcement and collection activities. While the Board may not intervene in particular taxpayer or employee cases, it will have access to information in order to help prevent the types of abuses that are brought to the Board's attention. If the Commissioner does not respond to issues raised by the Board, the Board may contact the chairmen of the tax writing committees.

We discovered in our hours and hours of testimony from IRS employees, and in the countless letters we received, that part of the intimidating culture of the agency is sustained by the fact that they feel there are no independent protections for them if they report wrong-doing. I was most disturbed to find in our investigation that there is a dangerous kill-the-messenger syndrome within the agency. Over 50% of employees servicewide believe that management does not communicate honestly with the rank-and-file. Fifty-four percent were adamant that there is distrust between management and employees.

When asked if there is adequate protection from retaliation against employees who report misconduct, 72% either disagreed, strongly disagreed, or did not care to comment. More than one in four indicated that they believe management fails to treat employees with respect. And 30% strongly disagree that, ''Disciplinary actions are applied fairly to employees.'' If we are to have an agency that the public trusts and that the employees are proud of, these statistics must change.

In an effort to do this, our legislation eliminates the IRS Office of Chief Inspector. It transfers its full time equivalents to a new Treasury Inspector General for Tax Administration. There have been too many allegations that the current IRS Office of Chief Inspector does not have sufficient independence from the IRS to adequately fulfill its obligation. Likewise, the current Treasury Inspector General, which lacks resources and has experienced problems of its own, does not provide seamless oversight over the IRS.

This change is one of the most important distinctions between the House bill and the Senate bill, and it is of critical importance.

Our bill creates a new Treasury IG for Tax Administration which will have greater independence than the IRS Chief Inspector. This provision is supported by Commissioner Rossotti, and will create a structure where the new Treasury IG for Tax Administration will not allow oversight to fall through the cracks, and will provide a seamless check on how tax laws are being administered.

This new Treasury IG for Tax Administration will provide independent investigations of alleged IRS employee misconduct without management interference. The new Treasury IG will also respond in a timely manner to requests to investigate or audit made by the Commissioner or the IRS Oversight Board.

I believe that an intimidating edge now exists in the current management structure. The statistics I've just disclosed confirm that this is true.

One of the problems is that the Commissioner does not have the kind of authority that is necessary to eliminate those managers who contaminate the culture of the agency. And the Commissioner does not have sufficient authority to hire those who will work toward making the kinds of changes that are necessary. This legislation gives the Commissioner the tools he needs to hire top-flight managers who are experts in their field.

It gives him the wherewithal to transform the agency's workforce by providing bonuses and other incentives, and to sufficiently discipline employees whose inappropriate actions are a plague on the agency.

As we have seen—even this past week—the Finance Committee has disclosed egregious conduct by IRS employees. We have received thousands of letters relating the same.

They have come from taxpayers and agency employees, alike. The stories we have heard are outrageous, as is the fact that many of those who perpetrate these abuses do so without consequence. This will not stand. Our bill requires the IRS to terminate an employee if it is proven that the employee failed to obtain required authorization to seize a taxpayer's property, committed perjury material to a taxpayer's matter, or falsified or destroyed documents to conceal the employee's mistakes with respect to a taxpayer's case.

This legislation allows terminations to take place if an IRS employee engages in abuses or egregious misconduct. Conditions for which an employee can be dismissed include, but are not limited to, assaulting or battering a taxpayer or other IRS employee, violating the civil rights of a taxpayer or other IRS employee, or breaking the law, regulations, or IRS policies for the purpose of retaliating or harassing a taxpayer or other IRS employee.

Our legislation also allows an employee to be fired for willfully misusing section 6103 authority to conceal information from Congress.

With this legislation, we show that we mean business. An environment that allows employees guilty of these kinds of behaviors to continue to work within the system is not acceptable to me, the Finance Committee, or to the American people. We have heard enough excuses. And Commissioner Rossotti agrees that enough is enough!

One of the most troubling issues raised in our September hearings was the widespread use of enforcement statistics to evaluate front line IRS employees and their supervisors.

Subsequent reports by the IRS Chief Inspector substantiated our findings that the agency was, in fact, illegally evaluating employees based on enforcement statistics. Then, in our hearings just last week, we heard that such evaluations continue. In my mind, Mr. President, this mocks Congress. It demonstrates that the IRS believes it is above the law. It is indicative of a culture that believes that if it will simply hold on long enough oversight and accountability will go away and the managers and executives who have made careers out of bending the law can get back to business as usual.

The bill pending before us strengthens the law against this. It prohibits the use of enforcement statistics to evaluate any IRS employee, not merely front line collection employees and their supervisors. And the new Treasury IG would be required to report on whether the IRS is abiding by the law.

Each of the measures I have outlined thus far demonstrates just how serious we are in our effort to change the Internal Revenue Service.

Each will go a long way towards protecting the taxpayer and honest employees who are working to make the IRS a true service-oriented agency. But we don't stop here. We offer much more in the way of taxpayer protections. We shift the burden of proof to the IRS if the taxpayer maintains records, cooperates with the agency, and provides credible evidence to the court. In addition, the IRS will have the burden of providing a taxpayer's income if it uses arbitrary statistics to determine that income.

This legislation also allows taxpayers to recover attorney fees and costs from the date the taxpayer rightfully appeals an audit, and it eliminates the $110 per hour cap on recoverable attorney fees. Taxpayers should not be forced to litigate if the IRS is unreasonable. In order to level the playing field, if the agency forces a taxpayer to litigate and go to trial, our bill allows a taxpayer to recover all attorney fees and costs from the time the taxpayer makes a qualified offer if the amount of the court judgment is equal to or less than the taxpayer's offer.

Taxpayers should not have to foot the bill if the IRS is unreasonable. Beyond this, our legislation includes various provisions which allow taxpayers

and third parties to recover against the IRS for civil damages. It also establishes procedures for third parties to have erroneous liens removed from their property.

Another major taxpayer protection in this legislation is our provision to strengthen innocent spouse relief. This legislation overhauls the current innocent spouse relief which is wholly inadequate.

We do this by limiting a spouse's tax liability to the proportion of his or her income reported on the tax return, or returns, in question. As a result of concerns raised by members of the Finance Committee, relief would not be available in cases of fraud, or if the IRS proves the taxpayer claiming innocent spouse relief had actual knowledge of an item giving rise to the tax liability.

Some of the most tragic stories our committee heard concerned innocent spouses whose economic lives have been ruined by the unrelenting pursuit of IRS collections officers.

What we propose here are needed changes—changes that will bring a semblance of sanity to the current system and protect honest spouses who, under no circumstances, should be held accountable for the liabilities of their former spouses just because they are easier to find or more vulnerable to intimidation. Many of the innocent spouses we listened to in our hearings—and many of the letters I have reviewed since—told us how they have been placed under terrible burdens because of interest and penalties that continue to grow as their cases age.

Again, with this legislation, we do something about that. We make necessary and important changes to how penalties and interest are applied. In order to prevent IRS employees from arbitrarily using penalties as leverage against taxpayers, our legislation requires non-computer determined penalties to be approved by management. Furthermore, each notice to taxpayers which includes a penalty or interest must specify how the amount was calculated. Our legislation disallows the imposition of the failure-to-pay penalty while the taxpayer is in an installment agreement.

It allows the taxpayer to designate deposits for each payroll period rather than using the first-in-first-out—''FIFO''—method that results in cascading penalties.

Under this bill, if the IRS does not provide a notice of deficiency within one year after a return is timely filed, then interest and penalties will be suspended until 21 days after demand for payment. Of course, this increased protection—as all increased protections—are meant to protect honest taxpayers.

We will not excuse those who evade their responsibility or cheat on their income tax returns. These protections exclude the failure to file, failure to pay, and penalties related to fraud.

Increased protections for honest taxpayers will also affect due process. This was one of the glaring issues raised in our IRS hearings.

Currently there is a woeful lack of protection in this area, particularly during collection activity, where the IRS is the judge and jury, and where some agency employees take a cavalier approach to issuing a notice of lien, levy, or seizure of a taxpayer's home, personal belongings, or business property. In order to ensure due process to taxpayers, our bill requires the IRS to provide 30-days notice to a taxpayer before it may issue a notice of lien, levy, or seizure.

If the taxpayer requests a hearing, all collection activity must stop. If the taxpayer disputes the findings of the appeals officer, the taxpayer may petition the tax court for relief.

Our legislation requires the IRS to implement a review process under which liens, levies, and seizures would be approved by a supervisor who would review the taxpayer's information, verify that a balance is due, and affirm that a lien, levy, or seizure is appropriate under the circumstances, including the amount due and the value of the asset.

Failure to follow these procedures, under our legislation, would result in disciplinary action against the revenue officer and his or her supervisor. We also require the Treasury Inspector General to collect this information and annually report to the tax writing committees of Congress.

On those occasions when the IRS makes seizures, the agency will be required to follow certain procedures and provide an accounting to the taxpayers. It is unbelievable that the IRS does not currently provide a receipt to taxpayers when their property is seized and sold.

Revenue Officers have incredible discretion. As such, this bill requires the IRS to implement a uniform asset disposal system for sales of seized property to prevent revenue officers from conducting sales.

It would prohibit the IRS from seizing real property used as a residence if the unpaid tax liability is less than $5,000. Also, a principal residence or business property would only be seized as a last resort.

In the area of examination, our bill expands the attorney-client privilege to other tax practitioners to the extent such communications would be privileged between an attorney and his client.

It limits IRS authority to require the production of computer source code and establishes a number of protections against the disclosure and improper use of trade secrets and confidential information of any computer software program or source code that comes into the possession of the IRS as part of an examination of a taxpayer.

The legislation allows taxpayers to bring an action to quash all third-party summonses by informing the taxpayers of such summonses before the IRS contacts the third party.

Beyond these important changes, this legislation introduces several other measures to protect the taxpayer. It is surprising how long some IRS cases remain open and how long some taxpayers remain in the crosshairs of the agency. This is accomplished when the IRS pressures taxpayers, often by threatening them, to waive the 10-year statute of limitations on collection. Mr. President, 10 years is long enough, and to protect these taxpayers, our bill would prohibit waivers of the collection statute. It would also make it easier for taxpayers, who dispute the amount of their tax liability or can't pay the full amount, to compromise with the IRS or enter into installment agreements.

The legislation that we introduce today also provides taxpayers with an enhanced mechanism to appeal an audit, request early referral to appeals, and request alternative dispute resolution. It includes various routine requirements, including an explanation of the reason for denial of a refund and annual statement to taxpayers regarding the amount remaining on their installment agreement.

The bill also requires IRS notices to include the name and phone number of an IRS employee the taxpayer should contact to resolve any issue on the notice.

In order to protect innocent taxpayers who are improperly labeled as ''illegal tax protesters,'' this bill will, out and out, prohibit such designation. It will also take an important step towards helping Congress simplify the law by requiring the Joint Tax Committee to prepare a complexity analysis on tax legislation.

As you can see, Mr. President, this is a very thorough, comprehensive piece of legislation. It is extremely important. There is no question that it is well worth the wait. When our hearing began last September, an agency employee made a complaint that lodged itself in my mind, one that I have not been able to forget. He said, ''If the true number of incidents of taxpayer abuse was ever known, the public would be appalled. If the public also knew the number of abuses covered up by the IRS, there would be a taxpayer revolt.''

What we bring with this important legislation is a new era of openness to an agency that for too long has been able to operate beyond the view of Congress.

We bring a new era of accountability to an agency marked by a culture that protects even the most lawless employees from the consequences of their actions.

We bring a new era of efficiency and modern management to an organizational structure that dates back to before the industrial age.

We bring forward a promise of hope to honest taxpayers and valued employees who have waited too long. With this legislation, Commissioner Rossotti will be able to transform the IRS, provide accountability, and establish much-needed taxpayer protection.

Americans, for the first time ever, will have a tax collection agency marked by a sincere dedication to service.

Mr. President, I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise, in the first instance, to commend our chairman for his commitment to restoring public confidence in the Internal Revenue Service and for the legislation he has so ably crafted and now so succinctly set forth in the opening statement of this debate, which I think will probably consume the better part of the Senate's time for this week.

He, of course, stood on the shoulders of giants, you might say. In the report of the National Commission on Restructuring the Internal Revenue Service, ''A Vision for a New IRS,'' which was a statutory commission established in 1996, and which reported in June of 1997—chaired by our distinguished and gallant committee member BOB KERREY, J. ROBERT KERREY, whom I will ask to manage this legislation in the days ahead, he having been the principal author here, along with his colleague from the other side of the aisle, Senator CHUCK GRASSLEY, CHARLES GRASSLEY, ''CHUCK'' to his friends. They anticipated the work we did, although I don't think they could have anticipated some of the things we encountered in those hearings. Those two Senators have been indefatigable in their endeavor to transform the IRS into a consumer-based agency.

As two rounds of hearings held by the Finance Committee illustrate, there is much room for improvement at the IRS. There is much room for improvement in almost any of our Government agencies, but few, other than the Social Security Administration, so directly affect the citizenry, and none other has the capacity to be punitive, to extract resources, to impose fines. There is no other agency such as this. It is extraordinary, the fact that we have paid so little attention to the management of the Service.

The Internal Revenue Service was created in 1862 in the administration of President Lincoln, at the time when an income tax was established to help finance the Civil War. President Lincoln signed the Civil War Income Tax Act into law July 1, 1862. However, it was not until last September, nearly a century and a half later, that the full Finance Committee exercised its oversight jurisdiction, and no credit can be too great to be given Senator ROTH as the new chairman for this effort.

It is our duty to know what is going on in this large public agency. It has more than 100,000 employees. In 1997, it collected $1.5 trillion and processed 210 million tax returns. We get used to these numbers, Mr. President, but to give a sense of dimension, 1 billion minutes ago, Julius Caesar ruled the Roman Empire. If that is what 1 billion minutes is, think what 1.5 trillion minutes would be.

Some, mind you, contend that the IRS is out of control and somehow should be abolished. In truth, we simply need to get it under control and shaped in the mode of modern management.

Last November, the Senate took an important first step to getting the agency in such a working mode by unanimously confirming Charles O. Rossotti as Commissioner of Internal Revenue. We have previously, for generations, had tax lawyers as the Commissioners. They were superb tax lawyers, gifted and committed, but not necessarily managers for the management problem that needed to be addressed. And particularly not technologies. The Service had a huge problem bringing itself along into the computer age. Vast amounts have been spent with systems that do not interact well. And now, of course, we have the year 2000 problem, which all agencies of Government face. All activities you can imagine compounding that earlier difficulty.

Commissioner Rossotti has already made a visible difference. He has put in motion a plan to modernize the agency by reorganizing according to type of taxpayer, such as the individual payer, the small business, the large corporation, or the exempt organization, of which there are so many, rather than according to the simple organization of regional offices that do everything.

In addition to establishing programs to improve the treatment of taxpayers, such as problem-solving days and extended telephone service, Commissioner Rossotti has done two things very specifically addressed to the concerns of the Finance Committee. He has appointed former Comptroller General Charles Bowsher to conduct an independent review of the IRS internal Inspection Service. It was remarkable that the Comptroller General, after 15 years of dealing with the Congress' often unfortunate demands on the General Accounting Office, came back to public service to do this. A more qualified person you could not imagine.

Secondly, and again an achievement of some considerable measure, Mr. Rossotti has persuaded Judge William Webster, formerly the Director of the Central Intelligence Agency, and prior to that the Federal Bureau of Investigation, to look into the activities and the operations of the Criminal Investigation Division of the Internal Revenue Service.

This is, obviously, a troubled branch of the agency. We do not associate the Internal Revenue Service with men in body armor carrying automatic weapons, breaking into offices and telling everyone to freeze, if you will. Yet, we heard testimony that could not be doubted that just such things are happening, and they need to be very carefully controlled and obviously have not been. How widespread that behavior is, we do not know. But we will learn from Judge Webster, and not a moment too soon.

The legislation before us represents a second major step. It would establish an Internal Revenue Service oversight board consisting of six private citizens, a representative of the IRS employees' union, the Secretary of the Treasury, and the Commissioner of the IRS itself. The board will be responsible for certifying the strategic direction and goals of the agency, while the Commissioner will continue to manage all day-to-day operations. The Finance Committee specifically voted to include the Secretary and a union representative on the board, making the composition of that board identical to that of the House bill reported out of the Committee on Ways and Means, which passed the House of Representatives by an extraordinary vote of 426–4.

But now it should be clear in anticipation of some amendments, not necessary but in anticipation of the possibility, it should be clear that if this board is to have any stature within the Government and with the public, the Secretary of the Treasury must be on it. That is basic management practice. As Senator BREAUX aptly stated during the Finance Committee markup, it is also far better to have the union working cooperatively on the inside rather than working in opposition on the outside.

I would also point out that the bill includes a number of provisions to create flexibility for the Commissioner in the area of personnel. In recognition of the great disparity between the salary structures in Government and those in the private sector on parallel activities, the legislation provides a streamlined process by which the Commissioner can appoint up to 40 individuals designated critical technical and professional positions for up to 4-year terms at an annual compensation equivalent to the pay of the Vice President, currently $175,400.

The Commissioner can go out and find this person to do this particular job and make it a 4-year appointment. Persons who obviously are in the private sector will come into Government at not too large a sacrifice, and for most it would be a considerable one. I do not want to use the word ''sacrifice''—lachrymose, perhaps—just a large reduction in income for the kinds of persons that will be sought after, but not so large that they cannot manage the transition.

Other provisions will permit the establishment of a new performance management system focused on individual accountability and will allow for the creation of an award system to provide incentives for and recognition of individual group and organizational achievements. Additional measures call for the termination of IRS employees for violations committed in connection with the performance of their official duties.

The bill contains two provisions of special interest to this Senator, the

first of which Senator KERREY and I particularly supported, and Senator ROTH mentioned in his opening statement. It would require the staff of the Joint Committee on Taxation to provide an analysis of complexity and administrability issues associated with all pending tax legislation.

Many of the problems faced by the IRS arise from the Tax Code itself. One of the clearest visions of the National Commission on Restructuring the Internal Revenue Service was simplification of the tax law which says it is necessary to reduce taxpayer burden and facilitate improved tax administration. One has to note, regrettably perhaps, that our proposal for simplification goes on some 511 pages. This is a pattern we have gotten into which we ought to avoid.

If enacted, and this bill will be enacted, it will be the 64th public law to amend the Internal Revenue Code since the great Tax Reform Act of 1986. In 1986, led by Senator Packwood, we greatly simplified the Code. We lowered tax rates, we broadened the base, we got rid of all manner of absurdities and irrational provisions in the Code.

The core group, as we called ourselves, would meet each morning in Senator Packwood's office and talk about the day's plans. It would be my particular job to provide a reading from the Wall Street Journal. I would find—never failed—an advertisement somewhere in the Journal of that day talking about mountain sheep or billy goats, or what have you, in which it would say ''losses guaranteed.'' Such were the provisions of the Tax Code at that time—you made money by investing in activities that lost money. We cleared all that out, or thought we did, and we brought rates down and hoped they would stay there.

This will be the 64th law since that time amending and complexifying. I recall last year we passed a bill, 802 pages, called the Taxpayer Relief Act of 1997, and the only copy on the Senate floor was here at this desk. The copy for the chairman was spirited away to be examined in the Budget Committee for violations of the Byrd rule, as I recall. And Senators would come up and ask the Senator from New York if there were certain provisions in the bill. They had no way of knowing because there was no copy on the floor.

This sort of analysis will take time to do it, but 20 years from now we may look back and think that one of the most important provisions that was contained in this measure was the report by the Joint Committee on Taxation of the complexity of a tax measure, and how well, in fact, the IRS could handle its administration. Because if we failed to simplify the Code, we failed to address the heart of this problem. Complexity contributes to taxpayer frustration, obviously, and to tax evasion, as well.

We look forward to working with the chairman to try to reduce tax evasion, which is a much larger matter than we have tended to assume.

Commissioner Rossotti, in his testimony before the Finance Committee on Friday, stated that tax evasion is now at an estimated $195 billion a year. If we were to do no more than collect half the taxes now owed and deliberately not paid, our revenue situation would be profoundly changed. And that can be done, and I think Commissioner Rossotti intends to at least attempt it. We are talking about laws here. If we are a nation of laws, not only do taxpayers have rights, but they have responsibilities. Both should be pursued with energy and effectiveness.

A second provision has to do with the so-called year 2000 problem or the century date change, as Commissioner Rossotti terms it. The IRS has had some well-publicized difficulties with its computer modernization efforts. These problems have been exacerbated by programming changes required by the Taxpayer Relief Act last year and by the year 2000 problem.

It is beginning to sink in that we have a real problem here. Our majority leader and the minority leader are much to be congratulated. We have now created a special committee on this matter with our distinguished colleague, Senator BENNETT, as the chairman. This is not a problem in the ordinary sense, a difficulty to be looked after or endured. No. The General Accounting Office testified before us September of last year that the computer conversion problem could be catastrophic. The whole system could crash. We are not alone in this regard. The IRS is just another large information center dependent on information processing which it cannot do if the computers are not changed in time. The adjustments are not that complicated but the pressure of time is extraordinary.

I recently had the occasion of introducing the Chairman of the Securities and Exchange Commission, our distinguished Chairman Arthur Levitt, who was nominated for a second term. We were talking while we were waiting for the hearing in the Banking Committee to begin. He mentioned this issue and said that for the banks and such he is responsible for, if they do not get this done it is terminal. Not just that the profits drop a bit or some activities can't survive—it is terminal.

The Defense Department has unimaginable difficulties. They will get it done or they hope they will get it done, or our missiles won't be aimed in the right direction, things like that. And the Commissioner has asked that some of the provisions in this bill be delayed not for a long time but until after the year 2000 so he can have the year 2000 problem solved before he puts in these new provisions. It is a very reasonable, orderly, sane recommendation and we would be disorderly not to heed it. He has already sent us a six-page letter that tells us when he can have this provision in place, when he can have that provision in place. He knows what he is talking about. I hope we will listen.

Two final points: The bill requires the Joint Committee and the Treasury to study the issue of taxpayer confidentiality. We must strike a balance between taxpayer privacy on the one hand and the ability of Government to function on the other. In our hearings we have had a matter where IRS officials, faced with specific charges, will often seem evasive or unresponsive in their answers. What they are doing is responding to the law that forbids them to discuss things they know, but which are confidential. Some balancing of that is in order, and I hope we can see it brought about.

Finally, Mr. President, a comment on the cost of the legislation. Through the ingenuity of the chairman, we have fully funded this measure for the first 5 years of its operation. It is underfunded by $10 billion in the second 5 years. We hope to do something about this. I think it is unseemly of us to bring tax reform legislation to the Senate and fully ignore the fact that we aren't paying for it. We can pay for it; it is not an impossible sum, and it is surely incumbent upon the committee and the managers of the legislation to see if we can't find that extra $10 billion.

Mr. ROTH. Will the Senator yield for a comment?

Mr. MOYNIHAN. I am happy to; yes.

Mr. ROTH. I want to make it clear that it is the intent of the chairman to fully pay for both the first 5 years and the second 5 years.

Mr. MOYNIHAN. Yes. I am not surprised. We pay our bills—or we ought to pay our bills. As I said, it would be unseemly to bring a measure of this kind to the floor saying, ''Let's manage these matters better,'' and not manage to pay for it. That is welcome news, and the Senator has my cooperation on that, to be sure.

Finally, Mr. President, I am going to ask Senator KERREY to manage the legislation on our side. As I said, he was co-chairman of the National Commission on Restructuring the Internal Revenue Service. Their superb report, ''A New Vision for the IRS,'' which was issued last June—11 months ago—has led to the work we are doing now, which we bring to the floor with pride and with the expectation that we will be successful.

On that note, sir, I yield the floor.

Mr. JOHNSON addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from South Dakota is recognized.

Mr. JOHNSON. I ask unanimous consent to speak for such time as I may consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSON. Mr. President, I thank the ranking member, Senator MOYNIHAN of New York, and the chairman, Senator ROTH of Delaware, for their excellent work on this legislation and for bringing this to the floor.

I rise today to express my qualified support for this legislation that is long

overdue, the IRS Reform and Restructuring Act. When I say ''qualified,'' that qualification is primarily over the question of paying for this legislation in full. As a member of the Senate Budget Committee, it is a matter of great importance to me. I am very heartened that Chairman ROTH has expressed very clearly on the floor here today that there will, in fact, be offsets sufficient to pay for this legislation not only during the first 5 years but the remaining 5 years as well. I look forward to reviewing those offsets, of course. But I am very heartened by that, because I think that is a key underlying requirement for this body to responsibly take up IRS reform legislation.

The road bringing us to this day has been long indeed. It was, after all, in the fall of 1995 that the legislation was enacted calling for the establishment of a commission on restructuring the IRS. Nearly 1 year ago, this commission submitted its report to Congress.

After a period of congressional hearings and negotiation, compromise legislation was agreed upon by President Clinton, Secretary of Treasury Rubin, and the minority leadership of both Houses of Congress. With this support, it is not surprising that the House passed H.R. 2676 last November by an overwhelming margin of 424–6. The administration, since that time, has appointed former FBI and CIA Director William H. Webster to review the practices of the IRS and its Criminal Investigation Division. I think that is a very important and responsible step on the part of the administration, which is consistent with the direction and concerns expressed by both the House and the Senate.

It has been frustrating that it has taken so long to bring this legislation to the floor. During the State of the Union Address at the beginning of the year, President Clinton called for passage of this bill as his first item of business. One week later, the majority leader pledged that IRS reform would be considered on this floor by March 30. Once again, unfortunately, the Senate did nothing. We spent days debating such items as renaming airports, but there was no action on this critical legislation. March 30 came and went, and so did an even more significant date for over 100 million Americans, and that was April 15, tax day. As the American people met the deadline for filing their tax forms, the Senate had not yet taken this legislation up on the floor.

Finally, after much delay, this measure has reached the Senate floor. It has often been said that, ''It is better late than never.'' This week's Congressional Quarterly, a respected nonpartisan political publication, observes that one reason for the delay may have been a desire to raise campaign money. I certainly hope that was not the case. I believe that this legislation could, in fact, go a long way toward addressing many of the fundamental organizational problems that we see in the IRS today. That agency, as we all know very well, has antiquated computer systems, customer service phone lines that typically have busy signals, and many other operational inefficiencies. Furthermore, we have all heard about the large number of complaints about overzealous enforcement, rude service, and simple inability to get a clear answer. These are problems that clearly must be addressed.

Of course, it should be recognized that during the course of Senate hearings, the IRS was not in a position to refute individual cases brought before the committee because of their confidentiality restrictions, and so the ''rest of the story,'' as is sometimes heard, went untold. Nonetheless, it is clear, both through hearings and individual complaints to our respective offices, that there have been abuses. There is no room for that, and there ought to be zero tolerance for that abuse.

This bill will create an IRS governance and oversight board, which will be charged with overseeing the long-term strategic and operational plans for the agency. Personnel policies will be made more flexible. Expanded use of electronic filing will become a significant goal, with the hope that by the year 2007 only 20 percent of the tax returns will be filed on paper.

Additionally, this bill will expand taxpayer rights. The burden of proof in Tax Court proceedings will lie with the IRS rather than with the taxpayer. Penalties will be allowed for IRS collection activities that negligently violate the Internal Revenue Code. Relief will be granted to spouses who are innocent of an underpayment filed on a return. Taxpayers will be granted expanded confidentiality protection as well as explicit notice of their rights.

One of the more overlooked provisions of this bill, however, is perhaps one of the most important. The bill states—albeit in a sense of the Congress, nonetheless an important expression of the point of view of this body—that front-line IRS technical experts should be heard during congressional consideration of tax legislation in an effort to avoid additional complexity to the Tax Code. It has been Congresses and Presidents, after all, not the IRS, that have been responsible for creating a Tax Code which is overly complex and difficult to enforce.

In a sense, the IRS has been an easy target for this whole debate, as has always been the case, I suppose. Few people like an agency responsible for collecting taxes.

We must instead recognize, however, that a great deal of the responsibility for this problem rests on the doorstep of Congress itself. The Taxpayer Relief Act of 1997, for example, while an excellent piece of legislation in very many respects, contains hundreds of new tax provisions, most of which increased the complexity of the Tax Code. We have in this debate the remarkable inconsistency of those who decry the complexity of the Tax Code on the one hand, but never miss an opportunity to worsen the situation by supporting every conceivable tax provision complication that comes along.

I do have a serious reservation already expressed at the outset, and that is the Senate version of the bill as it now stands is expected to cost the Treasury $19.3 billion over the next 10 years. The proposed offsets are nearly $10 billion short of paying for this cost, meaning this bill, until it is amended, is in violation of the pay-as-you-go rules in the Budget Act, and costing three times the cost of the House-passed IRS reform legislation. As a member of the Senate Budget Committee, I believe it is extremely important that we maintain the budget discipline that has brought us the first balanced unified budget in three decades, and not jeopardize even as worthy a cause as this. I look forward, again, to reviewing the chairman's offers that he will raise later on in this debate.

Additionally, I would be remiss if I failed to point out there are, in fact, a great number of IRS employees who deserve to be recognized for the exemplary service they provide for this Nation. Although I have certainly heard my share of complaints about the IRS, I have also heard from constituents who relate their stories of problems they have had. I am also very much aware of IRS employees who go about their duties every day as public servants in a professional and competent and able manner. We in Congress must be careful not to use too broad a brush in the heat of this debate. The vast majority of IRS employees are good and capable public servants with a tough job on their hands. The fact is that fact has been lost as we listened to one side of the story, one side that does indeed, however, need to be corrected.

But I think it is important for us to go about this debate and recognize that on the one hand elected officials have created a complex Tax Code, though we want aggressive tax collection in order to address the problem of tax evasion in this country, which costs the taxpayers $100 billion a year in uncollected taxes, an unfair tax on those Americans who fairly and legally pay their taxes. So on the one hand we want the IRS to be aggressive about making those collections, but on the other hand we also want an IRS with a human face on it that recognizes that intimidation and overaggressiveness has no place. This is a fine line to walk—a line that has been crossed in numerous instances about unfortunate situations with the IRS—but one that is difficult to walk in some instances.

Mr. President, I look forward to the debate on this legislation. It is a positive step forward in our efforts to create a tax system that is simpler and less burdensome on taxpayers. We cannot rest with the debate on this bill, however, since the more difficult and more complex job lies ahead. To truly resolve this problem, we will need to

get to the ultimate source, which is the complexity and the difficulty of the Tax Code itself, and there the guilty party is not the IRS but the Congress itself.

I yield the floor.

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. BRYAN. 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. BRYAN. I thank the Chair.

Mr. President, April 15, the day on which we pay our annual tribute to the IRS, will never be one of the happiest days on the calendar for Americans. It is a time in which all of us are required to pay that which we owe to the Federal Government by way of the tax system that we, as Members of the Congress, have imposed upon the American people.

We have heard in the past few days a number of the abuses that have been foisted upon the American public, and I will speak to those issues in more detail in a moment. In the meantime, we have an opportunity to pass a reform and restructuring piece of legislation which, as a member of the Senate Finance Committee, I am pleased to support and endorse, and I hope we can get this to the President for his signature as soon as possible.

Many of us believe that it would have been possible to have passed this legislation last year so that the benefits that are provided in this legislation to the American taxpayer could have been available in the early part of this year before this year's tax collections went into effect. Nevertheless, we do have an opportunity to move forward on this important piece of legislation.

Reform of the IRS is not a partisan issue. In my judgment, by acting quickly on this legislation, we can provide some much-needed protections and service improvements to the American taxpayers.

I think it is fair to acknowledge that the problems with the IRS are not of recent origin or vintage. They have existed for many years. But it does seem to me that the timing for change is most fortuitous an opportunity for us to pass a broad, far-reaching IRS reform bill in a time when we have a Commissioner of the Internal Revenue Service, Mr. Rossotti, who has a unique and, I believe, highly qualified background to help us implement these changes.

Mr. Rossotti, unlike his distinguished predecessors, is not a man with a tax or an accounting background, but brings a distinctive business perspective. Many of the problems of the IRS deal with fundamental change of structure, so I believe that his background provides a unique opportunity, combined with this legislation, to produce the kind of changes which will benefit the American public and which Democrats and Republicans alike are prepared to embrace.

Already, in the few short months that he has served as our Commissioner, he has demonstrated a commitment to reform and change, and I believe that is highly encouraging.

Our responsibility as Members of Congress, in my view, is to give Commissioner Rossotti the tools that he needs to do the job, and the legislation before the Senate today does just that. Thanks to the leadership of Chairman ROTH and the ranking member, Senator MOYNIHAN, the public today is more aware than ever of the types of abuses we need to correct in the IRS.

Last week's hearings in particular reveal that the agency is in serious need of reform. I think all Americans were truly shocked and outraged by the testimony that we heard.

The task of collecting taxes is always a difficult one, but little, if any, circumstances would dictate the strong-armed, police-style tactics that we listened to last week were necessary in dealing with the taxpayers who testified before the Finance Committee.

The IRS, like any other agency, should attempt to use the least intrusive, the least confrontational method available to carrying out its duties.

Having said that, the abuses that we heard last week, I think, engendered the justifiable outrage by all of us, but there are those who are part of our country who are involved in criminal and other kind of nefarious activities, and so we must, at the time we reform this agency, not deprive the agency of the ability to move against those who are truly involved in either criminal conspiracies or other kind of activities in which they are underpaying their taxes.

Each of us who pay our taxes on time as required—and that is the vast majority of the American people—will suffer the consequences if changes that we bring into the system makes it more difficult to collect from those who would evade the taxes.

The consequence of that course of action will mean that all of us will pay more, not less, as a result of failing to collect taxes that are lawfully due pursuant to the IRS Code. So we clearly need to be mindful of that.

That testimony, nevertheless, I think was shocking to most Americans and certainly to the members of the committee where dozens of armed, flak-jacketed agents raided well-established businesses and individuals. This clearly appears to be an agency, at least in respect to those circumstances that we were informed about last week, that is out of control. Nothing that we heard, assuming that there was a tax liability owed by the taxpayers who testified, justified that kind of egregious conduct.

That kind of conduct gives a bad name to those 100,000 IRS employees who are decent, law-abiding citizens. They are our neighbors. They are our friends. They are involved in the civic culture of our community. They are involved in Little League and all of the other activities that make up a community. But this kind of conduct is egregious, it is unacceptable, and it cannot be allowed to continue.

I believe that the chairman and the committee have produced a strong bill that will give the Commissioner the tools he needs to make real reforms in the IRS possible. I would like to spend a couple of minutes addressing several of those reforms.

Establishing an IRS oversight board to provide input and oversight from the customers of the IRS, the American taxpayer, in addition to those who have responsibility for enforcing the Code, I believe, broadens the perspective of the oversight, and I fully support that provision.

Providing some kind of continuity for the Commissioner, as this legislation provides a 5-year term, I think is important for the stability and management of the agency. If, as I suspect, many of the agency's problems are deep-seated, institutional and cultural in nature, it is very difficult for an IRS Commissioner, no matter what his enthusiasm or her enthusiasm for reform might be, to make those kinds of changes in a couple of years. It takes a longer period of time to turn around a bureaucracy that is as large and encrusted as the IRS.

It will strengthen the Office of the Taxpayer Advocate by ensuring that the taxpayer advocate is truly independent from the IRS bureaucracy and increasing the ability of the taxpayer advocate to provide relief to taxpayers.

We have sought in the past, by establishing such an office, to provide that kind of assistance to the American taxpayer, but I believe candor requires us to acknowledge that we have fallen short of the mark, because the perception, if not the reality, is that the taxpayer advocate of the past is still part of the IRS structure, and the individual who holds that position looks to his or her future—the IRS itself—and therefore has been reluctant to aggressively intervene on behalf of the American taxpayer who has a legitimate grievance or issue to raise.

It will enhance oversight of IRS activities by strengthening the Treasury Inspector General Office. We heard much in the last week about employees who have complained about misconduct on the part of some of their co-employees, reporting this misconduct only to be ignored. Hopefully, a more effective oversight responsibility on the part of the inspector general's office will provide assurance that those comments and concerns—shared, as I have indicated, by the vast majority of employees of the IRS who are responsible, dedicated public servants who, as we were abhorred by what we heard, they, too, are greatly troubled by that kind of misconduct on the part of the few employees who engage in that type of excessive conduct.

This legislation requires the IRS to use fair and equitable treatment of taxpayers as a basis for employee evaluation.

Mr. President, one of the ongoing concerns in my own State has been the so-called quota system. This Congress has in the past attempted to send a message indicating that the quota system can no longer be used either to evaluate employees or as part of a collection tool.

Unhappily, notwithstanding those earlier directions from the Congress, we found last year as we were beginning our discussion of the reform measures in the Finance Committee that indeed, in the district in Nevada, such quotas were in fact being used, although they were not described as quotas. From all appearances, those who are part of the evaluating process could, in my judgment, have reached no other conclusion but that their performance would be judged by the amount of money that would be extracted from each taxpayer who came to the office by reason of some conflict or disagreement as to the amount of revenue that the taxpayer owed.

A quota system is inherently wrong and unfair because it engenders a confrontational attitude. That is to say, the IRS revenue officer looks at the taxpayer not as a consumer, one who has a problem that needs to be addressed, but basically as an individual that the revenue agent must collect a certain amount of taxes from in order to be evaluated positively by his or her superiors for purposes of tenure or promotion within the system.

I have to say that once we called this practice to the attention of the Acting IRS Commissioner at the time, he was forceful in his denunciation, as is Mr. Rossotti, our new director. But, nevertheless, notwithstanding directions from the past, these quotas were still there. That needs to be changed. And I believe that we provide not only the specifics, but the tenure in this legislation that directs that to be accomplished.

This legislation establishes goals for increased electronic filing, which offers benefits to both the taxpayers and the IRS. If there is a part of this cloud that has a shining moment, it is in the system that has been created that allows for telefiling. It is a system available to millions of taxpayers, a paperless system that allows the taxpayer to get his or her refund, if one is due, much quicker than the old process. It relieves an enormous paperwork burden on the part of the IRS. So it is a win-win, a win for the taxpayer and a win for the IRS. I am pleased to see that more taxpayers are availing themselves of this. And electronic filing also provides simplification for the taxpayer as well as for the IRS, and that practice has increased as well.

By shifting the burden of proof in certain cases where the taxpayer has cooperated with the IRS in providing all documentation to a tax case, again, it has the effect of leveling the playing field for the taxpayer in an issue of dispute or controversy with the IRS.

Expanding the opportunity for taxpayers to recover reasonable costs and attorney's fees when a taxpayer prevails over the IRS—this, too, levels the playing field and is in the essence of fair play.

Enhancing the ability of taxpayers to recover civil damages when they are victims of IRS abuse or negligence—this provision that we have added to the code treats taxpayers more equitably by eliminating interest rate differentials between many overpayments and underpayments so that the taxpayer is treated as the IRS is treated for purposes of interest payments that may be due as a result of money owed to the taxpayer.

The bill that we have before us provides relief from certain penalties when a taxpayer is making a good-faith effort to pay past due taxes.

This legislation enhances due process rights prior to seizures and levies and improves the ability of taxpayers to take advantage of ''offers in compromise'' and installment agreements.

This legislation increases disclosure to taxpayers of reasons for IRS actions, including providing reasons for denying a refund and clearly informing taxpayers of their rights during audits or other IRS procedures, thereby making the process less mystifying and secretive but more open and understood by the American taxpayer.

It requires all IRS correspondence to identify by name, phone number, and address, and to provide the IRS contact regarding the correspondence, and to require the Joint Tax Committee to analyze the change in tax complexity of legislation being considered by the Congress.

Mr. President, there is plenty of blame to spread around regarding the many problems with the IRS. It is certainly clear that for far too long a culture has existed within the agency that views the taxpayer as the adversary rather than as the customer. Overcoming this taxpayer-hostile culture is not something that we can accomplish instantaneously through legislative fiat, but I believe if we give Commissioner Rossotti the tools he needs to do his job, problems in this agency can be resolved and long-entrenched attitudes can be changed.

Most of the more than 100,000 employees of the IRS are conscientious public servants dedicated to doing their job in a fair, impartial, and effective manner. With strong leadership from the top, increased taxpayer protections and increased flexibility to reward employees who do their job well and to, conversely, penalize those who do not, I think, are what this agency needs before it can be turned around.

The IRS will never be the most popular Federal agency. But if, by passing this legislation, we ensure that honest, hard-working taxpayers are treated fairly and with respect by the IRS, we will have made a major improvement. I do not mean to suggest that by simply passing this legislation we will solve every problem with the IRS. Of course, that is not the case.

A great part of the problems with the IRS rests with this body, the Congress itself. The code is extraordinarily complex, difficult to administer, ambiguous in parts, uncertain in terms of its intended consequence. With every good intention Congress has had, for many, many years the IRS Tax Code has become more complicated, not less so. I want to be clear that I supported the changes in the Tax Code that were part of the balanced budget agreement last year. But last year's tax bill is a good example of the code becoming more complex.

While I believe that there were many solid policy reasons for every provision of last year's bill, no one can argue that last year's legislative enactment will provide for tax simplification. It has made the code more complex. And in recent weeks on the floor of this Chamber, we have heard proposals being offered on behalf of some of the educational issues that have been debated that will make the code even more complicated.

The bill before the Senate today will, however, provide great improvements in the management of the IRS. And until such time as we can provide for a simpler Tax Code that can be more effectively administered, we have a responsibility to provide the necessary tools so that the code can be more fairly enforced and implemented.

Mr. President, I strongly support this legislation and hope the Senate will pass this bill in the near future.

I note that the distinguished senior Senator from Nebraska joins us on the floor and undoubtedly will have much to say. I would like to pay tribute to him and his congressional counterparts for the years that they spent as part of a review of this Tax Code, the testimony they heard, the stories that were told to them. The genesis for this reform lies largely with the action of the distinguished senior Senator from Nebraska, Mr. KERREY. I acknowledge that. All of us ought to be grateful.

He and Senator GRASSLEY and others, in a bipartisan way, during the interim, took the many hours out of their time to canvas some of the more outrageous and objectionable provisions of the code, some of the practices that have occurred over the years, the injustices that have occurred. The legislation that they framed, which is the basis for action today, moves us a long way in the direction of reform.

The American people ought to be very grateful to him, Senator GRASSLEY, and others, for their efforts in moving this reform along the way.

I yield the floor.

Mr. ENZI address the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I rise this afternoon in support of this bill that

we have been addressing since noon, H.R. 2637, the Internal Revenue Service Restructuring and Reform Act of 1998. By passing this legislation, Congress will take an important step in reforming what many Americans believe to be the most feared agency in the United States.

I want to congratulate Chairman ROTH of the Finance Committee for the tremendous effort he made last year to begin some oversight hearings. We heard earlier today those may be the first oversight hearings in the history of the IRS, an IRS that was formed during the Civil War.

The hearings that we heard last year were frightening, revealing, and to most of the American public, not surprising, unfortunately. We learned a lot from that process. It provided emphasis and timing to be able to do the reform bill that we are presently debating, a reform bill that will bring a little bit of a sense of security to the honest American taxpayer.

Last year I had so much interest in the hearings that were going on that we arranged for each day's hearings to be on our web site, the web site for my office, each day. Those were available within 24 hours. We have also been taking the hearings that were just held and getting them posted on the web site so they would be accessible to every American in the United States. I think that access to that will lend more urgency to the work before the Senate today.

The bill before the Senate today, and I appreciate the very detailed explanation that Chairman ROTH gave earlier this afternoon, this bill will first overhaul the IRS organizational structure; secondly, it will provide necessary protections for American taxpayers; and third, it will require greater accountability from the IRS employees.

I will talk about that in a little more depth. First, the IRS Reform Act will overhaul the organizational structure of the IRS. In order for any organization to perform its function well, it is necessary for it to know what that function is, to know its mission. When I was in the Wyoming State Legislature, I worked with a number of agencies as they implemented strategic plans. We passed a bill that forced each of them to say what they do and how we could tell if they got it done. I think that is key to anything in government. There is no bottom line, but there is a mission.

I watched that process as they did it in the State. We heard from directors, from the agencies, and we heard from the employees as it got down to their level on what they do and how we could tell if they got it done. I have to say I was so pleased, there were employees that came forward and said, ''My job shouldn't exist. It doesn't fit with what we say we are doing.'' It is my earnest hope that every one of those people were promoted, not eliminated.

It worked so well in our State that we were able to get our budget balancing process down to a record 3 weeks and then to 13 days. I was pretty excited when I got elected to come back to Washington. I thought that was one of the things that the Federal Government could do—have a mission process. But when I got back here, I was excited to find that it already existed. We have a Government Performance and Results Act. It requires every Federal agency to have a mission statement, to have goals, to define them, so that they are measurable and prioritized, and then to see that the goals match up with the budget so they are spending the money on what they said they would.

As a result of my excitement over that act, I got copies of a number of agencies I was interested in to see what they said they were doing and how we would know if they got it done. One of those agencies was the IRS. Something else I did was to go on a field trip to those agencies and let them explain to me, through their government performance and results, what it was they thought they were doing. It was an interesting trip to the IRS. I will admit to say they were extremely cooperative and had a lot of insights they were willing to share with me on problems they have and solutions they are arriving at.

One of the things that I asked about was when a taxpayer calls in and asks a question about their taxes, how do they know they can rely on that? I want to tell you there isn't a good answer to that. I have asked for written confirmation when that answer is given so you can put that with your tax records and then show that to the agent if you are audited.

We talked about having error notices that are easier to read. I don't know how many people have received an error notice, but they are computer-generated letters, and the computer-generated letter generates a series of codes that might be the reason you are being audited. You can take those series of codes and you can look in an extremely long document that comes with the letter and see what the range of possibilities are on what may have been done wrong and what is not right. It is computer generated. The computer is spewing out a series of letters. It could at least transform those letters into the exact words from the text of what those possibilities are. We are suggesting they ought to tell you what the problem is that brought you up for an audit.

There are also problems with dollar thresholds. I remember when one of my clients—and I am the only accountant in the U.S. Senate—one of my clients, on a $3 million report, was told they were off by 58 cents. It took 3 months and about nine letters to get that straightened out. I suggest that when the IRS sent that very first letter they had already used as much money as they had the possibility of correcting—58 cents. It turned out they had made a mistake in their addition—58 cents.

Then there is the problem of random audits. The IRS has been randomly auditing people in extreme detail. No reason showed up for the need for the audit. It was to get an estimate of how many dollars they might be missing. Those people were required to produce more documents than if they had been chosen for an audit. They had to find the documents for every single line of their audit. What would it achieve? It would give us a better state of how much money is not being collected. It wouldn't collect a dime. We have asked for that process to be stopped, and we have been told it is, but you will hear numbers still brought out about the possibility that we are doing random audits.

I congratulate the new Commissioner. The new Commissioner brings a management perspective instead of a tax perspective to an agency that needs some management perspective. He has already changed some of the phone overflow so that people who may not have as heavy a work load can be answering questions. He is looking at a lot of things that need to be done.

I have to admit that Congress has a big task ahead of it because part of the problem is the Tax Code itself. It is too cumbersome, too hard to understand, too many provisions, too many exceptions, too many interpretations.

So it is up to Congress to take a look at the Tax Code and the American taxpayers to demand that we take a look at that Tax Code. We have to decide if it is going to be a Tax Code of policy or just one of collecting money. So far, we say it is a tax policy. But we really haven't taken the step of sitting down and determining tax policy and what we are trying to achieve. We always jump to the solution without agreement on the problem. I think the voters would buy and be excited over a clearly defined problem. They would hope for a solution.

We talk about the American dream. We talk about strong families. We talk about home ownership. We talk about health care for everyone. We talk about the need and importance for investment and savings. We take about the role that small business plays as the backbone of our economy and the economic hope and dream for individuals across this country. In the land of freedom, we hide taxes. And it gets worse. We double tax some people. I ask you, with the exception of home ownership, where are those things reflected in the Tax Code?

Stronger families? No, we penalize marriage. We discourage parents from raising their own children. We only give big corporations a health care tax break. We don't even give the same break to individuals paying their portion of health care. We tax investment and interest and at an escalated rate, unearned income. Our current tax system discourages the small, the beginning businesses, particularly those beginning in the home, which brings us back to families. America has become

the home of the ''tax trap,'' and the IRS gets to spring it. Let's see, the way the tax trap works is, the harder you work, the more taxes you pay. The more taxes you have to pay, the longer and harder you have to work. You end up with more work, and Washington ends up with more money. I don't think that is how our forefathers saw the system happening.

We in Congress have to make filing easier, and that means less forms, that means less instructions, that means less chance of making a mistake, and that means less chance of an audit.

When I was at the IRS on the field trip, I asked about paperwork simplification—a major effort by the Federal Government. We have to reduce the amount of paperwork Americans have to do. Well, I want to tell you how they told me how that is rated. The IRS generates more paperwork than the other agencies combined; 75 percent of all Government paperwork comes through the IRS.

We had some suggestions for ways the tax forms could be a little easier to fill out. A couple of those required adding another line so that you knew how the number got from here to here. Can't do that. The way the Paperwork Reduction Act works is, to get any credit under paperwork reduction, you have to remove lines from the tax forms or any other Government form, regardless of whether that makes it more difficult or not. That will give you a little explanation why the EZ–1040 form—the simplest form we are supposed to fill out—has a 33-page instruction manual. You have to be a lawyer to read the detail to figure out what to put on this ''simplified'' tax form. That is not right. But that is why we have it.

The Paperwork Reduction Act only gives credit for taking lines off the form, not for building millions of pages of explanation for the lines that you do not understand. I thought of an ''Enzi Form 1040,'' a 1-page form. It would still provide the auditing capability that the IRS would need. It can be done if we go to tax policy and if we get together and work on simplification.

Now, the IRS reform bill makes some important structural changes, which I believe will help to focus the agency's mission. This legislation creates a separate board to oversee the management and operations of the IRS. This board would include six private life experts, who will bring their collective private sector experience to such tasks as reviewing and approving the agency's strategic plans and budget requests. The board would also have big picture authority over IRS enforcement and collection activities. Board members would not, however, be permitted to intervene in particular tax disputes. Moreover, in order to ensure the agency's autonomy from improper influence, these board members would be governed by conflict of interest restrictions. I believe this new board, which will be comprised largely of people with experience in the private sector, will help the agency better meet the needs and concerns of the agency's customers—the American taxpayer.

Secondly, the IRS reform legislation provides important safeguards for the American taxpayers. For too long, the IRS has actively filled the roles of judge, jury, and executioner in collection actions against taxpayers. This Reform Act would shift the burden of proof from the taxpayer to the IRS in most court proceedings, as long as the taxpayer introduces credible evidence relevant to determining his or her income tax liability. It would also place the burden of proof on the IRS in determining whether penalties should be imposed. The bill expands a taxpayer's ability to collect attorney fees when the IRS brings unwarranted action against them and allows taxpayers to recover civil damages when an IRS employee is negligent in collection actions. Taxpayers may also recover attorney fees in civil actions against the IRS when the IRS engages in unauthorized browsing or disclosure of taxpayer information. It would also provide substantial relief for innocent spouses in collection actions based on past joint returns by allowing spouses to be liable only for tax attributable to their income.

Many of the taxpayer provisions in the IRS Reform Act are a direct result of the abuses uncovered last year by the Senate Finance Committee hearings. Many people were shocked to learn that a number of the due process protections Americans take for granted in other legal proceedings do not apply to actions involving the IRS. The bill corrects many of these injustices. Once this bill becomes law, the IRS will be required to provide notice to taxpayers 30 days before the Service files a notice of a Federal tax lien. A taxpayer would then have 30 days to request a hearing by IRS appeals. No collection activity would be allowed until after the hearing. The taxpayer would likewise be able to petition the Tax Court to contest the appeals decision. Finally, the communications privilege now granted only to attorneys would be extended to accountants and other tax practitioners. This charge would provide taxpayers with the necessary confidentiality in communications with their tax preparers, whether or not they are licensed attorneys.

I hope this reform activity will spread to some of the other agencies. We have people across America who are living in fear of the Government that they vote for, that they pay for, that is supposed to be working for them—people who really want to do the right thing, but are afraid to ask the right questions for fear that question will be used to penalize them, for fear that question will put them in the public spotlight and embarrass them. It isn't just the IRS; the Environmental Protection Agency is one that a number of small businesses live in fear of asking a question about: Is it pollution? How do I stop it? Can I clean it up and spend the money myself and not be penalized?

OSHA is another one of those, where the small businessman lives in fear of asking the right question for fear it will result in a penalty and not an answer. Sometimes they are not even allowed to give an answer, but they are allowed to penalize.

So what we are talking about in this bill is allowing the taxpayer to ask his accountant the right question to see if that is what he really owes and not have that become a road map for the IRS for future action. I believe these changes will help rein in many of the intimidation tactics used to target the unsuspecting taxpayers.

Thirdly, and lastly, the IRS reform bill will bring and demand greater accountability from the more than 100,000 employees who work for the Internal Revenue Service.

It requires all IRS notices and correspondence to include the name, phone number, and address of the IRS employee whom the taxpayer should contact regarding the notice. Imagine that—being able to talk to the person that knows the problem. Moreover, this bill requires the IRS to maintain complaints of any employee misconduct on an individual employee basis. This won't be just the IRS. Each person will have accountability. It will prohibit the IRS from labeling individual taxpayers as ''illegal tax protesters'' and maintaining lists of these individuals. The IRS will also have to disclose to taxpayers in simple terms the criteria and procedures for selecting taxpayers for audit. I believe this will decrease the ability of the IRS to target innocent taxpayers and innocent small businesses for audit.

Mr. President, the IRS Reform Act will go a long way in reforming our Government's tax collection practices. By returning customer services and accountability to the IRS, this legislation helps ensure that the American taxpayers are treated with the decency and respect they deserve.

Again, I want to thank the chairman for the hearings that he held to lend emphasis to the need for this bill and the desire to have this bill.

I appreciate the bipartisan effort that has been made to get this bill moving through the process this week and look forward to the debate that we will have on it.

I urge my colleagues to join me in supporting the IRS Restructuring and Reform Act of 1998.

I thank the Chair.

I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, I thank my friend from Wyoming for his excellent statement about the need for this legislation. All of us involved in this over the years, including the distinguished chairman, hope the debate that we are having will be constructive and

lead to enactment and passage by this body as quickly as possible after conference with the House and the signature of the President for substantial new powers, and the reason to believe that this change in the law will improve the quality of service that every single American taxpayer gets, and cause all of us to want to make certain that this bill passes as quickly as possible.

Mr. President, the legislation we begin debate on today—the Internal Revenue Service Reform and Restructuring Act of 1998—will touch the lives of every taxpaying American. The law which authorizes the federal agency known as the IRS to collect taxes affects more Americans than any other.

Before I discuss what is in this legislation I must offer praise to several who have played key roles in developing the bill before us today. First among them is Senator BILL ROTH, Chairman of the Senate's Finance Committee. Chairman ROTH's enthusiasm for protecting American taxpayers who fear this agency, his desire to make certain the Commissioner of this agency has the statutory authority to manage it, and his willingness to accommodate the ideas of all members of his committee made it possible to produce a unanimous vote of support.

Likewise, Senator MOYNIHAN, our ranking member stood steadfastly with our Chairman to make certain our rhetorical excesses did not lead to changes in the law which would have the perverse effect of increasing the tax burden on law abiding Americans who experience no difficulty with the IRS. One of the most difficult judgments we have to make is to separate the legitimate and constructive complaint from those who simply do not want to pay their taxes. To paraphrase H.L. Mencken: ''Injustice is not so difficult to bear as people say; it is justice that is difficult to bear.''

In addition I want to thank Senator RICHARD SHELBY, Chairman of the Treasury Postal Subcommittee of the Senate's Appropriations Committee. His support in 1995 for the creation of the National Commission of Restructuring the Internal Revenue Service—along with Congressmen Jim Ross Lightfoot and STENY HOYER—was in response to the IRS having wasted $4 billion of taxpayers' money on a failed investment known as Tax Systems Modernization.

Mr. President, I also want to praise the work done by Congressman ROB PORTMAN, who was my co-chair of the National Commission.

Congressman PORTMAN and I became partners in this year long effort during which we received extensive input from American taxpayers and experts on the IRS and tax system, holding 12 days of public hearings and spending hundreds of hours in private sessions with public and private sector experts, academics, and citizen's groups to review IRS operations and services. In addition to holding three field hearings in Cincinnati, Omaha, and Des Moines, the Commission met privately with over 500 individuals, including senior level and front-line IRS employees across the country.

Mr. President, let me also congratulate the men and women who served on the National Commission beginning with Senator GRASSLEY and Congressman BEN CARDIN who cosponsored the House legislation. Together, we worked hard to ensure this effort remained bipartisan and bicameral. Restructuring this agency so that taxpayer satisfaction becomes paramount at the new IRS by making certain this agency initiates contact with a taxpayer only if the agency is prepared to devote the resources necessary for a proper and timely resolution of the matter is not a partisan issue. Americans of all political persuasions are demanding we change this law.

Finally, I want to extend my thanks and appreciation to Secretary of the Treasury Bob Rubin and President Clinton. While our early disagreements about governance were getting public attention, Secretary Rubin was making substantial changes in the operation of IRS in response to the National Commission's work. Most notable was the decision to break with precedent and nominate a person with business and management experience to be the IRS Commissioner, Mr. Charles Rossotti.

The last time this law was changed was in 1952 in response to the problem of widespread fraud and allegations of bribery. This time a key reason for taxpayer frustration with the IRS is the lack of appropriate attention to taxpayer needs especially when compared with service from comparable private sector financial institutions. To increase customer service without causing a deterioration in the IRS's ability to collect the taxes Congress has directed the agency to collect is not as simple as it appears. Multiple changes are needed.

The key areas where this legislation makes changes are in executive branch governance and management of the IRS, Congressional oversight of the IRS, personnel flexibilities, customer service and compliance, technology modernization, electronic filing, tax law simplification, taxpayer rights and financial accountability. Each add to a whole which I believe will be noted by taxpayers as improving the service they receive and reducing the abuses they report.

As we debate this legislation remember that the IRS collects 95% of the tax revenue this Congress uses to pay for spending this Congress has authorized. Last year we appropriated $7 billion to the IRS to collect $1.6 billion. This represents less than half of one percent of total revenues and makes the U.S. Tax collection agency the most efficient amongst all our industrial competitors. We would not be debating this bill if we believed that we could not do better, but it is useful to understand the challenges presented to the IRS and to give this agency credit for the successes it has achieved.

Mr. President, it is also useful to remember that a majority of Americans (including those who testified before the National Commission) believe that when it comes time to apportion blame, Congress is more at fault than the IRS. And, given our enthusiasm for constantly changing the tax code and inconsistent oversight, the American people have figured this one out right.

The just passed Education IRA bill for K–12 expenses, would be the 64th tax law added to the books since 1986 and will add significantly to the nearly $75 billion spent annually by taxpayers in an effort to comply with the tax code. It is also an example of how Congress passes tax law without considering the cost of administering this new tax law and its real impact on the American taxpayers it is supposed to help.

The prospects are dizzying. I am not on the floor to argue the merits of this legislation, but I would like to discuss instead the facts of its results. This legislation allows for tax-free withdrawals from education accounts for room and board, uniforms, transportation expenses, or supplementary items or services, but only if these things are required or provided by the school. So this new law will not only require families to have a pretty sophisticated understanding of the law before they take their money out but will require the IRS to become even more invasive in their efforts to make certain that parents can justify their expenditures with detailed records.

Anyone who expresses surprise that the IRS will be asking taxpayers to submit busfare receipts and clothing bills with their tax returns is not paying attention to the connection between the tax law and the actions of the IRS.

And the confusion does not end there, because when the bill sunsets in 2002, we will have established three separate rules governing education savings accounts. This year, we have education savings accounts that can be used for higher education but not K through 12. Next year and through the year 2002, we have different rules which allow tax-free withdrawals from these accounts. After 2003, K through 12 withdrawals could be made, but only from the contributions and earnings from 1999 and 2002.

So how will the taxpayers know what they are to take out is tax free? How will the IRS know and how will the IRS attempt to explain these new rules to taxpayers, and who will understand them? Indeed, will anybody understand them? But that is the challenge the IRS will face. We pass a law; they have to write the changes in the code; they have to disseminate those changes to the taxpayer; and then they have to judge whether or not the taxpayer is abiding by the new rules and abiding by the new code as written, as dictated by changes in the law that we have just passed.

There are no shortages of examples of actions taken by Congress to change our tax laws that result in increased burdens on the American taxpayers coupled—and I say it again. It isn't just an increased burden on the taxpayer, but every change we make in the tax law says to the IRS: We want you to invade even more and find out more of what the American people are doing before you allow this tax break to occur.

I urge citizens, if they are in doubt—we have the bill itself. That is what we are debating, a change in the law—Title VI of this law, this bill before us today, is called Technical Corrections. Now, most of these technical corrections are to the Balanced Budget Act of 1997. And lest anybody think I am down here taking a shot at someone who voted for it, I voted for the Balanced Budget Act of 1997. With an interest in saying that we balance our budget, I voted for the bill. But all the provisions and technical corrections are technical corrections as a consequence of confusion in the law, and that confusion increases the burden on the taxpayer, increases their requirement to go to accountants to figure out what the Tax Code is, and increases the likelihood when there is a dispute between the IRS and the taxpayer, the taxpayer is going to come to us with a complaint about the invasive nature of the IRS.

I urge citizens to read what is called ''Explanation of Provision'' in the Finance Committee report, the much smaller document that is available to citizens as they follow this debate, especially those who are staff of Members on the floor. Read the ''Explanation of Provision.'' You get an understanding of the difficulty that the American people are having and why they are right to conclude that, in spite of our rhetoric, we have created many of the problems they experience with the IRS.

Now, Mr. President, I would like to go briefly through the provisions of this proposed new law to make the point that Congress has finally got the message from the American people. With the enactment of this legislation, we will make dealing with the IRS much easier than it has been in the past.

The first of the four titles is the most relevant. Title I, Mr. President, deals with executive branch governance and management of the IRS. In addition to directing the IRS to revise its mission statement to provide greater emphasis on serving the public and meeting the needs of taxpayers, there are five major changes in this title that deserve attention.

First, the IRS Commissioner would be directed under law to restructure the IRS by eliminating or substantially modifying the present law three-tier geographic area structure and replacing it with an organizational structure that features operating units serving four groups of taxpayers with similar needs.

Mr. President, this three-tier structure was created in 1952, and what the Commissioner has proposed to do is follow the lead, the recommendation, of the Restructuring Commission to organize by four functional categories—that is to say, individual taxpayers, small businesses, large businesses, and the tax-exempt sector.

Under this structure, each unit will be charged with end-to-end responsibility for serving a particular group of taxpayers. Today, each of the 33 district offices and then 10 service centers are required to deal with every kind of taxpayer and every type of issue. The proposed plan would enable IRS personnel to understand the needs and problems affecting and protecting groups of taxpayers and better address those issues.

I am going to digress a bit and talk about an amendment that is going to come before this floor to knock out a provision that would have on the nine-member oversight board a member of the Treasury Employees Union or someone who represents a large number of employees. This provision is why there needs to be a Treasury employee representative on there. This will require significant personnel changes. This is not an easy thing for the Commissioner to do. We, I think, are quite correct in putting in statute that we want him to do that, that we direct him to either eliminate or substantially eliminate this three-tier system. But this will require significant personnel structuring. I believe we need to have that representative on the inside of the tent when these decisions are made. It is much more likely that a satisfactory result will occur.

So my colleagues will understand, both Congressman PORTMAN and I support this. And support for the idea came from a number of other people who have gone through this, most notable of which is Australia. When they restructured their tax collection agency, they found lots of personnel issues that were surfacing, and they made the decision early on. They testified that it was a sound decision to put that employee representative on the governing board.

Mr. WELLSTONE. Will the Senator yield?

Mr. KERREY. Yes.

Mr. WELLSTONE. I am in the Chamber now, and I wanted to make it clear to the Senator that I am learning a lot as I hear him go through the bill, and I hope the Senator will take his time in explaining the provisions. This is an important piece of legislation, and I just want to make that clear out of courtesy.

Please go forward with the arguments. I am learning in the Chamber.

Mr. KERREY. I appreciate it. I thank the Senator.

The present-law structure impedes continuity and accountability. I emphasize this. This is one of the big complaints to the Restructuring Commission and the hearings that Senator ROTH had. We heard repeatedly from taxpayers that they just didn't know what was going on; something would start and stop. They did not get continuity and accountability under present law.

For example, if a taxpayer moves—let's say a taxpayer decides that they would rather live in Omaha, NE, than Portland, OR—a logical move, it seems to me. They decide they want to go from Oregon to Nebraska. Responsibility for the taxpayer's account would move to another geographical area. It would transfer to the Nebraska area. Every taxpayer is served by a service center in at least one district. So in addition to the new service area, there is a new service center. Thus, many taxpayers have to work with different offices on the same issue. Thus, again, they fail to provide the continuity. They fail to provide the accountability that everybody expects when they are dealing with any private sector organization.

The proposed structure would eliminate many of these problems. Not only would this proposed structure eliminate that problem, but it is much more likely the Commissioner is going to be able to come to us with some real exciting changes. For example, by putting all small businesses together, I believe it is likely—every other tax commissioner that talked to us about this said that its likely the Commissioner will come and say, We have got 35, 40, maybe 50 percent of our small businesses that are paying no taxes but they are spending $1 billion or so, they are spending a lot of money, complying. We can reduce the cost of compliance without reducing the amount of money coming in to us by simply exempting a significant number of people.

Likewise, if there is a huge difference between the problems faced in collecting taxes from individuals, most of whom have withholding accounts—and 99 percent of the American people who have withholding comply with the Tax Code. They are the easiest to collect taxes from. They are just trying to figure out what the amount is so they can get it paid in an expeditious fashion to factor it into the family budget. Whereas a large business, $600,000 to $1 million or more, they have a complicated set of circumstances, much more labor intensive, much more likely to have accountants and lawyers, and so forth, working with them.

What the Commissioner is proposing to do is get rid of this three-tiered structure, and what we have done with this legislation is incorporate it into law.

Let me say the chairman and I have had many disagreements about the timing of this thing. The Senate has made substantial improvements to its bill, and this is one of them. This is an area where we have substantially improved what the House passed by incorporating the recommendation of the Restructuring Commission to knock

out this three-tiered system and go to a functionalized system. I predict that for small business, large business, as well as nonprofit, they are going to find a big improvement in the way they get services from the IRS. I think we are going to find happier customers and we are going to find ourselves with an IRS that costs even less on a unit basis than it currently does.

(Ms. COLLINS assumed the Chair.)

Another major change made by this law, Madam President, is the creation of a new executive branch oversight board. This bill sets up a nine-member, public-private board to oversee the IRS in the ''administration, management, conduct, direction and supervision of the execution and application of the internal revenue laws.'' There are some specific references to what is not covered in this legislation, what this board would not be doing. It is not expected to be micromanaging. It will not be given information about taxpayers' returns, except in unusual circumstances where they need to know. They are not going to be involved in procurement. They are not going to be involved in personnel issues. There are lots of things that are specifically excluded. They are going to be subject to all the conflict-of-interest laws that any executive branch appointment would be. All these things have been laid out in the legislation and are worth reviewing by Members who are wondering how this new oversight board is going to operate.

Specifically, Madam President, the board will review and approve strategic plans for the IRS, review the operational functions of the IRS—including plans for tax administration systems modernization, review and approve major reorganizations and review operations of the IRS to ensure the proper treatment of taxpayers.

Madam President, we tried to avoid what I think is a common mistake when creating boards like this, and that is to specify precisely what each member has to be in order to be nominated. What we did was we set out a half a dozen or so different areas that we think are important, different knowledge bases that we think are important in order for this board to be able to do its job, and we give the President a substantial amount of authority to make those decisions. We stagger the appointment terms so that eventually you get to a point where everybody is on a 5-year term. They can be extended for 5 years. We stagger the Chair as well. I think we have created an administrative structure that will dramatically increase the accountability and will make it much easier for us in Congress to do good oversight of the IRS.

This title I also, Madam President, establishes a 5-year term for the Commissioner of the IRS. That has been discussed before. We need increased continuity. Both the Commissioner and the Assistant Treasury Secretary, who has principal first line authority over the Commissioner, have, over the last 10 years, been on the job somewhere like an average of 2 or 3 years. This presents serious continuity problems. We establish a 5-year term for the Commissioner and we require the Commissioner to have demonstrated ability in management. This title also gives the Commissioner a great amount of flexibility in hiring those persons necessary to administer and enforce the Nation's tax laws.

Another important part of title I is the way that this title beefs up and makes more independent, the taxpayer advocate. Later, if the floor is vacated, I may come down here, I may stand here and read the various provisions in this part of title I. Colleagues need to understand that this taxpayer advocate is going to be completely different than the current taxpayer advocate. The bill gives the IRS oversight board input into the selection of the taxpayer advocate. It limits prior and future employment of the advocate with the IRS, and gives the advocate broad discretion to provide relief with regard to taxpayers. It provides a problem resolution system with local taxpayer advocates who report directly to the national taxpayer advocate.

Currently, we have a thing called a taxpayer advocate. We are going to have a national taxpayer advocate and I guarantee every single Member is going to find that this taxpayer advocate provides a much different kind of service, much more independent service than with what we are currently dealing. The advocate is required to report to Congress on a variety of compliance problems, identify those repetitive problems that may be there as a result of the code, may be there as a result of the law.

This is a very, very powerful new position, Madam President. I thank Senator BREAUX of Louisiana. He is the principal author of this change. I would put it second on the list of things that the Senate changed in the House bill that are substantial improvements. My guess is Congressman PORTMAN and the others on the House side, Chairman ARCHER, will accept these changes. Senator BREAUX made it a point to figure out how to better help taxpayers with a complaint about their treatment by the IRS. This section is a substantial improvement.

Another improvement was made by the chairman, which establishes a new, independent Treasury inspector general for tax administration within the Department of Treasury. Currently, we have two. We have an inspection division in the IRS; we have an IG over Treasury. We still have an IG at Treasury under this new law, but we move the IG for tax administration over to Treasury. We leave the audit function in the IRS. There will be two IGs. The IG for Treasury will be responsible for Treasury items and the tax administration IG will be responsible for the IRS. It is a big improvement over the current status quo. We have had difficulty finding out who is responsible, going to point the finger back and forth as to who had the authority. This makes it clear who does and who does not have the authority for doing IG reports and investigations of the Internal Revenue Service.

As the committee report notes, Madam President, this will give the IRS Office of the Chief Inspector ''sufficient structural and actual autonomy from the agency it is charged with monitoring and overseeing.'' That is the goal. It is the hope of the chairman, and indeed the hope of the entire committee, this provision will improve the quality as well as the credibility of IRS oversight.

Madam President, in title II we deal with an arcane issue that I consider to be quite important, and that is the issue of electronic filing, where the potential for increasing efficiency and decreasing complaints is substantial. Indeed, I envision the IRS in this legislation being the first of a long line of Government agencies migrating from the old world of paper transactions to the new world of electronic commerce. Indeed, my vision also includes the law enabling the Commissioner to establish rules and regulations so the private sector has a substantial opportunity to compete for businesses from the customers who it is already handling. We had some very exciting testimony in this regard from the IRS in the National Restructuring Commission about what the private sector is doing already to try to help taxpayers reduce the cost to comply with the tax law.

It is very important to point out that for most American taxpayers, if not all American taxpayers, the largest bill they pay every year is their tax bill. It is important for them to understand what that tax bill is and to get it paid for in an efficient fashion in order for them to do financial planning for their families.

I hope that this electronic filing provision, by stating the goal of promotion of electronic filing and setting a long-range goal of 80 percent of all tax returns by the year 2007, will make it more likely that taxpayers, as they migrate to this electronic field of commerce, will have lower costs and an easier time of complying.

Title III is a portion that has been given a lot of attention. As I said at the beginning, there are lots of parts to this overall whole. There is no question that taxpayer rights are important. Senator GRASSLEY and Senator Pryor, while he was still in the Senate, were sort of alternating chair and ranking members of the Subcommittee on Finance that dealt with a piece of legislation called the Taxpayer Bill of Rights I, Taxpayer Bill of Rights II. This is effectively Taxpayer Bill of Rights III. Also, I want to call attention to the fact that for an entire year, Congressman PORTMAN, who was my cochair of this Commission, steadily made me a convert of the need to extend additional powers to taxpayers. There are lots of them in this title III.

The goal of this change in the law is to reach a point where all taxpayers are presumed to be law-abiding citizens who just want to know the amount of their tax so they can pay, rather than presuming that all taxpayers are criminals or cheats. But the goal is also to preserve the important law enforcement functions of reducing the threat of drugs, money laundering, and fraudulent commercial transactions. None of us want to change the law and then find out 2 years later that we made it easier for drug dealers, money launderers, and commercial cheats out there to do business as a result of decreasing the power of the criminal investigation division of the IRS. We must also make certain that the IRS has the authority and the resources to go after those citizens who intentionally avoid paying taxes. We need to make certain the IRS has the full force of law to leverage against them.

Madam President, there are seven provisions in title III that are worthy of comment at this time. First is the burden of proof. Once a dispute reaches Tax Court under this new law, the burden of proof in a civil case shifts from the taxpayer to the IRS. There are a lot of concerns expressed about this from the standpoint of actually increasing the cost to complying taxpayers. We have limited the opportunity for this shift. I think it is a responsible provision in the legislation, and I am hopeful it will be retained as is.

Second, the bill increases the leverage of taxpayers in civil proceedings by expanding the authority to award costs and certain fees and increasing potential civil damages for collection actions.

A lot of people on the administration side, not this administration but who administer tax law, were concerned about this provision. I think it is a terribly important provision if we are going to try to get to a point where, when collection notices are send out, the IRS knows with certainty they are going to be able to devote enough resources to be able to get the collection, because very often what happens is they send a collection notice out, start an action, and then they don't have enough resources, they stop, it drags on for years and years and years, and that is where you end up with taxpayers spending an enormous amount of money trying to comply with something the IRS, at the end of the day, finds out they didn't think was much of a case anyway.

This will, I think, create a healthy amount of constraint on the IRS from sending collection notices out knowing there is an expanded right of action and expanded right, as well, to collect civil damages if negligence can be proved.

Third, the bill provides significant relief for what are known as ''innocent spouses'' and for taxpayers who are unable to manage their financial affairs because of disabilities.

Fourth, the bill gives the taxpayer new protections against the piling on of interest and penalties.

Fifth, title III contains protections for taxpayers subject to audit or collection activities.

Sixth, this title requires better disclosures to taxpayers. One of the most important things we heard repetitively was that the taxpayer simply didn't know what the case was, didn't understand what was going on. This requires the IRS to make full disclosure so that the taxpayer can better accommodate the needs of the IRS.

Seventh, the bill authorizes establishment of low-income taxpayer clinics. This is very important. There are an awful lot of Americans who simply don't have the resources to either hire a private sector individual or to do it themselves. They are confused about it. Our law ought to always be written so that everybody has a shot at the American dream, and they should not be precluded from achieving that American dream because they don't have enough resources to understand how the IRS works.

Title IV of this legislation deals with congressional accountability. Most of the changes which the Senate Finance Committee has made in the House bill have made the legislation better. I indicated several of them already. However, I don't believe title IV represents an improvement over the House bill.

The goal of congressional oversight must be to overcome two substantial barriers that the Restructuring Commission found. Barrier No. 1 is that the IRS has 535 members of its board of directors, many of whom don't know what the IRS does or what the budget is. It is easy to complain about what the IRS does, but the IRS gets inconsistent signals—we want you to go out and collect the taxes; we don't want you to be too aggressive; we want you to be more aggressive, less aggressive; Congress changes, new Members come on board with new ideas, and it is inconsistent oversight that comes as a consequence of all these kind of changes.

The second barrier is that the Commissioner, now required to have management expertise, when he or she comes to Congress with their plan of what they want to do, they have to go to six different oversight committees—three in the Senate and three in the House.

What the Commission found repeatedly—again, remember, we started this whole thing with Senator SHELBY and I saying $4 billion wasted on tax system modernization is a call for action. One of the things we heard both from public sector and private sector people is that if you can't get shared consensus about where it is you want to go with technology—as the man said, any road is likely to take you there—you are apt then, as a consequence, to make mistakes.

It is this increased activity from all the different congressional oversight committees that may have good intentions but also may make it difficult for us to achieve consensus. We recommended in our bill and the House-passed bill that some kind of super-oversight occur on a biennial basis with these consolidated committees. It may be the Finance Committee can simply change its internal rules. I made a recommendation last week in the Finance Committee. It may be there is some way we can deal with that. But let's not pass a bill which restructures the executive branch and then doesn't restructure anything we do. Remember, if you ask the American people who the problem is, 70 percent say it is Congress. We write the laws and determine what kind of oversight IRS gets, and one of the problems is inconsistent oversight. My hope is we can take a look at title IV and look for ways to strengthen the congressional oversight.

There is a tax complexity analysis in title IV which I consider to be terribly important. I cited earlier the example of the education IRA. There was no discussion of the impact upon the taxpayers, no discussion of complexity analysis, no attempt to measure whether or not the IRS is going to be more invasive or less invasive. There was no cost analysis done at all.

The Commissioner is not at the table when the tax laws are written. Under this new law, the Commissioner will be empowered to comment. It could be the President stands up and has some new tax law idea—HOPE scholarships, for example. It could be ''Senator Blowhard'' giving a speech about some new idea that he or she has. Whoever it is who has some change in the Tax Code, typically it is designed to give an audience some sense of, we are doing something without spending any money. We have to be very careful that we don't, in the process of doing something that is earning a round of applause, do something that will increase the cost to the taxpayer to comply, as well, Madam President, as increasing the invasiveness of the IRS.

I appreciate very much there is a tax complexity analysis and the Commissioner is given new authorities to comment on tax bills, but I believe we can go a bit further in increasing the oversight and the accountability of the Congress. In title VI, as I said, these are mostly what are called technical corrections, but it is a real window into this problem of tax complexity.

I don't know what the vote was—maybe the Senator from Minnesota remembers—but there was a big vote on the Balanced Budget Act, with 80 votes. I voted for it. We passed this thing, issued press releases, ''The budget is balanced.'' Most of these technical corrections in title IV deal with the complexity that we created and the confusion that we created. It is an effort to clarify what we tried to do last fall.

I want to point out that the members of the Finance Committee and the staff

of the Finance Committee, both on the majority and minority side, have scrubbed this section very carefully to ensure that all the provisions in this title are appropriate and relatively noncontroversial. We have not added new loopholes or some new, special provision. These are only technical corrections that clarify what we intended to do mostly, as I said, in 1997.

In brief, these are the provisions of the bill that we are considering today. I no doubt will have plenty of opportunity to come down again and describe some further detail that is in this proposed law. I will end as I began, by praising the outstanding leadership and work of Senators ROTH and MOYNIHAN as well as the longstanding work on taxpayers' rights performed by Senator GRASSLEY. With the 426-to-4 vote last fall by the House of Representatives and the support of President Clinton, we should be able to change the law and achieve our objective of giving the American people an IRS that is more user friendly and customer oriented.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Madam President, first, I thank the Senator from Nebraska. He has really led the way on this issue. He is well known for his outspokenness as a Senator, and he has been outspoken on this question long before the rest of us.

I think we will pass this bill this week. I think it will be a very strong, bipartisan effort. Senator KERREY mentioned Senator GRASSLEY and Senator ROTH, Senator MOYNIHAN, but on any one piece of legislation or any one issue, at least it is my view as a Senator, you need a Senator who is a catalyst, you need someone who is out there ahead of other people, who is willing to be very outspoken and push very hard. The Senator from Nebraska has done just that.

TAX RETURN FILING EXTENSION

Mr. WELLSTONE. Madam President, let me just say to the authors of this legislation, and I thank them for their fine support, I will have one amendment that is terribly important to my State of Minnesota.

Last year, we were hit by floods that had a devastating effect on our community. I think people all over the country know about Grand Forks and East Grand Forks and other communities. Last year, we said to people who were struggling because of what happened that we would extend the time for them to file their tax returns, and when they had to pay their taxes. We also were willing to forgive them on the interest they would have to pay for late filing and late payment.

This time around, this past year, just a few months ago, we were hit with tornadoes that were just devastating to communities like Saint Peter and Le Center and a number of other different communities. I could list many. What we have now in the bill is the assurance from last year that Minnesotans who have been hit by tornadoes, communities that have been hit by tornadoes, can again extend the filing of their tax return and when they make their payments, but we don't have any provision that would allow them forgiveness on the interest.

I will have an amendment that will give them forgiveness on the interest payment. It will be a huge help to people who have really been through it, colleagues. I think there will be strong support for this. What I will essentially say in this amendment, for the next year what we will do is for all citizens across the country, including Minnesotans who have been hit with these disasters, that they will, No. 1, have an extension again on the filing and payment of tax; and for those that have been personally affected—not everyone, because the cost runs up—but for those personally affected, they will again be forgiven the interest on this payment.

It is not a huge expenditure. We will have an offset. I say to colleagues it is terribly important to a lot of people in Minnesota and I think a lot of people around the country. I hope this amendment will be approved. I think other colleagues will come to the floor with similar amendments. We can do this together, Democrats and Republicans, Republicans and Democrats. I am trying to make sure we get help to people.

Mr. KYL. Madam President, I rise in support of the Internal Revenue Service Restructuring and Reform Act. This is a much stronger and much more effective bill because of the time that the chairman of the Finance Committee, Senator BILL ROTH, has taken to thoroughly investigate problems at the agency and identify meaningful solutions. I want to commend him for his work.

The politically easy thing to do would have been to rush the original bill to a vote, as many on the other side tried to do on numerous occasions. But by taking the time to do the job right, we have a much better bill. For one thing, we now have far stronger provisions to protect innocent spouses. The legislation would ensure that innocent spouses are responsible only for their own tax liability.

Madam President, it was two and a half months ago that I came before the Senate to discuss the plight of a constituent of mine, a woman who divorced in late 1995. She paid her taxes in full and on time during the last two years of her marriage, but her husband apparently did not. The IRS ultimately came after her for the taxes that her former spouse did not pay. It did not aggressively pursue the tax bill with him.

After two weeks after hearing from my constituent, I sent Chairman ROTH a letter identifying ways of improving the IRS reform bill, and on that short list was a recommendation to make innocent-spouse relief easier to obtain, and to make it available retroactively, or at least to all cases pending on the date of enactment of the bill.

So obviously, I am delighted that the Finance Committee has focused on the issue of innocent-spouse protection and has included provisions that better protect my constituent and women across the country in similar situations.

The Finance Committee has improved upon the bill in other ways, too. For example, it would suspend interest charges and penalties after one year if the IRS fails to notify a taxpayer of a deficiency. Without that provision, taxpayers can find that penalties and interest started accruing years before they were ever made aware that there was a problem with their tax returns.

The bill would make the Taxpayer Advocate's office independent of the agency to ensure that it represents the taxpayers' interest, not just the agency's interest. It would give the IRS Commissioner the statutory authority he needs to restructure the agency. It would hold IRS employees accountable for their actions by requiring the agency to terminate employees who commit perjury, falsify documents, or violate the rules to retaliate against a taxpayer. It would make the offers-in-compromise program more fair to taxpayers. And it would ensure due process in collections activities.

These are important things—changes worth taking the time to make. We have got to try to get things right. Too many past attempts to rein in the IRS have come up short, and once Congress's attention turns to other things, the agency has gone back to business as usual.

This is a good bill. It deserves an ''aye'' vote. But let us be under no illusion that even a good reform bill will solve the myriad problems that exist. Our nation's Tax Code, as currently written, amounts to thousands of pages of confusing, seemingly contradictory tax-law provisions. We need to reform the IRS, but unless that reform is followed up with a more fundamental overhaul of the Internal Revenue Code, problems with collections and enforcement are likely to persist. If the Tax Code cannot be deciphered, it does not matter what kind of personnel or process changes we make at the agency. Complexity invites different interpretations of the tax laws from different people, and that is where most of the problems at the IRS arise.

Replacing the existing code with a simpler, fairer, flatter tax would facilitate compliance by taxpayers, offer fewer occasions for intrusive IRS investigations, and eliminate the need for special interests to lobby for complicated tax loopholes.

There are a variety of approaches to fundamental reform that are pending before Congress: a flat-rate income tax; a national sales tax, the Kemp Commission's simpler single-rate tax. Each has its passionate advocates in Congress and around the country, and any

one of these options would be preferable to the existing income-tax system.

So why, many people will ask, have we not been able to settle on one of them and act on fundamental tax reform? The answer is that, while there is overwhelming public consensus in favor of an overhaul of the Tax Code, a public consensus has yet to emerge in favor of a sales tax over a flat tax or some alternative. And given President Clinton's lack of support for fundamental tax reform, it is likely to take a public consensus, the likes of which we have not seen in recent years, to drive such a tax-overhaul plan through Congress, past the President, and into law.

Steve Forbes made tax reform the central theme of his campaign for the presidency two years ago. He carried Arizona in the Republican presidential primary, in large part because his tax plan resonated among the people in my state. Yet he failed to win the nomination, and neither Bill Clinton nor Bob Dole pursued the issue with as much passion or conviction. And it will take a national campaign to build the kind of consensus that will be needed to move forward with fundamental tax reform, which is probably the most momentous undertaking of the century.

The IRS reform bill, Finance Committee hearings about taxpayer abuse by the IRS, the Kemp Commission's recommendations in favor of fundamental tax reform, new proposals to sunset the IRS Code, and the debate that sponsors of the flat tax and sales tax have taken on the road in recent months, will all help to move the discussion forward.

In conclusion, we can pass an IRS reform bill to try to rein in the IRS and make sure that it treats taxpayers fairly, reasonably, and respectfully. But let us not fool ourselves. The IRS cannot be faulted for a Tax Code that is too complex and filled with contradictory provisions.

Until the Tax Code is simplified, problems in one form or another are likely to persist. We must use this opportunity to begin the debate about fundamental tax reform.

Mr. WELLSTONE. Madam President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF JAMES C. HORMEL

Mr. WELLSTONE. Madam President, I rise today with a little bit of sense of sadness to bring to my colleagues' attention the nomination—I guess I will add, and indignation—the nomination of James C. Hormel to be U.S. Ambassador to Luxembourg. As is the case too often up here, the nomination has been put on the shelf, held by a ''hold'' at the request of a few Senators.

Before I talk about the reasons for the ''hold,'' I want to talk briefly about the history of the nomination and some facts about the nominee, Mr. Hormel, and his background.

Last fall, following a hearing on his nomination, the Senate Foreign Relations Committee voted 16 to 2 in favor of Mr. Hormel. This vote took place November 4, 1997. Originally, it was a voice vote. It was approved. That means by unanimous vote. Two Senators then requested to have a recorded vote and went on record in opposition. So it was a 16–2 vote in the Senate Foreign Relations Committee. That is a very strong vote.

The nomination was placed on the Executive Calendar. And despite the fact that the Senate confirmed every other Foreign Relations Committee nominee before the close of the first session—some 50 nominees in total—Jim Hormel's nomination was left languishing because of ''holds'' placed on it by a few Senators.

Madam President, that such a distinguished and qualified nominee would face opposition is on its face hard to understand.

Jim Hormel is first and foremost a loving and devoted father of five and a grandfather of 13. His entire family has been unfailingly supportive of his nomination. And people who know him well say he is decent, patient and a very gentle person.

Madam President, I was very moved by a letter from Alice Turner, former wife of James Hormel, a letter written to the majority leader, Senator LOTT, supporting her ex-husband's nomination. And I quote:

> I have known Jim for 46 years and for ten of those years I was married to him . . . I grew to understand the terrible prejudice and hatred that he knew he would have to face . . . and is facing as he goes through the difficult process this nomination and its opponents have put him through . . . I share with you these personal things because I gather his personal ethics have been questioned. If anyone on this earth could come close to judging that it would be me. He is a wonderful father, grandfather and friend . . . Jim Hormel has given enormously to his family, his community and to this country. He is just asking to be allowed to give one more time. This is a good man. Give him a chance.

End of quote to Senator LOTT.

His professional credentials are equally impressive. He is an accomplished businessman. He serves as chairman of Equidex, an investment firm, and he serves as a member of the board of directors of the San Francisco Chamber of Commerce.

He has also spent time as a lawyer and as an educator. He served as a dean and assistant dean of students at the University of Chicago Law School. In addition, he currently serves as a member of the board of members of his alma mater, Swarthmore College.

Let me just give my colleagues a sampling of the kind of organizations he served on, impressive in its breadth as well as its diversity. In addition to his support for Swarthmore and the University of Chicago, he has provided resources and assistance to the Virginia Institute of Autism, Breast Cancer Action, the American Foundation for AIDS Research, the American Indian College Fund, the United Negro College Fund, the NAACP, the Institute for International Education, the Human Rights Campaign Foundation, Catholic Youth Organization, Jewish Family and Child Services, the San Francisco Museum of Modern Art, the San Francisco Public Library, the San Francisco Ballet, and the San Francisco Symphony.

Many of these organizations have honored him with awards. His commitment to public service and his commitment to the cause of human rights came together when he was named as a member of the United States delegation to the 51st U.N. Human Rights Commission in Geneva in 1995. And there he helped the United States press its case for improved human rights in nations as diverse as China, Cuba, and Iraq.

Finally, he was nominated in 1977 to serve as an alternative representative on the U.S. delegation to the 51st General Assembly.

There is an irony because on May 23, 1997, the same U.S. Senate that opposes his nomination, not letting us have a vote, unanimously confirmed James Hormel to represent this country at the United Nations.

Madam President, it seems clear to many of us why some Senators do not want to allow a vote on James Hormel's nomination. It is because James Hormel is gay. In a queer, unquestionable case of discrimination, these Senators refuse to let the full Senate vote on a qualified nominee because of his sexual orientation. Surely, the U.S. Senate does not want to be party to this kind of discrimination.

James Hormel is exactly the kind of person who should be encouraged to engage in public service. He is intelligent, civic-minded, generous, and he is a person of proven accomplishment who wants to serve our country. We need people like him in public service. We cannot afford to drive him away because of his sexual orientation.

So, Madam President, this is a matter of simple fairness. We have before us a qualified nominee, with broad support, approved by the committee of jurisdiction. We should at least be allowed a vote on the floor of the U.S. Senate. If people have concerns, let them express them. Let us have a debate, and let us address them, but let us give James Hormel a chance. Let us have a vote.

So I call on the majority leader to schedule a vote on James Hormel's nomination. I call upon those who have a hold to allow the nomination to reach the floor. If other Senators wish, let us debate the qualifications. But it is wrong to prevent the Senate from having an up-or-down vote on this nomination.

Some of the Senators who have holds on this nomination claim that it is not

because he is gay. They claim it is because of his views on certain issues involving gay rights or something to that effect. The truth is, I do not know exactly what their objections are.

But there is a more important truth. If Senators disagree with this nomination, let them come to the floor. Let us debate this out in the open. That is what the tradition of the U.S. Senate about deliberative action is all about. So I challenge my colleagues who have holds on this nomination to come to this very floor, explain why they believe James Hormel is unfit to become an American Ambassador because he happens to be gay. Let other Senators and the American people judge on the merits of this argument.

The issue is a very simple one. We have a qualified nominee who was resoundingly approved by the Senate Foreign Relations Committee. He is entitled to a vote. And as a United States Senator, I am entitled to cast my vote for him.

Madam President, I have language which would be a sense of the Senate to express the intention of the Senate to consider the nomination of James Hormel as United States Ambassador to Luxembourg, that the Senate would make clear its intention to consider this nomination before a certain date and to vote. I will not bring this amendment up on this bill. But this is an amendment that I will bring to the floor of the U.S. Senate on another bill. It is time for us to speak up. It is time for us to deal with what is an injustice.

Mr. President, I will work with my colleagues from California, Senator FEINSTEIN and Senator BOXER. And I will work with other colleagues as well.

Let me just conclude by reading on this matter—and I say to my colleague from Arkansas, I have just one other matter in morning business to cover, and I shall be brief—from the Fort Worth Star-Telegram, ''Senate Should Be Allowed To Vote.'' In an editorial calling for Republicans to let the Senate vote on James Hormel, the Fort Worth Star-Telegram writes:

> Conservatives, like Sens. Gordon Smith of Oregon and Orrin Hatch of Utah take him at his word and support his nomination. Some others, harking to conservative groups that are part of the GOP constituency, do not. Yet they say the issue is not his sexual orientation. If it is not, then the Senate should be allowed to vote, yea or nay. If sexual orientation actually is the issue, then the Senate needs to take a look at itself in the mirror.

I repeat that. ''If sexual orientation actually is the issue''—I say this to the majority leader. I call on the majority leader to bring this matter before the Senate for a vote. I quote the Fort Worth Star-Telegram, the conclusion:

> If sexual orientation actually is the issue, then the Senate needs to take a look at itself in the mirror.

We will not know until we have this nomination out on the floor. And we must do that. I hope the majority leader will take action. I have an amendment that I will bring to the floor if that is what is necessary. I think it is time for all of us to speak up.

Madam President, I just have one other matter that I want to cover in morning business.

HEALTH CARE

Mr. WELLSTONE. Mr. President, let me just briefly speak to one major public policy question that we will deal with in the U.S. Senate. I want to talk about something that has happened in the past couple of years which has had a major impact on the lives of people in Minnesota and across the country. I think people are scratching their head and trying to figure out when we had a referendum on this or when we voted.

The topic is all the ways in which large insurance companies are dominating managed health care plans, all the ways the pendulum has swung so far in the other direction. Many citizens that need the care cannot get the care they needed.

Jenna Johnson is only 15 years old. She suffers from cerebral palsy, seizures and a deteriorating condition called dystonia, which causes her to lose most of the muscle control in her body. She takes multiple prescription medications, undergoes countless hours of physical therapy, and relies on special medical equipment to live her life. Her treatments have nearly broken her body, colleagues, but her spirit and determination remain firmly intact.

In the spring of 1966 Jenna's dystonia worsened. She was fragile from weight loss caused from the 22 pills she took daily to combat her symptoms. The medication caused serious side effects, ranging from damage to her stomach lining to psychotic episodes. The Johnsons found a specialist, a world-renowned pediatric surgeon in Pittsburgh that was an expert in treating conditions similar to Jenna's. He had the expertise in testing and surgery to place an internal pump and catheter to deliver medication.

To make a long and very painful story short, this procedure was Jenna's only hope. She was slipping away before her parents' eyes.

Minnesota is a great health care State. We have the University of Minnesota. We have the Mayo Clinic. Many people from other States—Delaware, Nebraska or Arkansas—quite often are referred to our State. But in this particular case, the expert that could help was a pediatric surgeon in Pittsburgh. The doctor was out of the plan and out of the State and the Johnsons were out of luck.

The request for the procedure was immediately denied. After an appeals process of more than 30 days and countless visits to local doctors and letters to doctors in Pittsburgh and the HMO, the Johnson's plan finally allowed Jenna to undergo the procedure.

It is wrong, Madam President, when a sick child and her family have to spend all of their time and energy fighting their health plan to get the care their child needs.

Let me just simply say that, again, Jenna has had to struggle with the illness. Again, the Johnsons had to try to figure out how to get additional help. And again, after many appeals, the care was first denied and finally given care.

I want to simply point out what has now happened is that the Johnsons have been switched to another HMO and they have been told that any additional care that Jenna might need will be denied outright. Any additional care this courageous 15-year-old young woman will need will be denied. They are out of luck. The Johnson's family is at their wit's end. Jenna's family has joined several HMOs and they can still not find one that will provide the most basic of medical needs without dealing with an overly burdensome corporate review.

Now, let me just quote Jenna's mother, if I could, because I think this gets to what we are dealing with. Her mother, Cynthia, stated, ''Why, at a time of crisis, is emergency medical care denied? . . . If my daughter should have another emergency, what will we do?''

She feels vulnerable. She wants to get the care for her daughter, and because of the current situation in our country, she can't do it.

Now, Madam President, the pendulum has swung way too far. We talked about containing costs. Fine. But where is the protection for consumers? What happens to families that are dealing with chronic illnesses? What happens to families that need specialty care? What happens to families who are trying to get the best possible care for their children?

We have now moved to a system in our country which is increasingly corporatized and bureaucracized, where the bottom line has become the only line. We need to make sure that there is some protection for consumers.

I think there are three issues, and I will summarize them: One, who gets to define ''medical necessity?'' It is outrageous that doctors, nurses, nurse practitioners and nurse assistants, who know what needs to be done in treating a child like Jenna, or an adult, today find themselves unable to provide the kind of care they thought they would be able to provide to people when they were in medical and nursing school. They should be making the decision.

Secondly, it is just outrageous—we are talking about something called point-of-service option; people find themselves moved from one plan to another, from one year to another, and all of a sudden you have seen a doctor or have been to a clinic with your children and you are canceled out. You no longer have an option of being able to see a doctor or a clinic that has taken care of you and your children for a decade plus. All the trust, all the rapport, all of what makes for good medicine, goes out the window.

Finally, we have to make sure that if we are going to pass a strong Patient

Protection Act we have offices of consumer affairs in every State. They are independent with ombudsman that can be advocating for people. Family USA has done some fine work on this. It is not just an 800 number for people to call. People need to call a number, there needs to be an office that is there for consumers, where people can say, ''I was denied care, what do I do,'' and you have a skillful person that can be there as an advocate for people.

I am saying to my colleagues, especially my colleagues on the other side of the aisle, I don't know how many days we have left, probably fewer than 50 days or thereabouts. We have to get going on this. We have to get going on this.

We have an important effort on the floor this week, bipartisan effort, which I think reflects some very fine work. But overall we have not been doing a lot. We have not been doing a lot about making sure there is good health care for people. We have not been doing a lot by way of being there for consumers. We have not been doing a lot by way of making sure that children come to school at age 5, kindergarten, knowing the alphabet, knowing colors, shapes and sizes, knowing how to spell their name, having been read to, and ready to learn.

We have not been doing much by way of making sure that we move toward some system of universal health care coverage. There are over 40 million people that are uninsured. There are other families that are paying more than they should pay. There needs to be some income protection for them. What about a package of benefits for every citizen in the country comparable to what we have? What ever happened to the battle cry that we should pass legislation to make sure the people we serve have as good a health care as what we have? What about the strong patient protection?

I have a bill called the Healthy Americans Act, which I am introducing this week, which is a strategy to move toward universal coverage and says to Arkansas, Nebraska or Minnesota, if you agree to the national framework, there will be Federal grant money available to you to reach universal coverage. You decide how you want to contain costs. You decide how you want to deliver the care. We have to move toward that system of care. We haven't done that. We are not there on health care. We are not there on investment in children and education. We are not there on strong consumer protection, and we are not there on a lot of issues that are very important to working families and communities.

This issue of whether or not the U.S. Senate is on the side of big insurance companies or the consumers will be a litmus test for all of us. After we get done with this bill, let's get a lot of this substantive legislation on the floor. My hope is—and I will finish on this—that I won't have to have an amendment calling for a vote on James Hormel, but rather will bring that to the floor and make sure we do that as well.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

THE GROWING THREAT OF CHINA TO THE UNITED STATES

Mr. HUTCHINSON. Madam President, the headlines in last week's newspapers ought to bring pause to this body and to all of us as Americans. The Washington Times, on Friday, had the headline ''China Targets Nukes at U.S.'' The inside part of that article, on a graphic, it says ''China's Long-Range Missiles,'' quoting a CIA report last May that ''13 of China's 18 CSS–4 missiles are now targeted at cities in the United States of America.''

This report was followed by a report in the Washington Times today, headlined ''U.S. Firms Make China More Dangerous: Technology Aid Helps Missiles Reach America.'' I will say that again. ''Technology Aid Helps Missiles Reach America.'' This was also reported in the New York Times, another major newspaper in the United States. These stories are based on a new CIA report released last week that noted that 13 of China's 18 long-range strategic missiles have single nuclear warheads aimed at U.S. cities. These missiles, with a range of over 8,000 miles, prove convincingly that China views the United States as its most serious adversary. This is further proof, I believe, that the current administration's policy of so-called constructive engagement has failed, and failed terribly, as China continues to go this route, as China continues to take provocative actions and actions that seriously endanger the security of the United States. It is important to note that these missiles are in addition to China's 25 CSS–3 missiles, with ranges of more than 3,400 miles, and its 18 CSS–4 missiles, with ranges exceeding 8,000 miles, and its planned DF–31, with a range exceeding 7,000 miles.

Until last year, China lacked even the intelligence, and certainly they lacked the technology necessary to manufacture boosters that could reliably strike at such long distances. In fact, it is reported that in a launch test of the boosters, their technology failed to launch the boosters three out of five times. That is a 60-percent failure rate. Likewise, they were years from developing the space technology necessary to launch multiple, independently targetable reentry vehicles, otherwise known as MIRVs, multiple warhead missiles. Now they are only years away, if not months, from having such technology.

Some time ago, I participated in a firing-line debate on the campus of the University of Mississippi. During that debate, when the issue of national security was raised, former Secretary of State Henry Kissinger reassured the audience of thousands, and the nationwide television audience of millions, that we need not be concerned about China's capability to launch missiles that might place American cities at risk. He said, in fact, it would be a couple of decades before China was anywhere near having the technology that could place the United States and American citizens at risk. Well, now we find that because of our own aid, and because of our own technology transfers to China, already we are seeing these missiles targeting American cities, and that this advanced technology is very much now at their disposal.

How did China get this technology? Two U.S. companies—the Loral Space and Communications Company and the Hughes Electronic Company—are under investigation by the State Department following a classified Pentagon report that concluded that the two companies illegally gave China space expertise during cooperation on a Chinese commercial satellite launch. This report concluded that ''the United States national security has been harmed.''

Here are the details: In 1996, during the course of an investigation of a Chinese rocket carrying a $200 million Loral satellite, scientists allegedly shared with their Chinese counterparts a report explaining the cause of the accident, which turned out to be an electrical flaw in the flight control system. This system is similar to those used on ICBM launch-guidance systems.

In February, with the investigation of this incident underway, President Clinton permitted Loral to launch another satellite on a Chinese rocket and to provide the Chinese with the same expertise that is at issue in the criminal case, officials have said. A senior official said the administration recognized the sensitivity of the decision but approved the launch because the investigation had reached no conclusions, and Loral had properly handled accident launches. The administration, he said, still could take administrative action against the companies if they were found to have violated export laws in their earlier dealings with the Chinese.

Another company—Motorola—is also involved in upgrading China's missile system. The chairman of the House Science Subcommittee on Space and Technology received word from an unnamed official from Motorola that they, too, have been involved in upgrading China's missile capability. Interestingly, this executive claims the work is being done under a waiver—a waiver granted from the Clinton administration—thus, circumventing all of the bans and restrictions on such technology transfers. This technology was supposed to be controlled, restricted. Madam President, trade in missile and space technology to China was supposed to be severely restricted under the sanctions related to the crackdown of the Tiananmen Square massacre. Unfortunately, this administration has implemented a give-give

strategy of appeasement, which has weakened or eliminated most of these restrictions.

Politics must not supersede national security concerns. Why did this administration make such an incredible and risky decision? Loral has numerous business deals with China. Loral has close ties to the White House. Its chairman and chief executive officer, Bernard Schwartz, was the largest individual contributor to the Democratic National Committee last year. Motorola's involvement and ties with this administration are just now being investigated. This raises serious questions and puts a dark cloud over these dealings, particularly in light of the CIA report indicating China is now targeting American cities.

In addition to legally getting this technology through these waivers from the current administration, China has twice violated its agreement to follow the principles of the missile technology and control regime. Yet, under this administration's policy of appeasement, the administration is asking China to sign on to the missile technology regime. This is like stacking new promises on top of broken promises and then calling it progress. It is important to note that China's inclusion in the missile regime would allow even greater technology transfers to be made, thus, putting more Americans at even greater risk.

Madam President, most importantly, China continues to repress and oppress its own people, in violation of international law. The latest State Department Report on Human Rights in China shows that China is still a major, if not the major, offender of internationally recognized human rights in the world today.

This report from our own State Department notes that China continues to engage in ''torture, extrajudicial killings, arbitrary arrest and detention, forced abortion and sterilization, crackdowns on independent Catholic and Protestant bishops and believers, brutal oppression of ethnic minorities and religions in Tibet and Xinjiang and, of course, absolute intolerance of free political speech or free press''—from our State Department report.

These are not new charges. The tragedy is not that we are hearing these charges repeated; the tragedy is that we continue the same policy that has allowed these kinds of repression and repressive practices to exist. We continue along the same line as if everything is fine. Human rights abuses, religious persecution, forced abortion, and slavery are all raised at the staff level, with only token concern expressed by senior officials in this administration.

In addition to this report from the State Department, there are well documented abuses. The U.S. Attorney for the Southern District of New York has indicted two Chinese immigrants for the sale and marketing of human body parts. I raised this allegation at a speech that I gave at the Fulbright Institute on the campus of the University of Arkansas in Fayetteville, with many visitors there from outside the State of Arkansas, and their disbelief and skepticism was expressed to me that this in fact was factual.

Well, it is factual. It is beyond dispute that two indictments have been brought down regarding the sale of human body parts and harvesting of these body parts from Chinese prisoners with the full cooperation of the Chinese Government, and in some instances U.S. businesses. In this case, U.S. industry is alleged to have provided the Chinese Government with a dialysis machine to assist the harvesting of organs in their prison hospitals.

On the policy of appeasement—the administration calls it ''constructive engagement''—I think indisputably today a policy of appeasement to the Chinese Government is obviously failing. According to a report in the Washington Post on Friday titled ''U.S.-China Talks Make Little Progress on Summit Agenda,'' the United States, we find, is getting few concessions from China relating to the inspection of technology that we share with them; we are getting few concessions on limiting proliferation of technology to third-party states like Iran; and we are getting few concessions on the most important issue of all—that of human rights conditions, particularly in Tibet.

As the President prepares to travel to China, as he prepares to continue this policy of so-called ''constructive engagement,'' we find that even as we seek concessions in line with international norms, that we meet a stone wall. Our only token concessions are the release of high-profile prisoners. Despite this very obvious failure, we continue to give, and give under the guise of ''constructive engagement.''

We have provided key technology that puts our own country at risk. We have set up a hot line that reaches from the White House to China. We have begun assisting China in its efforts to gain membership into the World Trade Organization, even as our balance of trade with China reaches new levels, new highs. Yet we try to orchestrate their efforts to get into the WTO. We dropped our annual push for a resolution condemning China's human rights record at the United Nations. This is something we have done year in and year out. We called upon the United Nations to condemn the abuses that are ongoing in China. This administration has dropped even that kind of symbolic gesture that has been a part of our foreign policy.

We failed to do that in spite of the adoption of the sense-of-the-Senate resolution asking this administration to do that. And we continue to provide China most-favored-nation status. In return for this, we have witnessed the release of three—we have witnessed the release of three—high-profile prisoners of conscience from China's prisons, three out of the thousands upon thousands of political and religious dissidents currently held in Chinese prisons.

I would suggest to my colleagues in the Senate that we need to immediately respond in two ways. First of all, the Senate should immediately pass the 8 House-passed bills on China, bills that the House of Representatives adopted on huge bipartisan margins, by huge margins last year, usually from 350 votes to 400-plus votes on these various bills, short of denying most-favored-nation status but at least taking targeted measures to tell this repressive government in Beijing that the United States is serious when it announces its concerns about the abuses that are ongoing in China. Eight bills—ten bills passed the House. Two of them we have adopted in the Senate, but eight continue to languish without action.

I asked our majority leader. I talked with him. He has given positive indications that we will bring these eight House bills to the floor for a vote in the U.S. Senate prior to the President's trip to Beijing in June.

These bills include H.R. 2195 regarding slave labor, which passed the House by a vote of 419 to 2. H.R. 2195 was designed to keep slave-labor products out of the United States, authorizing needed funding for genuine enforcement of the ban on slave-labor products, calling upon the President to strengthen international agreements to improve monitoring of slave-labor imports. If it passed by this overwhelming margin in the House, I suspect if we had an opportunity to vote on that in the Senate, it would pass by an equally large margin. It is something we need to do before the President travels to China.

H.R. 967, the ''Free the Clergy'' bill, which passed the House on November 6 of last year by a 366 to 54 margin: H.R. 967 targets those Communist officials who engage in religious persecution, banning their travel to the United States by prohibiting the expenditure of any U.S. taxpayer dollars in support of their travel and subjecting it to a Presidential waiver allowing them to be denied their visas. I think that is a simple step, a very modest step, that we should, that we must, do to ensure that United States statements of concern about religious persecution in China have some validity—even the denial of visas, travel opportunities, for those officials in China who continue to practice and implement the policy of religious persecution.

H.R. 2570 regarding forced abortions passed the House on November 6, 1997, with a 415-to-1 margin, yet the Senate these many months later has not yet had an opportunity to vote on this bill. This bill, H.R. 2570, targets those Communist officials involved in forced abortion sterilization, banning once again their travel to the United States. I think that, once again, is a very modest move. It is about the most modest

move that we could possibly take regarding Communist government officials who are implementing a policy of forced abortion and sterilizations in China today and prohibiting them from traveling to the United States.

H.R. 2358 on human rights monitors passed the House by a 416-to-5 vote. It would increase six-fold the number of U.S. diplomats at the Beijing Embassy assigned to monitor human rights.

I visited China in January. I know firsthand how short-handed our State Department officials and diplomatic officials are and how limited they are in their ability to monitor the ongoing human rights abuses in China. If we are to have the knowledge, if we as a body are to have the information that we so desperately need, these human rights monitors are needed. In addition, the new law will add at least one human rights monitor to each U.S. consulate in Communist China.

H.R. 2232 on Radio Free Asia passed the House by a 401-to-21 margin and would fund a 24-hour-a-day broadcast throughout Communist China in each of the major dialects spoken in China. This Radio Free Asia bill will allow the truth of freedom to penetrate Communist China. And, in fact, the truth will set them free. And, as we are allowed to give the story of freedom and the story of democracy, the democracy movement, which was so alive almost 9 years ago on Tiananmen Square, will be alive and evident again in China. It passed by an overwhelming margin.

H.R. 2605 on World Bank loans passed the House by a 354-to-59 margin. This bill would direct U.S. representatives at the World Bank to vote against below-market subsidies for Communist China. This is far short of denying MFN. I have heard all of the arguments against denying MFN in China. Indeed, this is not a blunt instrument. This is a very sharp scalpel, a very small instrument that can be used, simply denying subsidized loans by the American taxpayer to the Government of Communist China, which continues to practice these horrendous abuses against their own people.

H.R. 2647, the People's Liberation Army companies, corporations—companies and businesses and enterprises owned and operated by the People's Liberation Army, which passed the House by a vote of 405 to 10, would require the Defense Department, the Justice Department, the FBI, and the CIA to compile a list of known PLA commercial fronts operating in the United States and would authorize the President to monitor, to restrict, and to seize the assets of and ban such PLA companies within the United States.

For my colleagues, I would say these are companies predominantly owned and operated by the military of Communist China. These companies should not be free to operate and to trade freely in the United States. So this would authorize our various agencies—the Defense Department, Justice Department, FBI, CIA, and so forth—to monitor, to provide a list and authorize the President to restrict and seize the assets of such companies.

H.R. 2386, this legislation, passing by a vote of 301 to 116, provides that the United States shall help Taiwan to develop and deploy an effective theater missile defense system. It has been obvious by some of the actions and some of the statements of the Beijing regime that they had designs on free Taiwan. This would simply be a step in ensuring that Taiwan would be able to defend themselves against any overt military action by the mainland Chinese Communist government.

The second step I believe that we should take as a body, the Senate should support the resolution that I introduced on releasing the remaining dissidents in China. Senate Resolution 212, which I introduced on April 22, last month, with six cosponsors, has been referred to the Senate Foreign Relations Committee and expresses the sense of the Senate that at the upcoming United States-China summit the President should demand the release of all persons remaining imprisoned in China and Tibet for political or religious reasons.

I hope that as our President journeys to China these most important issues—human rights, religious persecution, weapons proliferation—would not be relegated to staff level discussions but, in fact, the President himself would elevate them and would ensure that these issues become the primary focus of our relationship with China and that progress on these fronts is directly linked to the trade opportunities that China seeks. This resolution states that in the upcoming proposed summit between President Clinton and President Jiang of China, President Clinton should demand the immediate and unconditional release, consistent with established principles of human rights, of all persons remaining in China and Tibet for political or religious reasons.

It says, secondly, the President should submit a report to Congress as soon as possible after the proposed summit in China concerning his progress in securing the release of persons imprisoned in China and Tibet.

Third, it says one prisoner released into exile does not change the fundamental flaws within the Chinese judicial and penal system.

Fourth, it states that the U.S. policy of granting concessions to the Chinese Government in exchange for the release of high-profile prisoners is an offense to the thousands of dissidents remaining in prison.

I, as all Americans, rejoice and am thrilled at the release of any prisoner of conscience in China. Wang Dan's release, I am glad for that. Wei's release, I am glad for that. But I also know that the release of a handful of well-known dissidents is no substitute for change in the fundamental policy of the Chinaese Government, which continues to be one of repression and persecution of those who would raise their voice for freedom or raise their voice for their own conscience.

And then the resolution states that the President should not offer to lift the sanctions imposed on China after the 1989 crackdown in Tiananmen Square, and those measures should not be reversed until we see substantive and real changes in the policies of the Chinese Government. I am not anti-Chinese. I was thrilled while I was in China to meet scores of individuals in China who are going about their daily lives making a living. I was glad to see the progress in moving toward a market system. I was glad to see the churches that are, though regulated stringently by the government, filled to the brim every Sunday. I was glad to see the Buddhist temples, though, once again, strictly regulated by the government, seeking to operate and continuing to operate. But I was chagrined to see that the government's fundamental policy towards its own people has not changed, that their concept of freedom is not that which is embedded in the founding documents envisioned by our Founding Fathers and appreciated and admired and accepted by the international community all over this world.

This is not a case of the United States seeking to impose its ideas of democracy upon another culture. It, rather, is seeking to have our country, as it always has, reflect in our foreign policy the underlying values of freedom that are not American but are human, that transcend every national boundary, that transcend every culture and society and are fundamental for basic respect of human dignity and human rights.

It is that, I think, President Reagan had in mind when he spoke of this country as a shining city on a hill, a nation that could be admired and respected the world over because of a foreign policy, reflected in its attitude and in its policies toward our neighbors around the world, of fundamental respect for human rights. It was almost 9 years ago when the massacre at Tiananmen occurred—June 8 and June 9, almost 9 years ago. Those students, hundreds of them that were massacred, looked to the United States as its emblem, as its symbol of freedom in the world. It was Lady Liberty that they erected that stood there in Tiananmen Square day after day, week after week, testimony to the desire of Chinese people for greater freedom. Now it is our time to stand with them. It is time for our President as he journeys to China to take this stand forcefully and to elevate this as the primary reason, the primary purpose in his journey to that important nation in the world. And as he is willing to do that, this body will stand with him. I hope, once again, that the Senate will adopt the House-passed bills, that we will adopt the sense of the Senate, and in so doing we will arm the President with the forceful opinion of the American people that fundamental change needs to take

place in the Chinese Communist government in its attitudes and its policies toward its own people.

Madam President, I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. I ask unanimous consent that I be permitted to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. BUMPERS pertaining to the introduction of S. 2030 are located in today's record under ''Statements on Introduced Bills and Joint Resolutions.'')

TELEPHONE PRIVACY ACT

Mr. BUMPERS. Madam President, I recently introduced S. 1968, the Telephone Privacy Act. This bill, which has bipartisan support, has nothing to do with Linda Tripp or anybody else.

I first proposed legislation regarding telephone privacy in 1984 when it was revealed that Charles Wick, who was head of the United States Information Agency, had tape-recorded President Reagan and President Carter and several Cabinet officials 84 times without their knowledge.

Can you remember when you were a kid and you used to listen to telephone conversations? The announcer would call somebody or somebody would call in because they had the answer to a question, and you would hear beeping in the background. In those days, that was a sign that you were being recorded. Somewhere along the line, that practice was discontinued. Today, you can tape-record your very best friend and not tell that friend and hand it to all three networks for use on the evening news and no federal crime has been committed.

Not too long ago, Attorney General Reno testified before the Appropriations Subcommittee on State, Justice, Commerce, on which I sit. At that time, we were working on this bill, and I asked her about it. She said, ''Well, Florida already has such a law that makes it a criminal offense to tape-record a conversation without telling somebody.''

I said, ''How long have they had the law?''

She said, ''Since around 1970.''

I said, ''Were you the prosecutor in Dade County at the time that happened?''

She said she was.

I said, ''Well, how did you feel about the bill when it was being debated?''

She said, ''I favored it.''

As usual, Congress doesn't get the message until after the States have acted—16 States have already enacted legislation almost identical to S. 1968 , and here we sit still allowing people to invade our privacy, the most fundamental privacy when people have their guard down the most, by tape-recording conversations which can later be used for any purpose they choose. It is not an offense, and it ought to be.

I hope that some of my colleagues who may be listening will go back and look at my full remarks that were entered in the RECORD at the time I introduced that bill.

EXCULPATORY EVIDENCE AND GRAND JURIES

Mr. BUMPERS. Madam President, on a separate matter, I want to inform my colleagues that I am also working on legislation that will require prosecutors, before they ask for an indictment, to also give the grand jury any exculpatory evidence they may possess.

Prosecutors, as I previously outlined in some detail, have such an advantage, such an upper hand. Some of it is legitimate, and some of it is not. As one New York judge said, ''A grand jury will indict a ham sandwich'' if the prosecutor asked them to.

I had a prosecutor tell me one time, ''This is the best grand jury I ever saw; it indicted everybody I asked them to indict.'' Of course they indicted everybody. They are putty in his hands.

I will just give you an illustration of the kind of case that I am trying to get at.

Let's assume that you are a prosecutor and you are getting ready to ask the grand jury to indict somebody for capital murder. Assume further that all the testimony that has been taken in that case said that the man who pulled the trigger and committed the murder was wearing a green jacket.

Assume further that the prosecutor has had information come to him personally, though it has never been presented to the grand jury, that it was, in fact, a red jacket.

I am making a rather extreme case here, but I ask you, in the spirit of elemental fairness, do you believe that the prosecutor, before he asks somebody to go on trial and possibly end up in the electric chair, is beholden in any way to tell the grand jury of totally exculpatory evidence that he may have in his possession?

There is a Supreme Court decision, the name of which I forget, in which the Supreme Court ruled 5–4 that the prosecutor is absolutely under no compulsion to tell the grand jury of any exculpatory evidence in his possession. If that isn't a betrayal of everything that we Americans believe, including fundamental fairness, if that is not a betrayal of everything I was taught in law school, I cannot think of a more egregious case.

Madam President, one of the reasons we have not had these debates in the past is because the crime rate in this country was soaring. And everybody was in a put-them-in-jail and throw-away-the-key mode. But I wanted my colleagues to stop and just reflect for a moment. God knows, I am not suggesting any guilty person should go free, but you heard that old story: Better that 1,000 guilty people go free than one innocent person be convicted.

I did not do very much criminal trial work when I practiced law. I used to take maybe one case a year just so I would have to stay boned up on what the Supreme Court had ruled on, mostly rules of evidence and defendants' rights. And, yes, I defended a man one time that in my own mind I felt sure was guilty and the jury acquitted him. That sounds terrible to a lot of people who do not understand the criminal justice system. Everybody is entitled to a trial.

So all I am saying is the crime rates are coming down. People ought to be in a little more circumspect mood about what the Founding Fathers meant. The most important thing I said in my former remarks a moment ago about the bill I am introducing today is that the law is supposed to be a shield as well as a sword. It is supposed to protect the liberty of people in this country as well as to prosecute the guilty. It also has an obligation to defend and free the innocent. So that is all these proposals I am making are calculated to do; keep a firm commitment to our elemental belief in fairness, in the rights of the innocent and, yes, to prosecute and convict the guilty.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Madam President, I ask unanimous consent to speak for 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE TOBACCO LEGISLATION

Mr. DORGAN. Madam President, before I begin talking about an amendment I intend to offer on the piece of legislation we will consider this week dealing with the IRS, let me say that the Congress Daily this afternoon indicates the Senate majority leader says ''the compromise tobacco bill developed by Commerce Chairman MCCAIN may not be the base bill considered by the Senate when it takes up the tobacco issue. . .''

I am quoting:

> When asked whether he plans to bring the McCain bill to the floor, Lott said: ''I am referring to a bill; it could be McCain, a version of McCain, it could be something else.''

Again, I was quoting.

I would hope that Senator LOTT, the majority leader, would understand that when the Senate Commerce Committee marks up a piece of legislation and passes it with only one dissenting vote, a piece of legislation that is embraced by Republicans and Democrats in the Senate Commerce Committee, that that would not be work that is discarded as we move to begin consideration of a comprehensive tobacco bill.

There is a reason for a committee system in the Congress, and that is to work through committees to develop a proposal, and bring that proposal to the floor of the Senate. I would be very disappointed if the majority leader intends one way or the other to bring a piece of legislation to the floor which is vastly different than that which was passed out of the Senate Commerce Committee.

Again, I know there is a tremendous amount of lobbying going on in this town and around the country by the tobacco industry to try to resist and fight this kind of tobacco legislation. I understand that and I understand why they are doing that. Literally hundreds of millions—billions of dollars, hundreds of billions of dollars are at stake. But we must, it seems to me, in discharging our responsibility, pass a comprehensive tobacco bill. A good start in doing that would be to take the piece of legislation that we have drafted and marked up in the Senate Commerce Committee and bring that to the floor of the U.S. Senate.

In response, I think, to the aggressive initiative around this country by the tobacco industry, some are saying, ''Maybe we ought to back off. Maybe we ought to not be quite as aggressive.''

The fact is the origin of the tobacco legislation comes from our determination to see that this industry stops targeting America's children. And if someone thinks that they have not targeted America's children, then I say read the evidence. The Supreme Court has just ruled in a manner that requires thousands of pages of evidence to be disclosed. That evidence from the tobacco industry itself demonstrates that the only source of new smokers has been to addict America's children.

Smoking is legal. Tobacco use is legal, and will remain legal in this country. But it is not legal and should not be legal to attempt to addict America's children. That is why a comprehensive tobacco bill needs to be brought to the floor of the Senate. I urge the majority leader in the strongest terms possible to use the process that we have started here in the Senate, bring to the floor the piece of legislation I and others, with the leadership of Senator MCCAIN, have developed, and use that as a starting point on the Senate floor to deal with comprehensive tobacco legislation.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The Senate continued with the consideration of the bill.

Mr. DORGAN. Mr. President, the agenda for the Senate this week will be to discuss the bill that deals with the Internal Revenue Service. Among other things, this piece of legislation creates an Internal Revenue Service oversight board to help take a look at the management of various things with respect to the running of the IRS.

I spoke last week about hearings on IRS misconduct and abuse. I indicated that, while I think the IRS has many good people who work very hard to collect the taxes that our laws require to be collected in this country, it is clear from the hearings that there have also been abuses that ought never be tolerated. I commend the Chairman for holding last week's hearings. We must use these hearings as the occasion to understand what went wrong and make sure it never goes wrong again. The American people don't ever deserve an IRS that is not fully accountable and an IRS that in some cases will harass and badger taxpayers in ways disclosed during the hearings last week.

Let me just tackle one other aspect of the Internal Revenue Code and the behavior of the IRS. The IRS is required to collect the taxes needed to run the Government. Now the question is from whom does the IRS collect the amounts that are due? The people who go to work every day? The families that make a salary at work, and when they earn that salary, they have withholding taken out of their paychecks. Their taxes are sent to the U.S. Government. They don't have a choice. There is no flexibility. They work, they receive a paycheck, and they have withholding.

But there are others doing business in America that are not quite so compliant. We need an IRS that cares about what they are doing as well and makes sure they pay their fair share of the tax load in this country. Let me give you an example. In a recent year, we had a study completed by the General Accounting Office (GAO), the investigative watchdog of Congress. One of the GAO's main findings was that 46 percent of the largest foreign-based multinational firms—that is, firms with over $100 million in assets—are transacting hundreds of billions of dollars of business in this country and paying zero in income taxes to our country. That is right—not 10 percent or 5 percent or 1 percent, they paid zero in income taxes to this country.

Now how, you ask, would a company based overseas do business in America, do tens of billions of dollars' worth of business, earn billions of dollars' worth of profit and pay zero in taxes? I mentioned 46 percent of the largest companies with over $100 million in assets paid no taxes; 74 percent of all foreign-based corporations in the U.S. paid nothing, zero, in Federal income taxes. Let me say that again: 74 percent of all foreign-based corporations doing business in the United States paid zero in Federal income taxes to this country. How do they do it? Something called transfer pricing.

It is not only the foreign-based corporations, incidentally, that have a problem here. Most corporations that are doing business all around the globe are finding ways to minimize their tax burden through transfer pricing. Of course, not all of them do that. Many corporations pay exactly what they owe and do the best job they can of accounting for it.

But transfer pricing means that you overprice an import into the United States in order to inflate the cost of goods sold, and therefore reduce, if not wipe out, their profit here. Or the alternative would be to underprice something you are exporting to another country in order that your subsidiary in the other country earns a very large income which would be subject low or no taxes in the other country. Because you priced it so low as you exported it here in this country, you end up making no money.

Let me give you an example of how this works. There are a couple of professors employed at Florida International University. Their names are Simon Pak and John Zdanowicz. I have met them. They have done a lot of interesting work on the issue of transfer pricing. It is a Byzantine, complicated area of tax law, so complicated that very few people pay any attention to it. Yet billions and billions of dollars of tax avoidance occur every single year. ''U.S. Government is Cheated out of $42.6 Billion in Tax Revenues in 1997, Study Reveals.'' Pak and Zdanowicz recently released a study showing a conservative estimate of tax loss during 1997 due to abnormal pricing in international trade was $42.6 billion.

Let me give some examples. Tweezers—everybody knows what tweezers are. Tweezers are tiny little things you buy at the drugstore for $1, $2, or $3. Tweezers were imported from Switzerland at $218 each. Now, did somebody really pay $218 for a pair of tweezers? Sure—a U.S. subsidiary of a foreign-based corporation. The foreign-based corporation sells the tweezers at $218 apiece, and they are a controlled U.S. subsidiary. They can never, ever make a profit, if they so desire. So whatever that corporation decides to do in the United States, they control their pricing back and forth. They will do a lot of business, make a lot of profit, but by overpricing tweezers to the tune of $218 apiece, they will never pay an income tax to the U.S. Government.

So they can come here and they can compete against a U.S. business that doesn't do business in 10 countries, just does business here, and when they make a profit, they must pay a tax.

How about bulldozers? Everybody knows what a bulldozer is. You drive down the road and see a construction project, you can identify a bulldozer at first glance. It is one of the biggest things you will see. Bulldozers exported to Belize for $551. Does anybody know where you can buy a $551 bulldozer?

Let me go through some of the rest of the examples. Safety razor blades, $13 a piece. Television antennas—everybody knows what a television antenna is—$1,738 from the United Kingdom. Venetian blinds—most everybody has priced venetian blinds at some point. This would be a company that sold venetian blinds abroad and sold

them at a price that guarantees they can't make a profit here. They do it through controlled companies, so it is not real, just the way they price their transactions. Venetian blinds, 3 cents. How about a toothbrush for $18? Or better yet, a tractor tire shipped to France for $7.65?

All of this represents tax avoidance in sophisticated swindles designed to prevent the U.S. Government from taxing a profit as they would do with a domestic corporation.

The reason I mention all of this sophisticated tax avoidance that is that it is almost impossible to detect. When you have companies—a company wanting to do business in this country, in most cases it will be a large foreign-based corporation that creates a U.S. subsidiary.

They will do business with their own subsidiary. And to try to construct their transactions back to some reasonable market prices is like trying to connect two plates of spaghetti together. It is impossible. Yet, that is what the IRS is attempting to do. It doesn't do very well; can't do very well. Enforcement here is abysmal. In fact, depending on who you ask, the tax avoidance per year is $40 billion, some say $25 billion, and some say $15 billion. There has been a study that says $4 billion and the IRS says only $1 billion. What is the truth? The truth is that it is far more than $1 billion or $4 billion that the IRS and Treasury are talking about. It is far closer to the numbers put together by Professors Pak and Zdanowicz.

Well, I will speak more about the amendment at some point during this week when I offer it. The amendment I will offer is very simple.

The amendment I will offer is to say the newly established IRS Oversight Board will review whether the IRS has the resources needed to prevent tax avoidance by companies using unlawful transfer pricing methods. In order to enable the board to carry out this duty, IRS shall conduct a study relating to its enforcement of transfer pricing abuses by multinational companies. Specifically, the IRS will review the effectiveness of current enforcement tools used by the IRS to ensure compliance under Section 482 of the Internal Revenue Code and determine the scope of nonpayment of U.S. taxes caused by both foreign and U.S.-based multinational firms operating in the United States.

Then the Board will report back to Congress its findings on the IRS enforcement of transfer pricing abuses and make recommendations for improving IRS enforcement tools.

I understand what the response to this is by corporations who are engaged in tax avoidance by transfer pricing. I understand what the response is by the Treasury Department and the Internal Revenue Service. Corporations will say: Well, none of this goes on, this doesn't happen. The Internal Revenue Service and the Treasury Department will say: It happens, but we have done such a great job there is very little tax avoidance.

But, of course, neither is true. The fact is that we have a very serious problem in this area, one that needs to be corrected, and it will not be corrected with the current enforcement method used by the Internal Revenue Service and the Treasury Department. As we talk now about how to recast the Internal Revenue Service, develop new procedures, develop new protections for taxpayers, develop an IRS oversight board, I am asking that the Internal Revenue Service and the Treasury Department—especially at the direction of this new oversight board—take a fresh, new look at this issue and try to determine how we can do better.

In America, when someone decides to begin to do business and risk their capital in order to hold themselves out to do business and earn a profit, when and if they earn that profit, they must pay an income tax. The reason for that is, we tax profits and we tax income in order to pay for our common defense, in order to build roads, and do a whole series of things in this country that we need to do together. But we have some who do business in this country that pay no taxes. I especially point to the foreign-based multinational firms. The GAO report says they come to this country and approximately 74 percent of them doing business here pay no U.S. income taxes. Those who are listening to this will be surprised to learn that the brand names they are well familiar with every single day, often the brand names on foreign products sold in the U.S., mean that someone has done a lot of business here, made a lot of profit here, and ended up paying zero in income taxes. In my judgment this means they are unfairly competing in this marketplace.

U.S. businesses with whom they compete in this marketplace, if they are doing so only in the U.S., must pay a tax on their income, and so, too, should foreign-based corporations doing business in the United States through their subsidiaries.

Madam President, with that, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SESSIONS). Without objection, it is so ordered.

MORNING BUSINESS

Ms. COLLINS. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, May 1, 1998, the federal debt stood at $5,501,155,718,728.09 (Five trillion, five hundred one billion, one hundred fifty-five million, seven hundred eighteen thousand, seven hundred twenty-eight dollars and nine cents).

One year ago, May 1, 1997, the federal debt stood at $5,338,453,000,000 (Five trillion, three hundred thirty-eight billion, four hundred fifty-three million).

Twenty-five years ago, May 1, 1973, the federal debt stood at $456,190,000,000 (Four hundred fifty-six billion, one hundred ninety million) which reflects a debt increase of more than $5 trillion—$5,044,965,718,728.09 (Five trillion, forty-four billion, nine hundred sixty-five million, seven hundred eighteen thousand, seven hundred twenty-eight dollars and nine cents) during the past 25 years.

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 7, 1997, the Secretary of the Senate, on May 1, 1998, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

H.R. 3579. An act making supplemental appropriations for the fiscal year ending September 30, 1998, and for other purposes.

Under the authority of the order of the Senate of January 7, 1997, the enrolled bill was signed on May 1, 1998, during the adjournment of the Senate, by the President pro tempore (Mr. THURMOND).

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–4690. A communication from the Administrator of the Farm and Foreign Agricultural Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Dairy Indemnity Payment Program'' (RIN0560–AF30) received on April 23, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4691. A communication from the Administrator of the Farm and Foreign Agricultural Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Cooperative Marketing Associations'' (RIN0560–AF33) received on April 23, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4692. A communication from the Administrator of the Farm and Foreign Agricultural Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Subordination of Direct Loan Basic Security to Secure a Guaranteed Line of Credit'' (RIN0560–AE92) received on April 28, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4693. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Mediterranean Fruit Fly; Addition to Quarantined Areas'' (Docket #98–046–1) received on April 21, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4694. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Brucellosis in Cattle; State and Area Classifications; Georgia'' (Docket #98–018–1) received on April 21, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4695. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Mediterranean Fruit Fly; Removal of Quarantined Area'' (Docket #97–102–2) received on April 21, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4696. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Mediterranean Fruit Fly; Removal of Quarantined Area'' (Docket #97–056–9) received on April 21, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4697. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida and Imported Grapefruit; Relaxation of the Minimum Size Requirement for Red Seedless Grapefruit'' (Docket #FV98–905–2 FIR) received on April 24, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4698. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Tart Cherries Grown in the States of Michigan, et al.; Temporary Suspension of a Proviso for Exporting Juice and Juice Concentrate; Establishment of Rules and Regulations Concerning Exemptions From Certain Order Provisions; and Establishment of Regulations for Handler Diversion'' (Docket #FV97–930–4 FIR) received on April 27, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4699. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin; Issuance of Grower Diversion Certificates'' (Docket #FV97–930–5 FIR) received on April 27, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4700. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Olives Grown in California; Increased Assessment Rate'' (Docket #FV98–932–1 FR) received on April 28, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4701. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Dried Prunes Produced in California; Undersized Regulation for the 1998–99 Crop Year'' (Docket #FV98–993–1 FR) received on April 28, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4702. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Cantaloupes; Grade Standards'' (Docket #FV–98–301) received on April 28, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4703. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Tart Cherries Grown in the States of Michigan, et al.; Final Free and Restricted Percentages for the 1997–98 Crop Year for Tart Cherries'' (Docket #FV–97–930–6 FR) received on April 28, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4704. A communication from the Director of the Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the annual consumer report for calendar year 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–4705. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report of Comprehensive Needs Assessments; to the Committee on Banking, Housing, and Urban Affairs.

EC–4706. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report entitled ''Dissemination of Building Technology 'Best Practices'''; to the Committee on Banking, Housing, and Urban Affairs.

EC–4707. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation within seven days of enactment dated April 23, 1998; to the Committee on the Budget.

EC–4708. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Summer Flounder and Scup Fisheries; Readjustments to 1998 Quotas; Commercial Summer Period Scup Quota Harvested for Maryland'' (Docket #971015246–7293–02; ID 041398A) received on May 1, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4709. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Economic Exclusive Zone Off Alaska; Deep-water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska'' (Docket #971208297–8054–02) received on May 1, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4710. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Species in the Rock Sole/Flathead Sole/''Other Flatfish'' Fishery Category by Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands'' (Docket #971208298–8055–02) received on May 1, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4711. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in the Eastern Regulatory Area of the Gulf of Alaska'' (Docket #971208297–8054–02; ID 041498B) received on April 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4712. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish Fisheries by Vessels Using Hook-and-Line Gear in the Gulf of Alaska'' (Docket #97208297–8054–02; ID 041498A) received on April 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4713. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Central Aleutian District of the Bering Sea and Aleutian Islands'' (Docket #971208298–8055–02; ID 033098B) received on April 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4714. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Gulf of Alaska'' (Docket #971208297–8054–02; ID 041098A) received on April 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4715. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; In season Adjustments, Cape Falcon, OR, to Point Mugu, CA'' (Docket #970429101–7101–01; ID 032798B) received on April 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4716. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone off Alaska; Offshore Component Pacific Cod in the Central Regulatory Area'' (Docket #971208297–8054–02; ID 033098A) received on April 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4717. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure'' (Docket #970930235–8028–02; ID 032598D) received on April 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4718. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure'' (Docket #970930235–8028–02; ID 032598E) received on April 20, 1998; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JEFFORDS, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1882. A bill to reauthorize the Higher Education Act of 1965, and for other purposes (Rept. No. 105–181).

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

S. 1260. A bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes (Rept. No. 105–182).

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. GRASSLEY:

S. 2029. A bill to reduce temporarily the duty on sodium bentazon; to the Committee on Finance.

By Mr. BUMPERS:

S. 2030. A bill to amend the Federal Rules of Civil Procedure, relating to counsel for witnesses in grand jury proceedings, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. TORRICELLI (for himself and Mr. COVERDELL):

S. Con. Res. 93. A concurrent resolution expressing the sense of the Congress with respect to documentation requirements for physicians who submit claims to Medicare for office visits and for other evaluation and management services; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BUMPERS:

S. 2030. A bill to amend the Federal rules of Civil Procedure, relating to counsel for witnesses in grand jury proceedings, and for other purposes; to the Committee on the Judiciary.

THE GRAND JURY DUE PROCESS ACT

Mr. BUMPERS. Madam President, I am today introducing legislation which will remedy a longstanding injustice in our criminal justice system by granting to grand jury witnesses the right to the presence of counsel when testifying before the grand jury.

In our legal system, the right to counsel is fundamental. Every person, no matter how guilty or innocent, deserves to have an advocate. So fundamental is this right to counsel that it was recognized by the founders and enshrined in the sixth amendment to the Constitution. Along with the right to an impartial jury, public trial, and the right to confront witnesses, it is a universal element of fundamental fairness recognized by every civilized system of justice. Lawyers may never be popular, said William Shakespeare in Henry VI, Act III Scene II: ''The first we do, let's kill all the lawyers.''

But lawyers are a necessity. No one in his right mind wants to confront the judicial system without the benefit of a lawyer.

The Anglo-American criminal justice system has given us more freedom and better justice than any country in the history of civilization. The rights of American citizens evolved over centuries of English and American history are now enshrined in the Bill of Rights and are the standards of freedom and liberty all over the world. We must not allow those rights to be eroded. No American would claim that our system is perfect, nor do I so claim. I am convinced beyond a doubt that our system has serious flaws, one of which most people are probably not even aware and many might find hard to believe in this day and age. A witness summoned before a grand jury has no right to the presence of his lawyer in the grand jury room. Depriving anybody of the right to counsel is fundamentally wrong. No person should be required to face any part of the criminal justice system without the presence of his or her lawyer if he or she chooses.

Think of it this way. Police have absolutely no right to question an arrestee without his lawyer in the room unless the individual waives that right. The police even have a constitutional duty under the Miranda decision to advise people of their rights to a lawyer, even though anybody who has watched television in the last 35 years ought to know that they are entitled to a lawyer. If the police fail to observe this constitutional requirement, the statement by the accused is inadmissible in court.

But when an ordinary citizen is called before a grand jury, no lawyer—no lawyers are allowed to be present. The prosecutor and the grand jury have the unlimited ability to question the witness, who is not even under arrest, without an attorney present. This gross inconsistency can only be described as Byzantine, an anachronism.

I have never been one to say that criminal defendants have too many rights. They have no more than the Constitution entitles them. In this instance, however, a criminal defendant has more rights than the average ordinary citizen called before a grand jury. A criminal defendant cannot be questioned without a lawyer present, and he or she may invoke his or her right not to testify under the fifth amendment privilege against self-incrimination.

But a witness, a witness in the grand jury room who may later become a target under criminal investigation, has no such rights. He or she must testify fully and truthfully, no matter how burdensome or embarrassing or impertinent or irrelevant the questions may be, and without the assistance of counsel. The rules of evidence which normally require that questions be relevant and material do not apply in the grand jury room. On the contrary, so-called ''fishing expeditions'' have become commonplace. No matter how irrelevant or outrageous the questions, the witness must answer.

Madam President, I ask you or any American to consider whether, if you or your son or daughter were served a subpoena to testify before the grand jury on a criminal case, even though the grand jury is supposedly investigating somebody else, would you want the right to have your own lawyer in the room? Would you feel the process was a fair one if you were told that you were not legally entitled to have a lawyer present? What if you or your loved one were called before the grand jury for a second, third, or fourth time? Would you begin to feel that you might be under suspicion for something? And would you feel comfortable answering endless questions without your lawyer present?

The grand jury is the only circumstance I can imagine in life where a free person does not have a complete legal right to hire a lawyer and have that lawyer accompany him in any kind of proceeding. No matter how serious the matter under consideration, no matter what the question—from the most complex matter of tax accounting to the most personal, intimate family concerns—no matter how hazy your recollection might be, you have no right to a lawyer before the grand jury. The grand jury room is the one and only room in the courthouse, the very temple of justice, where the proceeding is entirely one-sided.

Under existing law, there could be a sign on the grand jury room saying, ''No lawyers allowed.'' The Government has as many lawyers as the Treasury can pay. The witness has zero. Notwithstanding that he or she may be there against his or her will, notwithstanding the power of the grand jury and the prosecutor to indict, a witness before a grand jury is defenseless. He or she has no friend in the room. Surely, nobody feels so alone as a grand jury witness, knowing that the weight of the Federal criminal justice system rests on his or her every word. Give the wrong answer, you can be accused of perjury, obstruction of justice, or any other of a number of crimes. If you refuse to answer, you can go directly to jail without benefit of a trial, being held in contempt.

Madam President, I ask you to consider, What kind of atmosphere is created in this one-sided proceeding? Is it one of fairness or is it one of intimidation? Bear in mind that there is no limit on the number of times a person may be called to testify before the same grand jury. In recent news reports—we have all read them—some people have been called to testify for the fifth or sixth time—no lawyer allowed—before the same grand jury. If you were in this position, or a member of your family were, how would you feel about being called for the sixth time to testify without your lawyer present? Would you feel threatened or intimidated? And this kind of proceeding not only does not provide justice and fairness, it doesn't even provide the appearance of justice and fairness, which is essential if citizens are to have confidence in our criminal justice system.

This system needs changing. The bill I am introducing is a modest proposal to give some balance to a very unlevel playing field. The main purpose of the original grand jury was probably helping in the collection of taxes. These ancient roots precede even the right to jury trial, because in the earliest times, trial was by ordeal. The accused was required to put his hand in boiling water or was tested by drowning. Needless to say, there weren't very many acquittals.

The grand jury has always symbolized the power of the criminal justice system to bring any person before the bar of justice. No one is beyond the power of the grand jury to seek evidence and to indict if there is probable cause to believe that a crime has been committed. Even before the right to trial by jury was secured, English grand juries had power to investigate and to accuse. Composed of ordinary citizens, grand juries had the power to compel any person to appear and give testimony or evidence. Historically, the grand jury was a guarantor of liberty—a guarantor of liberty.

The courts have often stated that the grand jury has a dual function. Listen to this. The courts have said that the grand jury has a dual function, ''to clear the innocent, no less than to bring to trial those who may be guilty.'' The grand juries exist ''as a means of protecting the citizen against unfounded accusation, whether it comes from the government, or be prompted by partisan passion or private enmity.''

We just saw what private enmity is when somebody tried to set up Howard Baker in a tax fraud case.

The Founding Fathers so respected the institution that they enshrined the right to indictment by a grand jury in the sixth amendment to the Constitution. Here it is:

> No person shall be held to answer for a capital, or otherwise infamous crime, [and that has been interpreted many times to mean a felony] unless on presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger * * *.

That is amendment 5 to the Constitution. The grand jury should be both a sword and a shield, a powerful tool in the hands of prosecutors and a defender of liberty by protecting against meritless or overzealous prosecutions.

In colonial America, a grand jury in Boston helped signal the beginning of the end of colonial government when the jurors refused the Government's request to indict the Stamp Act rioters. In modern times, however, the grand jury has become almost exclusively a sword and not a shield. Examples of the grand jury as a shield are hard to come by. In short, we have allowed the protection intended by the founders to take a 180-degree turn.

The Supreme Court has conceded that the grand jury does not always serve its intended purpose of protecting the innocent. This is what the Supreme Court said in U.S. v. Dionisio:

> The grand jury may not always serve its historic role as a protective bulwark standing solidly between the ordinary citizen and an overzealous prosecutor.

Those were the words of Justice Douglas. Douglas said in dissent in that case—he was much more explicit:

> It is, indeed, common knowledge that the grand jury, having been conceived as a bulwark between the citizen and the government, is now a tool of the Executive.

Despite its ancient origins, the grand jury remains one of the most controversial aspects of our judiciary system. Most States have abandoned or abolished grand juries in favor of the filing of information by prosecutors. That is the way we do it in my home State of Arkansas. Many would argue that the grand jury is an anachronism which costs more than it is worth. In one of the most famous critiques of the institution, the Chief Judge of the State of New York stated that most grand juries would ''indict a ham sandwich'' if the prosecutor requested it.

While some have argued for eliminating the grand jury, I am not one to second-guess the wisdom of our Founding Fathers. Rather, I believe we should make the system work as intended—as a protector of freedom—by reforming the grand jury system so as to ensure due process of law for all concerned.

In the 1970s, there was considerable debate in Congress over the merits of the grand jury following revelations of abuses of the system under the Nixon administration. There has been no serious congressional debate over the grand jury system for over 10 years. The time for that debate has come.

Over 30 years ago, the Supreme Court said in Gideon v. Wainwright that counsel must be appointed for those who cannot afford a lawyer before any criminal trial in which a prison sentence may result.

The bill I am introducing today is a logical extension of the sixth amendment to the Constitution, as well as the fifth amendment's promise of due process of law. Granted, a witness before a grand jury is not under immediate threat of indictment, but most of them are there against their will, and they are certainly looking over the abyss.

Let me emphasize that my bill, although a departure from historical practice, is still a modest proposal. This bill would not in any way change criminal procedure except for allowing a witness' lawyer to be present in the grand jury room. The lawyer would not be allowed to speak to the jury or to examine witnesses. He or she would be able to advise his or her client and no more.

Allowing the mere presence of a witness' lawyer will in no way disrupt or slow the grand jury proceedings. What it might do is to deter a prosecutor from doing something improper simply because he knows there is no other lawyer watching. It may give a witness some comfort to be able to ask his or her lawyer for advice before answering a complex question. That right is provided today, but the witness has to go outside the courtroom to see his or her counselor because the counsel is not allowed in the grand jury room.

My bill will thus allow for grand juries to operate more smoothly and efficiently, reducing the need to stop proceedings so the witness can go out of the room and talk to his or her lawyer.

This bill goes to the very reason lawyers exist. It may give the public more confidence that the proceedings are fair and balanced at a time when public confidence in the judicial system is about as low as it has ever been. If any of these purposes are met, my legislation will have served a noble purpose.

Mr. President, I hope that all Senators will take note of this bill and that they will support it. It will be referred to the Judiciary Committee, and I hope that the committee will schedule hearings very promptly.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2030

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 ''Grand Jury Due Process Act''.

SEC. 2. GRAND JURIES.

(a) IN GENERAL.—Rule 6 of the Federal Rules of Criminal Procedure is amended—

(1) in subdivision (d), by inserting ''and counsel for that witness (as provided in subdivision (h))'' after ''under examination''; and

(2) by adding at the end the following:

''(h) COUNSEL FOR GRAND JURY WITNESSES.—

''(1) IN GENERAL.—

''(A) RIGHT OF ASSISTANCE.—Each witness subpoenaed to appear and testify before a grand jury in a district court, or to produce books, papers, documents, or other objects before that grand jury, shall be allowed the assistance of counsel during such time as the witness is questioned in the grand jury room.

''(B) RETENTION OR APPOINTMENT.—Counsel for a witness described in subparagraph (A)—

''(i) may be retained by the witness; or

''(ii) in the case of a witness who is determined by the court to be financially unable to obtain counsel, shall be appointed as provided in section 3006A of title 18, United States Code.

''(2) POWERS AND DUTIES OF COUNSEL.—A counsel retained by or appointed for a witness under paragraph (1)—

''(A) shall be allowed to be present in the grand jury room only during the questioning of the witness and only to advise the witness;

''(B) shall not be permitted to address the attorney for the government or any grand juror, or otherwise participate in the proceedings before the grand jury; and

''(C) shall not represent more than 1 client in a grand jury proceeding, if the exercise of the independent judgment of the counsel on behalf of 1 or both clients will be, or is likely to be, adversely affected by the representation of another client.

''(3) POWERS OF THE COURT.—

''(A) IN GENERAL.—If the court determines that counsel retained by or appointed for a

witness under this subdivision has violated paragraph (2), or that such action is necessary to ensure that the activities of the grand jury are not unduly delayed or impeded, the court may—

''(i) remove the counsel and either appoint new counsel or order the witness to obtain new counsel; and

''(ii) with respect to a violation of paragraph (2)(C), order separate representation of the witnesses at issue, giving appropriate weight to the right of each witness to counsel of his or her own choosing.

''(B) NO EFFECT ON OTHER SANCTIONS.—Nothing in this paragraph shall be construed to affect the contempt powers of the court or the power of the court to impose other appropriate sanctions.

''(4) NOTICE.—Upon service of any subpoena requiring any witness to testify or produce information at any proceeding before a grand jury impaneled before a district court, the witness shall be given adequate and reasonable notice of the right to the presence of counsel in the grand jury room, as provided in this subdivision.''.

ADDITIONAL COSPONSORS

S. 850

At the request of Mr. AKAKA, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 850, a bill to amend the Packers and Stockyards Act, 1921, to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory livestock, and for other purposes.

S. 1069

At the request of Mr. MURKOWSKI, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 1069, a bill entitled the ''National Discovery Trails Act of 1997.''

S. 1141

At the request of Mr. ROBERTS, his name was added as a cosponsor of S. 1141, a bill to amend the Energy Policy Act of 1992 to take into account newly developed renewable energy-based fuels and to equalize alternative fuel vehicle acquisition incentives to increase the flexibility of controlled fleet owners and operators, and for other purposes.

S. 1180

At the request of Mr. CRAIG, his name was added as a cosponsor of S. 1180, a bill to reauthorize the Endangered Species Act.

S. 1220

At the request of Mr. DODD, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1220, a bill to provide a process for declassifying on an expedited basis certain documents relating to human rights abuses in Guatemala and Honduras.

S. 1264

At the request of Mr. HARKIN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1264, a bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to provide for improved public health and food safety through enhanced enforcement.

S. 1286

At the request of Mr. JEFFORDS, the names of the Senator from California (Mrs. BOXER) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 1286, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain amounts received as scholarships by an individual under the National Health Corps Scholarship Program.

S. 1348

At the request of Mr. LIEBERMAN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1348, a bill to provide for innovative strategies for achieving superior environmental performance, and for other purposes.

S. 1360

At the request of Mr. ABRAHAM, the name of the Senator from Ohio (Mr. GLENN) was added as a cosponsor of S. 1360, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to clarify and improve the requirements for the development of an automated entry-exit control system, to enhance land border control and enforcement, and for other purposes.

S. 1391

At the request of Mr. DODD, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1391, a bill to authorize the President to permit the sale and export of food, medicines, and medical equipment to Cuba.

S. 1464

At the request of Mr. HATCH, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1464, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, and for other purposes.

S. 1677

At the request of Mr. CHAFEE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1677, a bill to reauthorize the North American Wetlands Conservation Act and the Partnerships for Wildlife Act.

S. 1724

At the request of Ms. COLLINS, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 1724, a bill to amend the Internal Revenue Code of 1986 to repeal the information reporting requirement relating to the Hope Scholarship and Lifetime Learning Credits imposed on educational institutions and certain other trades and businesses.

S. 1733

At the request of Mr. ROBERTS, his name was added as a cosponsor of S. 1733, a bill to require the Commissioner of Social Security and food stamp State agencies to take certain actions to ensure that food stamp coupons are not issued for deceased individuals.

S. 1737

At the request of Mr. MACK, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1737, a bill to amend the Internal Revenue Code of 1986 to provide a uniform application of the confidentiality privilege to taxpayer communications with federally authorized practitioners.

S. 1879

At the request of Mr. BURNS, the names of the Senator from Oklahoma (Mr. INHOFE), the Senator from Utah (Mr. BENNETT), the Senator from Montana (Mr. BAUCUS), the Senator from Idaho (Mr. KEMPTHORNE), and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 1879, a bill to provide for the permanent extension of income averaging for farmers.

S. 1903

At the request of Mr. THOMAS, the names of the Senator from New York (Mr. D'AMATO) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 1903, a bill to prohibit the return of veterans memorial objects to foreign nations without specific authorization in law.

S. 1924

At the request of Mr. MACK, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1924, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

SENATE CONCURRENT RESOLUTION 88

At the request of Mr. ASHCROFT, the names of the Senator from Colorado (Mr. ALLARD), the Senator from North Dakota (Mr. DORGAN), the Senator from Iowa (Mr. GRASSLEY), the Senator from Utah (Mr. HATCH), the Senator from South Dakota (Mr. JOHNSON), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of Senate Concurrent Resolution 88, a concurrent resolution calling on Japan to establish and maintain an open, competitive market for consumer photographic film and paper and other sectors facing market access barriers in Japan.

SENATE CONCURRENT RESOLUTION 93 EXPRESSING THE SENSE OF CONGRESS WITH RESPECT TO MEDICARE DOCUMENTATION REQUIREMENTS

Mr. TORRICELLI (for himself and Mr. COVERDELL) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 93

Whereas adequate documentation is necessary to assure quality and appropriateness of services;

Whereas effective strategies to eliminate waste, fraud, and abuse in the Medicare program should not result in excessive documentation requirements being imposed on physicians that will interfere with patient care;

Whereas if the documentation in the medical record does not meet program requirements, payments for such claims may be denied and an investigation into potential fraud and abuse may result;

Whereas the administrative complexity of the documentation requirements may increase the risk that physicians will make inadvertent coding errors; and

Whereas inadvertent errors or legitimate differences of opinion on coding and documentation of physician services under current law are not grounds for concluding that fraud has occurred: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the Health Care Financing Administration should—

(1) further postpone its plans to implement the documentation guidelines for evaluation and management services, as currently constituted;

(2) continue consultation with organizations representing physicians on how to reduce the complexity of any such guidelines prior to their use by Medicare or its agents in review of claims submitted to the program;

(3) conduct a pilot study of any such documentation requirements prior to use in audits and other review activities; and

(4) assure that any such documentation guidelines, if applied by Medicare or its agents in review activities, contribute to quality care and do not detract from good patient care by requiring physicians to spend undue time documenting their services—at the expense of spending less time with patients—or lead to sanctions being imposed for unintentional coding and documentation errors.

Mr. TORRICELLI. Mr. President, I rise today on behalf of myself and my colleague from Georgia, Senator COVERDELL, to submit a concurrent resolution expressing the sense of Congress with respect to documentation requirements for physicians who submit claims to Medicare for office visits and other evaluation and management services.

In May of last year, the Health Care Financing Administration (HCFA) released revised Medicare documentation guidelines for evaluation and management (E/M) services. The guidelines were intended to provide physicians and claims reviewers advice about preparing and reviewing documentation for E/M services. They were also expected to improve the quality of medical records and continuity of patient care.

It is clear now, nearly eight months after the guidelines were implemented, that the guidelines' intent has not been fulfilled. Rather than improving the quality of patient care, the new E/M guidelines have caused patient care to suffer.

I have received hundreds of letters from physicians in my state of New Jersey telling me that they spend so much time trying to figure out how to bill Medicare under the new guidelines that they have little time left for their patients. There are 42 choices a physician must consider before selecting the proper E/M code for a given service. These kind of highly complicated and excessive billing guidelines force physicians to spend less time with their patients and more time on their charts. The result is a diversion of the physicians' attention away from patient care and medical decision-making. Even the American Medical Association (AMA), who helped draft the guidelines, warns that they may impose an undue burden on physicians that may detract from patient care. These concerns have prompted the AMA to commit to make changes in the guidelines that address concerns about their complexity.

The resolution I rise to submit today expresses the sense of Congress that HCFA should postpone its plan to implement the documentation guidelines and continue consultation with physicians organizations on how to reduce the complexity of E/M guidelines. The resolution also expresses the sense of Congress that HCFA should conduct a pilot study of any documentation requirements prior to their implementation to assure that they contribute to, rather than detract from, quality patient care.

It is well settled that adequate documentation is necessary to assure quality and appropriateness of Medicare services. It is also needed to prevent waste, fraud and abuse. However, we in Congress have a responsibility to ensure that strategies to address these issues not result in burdensome requirements that interfere with patient care.

AMENDMENTS SUBMITTED

THE INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

SPECTER AMENDMENT NO. 2336

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes; as follows:

At the end, add the following:

TITLE ____—FLAT TAX

SEC. ____01. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Flat Tax Act of 1998''.

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Sec. ____01. Short title; table of contents.
Sec. ____02. Flat tax on individual taxable earned income and business taxable income.
Sec. ____03. Repeal of estate and gift taxes.
Sec. ____04. Additional repeals.
Sec. ____05. Effective dates.

SEC. ____02. FLAT TAX ON INDIVIDUAL TAXABLE EARNED INCOME AND BUSINESS TAXABLE INCOME.

(a) IN GENERAL.—Subchapter A of chapter 1 of subtitle A is amended to read as follows:

''Subchapter A—Determination of Tax Liability

''Part I. Tax on individuals.
''Part II. Tax on business activities.

''PART I—TAX ON INDIVIDUALS

''Sec. 1. Tax imposed.
''Sec. 2. Standard deduction.
''Sec. 3. Deduction for cash charitable contributions.
''Sec. 4. Deduction for home acquisition indebtedness.
''Sec. 5. Definitions and special rules.

''SECTION 1. TAX IMPOSED.

''(a) IMPOSITION OF TAX.—There is hereby imposed on every individual a tax equal to 20 percent of the taxable earned income of such individual.

''(b) TAXABLE EARNED INCOME.—For purposes of this section, the term 'taxable earned income' means the excess (if any) of—

''(1) the earned income received or accrued during the taxable year, over

''(2) the sum of—

''(A) the standard deduction,

''(B) the deduction for cash charitable contributions, and

''(C) the deduction for home acquisition indebtedness,

for such taxable year.

''(c) EARNED INCOME.—For purposes of this section—

''(1) IN GENERAL.—The term 'earned income' means wages, salaries, or professional fees, and other amounts received from sources within the United States as compensation for personal services actually rendered, but does not include that part of compensation derived by the taxpayer for personal services rendered by the taxpayer to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered.

''(2) TAXPAYER ENGAGED IN TRADE OR BUSINESS.—In the case of a taxpayer engaged in a trade or business in which both personal services and capital are material income-producing factors, under regulations prescribed by the Secretary, a reasonable allowance as compensation for the personal services rendered by the taxpayer, not in excess of 30 percent of the taxpayer's share of the net profits of such trade or business, shall be considered as earned income.

''SEC. 2. STANDARD DEDUCTION.

''(a) IN GENERAL.—For purposes of this subtitle, the term 'standard deduction' means the sum of—

''(1) the basic standard deduction, plus

''(2) the additional standard deduction.

''(b) BASIC STANDARD DEDUCTION.—For purposes of subsection (a), the basic standard deduction is—

''(1) $17,500 in the case of—

''(A) a joint return, and

''(B) a surviving spouse (as defined in section 5(a)),

''(2) $15,000 in the case of a head of household (as defined in section 5(b)), and

''(3) $10,000 in the case of an individual—

''(A) who is not married and who is not a surviving spouse or head of household, or

''(B) who is a married individual filing a separate return.

''(c) ADDITIONAL STANDARD DEDUCTION.—For purposes of subsection (a), the additional standard deduction is $5,000 for each dependent (as defined in section 5(d))—

''(1) whose earned income for the calendar year in which the taxable year of the taxpayer begins is less than the basic standard deduction specified in subsection (b)(3), or

''(2) who is a child of the taxpayer and who—

''(A) has not attained the age of 19 at the close of the calendar year in which the taxable year of the taxpayer begins, or

''(B) is a student who has not attained the age of 24 at the close of such calendar year.

''(d) INFLATION ADJUSTMENT.—

''(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1997, each dollar amount contained in subsections (b) and (c) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1996' for 'calendar year 1992' in subparagraph (B) of such section.

''(2) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

''SEC. 3. DEDUCTION FOR CASH CHARITABLE CONTRIBUTIONS.

''(a) GENERAL RULE.—For purposes of this part, there shall be allowed as a deduction any charitable contribution (as defined in subsection (b)) not to exceed $2,500 ($1,250, in the case of a married individual filing a separate return), payment of which is made within the taxable year.

''(b) CHARITABLE CONTRIBUTION DEFINED.—For purposes of this section , the term 'charitable contribution' means a contribution or gift of cash or its equivalent to or for the use of the following:

''(1) A State, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

''(2) A corporation, trust, or community chest, fund, or foundation—

''(A) created or organized in the United States or in any possession thereof, or under the law of the United States, any State, the District of Columbia, or any possession of the United States;

''(B) organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals;

''(C) no part of the net earnings of which inures to the benefit of any private shareholder or individual; and

''(D) which is not disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

A contribution or gift by a corporation to a trust, chest, fund, or foundation shall be deductible by reason of this paragraph only if it is to be used within the United States or any of its possessions exclusively for purposes specified in subparagraph (B). Rules similar to the rules of section 501(j) shall apply for purposes of this paragraph.

''(3) A post or organization of war veterans, or an auxiliary unit or society of, or trust or foundation for, any such post or organization—

''(A) organized in the United States or any of its possessions, and

''(B) no part of the net earnings of which inures to the benefit of any private shareholder or individual.

''(4) In the case of a contribution or gift by an individual, a domestic fraternal society, order, or association, operating under the lodge system, but only if such contribution or gift is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.

''(5) A cemetery company owned and operated exclusively for the benefit of its members, or any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, if such company or corporation is not operated for profit and no part of the net earnings of such company or corporation inures to the benefit of any private shareholder or individual.

For purposes of this section, the term 'charitable contribution' also means an amount treated under subsection (d) as paid for the use of an organization described in paragraph (2), (3), or (4).

''(c) DISALLOWANCE OF DEDUCTION IN CERTAIN CASES AND SPECIAL RULES.—

''(1) SUBSTANTIATION REQUIREMENT FOR CERTAIN CONTRIBUTIONS.—

''(A) GENERAL RULE.—No deduction shall be allowed under subsection (a) for any contribution of $250 or more unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgment of the contribution by the donee organization that meets the requirements of subparagraph (B).

''(B) CONTENT OF ACKNOWLEDGMENT.—An acknowledgment meets the requirements of this subparagraph if it includes the following information:

''(i) The amount of cash contributed.

''(ii) Whether the donee organization provided any goods or services in consideration, in whole or in part, for any contribution described in clause (i).

''(iii) A description and good faith estimate of the value of any goods or services referred to in clause (ii) or, if such goods or services consist solely of intangible religious benefits, a statement to that effect.

For purposes of this subparagraph, the term 'intangible religious benefit' means any intangible religious benefit which is provided by an organization organized exclusively for religious purposes and which generally is not sold in a commercial transaction outside the donative context.

''(C) CONTEMPORANEOUS.—For purposes of subparagraph (A), an acknowledgment shall be considered to be contemporaneous if the taxpayer obtains the acknowledgment on or before the earlier of—

''(i) the date on which the taxpayer files a return for the taxable year in which the contribution was made, or

''(ii) the due date (including extensions) for filing such return.

''(D) SUBSTANTIATION NOT REQUIRED FOR CONTRIBUTIONS REPORTED BY THE DONEE ORGANIZATION.—Subparagraph (A) shall not apply to a contribution if the donee organization files a return, on such form and in accordance with such regulations as the Secretary may prescribe, which includes the information described in subparagraph (B) with respect to the contribution.

''(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations that may provide that some or all of the requirements of this paragraph do not apply in appropriate cases.

''(2) DENIAL OF DEDUCTION WHERE CONTRIBUTION FOR LOBBYING ACTIVITIES.—No deduction shall be allowed under this section for a contribution to an organization which conducts activities to which section 11(d)(2)(C)(i) applies on matters of direct financial interest to the donor's trade or business, if a principal purpose of the contribution was to avoid Federal income tax by securing a deduction for such activities under this section which would be disallowed by reason of section 11(d)(2)(C) if the donor had conducted such activities directly. No deduction shall be allowed under section 11(d) for any amount for which a deduction is disallowed under the preceding sentence.

''(d) AMOUNTS PAID TO MAINTAIN CERTAIN STUDENTS AS MEMBERS OF TAXPAYER'S HOUSEHOLD.—

''(1) IN GENERAL.—Subject to the limitations provided by paragraph (2), amounts paid by the taxpayer to maintain an individual (other than a dependent, as defined in section 5(d), or a relative of the taxpayer) as a member of such taxpayer's household during the period that such individual is—

''(A) a member of the taxpayer's household under a written agreement between the taxpayer and an organization described in paragraph (2), (3), or (4) of subsection (b) to implement a program of the organization to provide educational opportunities for pupils or students in private homes, and

''(B) a full-time pupil or student in the twelfth or any lower grade at an educational organization located in the United States which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on,

shall be treated as amounts paid for the use of the organization.

''(2) LIMITATIONS.—

''(A) AMOUNT.—Paragraph (1) shall apply to amounts paid within the taxable year only to the extent that such amounts do not exceed $50 multiplied by the number of full calendar months during the taxable year which fall within the period described in paragraph (1). For purposes of the preceding sentence, if 15 or more days of a calendar month fall within such period such month shall be considered as a full calendar month.

''(B) COMPENSATION OR REIMBURSEMENT.—Paragraph (1) shall not apply to any amount paid by the taxpayer within the taxable year if the taxpayer receives any money or other property as compensation or reimbursement for maintaining the individual in the taxpayer's household during the period described in paragraph (1).

''(3) RELATIVE DEFINED.—For purposes of paragraph (1), the term 'relative of the taxpayer' means an individual who, with respect to the taxpayer, bears any of the relationships described in subparagraphs (A) through (H) of section 5(d)(1).

''(4) NO OTHER AMOUNT ALLOWED AS DEDUCTION.—No deduction shall be allowed under subsection (a) for any amount paid by a taxpayer to maintain an individual as a member of the taxpayer's household under a program described in paragraph (1)(A) except as provided in this subsection.

''(e) DENIAL OF DEDUCTION FOR CERTAIN TRAVEL EXPENSES.—No deduction shall be allowed under this section for traveling expenses (including amounts expended for meals and lodging) while away from home, whether paid directly or by reimbursement, unless there is no significant element of personal pleasure, recreation, or vacation in such travel.

''(f) DISALLOWANCE OF DEDUCTIONS IN CERTAIN CASES.—For disallowance of deductions for contributions to or for the use of Communist controlled organizations, see section 11(a) of the Internal Security Act of 1950 (50 U.S.C. 790).

''(g) TREATMENT OF CERTAIN AMOUNTS PAID TO OR FOR THE BENEFIT OF INSTITUTIONS OF HIGHER EDUCATION.—

''(1) IN GENERAL.—For purposes of this section, 80 percent of any amount described in paragraph (2) shall be treated as a charitable contribution.

''(2) AMOUNT DESCRIBED.—For purposes of paragraph (1), an amount is described in this paragraph if—

''(A) the amount is paid by the taxpayer to or for the benefit of an educational organization—

''(i) which is described in subsection (d)(1)(B), and

''(ii) which is an institution of higher education (as defined in section 3304(f)), and

''(B) such amount would be allowable as a deduction under this section but for the fact that the taxpayer receives (directly or indirectly) as a result of paying such amount the right to purchase tickets for seating at an athletic event in an athletic stadium of such institution.

If any portion of a payment is for the purchase of such tickets, such portion and the remaining portion (if any) of such payment shall be treated as separate amounts for purposes of this subsection.

''(h) OTHER CROSS REFERENCES.—

''(1) For treatment of certain organizations providing child care, see section 501(k).

''(2) For charitable contributions of partners, see section 702.

''(3) For treatment of gifts for benefit of or use in connection with the Naval Academy as gifts to or for the use of the United States, see section 6973 of title 10, United States Code.

''(4) For treatment of gifts accepted by the Secretary of State, the Director of the International Communication Agency, or the Director of the United States International Development Cooperation Agency, as gifts to or for the use of the United States, see section 25 of the State Department Basic Authorities Act of 1956.

''(5) For treatment of gifts of money accepted by the Attorney General for credit to the 'Commissary Funds, Federal Prisons' as gifts to or for the use of the United States, see section 4043 of title 18, United States Code.

''(6) For charitable contributions to or for the use of Indian tribal governments (or subdivisions of such governments), see section 7871.

''SEC. 4. DEDUCTION FOR HOME ACQUISITION INDEBTEDNESS.

''(a) GENERAL RULE.—For purposes of this part, there shall be allowed as a deduction all qualified residence interest paid or accrued within the taxable year.

''(b) QUALIFIED RESIDENCE INTEREST DEFINED.—The term 'qualified residence interest' means any interest which is paid or accrued during the taxable year on acquisition indebtedness with respect to any qualified residence of the taxpayer. For purposes of the preceding sentence, the determination of whether any property is a qualified residence of the taxpayer shall be made as of the time the interest is accrued.

''(c) ACQUISITION INDEBTEDNESS.—

''(1) IN GENERAL.—The term 'acquisition indebtedness' means any indebtedness which—

''(A) is incurred in acquiring, constructing, or substantially improving any qualified residence of the taxpayer, and

''(B) is secured by such residence.

Such term also includes any indebtedness secured by such residence resulting from the refinancing of indebtedness meeting the requirements of the preceding sentence (or this sentence); but only to the extent the amount of the indebtedness resulting from such refinancing does not exceed the amount of the refinanced indebtedness.

''(2) $100,000 LIMITATION.—The aggregate amount treated as acquisition indebtedness for any period shall not exceed $100,000 ($50,000 in the case of a married individual filing a separate return).

''(d) TREATMENT OF INDEBTEDNESS INCURRED ON OR BEFORE OCTOBER 13, 1987.—

''(1) IN GENERAL.—In the case of any pre-October 13, 1987, indebtedness—

''(A) such indebtedness shall be treated as acquisition indebtedness, and

''(B) the limitation of subsection (b)(2) shall not apply.

''(2) REDUCTION IN $100,000 LIMITATION.—The limitation of subsection (b)(2) shall be reduced (but not below zero) by the aggregate amount of outstanding pre-October 13, 1987, indebtedness.

''(3) PRE-OCTOBER 13, 1987, INDEBTEDNESS.—The term 'pre-October 13, 1987, indebtedness' means—

''(A) any indebtedness which was incurred on or before October 13, 1987, and which was secured by a qualified residence on October 13, 1987, and at all times thereafter before the interest is paid or accrued, or

''(B) any indebtedness which is secured by the qualified residence and was incurred after October 13, 1987, to refinance indebtedness described in subparagraph (A) (or refinanced indebtedness meeting the requirements of this subparagraph) to the extent (immediately after the refinancing) the principal amount of the indebtedness resulting from the refinancing does not exceed the principal amount of the refinanced indebtedness (immediately before the refinancing).

''(4) LIMITATION ON PERIOD OF REFINANCING.—Subparagraph (B) of paragraph (3) shall not apply to any indebtedness after—

''(A) the expiration of the term of the indebtedness described in paragraph (3)(A), or

''(B) if the principal of the indebtedness described in paragraph (3)(A) is not amortized over its term, the expiration of the term of the first refinancing of such indebtedness (or if earlier, the date which is 30 years after the date of such first refinancing).

''(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) QUALIFIED RESIDENCE.—For purposes of this subsection—

''(A) IN GENERAL.—Except as provided in subparagraph (C), the term 'qualified residence' means the principal residence of the taxpayer.

''(B) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If a married couple does not file a joint return for the taxable year—

''(i) such couple shall be treated as 1 taxpayer for purposes of subparagraph (A), and

''(ii) each individual shall be entitled to take into account ½ of the principal residence unless both individuals consent in writing to 1 individual taking into account the principal residence.

''(C) PRE-OCTOBER 13, 1987, INDEBTEDNESS.—In the case of any pre-October 13, 1987, indebtedness, the term 'qualified residence' has the meaning given that term in section 163(h)(4), as in effect on the day before the date of enactment of this subparagraph.

''(2) SPECIAL RULE FOR COOPERATIVE HOUSING CORPORATIONS.—Any indebtedness secured by stock held by the taxpayer as a tenant-stockholder in a cooperative housing corporation shall be treated as secured by the house or apartment which the taxpayer is entitled to occupy as such a tenant-stockholder. If stock described in the preceding sentence may not be used to secure indebtedness, indebtedness shall be treated as so secured if the taxpayer establishes to the satisfaction of the Secretary that such indebtedness was incurred to acquire such stock.

''(3) UNENFORCEABLE SECURITY INTERESTS.—Indebtedness shall not fail to be treated as secured by any property solely because, under any applicable State or local homestead or other debtor protection law in effect on August 16, 1986, the security interest is ineffective or the enforceability of the security interest is restricted.

''(4) SPECIAL RULES FOR ESTATES AND TRUSTS.—For purposes of determining whether any interest paid or accrued by an estate or trust is qualified residence interest, any residence held by such estate or trust shall be treated as a qualified residence of such estate or trust if such estate or trust establishes that such residence is a qualified residence of a beneficiary who has a present interest in such estate or trust or an interest in the residuary of such estate or trust.

''SEC. 5. DEFINITIONS AND SPECIAL RULES.

''(a) DEFINITION OF SURVIVING SPOUSE.—

''(1) IN GENERAL.—For purposes of this part, the term 'surviving spouse' means a taxpayer—

''(A) whose spouse died during either of the taxpayer's 2 taxable years immediately preceding the taxable year, and

''(B) who maintains as the taxpayer's home a household which constitutes for the taxable year the principal place of abode (as a member of such household) of a dependent—

''(i) who (within the meaning of subsection (d)) is a son, stepson, daughter, or stepdaughter of the taxpayer, and

''(ii) with respect to whom the taxpayer is entitled to a deduction for the taxable year under section 2.

For purposes of this paragraph, an individual shall be considered as maintaining a household only if over one-half of the cost of maintaining the household during the taxable year is furnished by such individual.

''(2) LIMITATIONS.—Notwithstanding paragraph (1), for purposes of this part a taxpayer shall not be considered to be a surviving spouse—

''(A) if the taxpayer has remarried at any time before the close of the taxable year, or

''(B) unless, for the taxpayer's taxable year during which the taxpayer's spouse died, a joint return could have been made under the provisions of section 6013 (without regard to subsection (a)(3) thereof).

''(3) SPECIAL RULE WHERE DECEASED SPOUSE WAS IN MISSING STATUS.—If an individual was in a missing status (within the meaning of section 6013(f)(3)) as a result of service in a combat zone and if such individual remains in such status until the date referred to in subparagraph (A) or (B), then, for purposes of paragraph (1)(A), the date on which such individual dies shall be treated as the earlier of the date determined under subparagraph (A) or the date determined under subparagraph (B):

''(A) The date on which the determination is made under section 556 of title 37 of the United States Code or under section 5566 of title 5 of such Code (whichever is applicable) that such individual died while in such missing status.

''(B) Except in the case of the combat zone designated for purposes of the Vietnam conflict, the date which is 2 years after the date designated as the date of termination of combatant activities in that zone.

''(b) DEFINITION OF HEAD OF HOUSEHOLD.—

''(1) IN GENERAL.—For purposes of this part, an individual shall be considered a head of a household if, and only if, such individual is not married at the close of such individual's taxable year, is not a surviving spouse (as defined in subsection (a)), and either—

''(A) maintains as such individual's home a household which constitutes for more than one-half of such taxable year the principal place of abode, as a member of such household, of—

''(i) a son, stepson, daughter, or stepdaughter of the taxpayer, or a descendant of a son or daughter of the taxpayer, but if such son, stepson, daughter, stepdaughter, or descendant is married at the close of the taxpayer's taxable year, only if the taxpayer is entitled to a deduction for the taxable year for such person under section 2 (or would be so entitled but for subparagraph (B) or (D) of subsection (d)(5)), or

''(ii) any other person who is a dependent of the taxpayer, if the taxpayer is entitled to a deduction for the taxable year for such person under section 2, or

''(B) maintains a household which constitutes for such taxable year the principal place of abode of the father or mother of the

taxpayer, if the taxpayer is entitled to a deduction for the taxable year for such father or mother under section 2.

For purposes of this paragraph, an individual shall be considered as maintaining a household only if over one-half of the cost of maintaining the household during the taxable year is furnished by such individual.

''(2) DETERMINATION OF STATUS.—For purposes of this subsection—

''(A) a legally adopted child of a person shall be considered a child of such person by blood;

''(B) an individual who is legally separated from such individual's spouse under a decree of divorce or of separate maintenance shall not be considered as married;

''(C) a taxpayer shall be considered as not married at the close of such taxpayer's taxable year if at any time during the taxable year such taxpayer's spouse is a nonresident alien; and

''(D) a taxpayer shall be considered as married at the close of such taxpayer's taxable year if such taxpayer's spouse (other than a spouse described in subparagraph (C)) died during the taxable year.

''(3) LIMITATIONS.—Notwithstanding paragraph (1), for purposes of this part, a taxpayer shall not be considered to be a head of a household—

''(A) if at any time during the taxable year the taxpayer is a nonresident alien; or

''(B) by reason of an individual who would not be a dependent for the taxable year but for—

''(i) subparagraph (I) of subsection (d)(1), or

''(ii) paragraph (3) of subsection (d).

''(c) CERTAIN MARRIED INDIVIDUALS LIVING APART.—For purposes of this part, an individual shall be treated as not married at the close of the taxable year if such individual is so treated under the provisions of section 7703(b).

''(d) DEPENDENT DEFINED.—

''(1) GENERAL DEFINITION.—For purposes of this part, the term 'dependent' means any of the following individuals over one-half of whose support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer (or is treated under paragraph (3) or (5) as received from the taxpayer):

''(A) A son or daughter of the taxpayer, or a descendant of either.

''(B) A stepson or stepdaughter of the taxpayer.

''(C) A brother, sister, stepbrother, or stepsister of the taxpayer.

''(D) The father or mother of the taxpayer, or an ancestor of either.

''(E) A stepfather or stepmother of the taxpayer.

''(F) A son or daughter of a brother or sister of the taxpayer.

''(G) A brother or sister of the father or mother of the taxpayer.

''(H) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the taxpayer.

''(I) An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has as such individual's principal place of abode the home of the taxpayer and is a member of the taxpayer's household.

''(2) RULES RELATING TO GENERAL DEFINITION.—For purposes of this section—

''(A) BROTHER; SISTER.—The terms 'brother' and 'sister' include a brother or sister by the halfblood.

''(B) CHILD.—In determining whether any of the relationships specified in paragraph (1) or subparagraph (A) of this paragraph exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child satisfies the requirements of paragraph (1)(I) with respect to such individual), shall be treated as a child of such individual by blood.

''(C) CITIZENSHIP.—The term 'dependent' does not include any individual who is not a citizen or national of the United States unless such individual is a resident of the United States or of a country contiguous to the United States. The preceding sentence shall not exclude from the definition of 'dependent' any child of the taxpayer legally adopted by such taxpayer, if, for the taxable year of the taxpayer, the child has as such child's principal place of abode the home of the taxpayer and is a member of the taxpayer's household, and if the taxpayer is a citizen or national of the United States.

''(D) ALIMONY, ETC.—A payment to a wife which is alimony or separate maintenance shall not be treated as a payment by the wife's husband for the support of any dependent.

''(E) UNLAWFUL ARRANGEMENTS.—An individual is not a member of the taxpayer's household if at any time during the taxable year of the taxpayer the relationship between such individual and the taxpayer is in violation of local law.

''(3) MULTIPLE SUPPORT AGREEMENTS.—For purposes of paragraph (1), over one-half of the support of an individual for a calendar year shall be treated as received from the taxpayer if—

''(A) no one person contributed over one-half of such support;

''(B) over one-half of such support was received from persons each of whom, but for the fact that such person did not contribute over one-half of such support, would have been entitled to claim such individual as a dependent for a taxable year beginning in such calendar year;

''(C) the taxpayer contributed over 10 percent of such support; and

''(D) each person described in subparagraph (B) (other than the taxpayer) who contributed over 10 percent of such support files a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such person will not claim such individual as a dependent for any taxable year beginning in such calendar year.

''(4) SPECIAL SUPPORT TEST IN CASE OF STUDENTS.—For purposes of paragraph (1), in the case of any individual who is—

''(A) a son, stepson, daughter, or stepdaughter of the taxpayer (within the meaning of this subsection), and

''(B) a student,

amounts received as scholarships for study at an educational organization described in section 3(d)(1)(B) shall not be taken into account in determining whether such individual received more than one-half of such individual's support from the taxpayer.

''(5) SUPPORT TEST IN CASE OF CHILD OF DIVORCED PARENTS, ETC.—

''(A) CUSTODIAL PARENT GETS EXEMPTION.—Except as otherwise provided in this paragraph, if—

''(i) a child receives over one-half of such child's support during the calendar year from such child's parents—

''(I) who are divorced or legally separated under a decree of divorce or separate maintenance,

''(II) who are separated under a written separation agreement, or

''(III) who live apart at all times during the last 6 months of the calendar year, and

''(ii) such child is in the custody of 1 or both of such child's parents for more than one-half of the calendar year,

such child shall be treated, for purposes of paragraph (1), as receiving over one-half of such child's support during the calendar year from the parent having custody for a greater portion of the calendar year (hereafter in this paragraph referred to as the 'custodial parent').

''(B) EXCEPTION WHERE CUSTODIAL PARENT RELEASES CLAIM TO EXEMPTION FOR THE YEAR.—A child of parents described in subparagraph (A) shall be treated as having received over one-half of such child's support during a calendar year from the noncustodial parent if—

''(i) the custodial parent signs a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such custodial parent will not claim such child as a dependent for any taxable year beginning in such calendar year, and

''(ii) the noncustodial parent attaches such written declaration to the noncustodial parent's return for the taxable year beginning during such calendar year.

For purposes of this paragraph, the term 'noncustodial parent' means the parent who is not the custodial parent.

''(C) EXCEPTION FOR MULTIPLE-SUPPORT AGREEMENT.—This paragraph shall not apply in any case where over one-half of the support of the child is treated as having been received from a taxpayer under the provisions of paragraph (3).

''(D) EXCEPTION FOR CERTAIN PRE-1985 INSTRUMENTS.—

''(i) IN GENERAL.—A child of parents described in subparagraph (A) shall be treated as having received over one-half such child's support during a calendar year from the noncustodial parent if—

''(I) a qualified pre-1985 instrument between the parents applicable to the taxable year beginning in such calendar year provides that the noncustodial parent shall be entitled to any deduction allowable under section 2 for such child, and

''(II) the noncustodial parent provides at least $600 for the support of such child during such calendar year.

For purposes of this clause, amounts expended for the support of a child or children shall be treated as received from the noncustodial parent to the extent that such parent provided amounts for such support.

''(ii) QUALIFIED PRE-1985 INSTRUMENT.—For purposes of this subparagraph, the term 'qualified pre-1985 instrument' means any decree of divorce or separate maintenance or written agreement—

''(I) which is executed before January 1, 1985,

''(II) which on such date contains the provision described in clause (i)(I), and

''(III) which is not modified on or after such date in a modification which expressly provides that this subparagraph shall not apply to such decree or agreement.

''(E) SPECIAL RULE FOR SUPPORT RECEIVED FROM NEW SPOUSE OF PARENT.—For purposes of this paragraph, in the case of the remarriage of a parent, support of a child received from the parent's spouse shall be treated as received from the parent.

''PART II—TAX ON BUSINESS ACTIVITIES

''Sec. 11. Tax imposed on business activities.

''SEC. 11. TAX IMPOSED ON BUSINESS ACTIVITIES.

''(a) TAX IMPOSED.—There is hereby imposed on every person engaged in a business activity located in the United States a tax equal to 20 percent of the business taxable income of such person.

''(b) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by the person

engaged in the business activity, whether such person is an individual, partnership, corporation, or otherwise.

''(c) BUSINESS TAXABLE INCOME.—

''(1) IN GENERAL.—For purposes of this section, the term 'business taxable income' means gross active income reduced by the deductions specified in subsection (d).

''(2) GROSS ACTIVE INCOME.—For purposes of paragraph (1), the term 'gross active income' means gross income other than investment income.

''(d) DEDUCTIONS.—

''(1) IN GENERAL.—The deductions specified in this subsection are—

''(A) the cost of business inputs for the business activity,

''(B) the compensation (including contributions to qualified retirement plans but not including other fringe benefits) paid for employees performing services in such activity, and

''(C) the cost of personal and real property used in such activity.

''(2) BUSINESS INPUTS.—

''(A) IN GENERAL.—For purposes of paragraph (1)(A), the term 'cost of business inputs' means—

''(i) the actual cost of goods, services, and materials, whether or not resold during the taxable year, and

''(ii) the actual cost, if reasonable, of travel and entertainment expenses for business purposes.

''(B) PURCHASES OF GOODS AND SERVICES EXCLUDED.—Such term shall not include purchases of goods and services provided to employees or owners.

''(C) CERTAIN LOBBYING AND POLITICAL EXPENDITURES EXCLUDED.—

''(i) IN GENERAL.—Such term shall not include any amount paid or incurred in connection with—

''(I) influencing legislation,

''(II) participation in, or intervention in, any political campaign on behalf of (or in opposition to) any candidate for public office,

''(III) any attempt to influence the general public, or segments thereof, with respect to elections, legislative matters, or referendums, or

''(IV) any direct communication with a covered executive branch official in an attempt to influence the official actions or positions of such official.

''(ii) EXCEPTION FOR LOCAL LEGISLATION.—In the case of any legislation of any local council or similar governing body—

''(I) clause (i)(I) shall not apply, and

''(II) such term shall include all ordinary and necessary expenses (including, but not limited to, traveling expenses described in subparagraph (A)(iii) and the cost of preparing testimony) paid or incurred during the taxable year in carrying on any trade or business—

''(aa) in direct connection with appearances before, submission of statements to, or sending communications to the committees, or individual members, of such council or body with respect to legislation or proposed legislation of direct interest to the taxpayer, or

''(bb) in direct connection with communication of information between the taxpayer and an organization of which the taxpayer is a member with respect to any such legislation or proposed legislation which is of direct interest to the taxpayer and to such organization, and that portion of the dues so paid or incurred with respect to any organization of which the taxpayer is a member which is attributable to the expenses of the activities carried on by such organization.

''(iii) APPLICATION TO DUES OF TAX-EXEMPT ORGANIZATIONS.—Such term shall include the portion of dues or other similar amounts paid by the taxpayer to an organization which is exempt from tax under this subtitle which the organization notifies the taxpayer under section 6033(e)(1)(A)(ii) is allocable to expenditures to which clause (i) applies.

''(iv) INFLUENCING LEGISLATION.—For purposes of this subparagraph—

''(I) IN GENERAL.—The term 'influencing legislation' means any attempt to influence any legislation through communication with any member or employee of a legislative body, or with any government official or employee who may participate in the formulation of legislation.

''(II) LEGISLATION.—The term 'legislation' has the meaning given that term in section 4911(e)(2).

''(v) OTHER SPECIAL RULES.—

''(I) EXCEPTION FOR CERTAIN TAXPAYERS.—In the case of any taxpayer engaged in the trade or business of conducting activities described in clause (i), clause (i) shall not apply to expenditures of the taxpayer in conducting such activities directly on behalf of another person (but shall apply to payments by such other person to the taxpayer for conducting such activities).

''(II) DE MINIMIS EXCEPTION.—

''(aa) IN GENERAL.—Clause (i) shall not apply to any in-house expenditures for any taxable year if such expenditures do not exceed $2,000. In determining whether a taxpayer exceeds the $2,000 limit, there shall not be taken into account overhead costs otherwise allocable to activities described in subclauses (I) and (IV) of clause (i).

''(bb) IN-HOUSE EXPENDITURES.—For purposes of provision (aa), the term 'in-house expenditures' means expenditures described in subclauses (I) and (IV) of clause (i) other than payments by the taxpayer to a person engaged in the trade or business of conducting activities described in clause (i) for the conduct of such activities on behalf of the taxpayer, or dues or other similar amounts paid or incurred by the taxpayer which are allocable to activities described in clause (i).

''(III) EXPENSES INCURRED IN CONNECTION WITH LOBBYING AND POLITICAL ACTIVITIES.—Any amount paid or incurred for research for, or preparation, planning, or coordination of, any activity described in clause (i) shall be treated as paid or incurred in connection with such activity.

''(vi) COVERED EXECUTIVE BRANCH OFFICIAL.—For purposes of this subparagraph, the term 'covered executive branch official' means—

''(I) the President,

''(II) the Vice President,

''(III) any officer or employee of the White House Office of the Executive Office of the President, and the 2 most senior level officers of each of the other agencies in such Executive Office, and

''(IV) any individual serving in a position in level I of the Executive Schedule under section 5312 of title 5, United States Code, any other individual designated by the President as having Cabinet level status, and any immediate deputy of such an individual.

''(vii) SPECIAL RULE FOR INDIAN TRIBAL GOVERNMENTS.—For purposes of this subparagraph, an Indian tribal government shall be treated in the same manner as a local council or similar governing body.

''(viii) CROSS REFERENCE.—

''For reporting requirements and alternative taxes related to this subsection, see section 6033(e).

''(e) CARRYOVER OF EXCESS DEDUCTIONS.—

''(1) IN GENERAL.—If the aggregate deductions for any taxable year exceed the gross active income for such taxable year, the amount of the deductions specified in subsection (d) for the succeeding taxable year (determined without regard to this subsection) shall be increased by the sum of—

''(A) such excess, plus

''(B) the product of such excess and the 3-month Treasury rate for the last month of such taxable year.

''(2) 3-MONTH TREASURY RATE.—For purposes of paragraph (1), the 3-month Treasury rate is the rate determined by the Secretary based on the average market yield (during any 1-month period selected by the Secretary and ending in the calendar month in which the determination is made) on outstanding marketable obligations of the United States with remaining periods to maturity of 3 months or less.''

(b) CONFORMING REPEALS AND REDESIGNATIONS.—

(1) REPEALS.—The following subchapters of chapter 1 of subtitle A and the items relating to such subchapters in the table of subchapters for such chapter 1 are repealed:

(A) Subchapter B (relating to computation of taxable income).

(B) Subchapter C (relating to corporate distributions and adjustments).

(C) Subchapter D (relating to deferred compensation, etc.).

(D) Subchapter G (relating to corporations used to avoid income tax on shareholders).

(E) Subchapter H (relating to banking institutions).

(F) Subchapter I (relating to natural resources).

(G) Subchapter J (relating to estates, trusts, beneficiaries, and decedents).

(H) Subchapter L (relating to insurance companies).

(I) Subchapter M (relating to regulated investment companies and real estate investment trusts).

(J) Subchapter N (relating to tax based on income from sources within or without the United States).

(K) Subchapter O (relating to gain or loss on disposition of property).

(L) Subchapter P (relating to capital gains and losses).

(M) Subchapter Q (relating to readjustment of tax between years and special limitations).

(N) Subchapter S (relating to tax treatment of S corporations and their shareholders).

(O) Subchapter T (relating to cooperatives and their patrons).

(P) Subchapter U (relating to designation and treatment of empowerment zones, enterprise communities, and rural development investment areas).

(Q) Subchapter V (relating to title 11 cases).

(2) REDESIGNATIONS.—The following subchapters of chapter 1 of subtitle A and the items relating to such subchapters in the table of subchapters for such chapter 1 are redesignated:

(A) Subchapter E (relating to accounting periods and methods of accounting) as subchapter B.

(B) Subchapter F (relating to exempt organizations) as subchapter C.

(C) Subchapter K (relating to partners and partnerships) as subchapter D.

SEC. ___03. REPEAL OF ESTATE AND GIFT TAXES.

Subtitle B (relating to estate, gift, and generation-skipping taxes) and the item relating to such subtitle in the table of subtitles is repealed.

SEC. ___04. ADDITIONAL REPEALS.

Subtitles H (relating to financing of presidential election campaigns) and J (relating to coal industry health benefits) and the items relating to such subtitles in the table of subtitles are repealed.

SEC. ___05. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title apply to taxable years beginning after December 31, 1997.

(b) REPEAL OF ESTATE AND GIFT TAXES.—The repeal made by section ____03 applies to estates of decedents dying, and transfers made, after December 31, 1997.

(c) TECHNICAL AND CONFORMING CHANGES.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable but in any event not later than 90 days after the date of enactment of this title, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a draft of any technical and conforming changes in the Internal Revenue Code of 1986 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this title.

NOTICES OF HEARINGS

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Labor and Human Resources will be held on Tuesday, May 5, 1998, 10 a.m., in SD–430 of the Senate Dirksen Building. The subject of the hearing is ''10 Years of the SAFE KIDS Campaign.'' For further information, please call the committee, 202/224–5375.

SUBCOMMITTEE ON CHILDREN AND FAMILIES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Labor and Human Resources, Subcommittee on Children and Families, will be held on Tuesday, May 5, 1998, 2 p.m., in SD–430 of the Senate Dirksen Building. The subject of the hearing is ''Community Services Block Grant: Expanding Opportunities for Community and Neighborhood Partnerships.'' For further information, please call the committee, 202/224–5375.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Labor and Human Resources will be held on Thursday, May 7, 1998, 10 a.m., in SD–430 of the Senate Dirksen Building. The subject of the hearing is ''Better Teachers for Today's Classroom: How to Make it Happen.'' For further information, please call the committee, 202/224–5375.

ADDITIONAL STATEMENTS

CONSUMER AND MAIN STREET PROTECTION ACT OF 1998

● Mr. GRAHAM. Mr. President, I rise to announce my cosponsorship of Senator BUMPERS' ''Consumer and Main Street Protection Act of 1998.'' My support for this legislation is based on four important principles:

First, this bill promotes tax fairness. Mail order businesses unfairly benefit from their unique status. They can engage in interstate commerce—sell products to customers in any state of the nation—but are not responsible for collecting state and local sales taxes.

This places state and local businesses, which have no choice but to collect sales tax on the merchandise they sell, at a severe competitive disadvantage. This is especially damaging to small businesses, which are the backbone of our nation's economy. Over the last five years, Florida businesses with less than 20 employees have created 71 percent of all new jobs in the state—775,000 in total. Our bill will put main street merchants on the same competitive footing as mail order businesses.

Second, this bill protects consumers. It prevents them from experiencing an unexpected and unwelcome tax surprise. Many mail order shoppers are unaware that most states are empowered to assess a sales tax on the purchase of goods sold across state lines. They are surprised when states like Florida come around to collect sales tax due on particularly expensive goods.

Third, this bill preserves states' rights. Mr. President, there is no state right that is more fundamental than the right to decide how to raise revenue. Because the federal government has not protected this right, Florida currently loses an estimated $168.9 million each year in potential revenues. Nationwide, states have lost more than $3.3 billion as a result of Washington's handcuffs. If we are determined to make good on our promise to return more power and responsibility to states and local communities—and I think we must be—it makes no sense to dictate how Governors and legislators raise money. That's their job, not ours.

Mr. President, state officials from across the nation are asking for our help. But don't take my word for it. Ask the National Governors Association, which once again passed a resolution supporting this kind of federal legislation at its Winter 1997 meetings.

Finally, this bill provides fairness to mail order firms. Most companies with nationwide sales of less than $3 million are exempt. The act gives companies the option of collecting a single blended rate for each state rather than the myriad of different state and local rates. Out of state companies only have to file tax returns once per quarter. And states participating in the Act must establish a toll-free number for out-of-state companies to obtain information and forms.

Mr. President, it is time that the federal government remove the straitjacket from states and restore to Governors and state legislators their power to raise revenue. I commend Senator BUMPERS for his efforts to preserve states' rights in these important fiscal matters.●

TRIBUTE TO THE CAMPBELLSVILLE UNIVERSITY LADY TIGERS: 1998 MID-SOUTH CONFERENCE BASKETBALL TOURNAMENT CHAMPIONS

● Mr. MCCONNELL. Mr. President, I rise today to celebrate the remarkable season recently completed by the Lady Tigers of Campbellsville University, located in the town of Campbellsville, Kentucky. While many are more familiar with the Kentucky basketball dynasties built in places like Louisville and Lexington, Campbellsville has a pretty impressive run of its own going.

Nationally ranked all year, the Lady Tigers completed their regular season with a record of 21–7. Winning both the Mid-South Conference Regular Season and Tournament titles earned Campbellsville an automatic bid to the National Association of Intercollegiate Athletics (NAIA) championship tournament in Jackson, Tennessee. This is the ninth consecutive season that Campbellsville has qualified for the national tournament.

The Lady Tigers opened the NAIA national tournament by defeating Big State Conference Tournament Champion LeTourneau University 95–56 in the first round and then defeated Oklahoma City University in the Second Round by a score of 69–51. The Lady Tigers were finally stopped in the quarterfinals by four-time defending National Champion, Southern Nazarene University of Oklahoma, in a heartbreaker, 72–67.

Throughout the season, the Lady Tigers were led by Mid South Conference Player of the Year Shannon Wathen, and All-Conference teammates Julie Jeffries and Farrah Sullivan. Together, this senior triumvirate combined to average over thirty nine-points and fifteen rebounds per game. Post-season honors were also bestowed on Coach Donna Wise, who has led Campbellsville to nine consecutive national tournament births and ranks second in wins among active NAIA coaches with 475.

Mr. President, Coach Wise has built a national powerhouse women's basketball program in Campbellsville, a small town in Central Kentucky. I hope my colleagues will join me in offering congratulations to Coach Wise, her players, and everyone associated with the Campbellsville Lady Tigers on another great season.●

COSPONSORSHIP OF S. 1180, ENDANGERED SPECIES REAUTHORIZATION ACT

● Mr. CRAIG. Mr. President, I would like to take a few minutes today to talk about S. 1180, the Endangered Species Act reauthorization bill, and why I have decided to cosponsor it at this time.

As our colleagues know, this bill was passed by the Environment and Public Works Committee last fall, and it is currently on the calendar, ready for consideration by the full Senate. I have been slow to cosponsor S. 1180 because of some reservations I had—and still have—about the bill. I will talk in more detail about those reservations later.

However, I am absolutely convinced that the current Endangered Species

Act is not only a dismal failure at saving species, but is actually working against that goal. Furthermore, everyday we tolerate this defective law, its unfair and unnecessary burdens increase on citizens and the economy. Yet at the same time, the American people continue to believe that conserving fish and wildlife species for the enjoyment of future generations is the right thing to do and I agree. They want to make changes to the law, but don't want to see the Endangered Species Act thrown out.

That's why for the last three years, my colleague and friend from Idaho, Senator KEMPTHORNE, has been working mightly to improve this complex law. He has held hearings, built coalitions, drafted and re-drafted language to correct the problems while still advancing the goals of the Endangered Species Act. I congratulate him, as well as our other Senate colleagues who have worked with him to produce this bill.

S. 1180 would make some positive reforms to the current system. It would re-focus the process on actually saving species. It would create opportunities and benefits for people who are affected by the government's actions in these areas.

For example, the bill emphasizes sound science—instead of politics—to guide actions taken to conserve and recover species. It requires independent peer review for listing and delisting decisions, and for the establishment of a biological recovery goal in a recovery plan. Specific time limits would have to be observed, and States and local citizens would have a larger role in the process.

I believe these provisions and others would make significant improvements in our current process, to the benefit of both our wildlife and our citizenry. While additional corrections could be made, those who drafted this bill believe that a more comprehensive overhaul of ESA is not going to pass this Congress. I tend to agree with that assessment and am willing to pursue the strategy of trying to pass these reforms now as a foundation for further reforms in the future. That is the message I would like to send with my cosponsorship of S. 1180.

Having said all that, Mr. President, I cannot endorse each and every provision of this legislation. I will be supporting amendments that will change or add to the bill in a number of areas.

For instance, while I support S. 1180's stated goal of providing incentives to promote voluntary habitat conservation by private landowners, I am very concerned about what the bill as a whole will fail to do in the area of protecting private property rights.

This is no small matter. The right to own and use property goes to the very heart of our American democracy. It was so important to our founding fathers that they enshrined the protection of private property in the Constitution's Bill of Rights.

It is equally important today. Yet our federal government has increasingly ignored these rights. President Clinton rejected the Constitution's guarantee outright when he pledged to veto any ''compensation entitlement legislation'' intended to strengthen Americans' private property rights. Representatives of this Administration have even suggested that the idea of private property is an outmoded notion.

Nowhere is the Administration's hostility to private property rights more evident than in the area of endangered species regulation. Let's take a look at Secretary Babbitt's ''no surprises'' policy, for example. The basic idea is that if landowners surrender control over the use of part of their property for ESA purposes, then the federal government will let them use the rest of it without interference. To put it another way, Secretary Babbitt proposes that you pay the government for the right to use your own land. By comparison, the Constitution of the United States promises that if the federal government wants your land used a certain way, the federal government has to pay you for it.

Mr. President, even more outrageous than Secretary Babbitt's program is the fact that many landowners think it's actually a pretty good deal. How oppressive and tyrannical has ESA regulation become, when citizens are willing—even eager—to give up their property and their constitutionally-protected right to compensation, just to get the government to leave them alone?

I applaud S. 1180's goal of reducing regulatory burdens and improving the certainty and finality of government action in protecting endangered species. It is bad policy to require the American people to sacrifice their constitutionally-protected rights for any federal program—even this one. I would like to see S. 1180 strengthen and protect the Fifth Amendment right to compensation. I will vote for amendments and or legislation that strengthens our citizen's private property rights.

Private property rights are not the only critical issue that concerns me in this legislation. I also had hoped that S. 1180 would directly address the issue of water rights, and specifically deny that any of its provisions create an express or implied federal water right.

Mr. President, the paramount natural resource issue for the American West is the sovereignty of the states over the water that flows and exists within their borders. It is easy to say that all we need to do is remain silent on this issue and all will be well. In fact, however, preserving state water sovereignty is not so easy. The reality of how federal water rights are created, or not created, requires that we speak to the question in legislation.

The appropriation doctrine is the water law of western states and has as its central premise that the first person to claim a water right has priority on its use over those water claimants who assert claims at later dates. In the arid West, this principle lies at the very heart of our economy. It is the ability to allocate this precious resource (water) for uses that allows us to exist.

It is for this reason we westerners become particularly agitated when the federal government tries to disrupt this principle or to ''take'' our water. Does this legislation create a federal reserved water right? There are those who would say ''no,'' and there are those who would press to assert such a right.

It is for this reason that this legislation should clearly state the Congress' intent. For the record, this Senator does not intend for the endangered species reauthorization legislation to create a federal reserved water right. This is why I believe S. 1180 must state clearly that no implied or express federal water right is created in this legislation. I will support and vote for such an amendment.

With these areas of concern in mind, I am also inclined to support a shorter term of reauthorization than S. 1180 provides. As I mentioned previously, it is my goal to build additional improvements on the foundation laid by this legislation. Accelerating the opportunity for Congress to re-open the issue would only advance that goal.

In closing, Mr. President, let me repeat my endorsement for the goals that Senator KEMPTHORNE and the other supporters of this bill set out to ahieve in reauthorizing the Endangered Species Act. I think the bill will make improvements that are critical to ongoing ESA efforts in my state and elsewhere in the nation, and amendments in the areas I have discussed today will enhance those improvements.●

TRIBUTE TO VERMONT'S FEDERAL EMPLOYEES

● Mr. JEFFORDS. Mr. President, the week of May 4, 1998 is Public Service Recognition Week. It is a time to applaud the tremendous efforts and accomplishments of government employees, and to educate the public about the far reaching capabilities and services provided by government employees. It is also a time for public servants to remind ourselves why we chose to serve society through careers in public service.

This year's theme is ''Working for You, Working for America'', highlighting the commitment of public employees to work for the benefit of each individual, and for the collective benefit to improve the quality of life across our great nation.

In Vermont, over 6,000 members of our workforce are federal employees. We provide technical assistance to farmers, respond to disasters, manage forest land, and deliver mail. We administer federal funds to provide educational benefits, housing assistance, job training, and school breakfast and lunch programs. We process social security survivors benefits, veterans

compensation, and small business loans. We are the faces of government—caseworkers, nurses, administrators, law enforcement officers. Day to day, our jobs are rarely front page news. We are on the front line and behind the scenes, working hard to resolve problems and make systems more effective.

Yet during this one week of the year, we hope to let people know how we touch their lives. We'd like the media to highlight the successes: thousands of tax refunds processed on time, hundreds of packages delivered the night before Christmas, dozens of checks issued for crop assistance after a spring flood, thousands of affordable housing units for the elderly and disabled, and upkeep of a hiking trail from one end of the state to the other providing unparalleled vistas.

Federal employees tout years of experience and commitment, investing themselves to bring about positive change. Continuously striving to be more efficient, more effective and more customer-service oriented, public servants care, and know government has a role to empower citizens to make life better. Federal employees contribute to our one-of-a-kind democracy. I rise to salute Vermont's federal employees . . . you truly make a difference.●

''IT'S MY FIGHT, TOO''

● Mr. GREGG. Mr. President, I rise today to pay tribute to women, men, and their families who are fighting the scourge of breast cancer. As many of my colleagues may remember, last Spring, I submitted S. Res. 85, with my fellow Senator from New Hampshire, recognizing the family and friends of breast cancer patients in the struggle to cope with this disease. The Senate passed my Resolution by unanimous consent and expressed their overwhelming support for individuals who provide strength and support for loved ones fighting breast cancer. I come to the floor today to again note the importance of this expression and to recognize a very important organization in my home state of New Hampshire that is spreading this message to breast cancer patients across the country.

The American Cancer Society estimates that in 1998, 178,700 new cases of invasive breast cancer will be diagnosed among women in the United States and 1,600 cases will be diagnosed among men. These numbers more than triple in size when you consider the family and friends who are also impacted by the disease. With each and every one of these cases comes family and friends who are looked upon to provide the caring and loving needed to overcome such a terrifying disease.

The Northeast Health Care Quality Foundation, in Dover, New Hampshire, has done an excellent job of expressing this notion to the people of New Hampshire and beyond. With their campaign titled, ''It's My Fight, Too,'' the Foundation has let individuals afflicted with breast cancer know that they are not alone in their struggle. It is important for the family to understand that their feelings are shared by others in their same situation and that they should find strength in numbers.

Awareness campaigns like ''It's My Fight Too,'' are extremely important to foster an environment where support for both the individual with breast cancer and their family and friends is encouraged. Awareness is the key to allowing people to understand and identify with those suffering around them. We can all, as community members, provide support and strength to those in need.

As Mother's Day approaches, the Northeast Health Care Quality Foundation will be holding their annual event to recognize the important women in our lives who may or may not be suffering from this disease but who never the less, need to know that breast cancer is not just a women's disease but a struggle that can be fought by all of us together. Their event, ''Family and Friends Against Breast Cancer, It's My Fight Too, A Night of Hope, Song and Love'' will bring people from across the Northeast together to express the same support the Senate expressed with the passage of S. Res. 85. I commend the efforts of the Northeast Health Care Quality Foundation and encourage organizations across the country to follow their leadership and example.●

WORKER MEMORIAL DAY

● Mr. GRAMS. Mr. President, I rise to remember the American workers who have suffered injuries or died while at the work places in my home state of Minnesota and across the country.

As my colleagues may know, since 1989 the unions of the AFL-CIO have recognized April 28 as ''Worker Memorial Day'' to commemorate the millions of workplace injuries, illnesses and deaths that occur each year. In addition, many unions throughout the world now mark April 28 as an ''International Day of Mourning.''

In Minnesota, AFL-CIO affiliates commemorated Worker Memorial Day with a wide variety of events around the state. This past Tuesday at noon, members of Minneapolis and St. Paul building trades met near the State Capitol in St. Paul to remember workers who have been killed or injured in the job. A bell tolled once for each local construction worker who died in the past year of job-related causes.

In Grand Forks, the Northern Valley Labor Council and the Grand Forks Building and Construction Trades Council placed Workers Memorial Day stickers on their clothing at work. Statewide, a ''Minnesota's Workforce Minute'' Message about Workers' Memorial Day aired several times over the 29 stations of Minnesota News Network's Lifestyle Network.

Lastly, the Minnesota Department of Transportation and local unions in the Twin Cities and St. Cloud participated in a number of Worker Memorial Day activities including the broadcast of a Workers Memorial Day message from the Metro Division Engineer over the MnDOT Public address and radio communication systems. This message preceded the observance of a moment of silence at 2 p.m.

Mr. President, this year also marks the 28th anniversary of the enactment of the Occupational Safety and Health Act. In 1970, President Nixon signed legislation which created the Occupational Safety and Health Administration (OSHA) to establish and enforce labor standards and the National Institute for Occupational Safety Health (NIOSH) to conduct research investigations.

At the Department of Labor bill signing, President Nixon underscored the goal of this historic legislation. President Nixon noted how the bill's enactment, ''. . . Represents in its culmination the American system at its best: Democrats, Republicans, the House, the Senate, the White House, business, labor, all cooperating in a common goal—the saving of lives, the avoiding of injuries, making the places of work for 55 million Americans safer and more pleasant places.''

Mr. President, the goal of the Occupational Safety and Health Act is to prevent injuries, illnesses, and fatalities in the workplace. Through statistics provided by the Department of Labor it appears as though the intent of this Act has achieved some level of success. Unfortunately, these numbers are still too high.

According to Bureau of Labor Statistics, there were over 6,000 workplace fatalities in 1996, the lowest level in five years. There were 6.2 million workplace injuries or illnesses among private sector firms with more than 11 or more employees, about 400,000 fewer than in 1995. In my home state alone, 92 Minnesotans lost their lives, and 138,000 suffered injuries or illnesses on the job in 1996.

I have always supported employers and employees in their effort to create safe and healthy work places without cumbersome federal regulations. Workers are a business' most valuable asset and they deserve safe and healthy work places that will enable them to better perform their jobs. Safe working environments, achieved by restoring common sense and cooperation among workers, job providers and the federal government, result in smart business.

I strongly believe we need to continue to promote better safety and public health standards. One way this can be accomplished is through comprehensive reform of the Federal regulatory process. For this reason, I am proud to be a cosponsor of S. 981, the ''Regulatory Improvement Act of 1997'' sponsored by Senator CARL LEVIN, one of the leading health, safety and environmental experts in the Senate.

In my view, legislation such as the Regulatory Improvement Act of 1997

will ensure a more open and accountable regulatory process which will improve our health, safety and environmental protections while reducing the regulatory burden on those subject to those laws. It will not compromise health or safety protections. I recently wrote the Majority Leader urging that this legislation receive consideration on the Senate floor, and I am hopeful that we will have a debate on how to best ensure safe and healthy work places in the coming weeks.

On each Workers Memorial Day, I urge my colleagues to remember those American workers who have lost their lives or were injured on the job. Congress, the Administration, labor and business, must work together as they did nearly 30 years ago, to ensure that there are adequate protections to prevent unnecessary injuries and fatalities in the future and improve the lives of all of our nation's workers.●

TRIBUTE TO THE FLOYD COUNTY EMERGENCY AND RESCUE SQUAD: THIRTY YEARS OF VOLUNTEER SERVICE IN EASTERN KENTUCKY

● Mr. McCONNELL. Mr. President, I rise today to recognize the anniversary of the Floyd County Emergency and Rescue Squad. Thirty years ago this week, this squad of volunteers was formed to help the people of Eastern Kentucky in times of emergency and disaster, and have been doing so ever since.

The Floyd County Emergency and Rescue Squad was founded in April, 1958, as a result of a tragic accident in Prestonsburg, Kentucky, in which a school bus plunged into the Big Sandy River, killing 26 students and the driver. As a result of this tragedy, dozens of community members came together to form the Squad and the late Graham Burchett became the first Captain, a position he held for twenty years.

Since that time, over 300 community members have served on the Squad—doctors and lawyers, coal miners and factory workers—people from all walks of life have worked side-by-side in volunteer service to their community. The Squad operates without any public support. The members are all volunteers and all their equipment is paid for through private donations and grants.

The Squad currently maintains a roster of thirty active members and dozens of reserve members. The Squad is called on for auto extrication, water rescue and drowning recovery, lost or missing persons, and assistance to coal mine rescue teams. In the last month alone, they have assisted in the evacuation of flood victims, recovered a drowning victim and have assisted on four auto accidents.

Despite the fact that the Squad must labor mightily for every dollar they get, they have managed to secure ultra-modern equipment, and are called frequently to assist in recovery activities outside the county and even outside the state.

Mr. President, I hope all my colleagues will join me in offering our congratulations to Captain Harry Adams, Co-Captain Richie Schoolcraft, Treasurer and Secretary Brian Sexton, First Lieutenant Derek Calhoun and Second Lieutenant Lee Schoolcraft and all the volunteers of the Floyd County Rescue Squad. They carry on the Squad's rich tradition of volunteering their time and risking their lives to help the people of their community, and they are all worthy of our admiration and thanks.●

PROTOCOLS TO THE NORTH ATLANTIC TREATY OF 1949 ON THE ACCESSION OF POLAND, HUNGARY, AND THE CZECH REPUBLIC

(The text of resolution of ratification to the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic as agreed to by the Senate on April 30, 1998, reads as follows:)

Resolved, (two-thirds of the Senators present concurring therein),

SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO DECLARATIONS AND CONDITIONS.

The Senate advises and consents to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic (as defined in section 4(7)), which were opened for signature at Brussels on December 16, 1997, and signed on behalf of the United States of America and other parties to the North Atlantic Treaty, subject to the declarations of section 2 and the conditions of section 3.

SEC. 2. DECLARATIONS.

The advice and consent of the Senate to ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic is subject to the following declarations:

(1) REAFFIRMATION THAT UNITED STATES MEMBERSHIP IN NATO REMAINS A VITAL NATIONAL SECURITY INTEREST OF THE UNITED STATES.—The Senate declares that—

(A) for nearly 50 years the North Atlantic Treaty Organization (NATO) has served as the preeminent organization to defend the territory of the countries in the North Atlantic area against all external threats;

(B) through common action, the established democracies of North America and Europe that were joined in NATO persevered and prevailed in the task of ensuring the survival of democratic government in Europe and North America throughout the Cold War;

(C) NATO enhances the security of the United States by embedding European states in a process of cooperative security planning, by preventing the destabilizing renationalization of European military policies, and by ensuring an ongoing and direct leadership role for the United States in European security affairs;

(D) the responsibility and financial burden of defending the democracies of Europe and North America can be more equitably shared through an alliance in which specific obligations and force goals are met by its members;

(E) the security and prosperity of the United States is enhanced by NATO's collective defense against aggression that may threaten the territory of NATO members; and

(F) United States membership in NATO remains a vital national security interest of the United States.

(2) STRATEGIC RATIONALE FOR NATO ENLARGEMENT.—The Senate finds that—

(A) notwithstanding the collapse of communism in most of Europe and the dissolution of the Soviet Union, the United States and its NATO allies face threats to their stability and territorial integrity, including those common threats described in section 3(1)(A)(v);

(B) the invasion of Poland, Hungary, or the Czech Republic, or their destabilization arising from external subversion, would threaten the stability of Europe and jeopardize vital United States national security interests;

(C) Poland, Hungary, and the Czech Republic, having established democratic governments and having demonstrated a willingness to meet all requirements of membership, including those necessary to contribute to the territorial defense of all NATO members, are in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area; and

(D) extending NATO membership to Poland, Hungary, and the Czech Republic will strengthen NATO, enhance security and stability in Central Europe, deter potential aggressors, and thereby advance the interests of the United States and its NATO allies.

(3) SUPREMACY OF THE NORTH ATLANTIC COUNCIL IN NATO DECISION-MAKING.—The Senate understands that—

(A) as the North Atlantic Council is the supreme decision-making body of NATO, the North Atlantic Council will not subject its decisions to review, challenge, or veto by any forum affiliated with NATO, including the Permanent Joint Council or the Euro-Atlantic Partnership Council, or by any nonmember state participating in any such forum;

(B) the North Atlantic Council does not require the consent of the United Nations, the Organization for Security and Cooperation in Europe, or any other international organization in order to take any action pursuant to the North Atlantic Treaty in defense of the North Atlantic area, including the deployment, operation, or stationing of forces; and

(C) the North Atlantic Council has direct responsibility for matters relating to the basic policies of NATO, including development of the Strategic Concept of NATO (as defined in section 3(1)(F)), and a consensus position of the North Atlantic Council will precede any negotiation between NATO and non-NATO members that affects NATO's relationship with non-NATO members participating in fora such as the Permanent Joint Council.

(4) FULL MEMBERSHIP FOR NEW NATO MEMBERS.—

(A) IN GENERAL.—The Senate understands that Poland, Hungary, and the Czech Republic, in becoming NATO members, will have all the rights, obligations, responsibilities, and protections that are afforded to all other NATO members.

(B) POLITICAL COMMITMENTS.—The Senate endorses the political commitments made by NATO to the Russian Federation in the NATO-Russia Founding Act, which are not legally binding and do not in any way preclude any future decisions by the North Atlantic Council to preserve the security of NATO members.

(5) NATO-RUSSIA RELATIONSHIP. The Senate finds that it is in the interest of the United States for NATO to develop a new and constructive relationship with the Russian Federation as the Russian Federation pursues democratization, market reforms, and peaceful relations with its neighbors.

(6) THE IMPORTANCE OF EUROPEAN INTEGRATION.—

(A) Sense of the senate. It is the sense of the Senate that—

(i) the central purpose of NATO is to provide for the collective defense of its members;

(ii) the Organization for Security and Cooperation in Europe is a fundamental institution for the promotion of democracy, the rule of law, crisis prevention, and post-conflict rehabilitation and, as such, is an essential forum for the discussion and resolution of political disputes among European members, Canada, and the United States; and

(iii) the European Union is an essential organization for the economic, political, and social integration of all qualified European countries into an undivided Europe.

(B) POLICY OF THE UNITED STATES. The policy of the United States is—

(i) to utilize fully the institutions of the Organization for Security and Cooperation in Europe to reach political solutions for disputes in Europe; and

(ii) to encourage actively the efforts of the European Union to expand its membership, which will help to stabilize the democracies of Central and Eastern Europe.

(7) FUTURE CONSIDERATION OF CANDIDATES FOR MEMBERSHIP IN NATO.

(A) SENATE FINDINGS. The Senate finds that—

(i) Article 10 of the North Atlantic Treaty provides that NATO members by unanimous agreement may invite the accession to the North Atlantic Treaty of any other European state in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area;

(ii) in its Madrid summit declaration of July 8, 1997, NATO pledged to ''maintain an open door to the admission of additional Alliance members in the future'' if those countries satisfy the requirements of Article 10 of the North Atlantic Treaty;

(iii) other than Poland, Hungary, and the Czech Republic, the United States has not consented to invite, or committed to invite, any other country to join NATO in the future; and

(iv) the United States will not support the accession to the North Atlantic Treaty of, or the invitation to begin accession talks with, any European state (other than Poland, Hungary, or the Czech Republic), unless—

(I) the President consults with the Senate consistent with Article II, section 2, clause 2 of the Constitution of the United States (relating to the advice and consent of the Senate to the making of treaties); and

(II) the prospective NATO member can fulfill the obligations and responsibilities of membership, and its inclusion would serve the overall political and strategic interests of NATO and the United States.

(B) REQUIREMENT FOR CONSENSUS AND RATIFICATION.—The Senate declares that no action or agreement other than a consensus decision by the full membership of NATO, approved by the national procedures of each NATO member, including, in the case of the United States, the requirements of Article II, section 2, clause 2 of the Constitution of the United States (relating to the advice and consent of the Senate to the making of treaties), will constitute a security commitment pursuant to the North Atlantic Treaty.

(8) PARTNERSHIP FOR PEACE.—The Senate declares that—

(A) the Partnership for Peace between NATO members and the Partnership for Peace countries is an important and enduring complement to NATO in maintaining and enhancing regional security;

(B) the Partnership for Peace serves a critical role in promoting common objectives of NATO members and the Partnership for Peace countries, including

(i) increased transparency in the national defense planning and budgeting processes;

(ii) ensuring democratic control of defense forces;

(iii) maintaining the capability and readiness of Partnership for Peace countries to contribute to operations of the United Nations and the Organization for Security and Cooperation in Europe;

(iv) developing cooperative military relations with NATO; and

(v) enhancing the interoperability between forces of the Partnership for Peace countries and forces of NATO members;

(C) NATO has undertaken new initiatives to further strengthen the Partnership for Peace with the objectives of

(i) strengthening the political consultation mechanism in the Partnership for Peace through the Euro-Atlantic Partnership Council;

(ii) enhancing the operational role of the Partnership for Peace; and

(iii) providing for expanded involvement of members of the Partnership for Peace in decision-making and planning within the Partnership;

(D) enhancement of the Partnership for Peace promotes the security of the United States by strengthening stability and security throughout the North Atlantic area;

(E) the accession to the North Atlantic Treaty of new NATO members in the future must not undermine the ability of NATO and the Partnership for Peace countries to achieve the objectives of the Partnership for Peace; and

(F) membership in the Partnership for Peace does not in any way prejudice application or consideration for accession to the North Atlantic Treaty.

(9) REGARDING PAYMENTS OWED BY EUROPEAN COUNTRIES TO VICTIMS OF THE NAZIS.—

(A) DECLARATION.—The Senate declares that, in future meetings and correspondence with European governments, the Secretary of State should

(i) raise the issue of insurance benefits owed to victims of the Nazis (and their beneficiaries and heirs) by these countries as a result of the actions taken by any communist predecessor regimes in nationalizing foreign insurance companies and confiscating their assets in the aftermath of World War II;

(ii) seek to secure a commitment from the governments of these countries to provide a full accounting of the total value of insurance company assets that were seized by any communist predecessors and to share all documents relevant to unpaid insurance claims that are in their possession; and

(iii) seek to secure a commitment from the governments of these countries to contribute to the payment of these unpaid insurance claims in an amount that reflects the present value of the assets seized by any communist governments (and for which no compensation had previously been paid).

(B) DEFINITION.—As used in this paragraph, the term ''victims of the Nazis'' means persons persecuted during the period beginning on March 23, 1933 and ending on May 8, 1945, by, under the direction of, on behalf of, or under authority granted by the Nazi government of Germany or any country allied with that government.

SEC. 3. CONDITIONS.

The advice and consent of the Senate to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic is subject to the following conditions, which shall be binding upon the President:

(1) THE STRATEGIC CONCEPT OF NATO.—

(A) POLICY OF THE UNITED STATES TOWARD THE STRATEGIC CONCEPT OF NATO.—The Senate understands that the policy of the United States is that the core concepts contained in the 1991 Strategic Concept of NATO (as defined in subparagraph (F)), which adapted NATO's strategy to the post-Cold War environment, remain valid today, and that the upcoming revision of that document will reflect the following principles:

(i) FIRST AND FOREMOST A MILITARY ALLIANCE.—NATO is first and foremost a military alliance. NATO's success in securing peace is predicated on its military strength and strategic unity.

(ii) PRINCIPAL FOUNDATION FOR DEFENSE OF SECURITY INTERESTS OF NATO MEMBERS.—NATO serves as the principal foundation for collectively defending the security interests of its members against external threats.

(iii) PROMOTION AND PROTECTION OF UNITED STATES VITAL NATIONAL SECURITY INTERESTS.—Strong United States leadership of NATO promotes and protects United States vital national security interests.

(iv) UNITED STATES LEADERSHIP ROLE.—The United States maintains its leadership role in NATO through the stationing of United States combat forces in Europe, providing military commanders for key NATO commands, and through the presence of United States nuclear forces on the territory of Europe.

(v) COMMON THREATS.—NATO members will face common threats to their security in the post-Cold War environment, including—

(I) the potential for the re-emergence of a hegemonic power confronting Europe;

(II) rogue states and non-state actors possessing nuclear, biological, or chemical weapons and the means to deliver these weapons by ballistic or cruise missiles, or other unconventional delivery means;

(III) threats of a wider nature, including the disruption of the flow of vital resources, and other possible transnational threats; and

(IV) conflict in the North Atlantic area stemming from ethnic and religious enmity, the revival of historic disputes, or the actions of undemocratic leaders.

(vi) CORE MISSION OF NATO.—Defense planning will affirm a commitment by NATO members to a credible capability for collective self-defense, which remains the core mission of NATO. All NATO members will contribute to this core mission.

(vii) CAPACITY TO RESPOND TO COMMON THREATS.—NATO's continued success requires a credible military capability to deter and respond to common threats. Building on its core capabilities for collective self-defense of its members, NATO will ensure that its military force structure, defense planning, command structures, and force goals promote NATO's capacity to project power when the security of a NATO member is threatened, and provide a basis for ad hoc coalitions of willing partners among NATO members. This will require that NATO members possess national military capabilities to rapidly deploy forces over long distances, sustain operations for extended periods of time, and operate jointly with the United States in high intensity conflicts.

(viii) INTEGRATED MILITARY STRUCTURE.—The Integrated Military Structure of NATO underpins NATO's effectiveness as a military alliance by embedding NATO members in a process of cooperative defense planning and ensuring unity of command.

(ix) NUCLEAR POSTURE.—Nuclear weapons will continue to make an essential contribution to deterring aggression, especially aggression by potential adversaries armed with nuclear, biological, or chemical weapons. A credible NATO nuclear deterrent posture requires the stationing of United States nuclear forces in Europe, which provides an essential political and military link between Europe and North America, and the widespread participation of NATO members in

nuclear roles. In addition, the NATO deterrent posture will continue to ensure uncertainty in the mind of any potential aggressor about the nature of the response by NATO members to military aggression.

(x) BURDENSHARING.—The responsibility and financial burden of defending the democracies of Europe will be more equitably shared in a manner in which specific obligations and force goals are met by NATO members.

(B) THE FUNDAMENTAL IMPORTANCE OF COLLECTIVE DEFENSE.—The Senate declares that—

(i) in order for NATO to serve the security interests of the United States, the core purpose of NATO must continue to be the collective defense of the territory of all NATO members; and

(ii) NATO may also, pursuant to Article 4 of the North Atlantic Treaty, on a case-by-case basis, engage in other missions when there is a consensus among its members that there is a threat to the security and interests of NATO members.

(C) DEFENSE PLANNING, COMMAND STRUCTURES, AND FORCE GOALS.—The Senate declares that NATO must continue to pursue defense planning, command structures, and force goals to meet the requirements of Article 5 of the North Atlantic Treaty as well as the requirements of other missions agreed upon by NATO members, but must do so in a manner that first and foremost ensures under the North Atlantic Treaty the ability of NATO to deter and counter any significant military threat to the territory of any NATO member.

(D) REPORT.—Not later than 180 days after the date of adoption of this resolution, the President shall submit to the President of the Senate and the Speaker of the House of Representatives a report on the Strategic Concept of NATO. The report shall be submitted in both classified and unclassified form and shall include—

(i) an explanation of the manner in which the Strategic Concept of NATO affects United States military requirements both within and outside the North Atlantic area, including the broader strategic rationale of NATO;

(ii) an analysis of all potential threats to the North Atlantic area (meaning the entire territory of all NATO members) up to the year 2010, including the consideration of a reconstituted conventional threat to Europe, emerging capabilities of non-NATO countries to use nuclear, biological, or chemical weapons affecting the North Atlantic area, and the emerging ballistic missile and cruise missile threat affecting the North Atlantic area;

(iii) the identification of alternative system architectures for the deployment of a NATO missile defense for the entire territory of all NATO members that would be capable of countering the threat posed by emerging ballistic and cruise missile systems in countries other than declared nuclear powers, as well as in countries that are existing nuclear powers, together with timetables for development and an estimate of costs;

(iv) a detailed assessment of the progress of all NATO members, on a country-by-country basis, toward meeting current force goals; and

(v) a general description of the overall approach to updating the Strategic Concept of NATO.

(E) BRIEFINGS ON REVISIONS TO THE STRATEGIC CONCEPT.—Not less than twice in the 300-day period following the date of adoption of this resolution, each at an agreed time to precede each Ministerial meeting of the North Atlantic Council, the Senate expects the appropriate officials of the executive branch of Government to offer detailed briefings to the appropriate congressional committees on proposed changes to the Strategic Concept of NATO, including—

(i) an explanation of the manner in which specific revisions to the Strategic Concept of NATO will serve United States national security interests and affect United States military requirements both within and outside the North Atlantic area;

(ii) a timetable for implementation of new force goals by all NATO members under any revised Strategic Concept of NATO;

(iii) a description of any negotiations regarding the revision of the nuclear weapons policy of NATO; and

(iv) a description of any proposal to condition decisions of the North Atlantic Council upon the approval of the United Nations, the Organization for Security and Cooperation in Europe, or any NATO-affiliated forum.

(F) DEFINITION.—For the purposes of this paragraph, the term ''Strategic Concept of NATO'' means the document agreed to by the Heads of State and Government participating in the meeting of the North Atlantic Council in Rome on November 7–8, 1991, or any subsequent document agreed to by the North Atlantic Council that would serve a similar purpose.

(2) COSTS, BENEFITS, BURDENSHARING, AND MILITARY IMPLICATIONS OF THE ENLARGEMENT OF NATO.—

(A) PRESIDENTIAL CERTIFICATION.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the Senate that—

(i) the inclusion of Poland, Hungary, and the Czech Republic in NATO will not have the effect of increasing the overall percentage share of the United States in the common budgets of NATO;

(ii) the United States is under no commitment to subsidize the national expenses necessary for Poland, Hungary, or the Czech Republic to meet its NATO commitments; and

(iii) the inclusion of Poland, Hungary, and the Czech Republic in NATO does not detract from the ability of the United States to meet or to fund its military requirements outside the North Atlantic area.

(B) ANNUAL REPORTS.—Not later than April 1 of each year during the five-year period following the date of entry into force of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic, the President shall submit to the appropriate congressional committees a report, which may be submitted in an unclassified and classified form, and which shall contain the following information:

(i) The amount contributed to the common budgets of NATO by each NATO member during the preceding calendar year.

(ii) The proportional share assigned to, and paid by, each NATO member under NATO's cost-sharing arrangements.

(iii) The national defense budget of each NATO member, the steps taken by each NATO member to meet NATO force goals, and the adequacy of the national defense budget of each NATO member in meeting common defense and security obligations.

(iv) Any costs incurred by the United States in connection with the membership of Poland, Hungary, or the Czech Republic in NATO, including the deployment of United States military personnel, the provision of any defense article or defense service, the funding of any training activity, or the modification or construction of any military facility.

(v) The status of discussions concerning NATO membership for countries participating in the Partnership for Peace.

(C) UNITED STATES FUTURE PAYMENTS TO THE COMMON-FUNDED BUDGETS OF NATO.—

(i) SENSE OF THE SENATE REGARDING UNITED STATES SHARE OF NATO'S COMMON-FUNDED BUDGETS.—It is the sense of the Senate that, beginning with fiscal year 1999, and for each fiscal year thereafter through the fiscal year 2003, the President should—

(I) propose to NATO a limitation on the United States percentage share of the common-funded budgets of NATO for that fiscal year equal to the United States percentage share of those budgets for the preceding fiscal year, minus one percent; and

(II) not later than 60 days after the date of the United States proposal under subclause (I), submit a report to Congress describing the action, if any, taken by NATO to carry out the United States proposal.

(ii) ANNUAL LIMITATION ON UNITED STATES EXPENDITURES FOR NATO.—Unless specifically authorized by law, the total amount of expenditures by the United States in any fiscal year beginning on or after October 1, 1998, for payments to the common-funded budgets of NATO shall not exceed the total of all such payments made by the United States in fiscal year 1998.

(iii) DEFINITIONS.—In this subparagraph:

(I) COMMON-FUNDED BUDGETS OF NATO.—The term ''common-funded budgets of NATO'' means—

(aa) the Military Budget, the Security Investment Program, and the Civil Budget of NATO; and

(bb) any successor or additional account or program of NATO.

(II) UNITED STATES PERCENTAGE SHARE OF THE COMMON-FUNDED BUDGETS OF NATO.—The term ''United States percentage share of the common-funded budgets of NATO'' means the percentage that the total of all United States payments during a fiscal year to the common-funded budgets of NATO represents to the total amounts payable by all NATO members to those budgets during that fiscal year.

(D) REQUIREMENT OF PAYMENT OUT OF FUNDS SPECIFICALLY AUTHORIZED.—No cost incurred by NATO, other than through the common-funded budgets of NATO, in connection with the admission to membership, or participation, in NATO of any country that was not a member of NATO as of March 1, 1998, may be paid out of funds available to any department, agency, or other entity of the United States unless the funds are specifically authorized by law for that purpose.

(E) REPORTS ON FUTURE ENLARGEMENT OF NATO.—

(i) REPORTS PRIOR TO COMMENCEMENT OF ACCESSION TALKS.—Prior to any decision by the North Atlantic Council to invite any country (other than Poland, Hungary, or the Czech Republic) to begin accession talks with NATO, the President shall submit to the appropriate congressional committees a detailed report regarding each country being actively considered for NATO membership, including—

(I) an evaluation of how that country will further the principles of the North Atlantic Treaty and contribute to the security of the North Atlantic area;

(II) an evaluation of the eligibility of that country for membership based on the principles and criteria identified by NATO and the United States, including the military readiness of that country;

(III) an explanation of how an invitation to that country would affect the national security interests of the United States;

(IV) an up-to-date United States Government analysis of the common-funded military requirements and costs associated with integrating that country into NATO, and an analysis of the shares of those costs to be borne by NATO members, including the United States; and

(V) a preliminary analysis of the implications for the United States defense budget and other United States budgets of integrating that country into NATO.

(ii) UPDATED REPORTS PRIOR TO SIGNING PROTOCOLS OF ACCESSION.—Prior to the signing of any protocol to the North Atlantic Treaty on the accession of any country, the President shall submit to the appropriate congressional committees a report, in classified and unclassified forms—

(I) updating the information contained in the report required under clause (i) with respect to that country; and

(II) including an analysis of that country's ability to meet the full range of the financial burdens of NATO membership, and the likely impact upon the military effectiveness of NATO of the country invited for accession talks, if the country were to be admitted to NATO.

(F) REVIEW AND REPORTS BY THE GENERAL ACCOUNTING OFFICE.—The Comptroller General of the United States shall conduct a review and assessment of the evaluations and analyses contained in all reports submitted under subparagraph (E) and, not later than 90 days after the date of submission of any report under subparagraph (E)(ii), shall submit a report to the appropriate congressional committees setting forth the assessment resulting from that review.

(3) THE NATO-RUSSIA FOUNDING ACT AND THE PERMANENT JOINT COUNCIL.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the Senate the following:

(A) IN GENERAL.—The NATO-Russia Founding Act and the Permanent Joint Council do not provide the Russian Federation with a veto over NATO policy.

(B) NATO DECISION-MAKING.—The NATO-Russia Founding Act and the Permanent Joint Council do not provide the Russian Federation any role in the North Atlantic Council or NATO decision-making, including—

(i) any decision NATO makes on an internal matter; or

(ii) the manner in which NATO organizes itself, conducts its business, or plans, prepares for, or conducts any mission that affects one or more of its members, such as collective defense, as stated under Article 5 of the North Atlantic Treaty.

(C) NATURE OF DISCUSSIONS IN THE PERMANENT JOINT COUNCIL.—In discussions in the Permanent Joint Council—

(i) the Permanent Joint Council will not be a forum in which NATO's basic strategy, doctrine, or readiness is negotiated with the Russian Federation, and NATO will not use the Permanent Joint Council as a substitute for formal arms control negotiations such as the adaptation of the Treaty on Conventional Armed Forces in Europe, done at Paris on November 19, 1990;

(ii) any discussion with the Russian Federation of NATO doctrine will be for explanatory, not decision-making purposes;

(iii) any explanation described in clause (ii) will not extend to a level of detail that could in any way compromise the effectiveness of NATO's military forces, and any such explanation will be offered only after NATO has first set its policies on issues affecting internal matters;

(iv) NATO will not discuss any agenda item with the Russian Federation prior to agreeing to a NATO position within the North Atlantic Council on that agenda item; and

(v) the Permanent Joint Council will not be used to make any decision on NATO doctrine, strategy, or readiness.

(4) REPORTS ON INTELLIGENCE MATTERS.—

(A) PROGRESS REPORT.—Not later than January 1, 1999, the President shall submit a report to the congressional intelligence committees on the progress of Poland, Hungary, and the Czech Republic in satisfying the security requirements for membership in NATO.

(B) REPORTS REGARDING PROTECTION OF INTELLIGENCE SOURCES AND METHODS.—Not later than January 1, 1999, and again not later than the date that is 90 days after the date of accession to the North Atlantic Treaty by Poland, Hungary, and the Czech Republic, the Director of Central Intelligence shall submit a detailed report to the congressional intelligence committees—

(i) identifying the latest procedures and requirements established by Poland, Hungary, and the Czech Republic for the protection of intelligence sources and methods; and

(ii) including an assessment of how the overall procedures and requirements of Poland, Hungary, and the Czech Republic for the protection of intelligence sources and methods compare with the procedures and requirements of other NATO members for the protection of intelligence sources and methods.

(C) DEFINITIONS.—In this paragraph:

(i) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term ''congressional intelligence committees'' means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

(ii) DATE OF ACCESSION TO THE NORTH ATLANTIC TREATY BY POLAND, HUNGARY, AND THE CZECH REPUBLIC.—The term ''date of accession to the North Atlantic Treaty by Poland, Hungary, and the Czech Republic'' means the latest of the following dates:

(I) The date on which Poland accedes to the North Atlantic Treaty.

(II) The date on which Hungary accedes to the North Atlantic Treaty,

(III) The date on which the Czech Republic accedes to the North Atlantic Treaty.

(5) REQUIREMENT OF FULL COOPERATION WITH UNITED STATES EFFORTS TO OBTAIN THE FULLEST POSSIBLE ACCOUNTING OF CAPTURED AND MISSING UNITED STATES PERSONNEL FROM PAST MILITARY CONFLICTS OR COLD WAR INCIDENTS.—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that each of the governments of Poland, Hungary, and the Czech Republic are fully cooperating with United States efforts to obtain the fullest possible accounting of captured and missing United States personnel from past military conflicts or Cold War incidents, to include—

(A) facilitating full access to relevant archival material; and

(B) identifying individuals who may possess knowledge relative to captured and missing United States personnel, and encouraging such individuals to speak with United States Government officials.

(6) TREATY INTERPRETATION.—

(A) PRINCIPLES OF TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally-based principles of treaty interpretation set forth in condition (1) in the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988.

(B) CONSTRUCTION OF SENATE RESOLUTION OF RATIFICATION.—Nothing in condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, shall be construed as authorizing the President to obtain legislative approval for modifications or amendments to treaties through majority approval of both Houses of Congress.

(C) DEFINITION.—As used in this paragraph, the term ''INF Treaty'' refers to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter Range Missiles, together with the related memorandum of understanding and protocols, done at Washington on December 8, 1987.

SEC. 4. DEFINITIONS.

In this resolution:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Appropriations of the Senate and the Committee on International Relations, the Committee on National Security, and the Committee on Appropriations of the House of Representatives.—

(2) NATO.—The term ''NATO'' means the North Atlantic Treaty Organization.

(3) NATO MEMBERS.—The term ''NATO members'' means all countries that are parties to the North Atlantic Treaty.

(4) NATO-RUSSIA FOUNDING ACT.—The term ''NATO-Russia Founding Act'' means the document entitled the ''Founding Act on Mutual Relations, Cooperation and Security Between NATO and the Russian Federation'', dated May 27, 1997.

(5) NORTH ATLANTIC AREA.—The term ''North Atlantic area'' means the area covered by Article 6 of the North Atlantic Treaty, as applied by the North Atlantic Council.

(6) NORTH ATLANTIC TREATY.—The term ''North Atlantic Treaty'' means the North Atlantic Treaty, signed at Washington on April 4, 1949 (63 Stat. 2241; TIAS 1964), as amended.

(7) PROTOCOLS TO THE NORTH ATLANTIC TREATY OF 1949 ON THE ACCESSION OF POLAND, HUNGARY, AND THE CZECH REPUBLIC. The term ''Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic'' refers to the following protocols transmitted by the President to the Senate on February 11, 1998 (Treaty Document No. 105–36):

(A) The Protocol to the North Atlantic Treaty on the Accession of the Republic of Poland, signed at Brussels on December 16, 1997.—

(B) The Protocol to the North Atlantic Treaty on the Accession of the Republic of Hungary, signed at Brussels on December 16, 1997.

(C) The Protocol to the North Atlantic Treaty on the Accession of the Czech Republic, signed at Brussels on December 16, 1997.—

(8) UNITED STATES INSTRUMENT OF RATIFICATION.—The term ''United States instrument of ratification'' means the instrument of ratification of the United States of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic.—

REMOVAL OF INJUNCTION OF SECRECY

Ms. COLLINS. Mr. President, as in executive session, I ask unanimous consent that the Injunction of Secrecy be removed from the following convention transmitted to the Senate on May 1, 1998, by the President of the United States: Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Treaty Document No. 105–43). I further ask that the convention 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:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (the ''Convention''), adopted at Paris on November 21, 1997, by a conference held under the auspices of the Organization for Economic Cooperation and Development (OECD). The Convention was signed in Paris on December 17, 1997, by the United States and 32 other nations.

I transmit also, for the information of the Senate, interpretive Commentaries on the Convention, adopted by the negotiating conference in conjunction with the Convention, that are relevant to the Senate's consideration of the Convention. I transmit also, for the information of the Senate, the report of the Department of State with respect to the Convention.

Since the enactment in 1977 of the Foreign Corrupt Practices Act (FCPA), the United States has been alone in specifically criminalizing the business-related bribery of foreign public officials. United States corporations have contended that this has put them at a significant disadvantage in competing for international contracts with respect to foreign competitors who are not subject to such laws. Consistent with the sense of the Congress, as expressed in the Omnibus Trade and Competitiveness Act of 1988, encouraging negotiation of an agreement within the OECD governing the type of behavior that is prohibited under the FCPA, the United States has worked assiduously within the OECD to persuade other countries to adopt similar legislation. Those efforts have resulted in this Convention that once in force, will require that the Parties enact laws to criminalize the bribery of foreign public officials to obtain or retain business or other improper advantage in the conduct of international business.

While the Convention is largely consistent with existing U.S. law, my Administration will propose certain amendments to the FCPA to bring it into conformity with and to implement the Convention. Legislation will be submitted separately to the Congress.

I recommend that the Senate give early and favorable consideration to the Convention, and that it give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 1, 1998.*

AUTHORITY TO CORRECT TREATY DOCUMENT NO. 105–36

Ms. COLLINS. Mr. President, as in executive session, I ask unanimous consent that the Secretary of the Senate be authorized to make a correction in section 3.2(D) of the Resolution of Ratification of Executive Treaty Document No. 105–36 by inserting the word ''specifically'' before ''authorized.''

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, MAY 5, 1998

Ms. COLLINS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Tuesday, May 5. I further ask that on Tuesday, immediately following the prayer, the routine requests through the morning hour be granted and that the Senate then begin a period of morning business until 10:30 a.m., with Senators permitted to speak for up to 5 minutes each with the following exceptions: Senator HATCH, 30 minutes; Senator DORGAN, 15 minutes; Senator CONRAD, 15 minutes; and Senator CRAIG for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I further ask that following morning business, the Senate resume consideration of H.R. 2676, the IRS reform bill, with debate only in order prior to the policy luncheon recess, except for the offering of a managers' amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I further ask unanimous consent that the Senate stand in recess from the hours of 12:30 to 2:15 p.m. for the weekly policy conferences to meet tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Ms. COLLINS. Mr. President, tomorrow, following the morning business period, the Senate will resume consideration of the IRS reform bill. It is hoped that the managers' amendment will be offered during Tuesday's session. In addition, Members who desire to debate this legislation are encouraged to do so tomorrow so that the Senate can complete action on the IRS reform bill as early as possible this week.

As a reminder, there will be a rollcall vote tomorrow at 5:30 p.m. on passage of the workforce development legislation, H.R. 1385. Any votes ordered with respect to the IRS reform bill will be stacked to occur following that 5:30 vote.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Ms. COLLINS. Mr. President, if there is 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 5:17 p.m., adjourned until Tuesday, May 5, 1998, at 9:30 a.m.