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Senate

The Senate met at 12:30 p.m., and was called to order by the President pro tempore (Mr. THURMOND).

The PRESIDENT pro tempore. Our prayer today will be led by Father Paul Lavin, pastor of St. Joseph's on Capitol Hill, Washington, DC.

PRAYER

The guest Chaplain, Father Paul Lavin, pastor of St. Joseph's on Capitol Hill, offered the following prayer:

Let us listen to the word of the Lord in Psalm 18:

I would love thee, O Lord, my strength.

The Lord is my rock, and my fortress, and my deliverer; my God, my strength, in whom I trust; my buckler, and the horn of my salvation.

I will call upon the Lord, who is worthy to be praised.

Let us pray:

We stand before You, O Lord conscious of our sinfulness but aware of Your love for us.

Come to us, remain with us, and enlighten our hearts.

Give us light and strength to know Your will to make it our own and to live it in our lives.

Guide us by Your wisdom, support us by Your power, keep us faithful to all that is true.

You desire justice for all: Enable us to uphold the rights of others; do not allow us to be misled by ignorance or corrupted by fear or favor.

Glory and praise to You for ever and ever. Amen.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. LOTT. Mr. President, today there will be a period for morning business until the hour of 3:30 p.m., with Senator KENNEDY or his designee in control of the time from 12:30 to 2 p.m., and Senator COVERDELL or his designee in control of the time from 2 until 3:30 p.m.

Following morning business, the Senate will begin consideration of H.R. 3448, the small business tax package legislation. Under the consent agreement reached, there are a limited number of amendments in order to that bill and all debate time will be used today. No rollcall votes will occur during today's session. Therefore, any votes ordered on the amendments will occur at 2:15 on Tuesday.

On Tuesday, following the completion of H.R. 3448, the Senate will begin consideration of S. 295, the TEAM Act. As a reminder to all Senators, any votes ordered on amendments to the TEAM Act will occur during Wednesday's session of the Senate. Senators should also be reminded that, under a previous order, the Senate will vote on passage of the Department of Defense authorization bill at 9:30 on Wednesday, although I should note that because of the likelihood of a signing at the White House of the church burning legislation, we are working to see if we might defer that vote until, I believe, 12 o'clock on Wednesday. But we will make that official later on during the day, if we get it all worked out.

Immediately following that vote, the Senate will proceed to the House of Representatives for a joint meeting of Congress to hear an address by the Prime Minister of Israel. Of course, if we do not have that vote at 9:30, we will assemble here and we will go right to the House for that joint meeting.

Due to the joint meeting, it may be necessary to postpone the vote on the passage of DOD until later in the afternoon on Tuesday, as I have already announced. We will make that announcement as soon as possible today.

At noon on Wednesday, there will be a vote on the motion to invoke cloture on the motion to proceed to S. 1788, the National Right To Work Act.

Finally, I should say the appropriations process has to move forward. I anticipate we will take actions this week on appropriations measures. The first will be the Department of Defense appropriations bill, to be followed by the foreign operations appropriations bill.

All Members should plan their schedules to anticipate votes, probably into the early evening on Tuesday and on Wednesday, although we hope not to go late. Then, on Thursday, depending on what progress we have made on the DOD appropriations bill and the foreign ops appropriations bill, we could go late into the evening on Thursday.

I yield the floor.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. CRAIG). Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 3:30 p.m., with Senators permitted to speak therein for not to exceed 5 minutes. The time between 12:30 and 2 p.m. shall be under the control of the Senator from Massachusetts, Senator KENNEDY, or his designee.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself such time as I might use.

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

THE MINIMUM WAGE

Mr. KENNEDY. Mr. President, tomorrow, July 9, is minimum wage day in the U.S. Senate. The Senate will finally have an up-or-down vote on a fair increase in the minimum wage. The minimum wage has been stuck at its

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

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current level of $4.25 an hour for some 5 years. The increase that we propose to $5.15 an hour should have gone into effect at least a year ago. But for 18 months Republicans refused to allow this Senate to vote.

Now the long overdue vote is about to take place, but the Republican obstruction has not ended. Opponents of the minimum wage have devised a shameless trick to prevent as much of the increase as possible, by delaying it and by denying it to large numbers of deserving American workers.

The Republican amendment is a sham. It purports to raise the minimum wage from $4.25 to $5.15 an hour, but in fact it will deny that increase to most Americans who would otherwise receive it. To paraphrase the words of a country and western song, ''One step forward, two steps back, you don't get a raise with a trick like that.''

Under our Democratic proposal, more than 13 million Americans will receive a raise when the minimum wage bill is passed. Under the Republican amendment, most of these workers would never see that raise. First, the Republican amendment exempts more than 4 million workers, almost half of all the minimum wage workers earning between $4.25 and $5.15 an hour, by creating a permanent subminimum wage for the first 6 months on the job.

Second, the Republican amendment exempts two-thirds of all workers eligible for the increase by exempting the 10 million workers and businesses with annual sales of less than $500,000 a year.

Third, the Republican amendment exempts the 2 million employees in restaurants and other establishments who rely on tips for part of that income.

These three exemptions clearly overlap. Some workers will be caught by all three exemptions. The Republicans have left no stone unturned in their cynical attempt to find as many ways as possible to deny a fair increase in the minimum wage to as many American workers as possible. But Republicans are not even satisfied with these massive exemptions. They also want to delay the increase in the minimum wage for anyone who still qualifies to receive it.

As one more insult to American workers, the Republican amendment would delay the increase by 6 more months, until January 1997. No increase at all for anyone in 1996 is the last line of defense for Republicans in their unseemly battle against the minimum wage.

So, President Clinton is correct to say, as he did in his veto letter of June 28, 1996, that he will veto a minimum wage increase that contains any of these Republican tricks.

Make no mistake, a vote for the Bond amendment is a vote to kill the minimum wage increase for now and for the foreseeable future. That is the strategy of the Republicans and their right-wing allies.

The National Retail Federation has mounted a campaign in support of the Republican amendment. They sent out an action alert last week, in which they abandon any pretense that the Republican amendment is anything other than an attempt to kill the minimum wage increase. The Republican amendment, they say, ''is our last chance and best hope for stopping the minimum wage increase this year.''

Mr. President, I will include it all in the RECORD. On page 1, the bottom of page 1, it says, ''It is our last chance and best hope for stopping the minimum wage increase this year,'' to support the Bond amendment. Then it lists a number of the Senators who should be targeted by their organization.

I ask unanimous consent the letter and list be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL RETAIL FEDERATION

MEMORANDUM

To: Government and Legal Affairs Committee, National Association Executives.

From: John J. Motley III, Senior Vice President, Government and Public Affairs.

Re action needed on minimum wage.

Date: July 1, 1996.

Attached for your review and use is an action alert describing the current situation with the minimum wage increase in the U.S. Senate.

The Senate will vote on the minimum wage increase on July 9. NRF is working to pass the Bond amendment and defeat the Kennedy amendment.

For those of you with operations in the targeted states—Arkansas, Colorado, Maine, Nebraska, New York, Pennsylvania, South Dakota, and Vermont—any help you could lend getting Senators to support the Bond amendment would be much appreciated. NRF members and the state retail association executives based in the target states have already received a copy of the action alert.

The vote will be close. If more than two Republicans vote against Bond and not one Democrat votes for it, we cannot win.

Passing the Bond amendment is probably our best change to kill the minimum wage increase. If you have any questions, please contact me or Kent Knutson at (202) 783–7971. Many thanks.

Several Senators are undecided on the Bond amendment and need to hear from you. The vote will be extremely close, so please take a minute to call, FAX, or write and urge them to vote for the Bond amendment and against the Kennedy amendment.

SENATORS WHO NEED TO HEAR FROM YOU

State and Senator	Phone	Fax
Arkansas:		
Dale Bumpers	(202) 224–4843	224–6435
David Pryor	(202) 224–2353	228–3973
Colorado: Ben Nighthorse Campbell	(202) 224–5852	224–1933
Maine:		
Bill Cohen	(202) 224–2523	224–2693
Olympia Snowe	(202) 224–5344	224–1946
Nebraska:		
Bob Kerrey	(202) 224–6551	224–7645
Jim Exon	(202) 224–4224	224–5213
New York: Alfonse D'Amato	(202) 224–6542	224–5871
Pennsylvania:		
Arlen Specter	(202) 224–4254	228–1229
Rick Santorum	(202) 224–6324	228–0604
South Dakota: Larry Pressler	(202) 224–5842	228–0368
Vermont: Jim Jeffords	(202) 224–5141	228–1932

Please send a copy of any correspondence to NRF, Attention: Grassroots Department at fax (202) 737–2849.

Don't hesitate to call if you have any questions at (202) 783–7971. Thanks so much for your help.

Mr. KENNEDY. So the battle lines are clearly drawn.

I urge the Senate to stand with American working families, not against them. I urge the Senate to stand for the basic principle that the minimum wage should be a living wage; that no American who works for a living should have to live in poverty.

Tomorrow's vote will be one of the most important votes in the U.S. Senate this year. Millions of hard-working men and women are struggling to lift themselves out of poverty and provide a decent life for their families. They are looking to us for hope and help, and it is time for them to get a raise.

Our Democratic proposal would raise the minimum wage to $5.15 an hour in two 45-cent steps. The first step would take place as of July 4 this year, and I mention, Mr. President, that is in the legislation, but, obviously, since that date has passed, with the passage of our amendment, it is hoped that in conference we can delay the implementation of that for 30 days after the President signs. That will give a reasonable period of time for it to be implemented and reasonable notification to those who are going to have to pay it.

As of that date, the minimum wage would be $4.70 an hour. The second part of the increase, to $5.15, would take place on July 4 next year. Raising the minimum wage is critical for millions of low-wage workers who are directly affected by it, and it is critical for the economy as a whole.

The widening income gap is a worsening problem in the United States, and the declining purchasing power of the minimum wage is a significant problem.

Mr. President, this chart shows how America grew from 1950 to 1978—''Growing Together, Real Family Income Growth by Quintile.'' What we see is those at the bottom level of the economic ladder actually grew 138 percent. They grew more than any other sector of our economy. The second quintile at 98 percent; the third at 106 percent; the fourth at 111 percent; and the top 20 percent at 99 percent. All America grew together, and if there was any answer, it was that all Americans were playing by the rules, working hard providing for their families, which was part of the whole American growth pattern.

But look what has happened since. This first chart represents 1950 to 1978. Now on this second chart, we have from 1979 to 1994. This chart reflects real family income growth by quintile, but it is growing apart. The largest continuing growth has been on the top 20 percent, and if you went to the top 5 percent, you would see that percent of growth even higher. If you went to the top 1 percent, the wealthiest individuals and corporations, you would see that those numbers would go up even higher.

What has happened is, on the bottom 20 percent, you see the real family income had an actual decline of 11 percent from 1979 to 1994. This does not represent what I think most Americans expect, hope for, and think is fair. What they expect is that all Americans will grow and participate in an expanding economy. Quite to the contrary. We see those who are on the bottom 20 percent have seen the most serious decline in family income. It is in this particular group that the minimum wage workers are most adversely affected.

Since 1979, 97 percent of the increase in real household income has gone to the wealthiest 20 percent of American families, while only 3 percent has gone to the other 80 percent. The real family income of most American families has declined since 1979, while the real income of the top 20 percent of families grew by 18 percent. Part of the decline in income for working families has been caused by the drop in the purchasing power of the minimum wage, which has fallen almost 30 percent since 1979. It is worth 50 cents an hour less today than when it was last raised in 1991.

Mr. President, this chart reflects the declining real value of the minimum wage over the period from 1960 up to 1995. What we see is the real purchasing value. It has been gradually increasing at the lower levels, which I will get to in a few moments. But this chart represents the real minimum wage, from 1960 to 1995, and going back to 1969, 1970 in purchasing power, it would be $6.45 today instead of $4.25. That is a $2 spread in purchasing power for working families, not to families who are on welfare, but working families who want to keep off welfare. They are playing by the rules: 40 hours a week, 52 weeks of the year.

Effectively, they have taken a significant cut in their purchasing power, from $6.45 down to what it would be now at $4.25. This represents the declining value of the purchasing power for families. In 1991, the last time the minimum wage was increased, we got a slight blip and now it has gone right back down, at the present time, even below where it was in 1989.

Incredibly, the economy today is a great deal stronger than it was in 1989. Still, in 1989, we have had not only virtually all of the Democrats voting for an increase in the minimum wage, but we had Republicans as well. We had Republicans as well. Senator Dole voted for an increase. Speaker GINGRICH at that time voted for the increase in the minimum wage when our economy was not as strong.

Now we find the purchasing power is right back to where it was in 1989. The economy is a great deal stronger, and we have been seeing the complete opposition by the leadership of the House of Representatives that said we will not give an opportunity to vote on an increase in the minimum wage.

Finally, the American people spoke about that issue, and finally, reluctantly, the House of Representatives increased the minimum wage with some courageous Republicans who supported it.

Now, after over a year of trying to get a vote on the minimum wage by attaching it, or threatening to attach it, to any of the different pieces of legislation that came along, we are now in a position where we will get an opportunity to vote on the minimum wage, not just to vote on increasing the minimum wage, which has been the tradition, historic tradition of the increases in minimum wage, but we will vote on a proposal of our Republican friends that I described earlier that on the one hand would appear to give the increase in the minimum wage, but, on the other hand clearly takes it back.

So that, Mr. President, is how we find this debate, both today and tomorrow, and why we believe that it is so important that Americans will let their Members of Congress know again that working families ought to be entitled to an increase in the minimum wage to, not even bring the working families out of poverty, but at least give them about $1,800 more, which is a good deal more income for families. It would reflect about a 22- or 23-percent increase in their wages, enough to support groceries for 7 months of the year, probably pay for tuition for 1 year for a son or daughter to attend the college in their home State, and so on, probably the premium for some health insurance programs that they may be able to provide either for their children, perhaps for themselves. It represents a very significant and important increase for those who are working.

Mr. President, as a nation, we are moving, as I mentioned, farther and farther away from the fundamental principle that honest work should pay an honest wage, and full-time, year-round workers should be able to keep their families out of poverty. Today a nurse's aide, a janitor, a child care worker—Mr. President, that is what we are talking about, those who are making the minimum wage.

We will have an opportunity to put some names and, hopefully, some faces and some lives out here in the course of this debate in the next couple of days. But basically they are teachers' aides, those who are working with the children in our classrooms all over this country, increasingly challenged by all of the challenges which are there in the schools of our Nation, trying to provide help and assistance to a teacher so a teacher can teach.

They are nurses' aides and health care workers. Some are in those schools. Health care workers are primarily, perhaps, in nursing homes who are looking after parents to make sure that those parents are going to be treated fairly and decently, taking care of them, washing them, feeding them, changing them, some of the most difficult, trying work that anyone could ask for in this country. They do it and do it well and do it with a sense of respect and decency.

They are janitors who, long after men and women who are in the major companies and corporations in the buildings of this Nation go home for the day, they are in there, after dark, and spend many long hours into the evening cleaning up those buildings and may be lucky enough to get home before their kids go out and go to school in the morning, to see them for a few hours.

Mr. President, these are the men and women who are doing the tough, difficult work that is out there in America to be done. They do it with pride and dignity. They do it to provide for their families, for their loved ones. We evidently are coming to the point where we may have an opportunity to see some increase, and we are faced with Republican opposition to undermine the very modest increase.

This is a modest increase, Mr. President. When we first introduced what is the legislation that we will be voting on, we wanted it 3 years at 50 cents, and a cost-of-living increase. That does not seem to me to be enormously radical. It would probably bring this back up to here in terms of the purchasing power of the minimum wage. But now we are back to 45 cents—45 cents—and for 2 years without the cost-of-living increase. And we are facing opposition for that very, very modest, modest increase.

So today, Mr. President, a nurse's aide, a janitor, a child care worker, anyone else who makes a minimum wage earns just $8,800 for 52 weeks of work at 40 hours a week, more than $6,000 below the poverty level for a family of four. According to the old saying, ''The rich get richer; the poor get poorer.'' But that should not be the Nation's economic policy.

Today, one out of every nine families with a full-time worker lives in poverty without enough money to feed and clothe their children and keep a roof over their heads. Rich America is getting richer. The stock market may be sputtering, but the increase has gone to more than 400 percent since 1992. Real wages have declined by 15 percent. As the values of Wall Street have soared, the values of Main Street have fallen farther and farther behind.

Mr. President, this chart indicates again the comparison, using one indicator, and that is what is happening on Wall Street. I know there are other indicators; we can get into those as well. But what we have seen is the enormous growth, adjusted to inflation, in what has happened in the Dow Jones industrial average over the period from 1979 through 1995. What has happened to the minimum wage? Here are hard-working workers who are doing the difficult jobs that need to be done, and here we see the Dow Jones industrial average going up and continuing to go up.

In the Senate, we have given ourselves three pay increases since the last increase in the minimum wage in 1991. Congressional pay raises have totaled $31,000, a 31-percent increase. The

bill before the Senate calls for 90 cents in the minimum wage over the next 2 years, a 22-percent increase.

Mr. President, it is time to support those who work for a living instead of living off welfare. I must say, Mr. President, that if you want to talk about real welfare reform, it is increasing the minimum wage. Let us get people who can work and want to work back to work and give them a livable wage. An interesting fact, Mr. President, is that if you get this increase in the minimum wage, you see the savings in the safety net. You see significant, hundreds of millions of dollars of reductions in payments of AFDC, you see hundreds of millions of dollars of reductions in the Medicaid Program, in the Food Stamp Program.

You have more than 300,000 children who would come out of poverty; well over 100,000 families coming out of poverty; they will not be eligible for those expenditures. That is only with a very modest increase in the minimum wage. Why should the Federal taxpayer be paying in to a fund that supports these safety-net programs to subsidize those who are not paying a fair wage? That is what this is about, too; subsidizing many of those companies that refuse to provide a livable wage. They are getting subsidization for their workers with the other safety-net programs. Those safety-net programs were never devised for that particular purpose. If you provide this modest increase in the minimum wage, you are going to be saving the taxpayers an additional amount.

I believe the overpowering and overwhelming argument is that we ought to have a basic standard of fairness and justice in our economy. The economy ought to move in a way that is not going to serve just the wealthiest individuals but is going to serve all Americans. That is what this country ought to be about and what it is about when it is at its best. These hard-working Americans deserve this kind of assurance that they are going to be able to provide for their families.

But if you do not like that argument and you are only persuaded, as so many apparently are in this body, by what is going to be actually expended in terms of the taxpayers, this is a good bargain for those individuals as well.

Mr. President, what we are talking about here are 13 million Americans who will receive a pay increase from this legislation—13 million Americans.

Mr. President, we hear often on this floor that the best way to get any increase for working Americans is to insist on the balanced budget amendment. I support a balanced budget, not with the priorities that have been outlined by our Republican friends. But that is a debate for a different time. But the interesting fact remains, Mr. President, that if our Republican friends were able to get the balanced budget amendment through, according to their own CBO, it would mean a one-half of 1 percent increase in the income of those 13 million workers who are working at a minimum wage level—one-half of 1 percent.

This minimum wage program which we support will amount to a 4 percent increase for the 40 percent of the lowest income American workers. We can do that virtually by adopting this particular program that has passed the House of Representatives and will be before the U.S. Senate tomorrow. This can make an important difference—an important difference—to the real income of working families as compared to what we are asked to do by our Republican friends saying, ''Well, let's just go ahead and balance the budget. That will reflect itself in greater opportunities for those workers.'' Even their own figures do not justify that position.

Mr. President, as many as 2.3 million children live in poor or near-poor families where workers will get a raise. This is a children's issue. This is a children's issue. Of this, 1.52 million are living in families with just one breadwinner. We will probably even hear in the debate that this really is not an important issue because it only affects the 10, 13 million Americans in a work force of 129, 130 million Americans. It is enormously important to those children, the million and a half of those children whose whole position is being threatened now in the cuts in the Medicaid Program, the transfer, the reduction in immunization and all of the screening programs that are out there, when we know that two-thirds of the children on Medicaid have parents who are working.

I do not understand what it is with our Republican friends, what they have against children of working families. But that is the fact of the impact of many of these cuts, both in the Medicaid Program, the education program, and the opposition to the increase in the minimum wage. It is callous. It is wrong. But, nonetheless, we are faced with it. We will have an opportunity tomorrow to make a judgment whether we are going to stand with the children, the needy children, the poor children that did not, as a matter of choice, choose to grow up in a household where their families are making the minimum wage at this time.

Mr. KYL assumed the Chair.

Mr. KENNEDY. Now, Mr. President, this is not only children, but this is also about women in our society. The greatest percent are women; 64 or 65 percent of the minimum wage workers are women in our society. Seven million women and more than 5 million adult women will receive a fair raise if the minimum wage is increased.

Who are the 5 million adult women? Two million are single heads of households with at least one dependent. They are raising families, caring for children, trying to get by on a poverty-level wage. It is time for them to get a raise.

Mr. President, 60 percent of minimum wage workers are married. They contribute an average of 51 percent of family earnings. We are not talking about teenagers earning pocket money. We will hear talk about that later this afternoon, I am sure. We are talking about people whose families depend on them for their survival and well-being. It is time for them to get a raise.

The large numbers of minimum wage workers who are women work in hospitals, food services, and restaurants, where they work as cashiers, clean hotel rooms and work in laundries. Their jobs are hard, but they perform them with dignity and commitment, and do the best they can to provide for their families. It is time for them to get a raise.

An additional large number of minimum wage earners who are women work directly with children in child care and as teachers aides. They deserve more respect for the care that they give the Nation's children, the 52 million children, that are in our K through 12 across this Nation. With all the challenges that they are facing, it is time they get a raise.

Another major industry that employs large numbers of women just above the minimum wage is in the health care area, especially the occupations of nurses' aides, home care aides. They are some of the most difficult jobs in our society, caring for the sick and the helpless, washing them, feeding them, cleaning their bedpans. It is time they get a raise.

What will the minimum wage increase mean for a family living in poverty? We mentioned what it means in groceries, what it means in health care costs, including prescription drugs, out-of-pocket expenses, utility bills or basic housing costs lasting for a period of some 4 months. All of that has been mentioned.

Mr. President, a point that we will hear, I am sure, later this afternoon, ''We are opposed because they really are the wealthy teenagers that are involved in this program. They are not really people involved in the minimum wage.'' We will also hear, as I have already heard during the course of this debate, that question about whether this increase in the minimum wage helps minorities in the workplace.

Based on census data of 1.5 million African-Americans between $4.25 and $5.15 an hour, 17 percent of all hourly African American workers are making that minimum wage. One million are women. Raising the minimum wage will provide a modest increase for the poorest African-Americans raising children and struggling to survive. It is time for them to get a raise.

I hope those opposed to our position will minimize the amount of time they spend on this issue as being the great defenders of minorities. We heard that all the time in all the past debates.

I ask unanimous consent to have printed in the RECORD several excellent letters referencing the minimum wage.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE,
Washington, DC, March 19, 1996.

Re Fair Minimum Wage.

DEAR SENATOR: I am writing to you today on behalf of the National Association for the Advancement of Colored People (NAACP), the nation's oldest and largest civil rights organization, in strong support of a fair minimum wage. Specifically, the NAACP seeks the swift passage of ''The Working Wage Increase Act of 1995'' (S.413). We have been informed that this bill may be scheduled for a Senate floor vote later this week.

This important legislation provides for an increase in the current minimum wage by 90 cents an hour, to $5.15, over two years. It is clearly a step in the right direction to improve the income and the quality of living for all Americans through an increase in the minimum wage. This is particularly true for African Americans, who disproportionately constitute a large segment of minimum wage earners with below poverty level incomes.

Legislation increasing the minimum wage is a measure long overdue for hardworking Americans who are desperately trying to make ends meet. The real value of the minimum wage is at a forty year low. The minimum wage was first set at 25 cents an hour in 1938 under the Fair Labor Standards Act (FLSA). Moreover, Congress last raised the minimum wage with bi-partisan support in 1989 from $3.35 an hour to $4.25 an hour over two years.

In addition to the merits of arguments supporting an increased minimum wage, the NAACP also believes that this initiative fits squarely into the welfare reform debate. The NAACP supports meaningful welfare reform. We believe that meaningful welfare reform includes elements that encourage and support work; that hold both parents responsible for the economic support of their children; and that move poor families from dependency to economic self-sufficiency.

The NAACP maintains that Senators who are calling for welfare reform should back efforts to increase the minimum wage since, as a practical matter, the current minimum wage is a disincentive to working and an incentive to remaining on welfare.

For all of these reasons, we strongly urge you to vote in favor of S.413 when it advances to a Senate floor vote in the next few days. Thank you for your consideration of our views.

Sincerely,

WADE HENDERSON,
Director.

NATIONAL URBAN LEAGUE, INC.,
Washington, DC, March 19, 1996.

DEAR SENATOR: The National Urban League believes that raising the minimum wage is an eminently sensible step. It would mean affirming a pro-work, pro-family stance that should be welcomed by all who believe work should be rewarded and that ways must be found to boost the eroding incomes of low-wage workers. The Senate can take immediate action by passing the legislation that would raise the minimum wage from its current level of $4.25 to $5.15 an hour over two years.

The prevailing minimum wage has now reached its lowest level in 40 years. Erosion of the minimum wage is a major factor in the sharp decline in the living standards of the poorest families. A person who works full time—40 hours per week, 50 weeks per year—at the current Federal minimum wage brings home only $8,500 for an entire year's work.

Contrary to the assumption that the prime beneficiaries would be affluent teenagers, studies reveal that only a tenth of minimum wage workers are teenagers in families with above average incomes. The typical minimum wage worker is an adult woman who works full time or more than twenty hours weekly. Seventy-six percent of the benefits of the increased minimum wage would go to families with below average incomes. And over a fourth of those low wage workers are black and Hispanic, therefore the impact of a higher minimum wage would have an immediate impact on minority purchasing power.

Raising the minimum wage should get bipartisan support as a way to help poor families raise their living standards and as a way to close the income gap that threatens American ideals of fairness and equality.

Sincerely,

HUGH B. PRICE,
President and Chief Executive Officer.

NATIONAL HISPANA LEADERSHIP INSTITUTE,
Arlington, VA, March 18, 1996.

DEAR SENATOR: The National Hispana Leadership Institute represents over 200 professional Hispanic women from throughout the United States who are leaders in their communities. These women are directors of non-profit and government agencies, political appointees, elected officials and corporate employees.

I am writing on their behalf in support of the minimum wage increase to $5.15 over the next two years. Statistics indicate that: (1) six out of ten workers earning the minimum wage or less are women, (2) overall, more than half of low-wage women workers are mothers; of these nearly half are the sole wage earners in their families, (3) in 1995, a single mother with two children earning the minimum wage, full-time, year round earned $8,840 annually, 27 percent below the poverty line for a family of three. The statistics noted here are even worse for Hispanic women.

It is time that this country began to take care of its families and children. Corporate profits and the salaries of CEO's continue to rise while Americans are laid off work, employee benefits cut and government services curtailed. The gap between the rich and the poor continues to increase; the rich get richer and the poor get poorer. What does that mean for the future of our country?

I urge you to vote in favor of the minimum wage increase.

Sincerely yours,

NANCY LEON,
President.

LEADERSHIP CONFERENCE ON CIVIL RIGHTS,
Washington, DC, March 19, 1996.

DEAR SENATOR: The Leadership Conference on Civil Rights, a coalition of 180 national organizations representing minorities, women, persons with disabilities, older Americans, labor, gays and lesbians, religious groups, and minority businesses and professions, would like to express its strong support for legislation that would raise the minimum wage to $5.15 per hour.

As you know, Congress enacted the minimum wage to protect working families against poverty. However, a single mother with two children who works full time at $4.25 per hour will find that her family remains trapped nearly 30 percent below the federal poverty level. Thus, a permanent underclass is maintained. It is incumbent upon the United States Congress to raise the minimum wage and improve the quality of life for low income workers.

A minimum wage increase would benefit many American workers. More than 12 million workers would benefit directly if Congress raised the minimum wage to $5.15 per hour, and several million more who earn slightly more than $5.15 per hour would experience an increase from the ripple effect that results when the minimum wage is raised.

The last minimum wage increase in 1989 received strong bipartisan support. The Senate passed the increase by a vote of 89 to 8, and the House by a vote of 382 to 37. It was signed into law by President Bush.

The Leadership Conference strongly urges you to vote for legislation to raise the minimum wage to $5.15 per hour.

Sincerely,

RICHARD WOMACK,
Acting Executive Director.

DOROTHY I. HEIGHT,
Chairperson.

MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND,
Washington, DC, March 19, 1996.

DEAR SENATOR: The time has come to raise the minimum wage to a living wage. On behalf of the Mexican American Legal Defense and Educational Fund (MALDEF), I urge your support of S. 413, a proposal to raise the minimum wage to protect the nation's working families.

Today's minimum wage is at its lowest value in forty years. During this time, the purchasing power of the minimum wage has fallen to its second lowest level. The effect has been devastating to many American families, but particularly worse for Latinos. Because Latinos represent 17% of the minimum wage work force, this decline in the value of work has a severe impact on our community. Latino families are more likely to live below the poverty line, and Latino children are twice as likely to be living in poverty than non-Hispanic children.

By moderately raising the minimum wage, we will all benefit. Over a dozen empirical studies have shown that an increase in the minimum wage would not have a negative impact on employment. Instead of having the largest wage gap of any industrial country, Congress can act to keep jobs while protecting American working families against poverty.

Help lift families out of poverty and improve the lives of over 11 million American workers now dependent on minimum wage jobs. Please support S. 413.

Sincerely,

ANTONIA HERNANDEZ,
President and General Counsel.

MIGRANT LEGAL ACTION PROGRAM, INC.,
Washington, DC, March 18, 1996.

Re Minimum Wage Increase (S. 413).

DEAR SENATOR: We are writing to urge you to support S. 413, which would aid America's working families by increasing the minimum wage from $4.25 to $5.15 per hour.

If the minimum wage were to stay at its current level, it would be at the lowest level in real (inflation-adjusted) dollars in the last 40 years. The real value of the minimum wage is now 27% lower than it was in 1979, and has fallen 45 cents in real value since its last increase in April 1991. The last minimum wage increase—also 90 cents—garnered strong bipartisan support. That increase was passed by votes of 382 (including 135 Republicans) to 37 in the House and 89 (including 36 Republicans) to 8 in the Senate. Both Senator Dole and Representative Gingrich voted in favor of that increase.

Empirical evidence shows that this proposal can increase wages without costing jobs. More than a dozen studies have found that moderate increases in the minimum wage do not have significant effect on employment. These studies include state-specific research that shows that large state increases in the minimum wage did not result in significant job impacts. As Nobel Laureate Robert Solow stated, ''[T]he evidence of

job loss is weak. And the fact that evidence is weak suggests that the impact on jobs is small.''

The Migrant Legal Action Program works on behalf of the millions of migrant and seasonal farmworkers in the United States. An estimated 1.65 million farmworkers would benefit from the proposed minimum wage increase. Despite their critical role in providing stoop labor to prune, tend, harvest, and pack our nation's fruit and vegetables, migrant farmworkers are among the most impoverished and exploited populations in this country. At least two-thirds of all migrant farmworkers live below the poverty line. The majority of migrant farmworkers earn on average $4.47 per hour. Research indicates that an increase in the minimum wage of $5.15 would have a ''ripple'' effect, raising the wages of farmworkers who earn within 50 cents of the new minimum wage. Thus, a rise in the minimum wage would be a significant boost to the standard of living of migrant farmworkers.

We strongly urge you to support Americans' low-wage workers, including farmworkers, by voting in favor of S. 413.

Sincerely,

ROGER C. ROSENTHAL,
Executive Director.

Mr. KENNEDY. Mr. President, excerpts from the excellent statement from the NAACP state:

It is clearly a step in the right direction to improve the income and the quality of living for all Americans through an increase in the minimum wage. This is particularly true for African Americans, who disportionately constitute a large segment of minimum wage earners with below poverty level incomes. . . For all of these reasons, we strongly urge you to vote in favor of S. 413. . .

''The National Urban League,'' the same, ''believes that raising the minimum wage is an eminently sensible step. It would mean affirming a pro-work pro-family stance that should be welcomed by all who believe work should be rewarded * * *''

This continues with the National Hispanic Leadership Institute: ''It is time that this country began to take care of families and children.''

This is a women's issue. It is an issue of justice. It is a children's issue. Mr. President, it is a family issue—a family issue.

I will not take the time of the Senate now to recount the stories that we heard during our forums on the increase in the minimum wage, where we find a father and a mother not just having one minimum wage job, but each having two minimum wage jobs—two minimum wage jobs. When they testified or told us about their life's experience, they did not complain about working hard. They did not complain about backbreaking hours or hard, difficult, dreary work that is repetitive in so many ways. They did not complain. Their principle complaint was they did not have enough time with their children, that they did not see their children together, that the only time they see their children together is perhaps for a few hours on a Sunday. They always saw their children apart. We heard that time in and time out, Mr. President.

I hope we will not hear a lot of arguments about families, which we always do, and then when we have something that can make a real difference in terms of families, we find opposition to it. This is a families issue. It is a mother's issue, a child's issue, an issue of justice and fairness, an issue of identifying and rewarding work. It is family issue, and it is an economic issue for the reasons I outlined, in saving the taxpayer.

It goes on, Mr. President. Another letter, from MALDEF:

The time has come to raise the minimum wage to a living wage.

Mexican American Legal Defense and Educational Fund, the Leadership Conference on Civil Rights, Migrant Legal Action Program, all excellent letters. I hope those who come out in opposition, who say, ''We do not want to see a great dislocation of jobs,'' this opens an opportunity for minorities, blacks, and browns. The organizations that speak to them and the individuals that speak on this issue overwhelmingly support an increase.

Nowhere in America is there higher support than among those that are receiving the minimum wage, even when all the arguments are made, and I think inappropriately, about the dangers to those individuals—their jobs. I will come back to that issue.

Mr. President, this is a public health issue, as shown in a recent study by the Harvard School of Public Health and published in the British Medical Journal. Income inequality is a major public health problem. Measures such as raising the minimum wage, reducing the gap between the rich and poor will have a beneficial impact on the Nation's health. Findings show that reducing the income gap is correlated with mortality, even after adjusting for age and smoking. It is especially correlated with infant mortality, coronary heart disease, cancer, homicide, higher mortality from treatable diseases. One striking result is that the relationship between income inequality and mortality rates remained even after controlling for poverty. Greater income inequality was actually correlated with increased mortality rates for all income levels, not only for the poor.

So, Mr. President, for those that are opposed to the position we have advanced here this afternoon about what the impact of this is going to be on employment, we have included the series of studies on the impact on employment. I will come back to those issues in just a few moments, but these are some of the most recent studies, seven recent minimum wage studies on the impact of our increase in the minimum wage and what it would have on employment. These are the subjects of the study: New Jersey, Pennsylvania fast food restaurants, minimum wage raised to $5.05 in April 1992; increase in the wage, 11 percent. Did employment go down? No, employment goes up.

Right across the chart, Texas fast food restaurants, minimum wage rises to $4.25 in 1991. Mr. President, Texas has one of the highest numbers of people that would benefit with this increase in minimum wage. Wages go up 8 percent, and employment up 20 percent.

It goes on. California teenagers, minimum wage rises in 1988, 10 percent in wages, employment up 12 percent. Cross-State teenagers, cross-State workers with low-predicted wages from 1989 to 1992—we see the numbers constantly go up. And you can say, Mr. President, even the study with the 101 economists, 3 Nobel laureates, in their study—I am referring now to the leading economists for the higher minimum wage, Nobel laureates, with 101 signers of a statement backing a 90-cent hike over 2 years. I will include the whole statement on it. It is only 2 pages long. It says:

Most policies to boost the income of low-wage workers have positive and negative features. The minimum wage is an important component of the set of policies to help low-wage workers. It has key advantages, including that it produces positive work incentives * * * For these and other reasons, such as its exceptionally low value today, there should be greater reliance on the minimum wage to support the earnings of low-wage workers.

We believe that a Federal minimum wage can be increased by a moderate amount without significantly jeopardizing employment opportunities. A minimum wage increase would provide a much-needed boost to the incomes of many low- and moderate-income households. Specifically, the proposed increase in the minimum wage of 90 cents over a 2-year period falls within the range of alternatives where the overall effects on the labor market, affected workers, and the economy would be positive.

I ask unanimous consent that the entire document be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Center on Budget and Policy Priorities, Oct. 2, 1995]

LEADING ECONOMISTS CALL FOR HIGHER MINIMUM WAGE

THREE NOBEL WINNERS AMONG 101 SIGNERS OF STATEMENT BACKING 90-CENT HIKE OVER TWO YEARS

An eminent group of economists—including three recipients of the Nobel Prize in Economics—have endorsed an increase in the federal minimum wage in a statement released today.

Among the 101 signatories of the statement are seven past president of the American Economics Association and experts in disciplines ranging from labor markets and industrial relations to income distribution and poverty. Their statement was released by two Washington-based research organizations, the Center on Budget and Policy Priorities and the Economic Policy Institute.

The statement notes that ''After adjusting for inflation, the value of the minimum wage is at its second-lowest annual level since 1955. The purchasing power of the minimum wage is 26 percent below its average level during the 1970s . . . '' The purchasing power of the minimum wage reached its lowest level right before the last increase in 1990.

''We believe that the federal minimum wage can be increased by a moderate amount without significantly jeopardizing employment opportunities . . . Specifically, the proposed increase in the minimum wage of 90

cents over a two-year period falls within the range of alternatives where the overall effects on the labor, market, affected workers and the economy would be positive,'' the economists' statement continues. (Such an increase has been proposed this year in both the Senate and the House of Representatives.)

The statement's release comes as Congress is actively considering reductions in the Earned Income Tax Credit. Workers who are affected by a stagnant minimum wage are in large part the same people who would be hurt by proposed EITC cuts.

Opponents of a higher minimum wage sometimes claim that economic opinion is settled against any increase. The statement shows that this claim is inaccurate; there is substantial support within the Economics profession for a moderate increase.

The three Novel winners backing the minimum wage increase are Kenneth J. Arrow of Stanford, Lawrence R. Klein of the University of Pennsylvania, and James Tobin of Yale. Each has served as president of the American Economics Association. The other AEA past presidents signing the statement are Moses Abramovitz of Stanford, Robert Eisner of Northwestern, John Kenneth Galbraith of Harvard, and William Vickrey of Columbia.

STATEMENT OF SUPPORT FOR A MINIMUM WAGE INCREASE

As economists who are concerned about the erosion in the living standards of households dependent on the earnings of low-wage workers, we believe that the federal minimum wage should be increased. The reasons underlying this conclusion include:

After adjusting for inflation, the value of the minimum wage is at its second lowest annual level since 1955. The purchasing power of the minimum wage is 26 percent below its average level during the 1970s.

Since the early 1970s, the benefits of economic growth have been unevenly distributed among workers. Raising the minimum wage would help ameliorate this trend. The positive effects of the minimum wage are not felt solely by low-income households, but minimum wage workers are overrepresented in poor and moderate-income households.

In setting the value of the minimum wage, it is of course appropriate to assess potential adverse effects. On balance, however, the evidence from recent economic studies of the effects of increases in federal and state minimum wages at the end of the 1980s and in the early 1990s—as well as updates of the traditional time-series studies—suggests that the employment effects were negligible or small. Economic studies of the effects of the minimum wage on inflation suggest that a higher minimum wage would affect prices negligibly.

Most policies to boost the incomes of low-wage workers have both positive and negative features. And excessive reliance on any one policy is likely to create distortions. The minimum wage is an important component of the set of policies to help low-wage workers. It has key advantages, including that it produces positive work incentives and is administratively simple. For these and other reasons, such as its exceptionally low value today, there should be greater reliance on the minimum wage to support the earnings of low-wage workers.

We believe that the federal minimum wage can be increased by a moderate amount without significantly, jeopardizing employment opportunities. A minimum wage increase would provide a much-needed boost in the incomes of many low- and moderate-income households. Specifically, the proposed increase in the minimum wage of 90 cents over a two-year period falls within the range of alternatives where the overall effects on the labor market, affected workers, and the economy would be positive.

Mr. KENNEDY. It is not only these economists and others. I was interested in Business Week not long ago, May 20, 1996—I will include this in the RECORD—a commentary on ''Minimum Wage Argument You Haven't Heard Before.'' This is Business Week. We all hear a lot about the AFL–CIO supporting the increase. Here is a very interesting thing. We have the economists, and you have DRI, the econometric study up at the Wharton School, one of the most respected computer analyses in terms of economic forecasts estimated. The most they saw would be a 20,000 job loss for the minimum wage.

So you are talking negligible. You have other studies in here. There is the New Jersey-Pennsylvania study, which showed that it increased employment because people not in the wage market saw that they could get a livable wage and went back in. So the total number of workers that were working increased. Therefore, their taxes for their local communities, State and Federal increased as well.

Mr. President, in this ''Minimum Wage Argument You Haven't Heard Before''—I will include it all—it says:

As long as it's not overdone, lifting the minimum wage may create overall economic gains that outweigh any short term job loss. In fact, if it keeps productivity rising, slowly boosting labor prices may actually be good for the economy in the long run. ''Most economists oppose the minimum wage because they haven't thought through the connection to productivity,'' says Northwestern University economist Robert J. Gordon.

If this argument is correct, raising the minimum wage might not hurt the economy and could even pay for itself. Economists have preached the virtues of productivity growth since the Luddites and before. But the extra efficiency lowers prices, so consumers buy more goods and expand output—and the economy gains in the long run.

''. . . If raising the minimum spurs technical innovations, it could make a real difference in productivity and leave the economy better off,'' says David B. Neumark, a Michigan State University economist.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A MINIMUM-WAGE ARGUMENT YOU HAVEN'T HEARD BEFORE

(By Aaron Bernstein)

Most economists dislike the minimum wage for a simple reason: Raise the price of anything, whether it's lettuce or labor, and buyers can afford less of it. Such elementary logic convinces economists that jacking up the wage floor prices some workers out of a job.

But there's more to the subject than that. Because the relative prices of labor and capital influence corporate investment decisions, minimum-wage levels may affect productivity. If pay rates fall, employers have a greater incentive to buy labor instead of new technology. As a result, productivity growth, the key to higher living standards, slacks off. By the same token, raising pay can spur efficiency.

PAY FOR ITSELF?

As long as it's not overdone, lifting the minimum wage may create overall economic gains that outweigh any short-term job losses. In fact, if it keeps productivity rising, slowly boosting labor prices may actually be good for the economy in the long run. ''Most economists oppose the minimum wage because they haven't thought through the connection to productivity,'' says Northwestern University economist Robert J. Gordon.

The best way to see his point is to look at productivity growth, which has slumped to about 1% a year since 1973 from 3% in prior decades. One reason for the decline is the shift in prices of labor and capital, says Gordon and other economists. Baby boomers and women flooded the economy with cheap labor in the 1970s, they argue, and then the prices of capital exploded in the 1980s, when interest rates went through the ceiling. The result: Employment boomed in low-wage service industries, but productivity sagged as new technology became more pricey. ''This is one possible explanation for the slowdown in technological progress,'' says Paul M. Romer, a productivity expert at the University of California at Berkeley.

If this argument is correct, raising the minimum wage might not hurt the economy and could even pay for itself. Economists have preached the virtues of productivity growth since the Luddites and before. Yes, jobs are lost when employers swap technology for labor. But the extra efficiency lowers prices, so consumers buy more goods and expand output—and the economy gains in the long run. Economists applaud fast-food chains that install automated french-fry cookers and lay off workers. Why should the result be different just because the employer was jolted into action by higher labor costs?

Of course, a minimum wage pegged too high would be a problem. A minimum of $13 an hour, say—the average wage for the economy as a whole—would be a disaster. Everyone still working would be in high-wage, more productive jobs, so the economy would produce more per worker. But half the workforce would be unemployed, so total output would collapse.

EDUCATION

One solution: peg the minimum wage to a fixed percentage of average wages. That way, employers have a steady incentive to search out the most efficient methods of doing business. Yet the incentive isn't likely to become a hurdle that companies can't figure out how to overcome. ''If raising the minimum spurs technical innovations, it could make a real difference in productivity and leave the economy better off,'' concedes David B. Neumark, a Michigan State University economist who writes on the minimum wage.

Neumark and other skeptics still oppose an increase, however, because they doubt that the economic gains would materialize. Their fear: some low-skilled workers will never work again. If so, efficiency gains might not offset the output lost from their labor.

That's why setting a wage floor in today's high-skills economy must be combined with policies aimed at helping young people—who comprise half of all minimum-wage workers—to complete their schooling or vocational training. ''Yes, raising the minimum would lift productivity,but then you have to help those on the bottom to keep up,'' says Harvard University economist Dale W. Jorgenson.

A rising wage floor may boost living standards. It also ensures that low-wage workers aren't left behind. That's good for the economy and society alike.

Mr. KENNEDY. Mr. President, something that I think may have had some

impact over the history of these debates on the increase in the minimum wage is that we found that Republican Presidents like General Eisenhower, President Nixon, and George Bush all supported increases in the minimum wage. That is why so many of us are startled by the fact that there has been such extraordinary opposition to this whole effort to get an increase in the minimum wage.

For the reasons I have outlined here before, Republican Presidents have supported this. In 1989, Speaker GINGRICH AND BOB DOLE supported it. Yet, we have had this extraordinary difficulty in gaining support for an increase in the minimum wage.

Now, Mr. President, let us take not just the studies that have been done in reviewing past increases, but let us take the most recent examples of increases in the minimum wage and what happened in the States that have seen some increase in the minimum wage. State experiences also prove that minimum wage does not kill jobs.

Both Vermont and Massachusetts raised their State minimum wage to $4.75 in January of this year, while our neighbors in New Hampshire and New York did not. What happened since then? Have we lost jobs in Massachusetts and Vermont? Far from it. Since January, when these States raised their minimum wage, unemployment in both Massachusetts and Vermont has fallen. We have not lost jobs, we have added them. In fact, unemployment fell where the minimum wage was increased and rose where the minimum wage was frozen at $4.25.

Giving working Americans a living wage will not cost jobs. Making all employers pay a living wage will not cost jobs. The minimum wage law in Massachusetts does not exempt businesses with sales of $500,000 or less, and neither does the minimum wage law in Vermont.

Is the minimum wage a serious problem for small business? No, it is not. The studies cited by the Small Business Administration show that only 7 percent of small businesses consider the minimum wage a critical problem. Even a survey prepared by the National Federation of Independent Businesses, which every Member of this body knows is such an advocate in terms of small business, ranked the minimum wage as 62d in importance—62d in importance—out of 75 issues.

Another study, funded by the NFIB Foundation, revealed that even among the smallest of small business—those with less than 10 employees—only 6 percent considered the minimum wage a critical problem.

So, Mr. President, you can see that the States in the most recent times this year that have increased the minimum wage have not lost employment. The results are very similar to what the various studies have shown, that in a number of instances—not all, but in many instances—the increase in the minimum wage has attracted more people into the job market.

You have the outstanding economists that have recognized that an increase in the minimum wage would have effectively a de minimus, negligible impact in terms of the job market. DRI, one of the most respected econometric models, has found that in this most recent analysis that it is a virtually negligible loss of employment. And you find that the States have actually seen an increase in the minimum wage in the last several months. They have not seen a decline in the employment. They have actually seen an increase in the total number of employment.

Mr. President, we are all aware of the stark disparity in compensation in the workplace. The news is full of stories about huge compensation packages for CEO's, and a recent study done by Pearl, Meyer & Partners, a New York compensation consulting fund, found the compensation of CEO's in 30 major companies was 212 times higher than the pay of the average American worker.

Again and again, the financial pages tell the story of the shocking disparity between CEO compensation and pay for the average employees. On April 9, for example, a Washington Post study reported the $65 million compensation package for the CEO of Green Tree Financial Corp.

On that same day the Wall Street Journal published an 18-page section devoted solely to executive pay and the way it has risen through the roof. High-flying executive wages have risen through the roof. High-flying compensation packages like these are increasingly common, and they stand in stark contrast to the minimum wage that has been stuck in the basement for the last 5 years.

Mr. President, one of the groups that is strongest in opposition to the increase has been the food industry and restaurants which have developed a special provision in this Republican proposal as well so they effectively can circumvent any increase in the minimum wage, even though half of the women who work in restaurants across the country take on average $250 home a week. With their dependents you see that they are well below the poverty program. The restaurant industry has been able to carve out their own kinds of protection on it. We have gone through that. I will either take time tomorrow, or later to go through this in greater detail.

But I was particularly interested in looking through the compensation for those in the restaurant industry. What you find is this extraordinary explosion and increase in the salaries of those in the restaurant industries. They have increased dramatically, and no one is begrudging that they are doing very well in terms of the payments. But I daresay it is not very convincing when we hear about the problems the restaurant industry is having, and we see the total work force increasing, the profits going up, and the increase in the CEO's of these various food chain and food restaurant chains—low-wage fast-food restaurants—that are the strongest in opposition to this. We see that their salaries and compensation is going right up through the roof in spite of the fact that by and large most of them have had very, very substantial profits over the period of these recent years—significant profits; dramatic increase in the compensation of the CEO's; and effectively blind opposition to any increase in the minimum wage.

Mr. President, I will maybe go into that in greater detail as we have a chance to go through the debate.

Our Democratic Senators say raise the minimum wage. Our Republicans say let them eat cake. At best the last minimum wage was a very minimum wage. The minimum wage which you can have is effectively the minimum-minimum wage.

What possible rationale can there be for forcing millions of Americans to continue to work, as everyone knows, for wages so low that they cannot support a family? Republicans say the reason is to save jobs. But the fact is the modest increase we are proposing will not cause job loss and may even lead to an increase in employment.

One reason for that result is reflected in the analysis that Salomon Bros. recently released in a U.S. Equity Research Report of April 22, 1996. Salomon Bros. predicted that retail businesses would benefit from an increase in the minimum wage due to the enhanced purchasing power.

This is not a publication by the AFL–CIO. Here is Salomon Brothers' study of April 22, 1996.

> We believe that many retailers, especially discounters, would benefit from an increase in the minimum wage due to the enhanced purchasing power you create for many lower income consumers.

It is interesting that that concept has finally been accepted. Henry Ford understood it at the very beginning of the production of Fords. He understood that the only way he was going to sell his product was to give a decent enough wage so his workers could afford it. That is a lesson that we are coming back to.

So, Mr. President, we have other reasons from the business community that has indicated what their assessment about the impact of the minimum wage is.

So when we come out here later on this afternoon and tomorrow and say, ''Well, enormous job loss, inflation loss,'' the best estimate is that the impact of inflation is one-tenth of 1 percent.

Mr. President, in spite of the sensible studies like this, The National Restaurant Association claims that a minimum wage increase would be a job killer even though the restaurant industry has seen enormous employment growth since the last minimum wage. In fact, the actual experience of the restaurant industry shows the minimum wage increase would be good for business and good for the economy. For

3 years, before the two-step minimum wage in 1990–91, employment growth in the restaurant industry was falling along with the real wages of minimum wage workers. Restaurant industry growth in employment growth fell from 3.1 percent in 1987 to 2.8 percent in 1988, 2.3 percent in 1989, and 1.7 in 1990.

This is the decline in the growth of, annual employment growth, ''Eating and Drinking Establishments.'' It is very interesting that it was in 1990 when the minimum wage went in, in 1991. After the last minimum wage actually went in, we see this dramatic increase in terms of employment. Nonetheless, we just had an enormous 800,000 new jobs in the industry from 1991 to 1995. That is what our Republican friends call ''job killing.''

I say let us have more of it.

With respect to the Republican proposal for the small business subminimum, it is critical to remember that the last minimum wage increase took effect 5 long years ago. The coverage was expanded at the time to include employees and small restaurants who formally had been excluded. According to the Republican dogma, that expansion should have compounded the job killing effect of the increase. But it did not. Instead, the restaurant industry has enjoyed greater job growth, record profits, mind boggling increases in CEO pay. A subminimum wage is not needed. Small businesses do not need it, and their employees do not deserve that harsh and unfair treatment.

It is no wonder that America is growing apart as a Nation when so much effort is being expended to help those at the top of the ladder while ignoring the families at bottom of the ladder.

By lifting families out of poverty, an increase in the minimum wage of $5.15 an hour has additional benefits to society in terms of saving expenditures under the safety net.

Regrettably, our Republican colleagues continue to try to do all they can to undermine a fair increase in the minimum wage. At every turn, wherever they can, they take away the protection of minimum wage from various groups of workers and delay increases. That is what they try to do. Their goal is to see that any bill that passes leaves us with the result that more people are hurt than helped by the legislation. And that is what the Republican amendment would do.

First, they want to put off any raise until January 1, 1997, at the earliest. That means for another 6 months minimum wage workers will go without a raise as they already have for more than 5 years. They will be denied approximately $500 more in additional pay they would receive over the next 6 months—$500 they could have to buy medicine for children, new school clothes, Christmas presents. Surely our Republican colleagues must find this kind of meanness embarrassing.

Next, the Republican opponents to the minimum wage propose to create a subminimum wage for any worker who takes a job with a new employer. At least the House of Representatives targeted that on teenagers. And then they had a shorter period of time of 90 days. But they had it on teenagers. This is 160 days. And grownups, even if you have been a laid-off skilled worker that has worked for 20 or 30 years, for the first 6 months you are not going to get any increase. Our Republican friends know that about 40 percent of those that get the minimum wage are rotating every year.

So effectively it excludes anywhere from 40 to 45 percent of the total individuals that would be eligible for a minimum wage increase. At least they are true enough more than the last time in 1989 when they called this job training, except there was no requirement that any worker get an hour of training or an hour of education—no requirement on the employers at all. They just say that we need to have them have job training and education on that program because there was no requirement at all that they have it. Now we are talking for a period of 6 months. If you move from one job to another job, which so many of the workers do, you would be excluded. You come to the second job, and you start off there. They say for 6 months you do not get an increase above $4.25. Does not anyone think that might be an incentive for the employer to dismiss those workers? Of course, it will be. Of course, it will be.

I hope our Republican friends will talk to that issue. It will be an additional incentive to dismiss those and hire some others for the $4.25 and save themselves 20 or 22 percent on the employment of those people. But the American people are beginning to understand this issue, and hopefully Senators will reflect their views tomorrow when we will vote on this issue.

What they call an ''opportunity'' wage is really only an opportunity for the employer. It is not an opportunity for the employee. It is an opportunity for the employer to say that after 6 months you are dismissed, and I am going to bring somebody else in here and pay them $4.25. That is what the opportunity wage under the Bond amendment is really all about.

Mr. President, people that will be hurt most by this are the downsized, the laid-off workers who cannot find jobs equivalent to the job they lost. Not only will they endure the indignity of having their wages fall to the minimum, they will find themselves falling to a subminimum wage as well.

This past year has been a time of economic expansion and relative prosperity for the economy as a whole. But again and again, we see stories of white- and blue-collar workers laid off after long careers in good jobs. Many of these workers have found themselves forced to accept minimum-wage jobs after being laid off by a downsizing employer.

The Republican answer to their pain is to make it even more painful so that these workers fall even further and suffer even deeper financial loss.

Minimum-wage jobs are the least skilled jobs. They are jobs for which little or no job training is needed—at most, a few hours or days. Yet, the Republican amendment doubles the duration of the subminimum wage in the House bill, from the 90 to 180 days—far beyond any reasonable training period or try-out period.

There is no good reason for this harsh proposal.

What they have done is to say, look, we have the opportunity wage of 180 days, 6 months. So that will affect probably 40 percent. Then we cut out the restaurant industry employees from being able to participate. That is going to be another several hundreds of thousands of workers. And then they delay the implementing date. That is going to save the industries hundreds of millions of dollars in terms of wages paid out. Gradually through all of this, with the larger carve-out of any small business under $500,000—and those could be as high as 10 million—if you put all of these together, they will be able to say, look, we voted for an increase in the minimum wage.

The American people are going to understand that that is basically devious, deceptive and demeans, I think, any argument that they are basically for any increase for these working families. Rather than just give us an opportunity to vote on this up and down, no, we cannot. We will have an opportunity, but it will certainly be clouded by this attempt to try to say, look, you can have it both ways. You can have a vote for the minimum wage, and yet you will also protect these various special interest groups. In fact, in the real Republican view, the only good minimum wage is no minimum wage. They would repeal it if they could.

It is so interesting to me that in the period of these past months we have seen the attempts to dismantle the Medicare Program, the assaults that have been made on Social Security, and they have been made on Social Security, although our Republican friends will not say it, because Medicare is a part of Social Security; we can point that out, and it has been pointed out during the course of the previous debate and will again on the various budget issues. So they are opposed to Social Security, opposed to Medicare, and opposed to an increase in the minimum wage, those three essential items which have been such lifelines to millions of American families, to working families, to the elderly people in this country who have toiled and worked so hard for a better America.

The subminimum wage in the House-passed bill is bad enough. It applies only to teenagers. Many of the 18- and 19-year-olds need a living wage as much as any adult, especially if they are young welfare mothers willing to work for a living. The notion that they need training for 3 months in jobs like burger flipping or bagging groceries is absurd.

The Senate Republican proposal is even more objectionable because it imposes a longer subminimum wage.

We will, hopefully, have a chance to respond to points that will be raised by our Republican friends in justification of their proposal perhaps later on this afternoon. I have not taken the time of the Senate to go through other provisions of this bill that has been coupled with the small business tax relief. In fact, the benefits of this bill to businesses are enormous. It provides $15 billion in tax breaks to businesses over a 10-year period. For all the time that we have been talking about the deficit, I hope we are going to hear from our Republican friends as to where they are getting that $15 billion.

Sure, we ought to try to provide some help and relief to the smallest businesses that may be affected, but this is $15 billion that someone is going to have to make up somewhere. Someone is going to have to make it up. Add that to the deficit. Add that to the deficit, or at least respect the intelligence of the American people sufficiently to tell us how you are going to offset that. And can anyone believe that business is being hurt, not helped, with this legislation? Yet, the Senate is knee-deep in crocodile tears shed by Republicans who feel that business is being hurt.

Small business can now deduct up to $17,000 in expenses for new investment in a year the investment is made rather than deducting it over the life of the investment as the normal accounting rules require. This bill would gradually increase the deduction to $25,000. It goes on.

The bill opens up a loophole for corporations that we successfully closed in 1993.

In the 1993 reconciliation act, multinational corporations were required to pay taxes on excess profits and cash on hand from their operations in foreign countries. This provision was the first step needed to close the runaway plant loophole, and it reduced the tax incentives that encouraged U.S. companies to move jobs overseas. That was closed down in 1993, and it is being reopened again—a provision that will provide tax incentives to move American jobs overseas.

This bill provides tax breaks for business owners who run convenience stores with gasoline outlets. It provides tax breaks to banks and investment companies, tax credits to small wineries, helps farmers located in empowerment zones. It goes on. Yet they attempt to deny a fair increase in the minimum wage to millions of low-income Americans. There is no justification for denying even one working American the right to a living wage.

So Senators who preach about family values should practice family values, too. This is our chance to speak to the people who struggle the hardest to make ends meet, to abide by the work ethic, who believe in the American dream of working hard in order to get ahead, yet who find themselves slipping farther and farther behind, no matter how hard they try. We know the hardships they face.

In one family I met last year, the husband works 30 to 35 hours a week at $4.25 for a pizza chain. He works split shifts and evenings. His wife works 40 hours a week at a similar wage. She staggers her work hours so she or her husband can be home to take care of their young children. They have no health coverage. They cannot afford child care, let alone a medical savings account. Because they work different hours, they are rarely able to spend time together, and they worry about trying to save to send their children to college because both of them are still paying off loans for the 1 year of college they attended.

Large numbers of minimum wage workers have similar stories. They are bright, hard-working Americans often with high school educations and dreaming of a brighter future, but they are barely scraping by because the law allows their work to be undervalued and underpaid.

I urge the Senate to do the right thing for them, for the 13 million other Americans who will get a raise if this amendment is approved. Now is the time to make the minimum wage a fair wage. No one who works for a living should have to live in poverty.

Mr. President, I ask unanimous consent, in addition to those articles and periodicals I referred to in my statement, to have printed in the RECORD a ''List of Signatories to Economists Statement of Support for a Minimum Wage Increase.''

There being no objection, the list was ordered to be printed in the RECORD, as follows:

SIGNATORIES TO ECONOMISTS STATEMENT OF SUPPORT FOR A MINIMUM WAGE INCREASE

Aaron, Henry—Brookings Institution.
Abramovitz, Moses—Stanford University.
Allen, Steven G.—North Carolina State University.
Altonji, Joseph G.—Northwestern University.
Appelbaum, Eileen—Economic Policy Institute.
Arrow, Kenneth J.—Stanford University.
Bartik, Timothy J.—Upjohn Institute.
Bator, Francis M.—Harvard University.
Bergmann, Barbara—American University.
Blanchard, Olivier—Massachusetts Institute of Technology.
Blanchflower, David—Dartmouth College.
Blank, Rebecca—Northwestern University.
Bluestone, Barry—University of Massachusetts Boston.
Bosworth, Barry—Brookings Institution.
Briggs, Vernon M.—Cornell University.
Brown, Clair—University of California at Berkeley.
Browne, Robert S.—Howard University.
Burtless, Gary—Brookings Institution.
Burton, John—Rutgers University.
Chimerine, Lawrence—Economic Strategy Institute.
Danziger, Sheldon—University of Michigan.
Darity, WIlliam Jr.—University of North Carolina.
DeFreitas, Gregory—Hofstra University.
Diamond, Peter A.—Massachusetts Institute of Technology.
Duncan, Greg J.—Northwestern University.
Ehrenberg, Ronald A.—Cornell University.
Eisener, Robert—Northwestern University.
Ferguson, Ronald F.—Harvard University.
Faux, Jeff—Economic Policy Institute.
Galbraith, James K.—University of Texas at Austin.
Galbraith, John Kenneth—Harvard University.
Garfinkel, Irv—Columbia University.
Gibbons, Robert—Stanford University.
Glickman, Norman—Rutgers University.
Gordon, David M.—New School for Social Research.
Gordon, Robert J.—Northwestern University.
Gramlich, Edward—University of Michigan.
Gray, Wayne—Clark University.
Harrison, Bennett—Harvard University.
Hartmann, Heidi—Institute for Women's Policy Research.
Haveman, Robert H.—University of Wisconsin.
Heilbroner, Robert—New School for Social Research.
Hirsch, Barry T.—Florida State University.
Hirschman, Albert O.—Princeton University.
Hollister, Robinson G.—Swarthmore College.
Holzer, Harry J.—Michigan State University.
Howell, David R.—New School for Social Research.
Hurley, John—Jackson State University.
Jacoby, Sanford M.—University of California at Los Angeles.
Kahn, Alfred E.—Cornell University.
Kamerman, Sheila B.—Columbia University.
Katz, Harry C.—Cornell University.
Katz, Lawrence—Harvard University.
Klein, Lawrence R.—University of Pennsylvania.
Kleiner, Morris M.—University of Minnesota.
Kochan, Thomas A.—Massachusetts Institute of Technology.
Lang, Kevin—Boston University.
Lester, Richard A.—Princeton University.
Levy, Frank—Massachusetts Institute of Technology.
Lindbloom, Charles E.—Yale University.
Madden, Janice F.—University of Pennsylvania.
Mangum, Garth—University of Utah.
Margo, Robert—Vanderbilt University.
Markusen, Ann—Rutgers University.
Marshall, Ray—University of Texas at Austin.
Medoff, James L.—Harvard University.
Meyer, Bruce—Northwestern University.
Minsky, Hyman P.—Bard College.
Mishel, Lawrence—Economic Policy Institute.
Montgomery, Edward B.—University of Maryland.
Murnane, Richard J.—Harvard University.
Musgrave, Peggy B.—University of California at Santa Cruz.
Musgrave, Richard A.—University of California at Santa Cruz.
Nichols, Donald—University of Wisconsin.
Ooms, Van Doom—Committee for Economic Development.
Osterman, Paul—Massachusetts Institute of Technology.
Packer, Arnold—Johns Hopkins University.
Papadimitriou, Dimitri B.—Jerome Levy Economics Institute.
Perry, George L.—Brookings Institution.
Peterson, Wallace C.—University of Nebraska at Lincoln.
Pfeifer, Karen—Smith College.

Piore, Michael—Massachusetts Institute of Technology.
Polenske, Karen—Massachusetts Institute of Technology.
Quinn, Joseph—Boston College.
Reich, Michael—University of California at Berkeley.
Reynolds, Lloyd G.—Yale University.
Scherer, F.M.—Harvard University.
Schor, Juliet B.—Harvard University.
Shaikh, Anwar—Jerome Levy Economics Institute.
Smeeding, Tim—Center for Advanced Study in the Behavioral Sciences.
Smolensky, Eugene—University of California at Berkeley.
Stromsdorfer, Ernst W.—Washington State University.
Summers, Anita A.—University of Pennsylvania.
Summers, Robert—University of Pennsylvania.
Tobin, James—Yale University.
Vickrey, William—Columbia Unviersity.
Voos, Paula B.—University of Wisconsin.
Vroman, Wayne—Urban Institute.
Watts, Harold—Columbia University.
Whalen, Charles J.—Jerome Levy Economics Institute.
Wolff, Edward—New York University.

SMALL BUSINESS EXEMPTION

Mr. KENNEDY. Finally, Mr. President, an op-ed article in today's USA Today by Jack Faris, president and CEO of the National Federation of Independent Business, perpetuates the fallacy that Congress acted by mistake in 1989 when it increased the small business exemption under the so-called enterprise coverage test, but failed to do so for the so-called individual coverage test. In fact, Congress was well aware of the effect of its actions in 1989. There was no mistake.

Since the beginning, the minimum wage has covered large numbers of workers engaged in interstate commerce, regardless of the size of the firms they work for.

In fact, the original minimum wage, enacted in 1938, contained only the individual coverage test. That coverage was based on the view that Congress had broad power under the commerce clause of the Constitution to protect workers even in the smallest firms, as long as the workers were involved in interstate commerce.

From 1938 to 1961, coverage was based only on that principle—individual coverage—a case-by-case, worker-by-worker analysis as to whether the actual work involved interstate commerce.

At the beginning, the minimum wage also contained numerous exemptions based largely on policy decisions and interest group pressures. In some cases, entire industries or occupations were excluded from coverage. In the years since 1938, the major goals of Congress have been not only to increase the purchasing power of the minimum wage—or at least prevent a decline in its purchasing power because of inflation—but also to reduce the scope of these broad exemptions.

Notwithstanding the numerous industry specific exemptions, Congress never enacted a general exemption for small businesses. Since the beginning, many workers in very small firms have continued to be protected by the minimum wage under the individual coverage test.

In 1961, with the economy having grown rapidly in the years after World War II, and with vastly increased economic activities crossing State lines, Congress changed the definition of coverage of the minimum wage to achieve coverage in a more practical way.

The 1961 act specified that all workers in enterprises with more than a certain level of annual sales would be regarded as engaged in interstate commerce, and would therefore be covered by the minimum wage, whether or not the particular activities of individual workers in the firms involved interstate commerce. This new test of coverage was widely referred to as enterprise coverage.

The sales figure for the standard was set at various levels for various industries. For enterprises comprised exclusively of retail service establishments, the threshold for coverage was set at $362,500. For most other industries, the threshold was $250,000. But for hospitals, schools, public agencies, and enterprises engaged in construction, laundry, or drycleaning, the threshold was zero—all employees in those industries were covered, regardless of the size of their firm.

The addition of enterprise coverage was an expansion, not a reduction, of coverage. It was not a small business exemption from coverage—it was a large business expansion of coverage. It meant that workers in firms with sales above the threshold were protected by the minimum wage, regardless of their personal status in interstate commerce. They were covered, because their employers were involved in interstate commerce.

Under the 1961 act, workers in firms below the specified level of annual sales continued to be covered under the previous case-by-case, worker-by-worker standard, the so-called individual coverage.

One result of the broad increase in coverage by the 1961 act under enterprise coverage was the narrowing of the previous blanket exemption for workers in small retail firms and service firms. Workers in firms below the threshold in those industries for enterprise coverage continued to be exempted from individual coverage, even if they were engaged in interstate commerce. Above the threshold, workers in those industries were covered for the first time by the minimum wage.

That basic dual structure of enterprise coverage and individual coverage has continued since 1961. In 1989, Congress enacted a large increase in the threshold of coverage under the enterprise test—to $500,000 in annual sales. That increase, if enacted by itself, would have reversed the 50-year history of expansions of coverage of the minimum wage, by excluding an estimated 3 million workers from its coverage under the enterprise test.

That reduction in coverage was unacceptable by itself—so Congress offset the reduction by repealing the blanket exemption for workers in retail and service firms under the individual coverage test. For such firms, the pre-1961 case-by-case worker-by-worker test was reinstated. If the workers were engaged in interstate commerce, they were covered by the minimum wage.

In recent years, some, like Mr. Faris, have attempted to argue that Congress mistakenly repealed the blanket exemption for these small retail and service firms. It is clear that some Members of Congress thought they were voting for a blanket small business exemption when they voted to increase the threshold for the enterprise test to $500,000. But those Members of Congress were ignoring the longstanding principle of individual coverage—which the 1989 act did not abandon, and for good reason.

The overall legislative history of the 1989 act makes very clear that Congress intended to repeal the exemption for small retail and service firms. Otherwise, the entire legislation would have made no sense. The large increase in the threshold for enterprise coverage would have meant that 3 million workers were no longer covered by the minimum wage. Repeal of the exemption for small retail and service firms under individual coverage expanded that aspect of coverage by about the same number of workers. That result was intended by Congress, since the expansion of individual coverage offset the reduction in enterprise coverage. Without that fundamental compromise, the 1989 act would never have been approved by Congress.

So I hope my Republican colleagues will reflect again on this legislative history, and reconsider their attempt to reduce coverage of the minimum wage by exempting so many workers from its protection. Those who work for small firms deserve an increase in the minimum wage. They have waited 5 years for a fair increase, and now is the time for Congress to enact it.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

THE MINIMUM WAGE

Mr. DASCHLE. Mr. President, I commend my colleague, the senior Senator from Massachusetts, for his excellent remarks this morning in discussing the important issue of the minimum wage.

Harry Truman once said: ''Republicans favor a minimum wage, the minimum possible wage.'' I think that a lot of what was said in the 1940's may be applicable today, with a 1996 twist, which is: The minimum possible wage for the minimum number of people to

be affected. That, really, is the debate that we will have today and tomorrow with regard to the Bond amendment.

I want to call everyone's attention to the Bond amendment for what it is and what it is not. The Bond amendment, in many cases and in many ways, could be described as a Swiss cheese approach to the minimum wage; Swiss cheese, because it has so many holes it does not provide for the kind of continuity, the kind of opportunity that everyone ought to have if the minimum wage is to be an applicable national wage.

There are four very specific issues that it addresses in a very harmful manner, for those who are dependent upon the minimum wage. I want to discuss very briefly each of those four this afternoon. Suffice it to say, the Bond amendment is truly a vote against the minimum wage and against working families who depend upon it. It gives with one hand and takes with the other. It uses exemptions, denials, and delays to provide minimum wage increases to a minimum possible number of people. It is a more extreme version of this amendment than what was defeated in the House a couple of months ago.

The Bond amendment, No. 1, effectively denies an increase to all workers for the first 6 months of employment. It does not matter whether you are young or you are old, whether you are working for summer earnings or have to feed a family, whether you are with or without any experience, that provision in the Bond amendment would simply deny, for 6 months of employment, any opportunity to benefit whatsoever from the minimum wage.

The House-passed bill applies the subminimum to workers under the age of 20 for the first 3 months of employment. Already that is an extreme provision in some respects. The Bond amendment is even worse. The high turnover in these jobs is an inevitability, so many workers would never get an increase. I can see in some cases right now where someone will work for 5 months and 2 weeks and then find he or she is going to be left without work because to increase that person's wage would be something the small business owner may not want to do. So, in essence, you are going to get churning of people, regardless of what age they are; working for 5 months and 2 weeks or 5 months and 3 weeks, only to be denied a minimum wage job after that.

I believe most employers are very honest, hard-working people who care a lot of about their employees. But how many unscrupulous employers will there be, people who will find ways in which to avoid the law, avoid paying the minimum wage, avoid living up to their responsibility and find a way to keep people at this extraordinarily low, subminimum level?

The President feels so strongly about this provision alone that he said he would veto the bill if this provision is in the legislation when it reaches his desk.

Second, the Bond amendment denies an increase for any employee of companies with less than $500,000 in annual sales. Mr. President, these companies employ 10.5 million people. They make up two-thirds of all workplaces today. They include not only retail and service establishments, but manufacturing firms as well. Their employees already are denied benefits of most Federal worker protection laws. They earn lower wages, get fewer benefits, and have less job security than virtually anybody in the country. They should not be stripped of their minimum wage protections as well.

Over and above everything else, to say that a worker who only has the option of working in a company with sales less than $500,000, who probably does not get health insurance, probably does not get any other worker protection at the Federal level and probably has less job security, but at the same time now may also be denied even minimum wage protection is wrong. That is extreme, and that is something that we simply must oppose.

A third provision denies any raise to waitresses or waiters or other tipped employees. Right now employers need to pay only 50 percent of the minimum wage, or $2.13 an hour for tipped employees. Instead of maintaining that 50 percent employer payment, the Bond amendment freezes it for all perpetuity at $2.13. We could be here 20 years from now, and if the Bond amendment were to be adopted, anybody who worked in a restaurant would be frozen at $2.13, dependent entirely upon tips for any kind of an increase in a living wage.

This is especially a problem for women, because 80 percent of tipped employees today are women. In 1995, about half of full-time waitresses earned roughly $250 a week, less than the poverty level for a family of three. Just last year, half of the full-time people who worked on tips earned roughly $250 a week. So what we are going to tell all of those people, 80 percent of whom are women, is, ''You're going to have to live with a frozen minimum wage at $2.13 an hour for all perpetuity. There isn't any option for an increase. You don't have any opportunity to see your wages increase along with everybody else's. That $250 that you may be getting right now to feed your two kids, well, keep in mind we want to keep you off welfare, we're going to kick you off welfare, we're going to tell you to go get a job, go get child support, get health insurance, go find a way to clothe and house your kids, do all of that, but we're going to freeze your wage at $2.13 an hour.''

Mr. President, I cannot believe that this body is prepared to say that. If we want to reward work, if we want to protect families, if we want to find ways to ensure the children are going to grow in an environment that allows a mother to be home at least part of the time instead of getting three and four jobs, staying at home with children instead of working at wages that pay $2.13 an hour, then it would seem to me that they, above and beyond just about anybody else, ought to be entitled to some increase in the minimum wage.

The final thing is, this amendment delays the date of the minimum wage for another 6 months. When the House Members passed their bill, they said it was going to go into effect virtually on Independence Day, on July 4—actually, July 1, a couple of days before Independence Day—in the hopes that maybe some families out there could declare some independence economically, some opportunity to be a little freer than they are right now.

The Bond amendment says, ''No, no, that's too fast. If you earn minimum wage today, we're going to ask you to wait until after next Christmas before you're entitled to any increase in the minimum wage. You're not going to get it in July, you're not going to get it by Labor Day, the day we set aside to honor working families. No, we're going to make you wait until after next Christmas. We're going to wait until next January before this wage goes into effect.'' This is on top of months of delay caused by a Republican filibuster to the minimum wage.

Mr. President, minimum wage workers have gone without a raise now for 5 years. We have had raises. Most people have had raises in this country over the last 4 and 5 years. How remarkable it is that those same people who espouse welfare reform, who want to join with us in providing real opportunities for work, to encourage work, would say that the one thing that would probably encourage work more than anything else, an increase in the minimum wage, is something we just should not do. We should not do it for tipped employees, we should not do it for employees in businesses that have less than a $500,000 gross income, we should not do it for the first 180 days for anybody who is on minimum wage. Regardless of what else happens, we better not even do it until 1997.

I must tell you, Mr. President, I have a hard time understanding the motivation for those who would want to say that to over 10.5 million people—actually close to 14 million workers—in this country. This delay equals the loss of more than $500 in pay, money that could go for the health care and the food and housing that kids are going to need.

Every day on the floor somebody with good judgment and with good reason comes to lament the destruction of the family, comes to lament the destruction of this nuclear core that we think so much about and that we think really is the key to a civilized society. We cannot understand why there are teenagers out on the street making trouble for the rest of society. We do not understand why they lost their values. We cannot figure out why there is an increase in juvenile crime and truancy and all the other problems.

Mr. President, I will tell you why. The reason is because more and more

mothers and fathers are forced to leave their homes, unable to take care of their children, because they have three or four jobs they have to hold to make ends meet. That is what this is all about.

So if we are ever going to get back to making sure that the family is protected, making sure those children have core values with which to ensure that they will be productive parts of society, then it seems to me we have to understand that it all starts with the paycheck and whether or not families have the dignity and the opportunity that they must be accorded to ensure that there is some paycheck security in their families.

Minimum wage workers are not what many people think they are. Two-thirds of them are adults; 40 percent are sole breadwinners; 60 percent are women. Minimum wage workers' earnings account for almost half of the families' total earnings today.

So, Mr. President, this is going to be, of all the votes we cast, one of the most critical votes we are going to cast this year, because it sends a clear message out there that we hear you, we know how insecure so many people feel today because of their inability to pay their bills. Not that they are not working hard enough; they are working harder and longer than other families in history. They are making the hard choices about going out and finding another job or staying home and taking care of their children.

America is going to watch this vote. They are going to watch to see whether we vote for the Swiss cheese Bond amendment, the one with all the holes in it, the one that devastates the minimum wage law for the first time in decades, or whether we are going to stand up and say, at long last, America needs a raise after 5 years.

Those who are on minimum wage deserve it. If we want to keep them off welfare, they deserve at least a 90-cent increase. That is all we are proposing here. It is time we do it. Inflation has eaten away 95 percent of the last increase. At the current level of $4.25 an hour, many minimum wage workers who work 40 hours a week do not earn enough to keep their families out of poverty. How sad that is today.

So unless we act, the minimum wage is going to fall to the lowest level in 40 years. This does not have to be partisan. The last time we voted on this it was bipartisan. Six weeks ago, the House voted overwhelmingly in favor of it; 93 House Republicans voted for it. The vast majority, I am told, over 80 percent of the American people, want to see it increased.

This is a chance to do something right. It is a chance for us to stop stalling, to send a clear message to people across this land that we recognize how important your paycheck and your long-term security is, we recognize how important your family is, we recognize that if we are going to urge you to stay off welfare and go to work, that you need a wage to do it. That is what this does. It is important we pass a minimum wage increase. It is important we defeat the Bond amendment. It is important at long last we sign the increase into law.

Mr. KENNEDY. Will the Senator yield for a very brief question?

Mr. DASCHLE. Yes. I will be happy to.

Mr. KENNEDY. Mr. President, I included in the RECORD the statement by the National Retail Federation that was put out on July 1. The National Retail Federation is the largest retail trade association in the country. In their front page they referenced the minimum wage fight in the Senate. They say President Clinton says he will veto the minimum wage increase if it passes, talking about this particular proposal. ''Let him.'' ''It is our last chance and best hope for stopping the minimum wage increase this year,'' referring to the Bond amendment.

So here is the largest retail association saying effectively that the best way to stop any increase in the minimum wage is to support the Bond amendment. I have concluded that was really a devious measure in the sense that people want to have it both ways.

This is my question: Whether the Senator would think that the argument might be made to those who support the Bond amendment, well, you can vote for it; it is an increase in the minimum wage. But on the other hand, for reasons that the Senator has outlined so well this afternoon, effectively it gives with the one hand and takes away with the other hand.

I am just wondering if this is really the purpose: Our best chance and best hope for stopping the minimum wage increase this year. Here is the largest retail organization making this clear statement. We ought to call a spade a spade and say that effectively the Bond amendment is really an effort to stop and halt any increase to the minimum wage. That would be the result of it were it to pass. So the vote would be very clear in terms of who is on the side of working families and who is not. I am just wondering what conclusion the Senator from South Dakota would reach on that.

Mr. DASCHLE. Mr. President, if I could—I will use whatever leader time I may require. I know our time runs out at 2 o'clock. Given the fact no one else is here at this point, I will use leader time to the extent necessary to respond to the distinguished Senator from Massachusetts.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator may use his leader time.

Mr. DASCHLE. The Senator from Massachusetts is absolutely right. In many respects, I think there are some of our colleagues who would like to have it both ways. They would like to say, ''Yes, I voted for a minimum wage increase,'' but then go tell some of their business constituents, ''But really I didn't. I really didn't. This is not a real minimum wage because we exempt virtually everybody.''

I was home last weekend, and I just took my own poll. I asked retailers, I asked people in just about every line of business I could find in South Dakota, ''What do you think? What do you think about raising the minimum wage? Is this something that you oppose? Would this hurt you badly? What are your thoughts?''

I was amazed, just amazed at the level of sophistication, about the compassion, about the recognition of the importance of this issue, about how troubled many of our employers are in watching their employees try to make ends meet by holding down two and three jobs, because they know that one job is not going to be enough.

One employer told me, ''You know, TOM, I really don't know how these employees do it today. I go home and I watch the baseball game at night when I finish work. Some of my employees go to their second job. And their spouses are already at a second or third job. I don't know, but more and more I'm seeing their kids out in the streets because I know they're not home taking care of them.''

I had an employee tell me the only dinner—the only dinner—they have together is after church on Sunday once a week. The whole family now gets together for dinner once, on a Sunday, because they have no time during the week, no time because everybody is working even harder carrying out second and third jobs. As a result, the kids cook for themselves. The kids are doing whatever they have to. Hopefully they are doing their homework.

But, Mr. President, that is exactly what we are trying to talk about here. We are trying to address a real and growing problem. If we are serious about family, if we are serious about trying to keep them together and teach our youngsters values, who is to do it if the family is not together? Can you teach all the values that you have to share with a young person growing up on a Sunday after church? I do not think so.

So, while some of our colleagues would like very much to be able to say, ''I voted for a minimum wage,'' but then secretly, ''I voted to gut it,'' let me tell you, there are a lot of business people, at least in South Dakota, who see it for what it is, who recognize that we have to do what is honorable here. It is time we recognized that people on minimum wage need more than just $4.25 an hour to survive if they are going to take care of their kids. So I appreciate very much the distinguished Senator's raising the question. I yield the floor.

The PRESIDING OFFICER. Under the previous agreement, the Senator from Georgia, Mr. COVERDELL, is to control the next 90 minutes.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. It is my understanding that for the next 90 minutes, I or my designee have control of that time.

The PRESIDING OFFICER. The Senator is correct.

Mr. COVERDELL. Very good.

FBI FILES AT THE WHITE HOUSE

Mr. COVERDELL. Mr. President, on Wednesday, July 3, which, incidentally, was the cost-of-Government day, which means the last day after which an American family finally quit paying Government—July 4 took on a special meaning because it was not only Independence Day, but because it is the first day a family could keep its own check. But, interestingly enough, in the midst of all the debate, a very interesting editorial appeared in the Washington Post, which characterizes itself as an independent newspaper.

On July 3, the Washington Post said, ''FBI Files and the ex-FBI Author.'' That was the name of the article. It says:

> Controversy swirls around both [these issues], but it ought to be possible to separate the probe of the improperly requisitioned FBI reports by the Clinton White House from the effort to sort out fact from fiction in former FBI agent Gary Aldrich's book about life at the White House.

I agree with this. I agree that the commentary of a popular book ought to be separate from the very, very serious issue of hundreds of our citizens' personal FBI files going to the—hundreds. At this time the current number keeps going up. It started out 300. Then it went to 407. Then it went to 600. Then 700. The last report I have seen is 900. It is almost beyond belief. Both that the White House could request those personal files and that those files could be violated by our own Federal Bureau of Investigation.

The Post says:

> The three probes need to find out if the country has an abuse of presidential power on its hands or whether it is witnessing yet one more White House staff-administered blow to this president's prestige.

Mr. President, for my own part, while there is deep concern about what has transpired at the White House, I think so far the public discourse underestimates what transpired at the Federal Bureau of Investigation. It is beyond my understanding how this many personal files or the data in those files could be copied and so routinely made available to the White House without fire alarms and sirens going off from the front to the back door and all the way to the Director's office. I cannot imagine how this could happen. Now, the Director has said there was an egregious breach of honor between the White House and the FBI, but much more will have to be answered than that simple question.

Mr. President, I see we have been joined by the distinguished Senator from Arizona. I yield up to 15 minutes to the Senator from Arizona for his remarks.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I thank the Senator from Georgia both for taking time to get into this matter and also for yielding time to me.

I was perplexed, to say the least, as I sat through hearings as a member of the Senate Judiciary Committee just before the Fourth of July break, hearing testimony from Mr. Livingstone and others regarding this matter of the FBI files. I am going to come back to some conclusions that came out of that hearing and some questions that remain in a moment.

I thought, first, perhaps, it would be useful to discuss generally what we have here. There have been, especially in the time since Watergate, numerous investigations of officials involved in different administrations. To some extent, I think this has been politically motivated. To a large extent, I think it is a process that is important in a democracy, because people need to have confidence in their Government, particularly when people in high places are accused of wrongdoing or there is a potential of wrongdoing. We have established a system whereby an independent kind of investigator or prosecutor called the special counsel is appointed by the Attorney General, with court acquiescence, to investigate matters. There have been prosecutions from time to time in administrations since the Watergate matter that have demonstrated it is wise to have these kinds of special counsel available to look into such matters.

While there may be some politics involved, and certainly Republicans believe there is politics involved in some of the investigations in the Reagan and Bush administrations, and I am sure that some Democrats believe there is glee in Republican ranks to find things wrong now in a Democratic administration, the fact is it is still important to try to get to the bottom of some of these matters, particularly where it goes beyond politics. I think it can be demonstrated with this administration that it has gone far beyond politics, that there has been wrongdoing, and that there are people in this administration that, to say the least, have been ethically challenged.

As a matter of fact, Mr. President, according to an article written by Mary McGrory in the Washington Post,

> President Clinton said that his administration would be the most ethical administration in the history of the Republic.

That was shortly after he was inaugurated. I think history will reveal that this is one of the most ethically challenged administrations in the history of the Republic. This FBI scandal is, frankly, just the latest of the scandals in the Clinton White House. As the Senator from Georgia pointed out, this involves the misuse of about 900—at least that is the number we have so far—900 FBI files.

Going back to reflect on what has occurred earlier in this administration, and again this is not really partisan because if you look at the last three Presidents, President Carter, President Reagan, and President Bush, I think almost all Americans would agree that all three of these Presidents had the highest ethical standards, Carter a Democrat, the other two Republicans. It did not matter what their politics were. I think most Americans believe that all three of them are people of the greatest integrity and repute. To the extent there was any wrongdoing in any of their administrations each one of them had accusations made, they took responsibility, they tried to clean house, and their integrity, I think, remains without question.

In this particular administration, look at what we have. We have first of all, Roger Altman, Treasury Secretary who misled Congress about his discussions of a Whitewater-connected S&L. He resigned. Henry Cisneros, the HUD Secretary under investigation by court-appointed counsel for lying to the FBI. Mike Espy, former Secretary of Agriculture, under investigation for taking illegal gifts. He resigned. Web Hubble, a very close associate of the President and First Lady, Associate Attorney General, has been sentenced to 21 months in jail for mail fraud and tax evasion. William Kennedy, former associate White House counsel, and possibly one of the people involved in the hirings of Craig Livingstone, failed to pay Social Security taxes and resigned. Bernard Nussbaum, former White House counsel, resigned his post after being accused of improper contacts with Whitewater investigators. David Watkins, former White House director of administration, resigned after he used a Presidential helicopter to play golf. Hazel O'Leary, Secretary of Energy, has committees looking after her travel, and though she is still in the job, questions remain. More than a dozen indictments relating generally to Whitewater, most resulting in plea bargains, if not convictions. As a matter of fact, three close associates of the President were convicted by a jury, including the President's hand-picked successor, Gov. Jim Guy Tucker.

Then the Travelgate matter. It was as a result of the Travelgate investigation that the information about the FBI files came out. It was, really, quite by accident. The House committee investigating the Travelgate matter had asked for 3,000 documents, all of which had been denied by the White House, 3,000 documents. Finally, under threat of subpoena and contempt of Congress if they did not comply with the subpoena, the White House agreed to turn over one-third of those documents. It was one of those 1,000 documents that led investigators of the House committee into the FBI file issue, because there was a reference to FBI files having been obtained, I think, perhaps, relating to Billy Dale who was the fired head of the Travel Office of the White House. The rest, as is commonly said, is history.

It was learned first that there were about 300 files, then 400, and as the Senator from Georgia pointed out, it may now be as many as 900 files improperly obtained, most of which were reviewed. It is unclear whether information in those files has been revealed to people improperly. In any event, the mere review of those files was improper, as was the acquisition of those files from the FBI. Also, quite improper was the storage of the files then in the White House, rather than having them returned to the FBI. The fact they were not secure and many people had access to them who should not have had access to them, we do not know yet what might have been done with those files and whether information was copied or used. We may not know for a long time whether information in those files, stored away in somebody's drawer, might later come back to haunt some of the people whose files were improperly obtained.

All of this is beginning to come out. It is not coming out from the White House. It is having to be gathered by the House committee, the Senate committee, the special prosecutor. Just little bits and pieces of information keep coming out. There is no coming clean by this administration, which was going to be the most ethical in history. As a matter of fact, the President originally attributed this whole matter to a bureaucratic snafu. Now, I think one of two things is true, Mr. President, but a bureaucratic snafu is not one of them.

Here is what we know for a fact: A political operative, so described in the press, I am talking about Craig Livingstone, part of his responsibilities in previous campaigns had been opposition research, and part of it had been to cause Republicans traveling around George Bush, I think, in particular, trouble when he stopped at various locations. But Craig Livingstone has had a history in Democratic campaigns of snooping on the opposition, learning facts. I believe it was by his own admission or perhaps he was proud of the fact that he learned things about the Dan Quayle campaign, took them back to the Mondale campaign, and, as a result of that in the debate that Dan Quayle and Lloyd Bentsen had, Bentsen was able to come up with the great line, ''You're no John Kennedy,'' because Livingstone had learned in advance that Quayle was going to compare himself during this debate to John Kennedy.

So here you have a man who has admitted that he is a political snoop—some say dirt digger, but let us use the term that is generally applied, and that is a person skilled in ''opposition research,'' an individual who finds out things about the opposition in political campaigns, a person with no professional security experience whatsoever.

Now, when this administration comes into power, people who have been there through Democrat and Republican administrations, nonpartisan, professional security people, who have been in charge of White House personnel files, to get clearance so that the people who are in the White House are all cleared, are let go. Mr. Livingstone is brought in, and nobody seems to remember who hired him. Nobody can recall. This is the first job this guy has in the White House, and he cannot remember who hired him. I think if I got a job in the White House, I would remember who hired me. But that is another matter.

This person, with no experience whatsoever, certainly not a professional in security matters, is put in charge of what? He is put in charge of the most sensitive material on any American citizen—their FBI file. These are the things which people have had to tell the FBI in order to get clearance. They are the most sensitive things about their history that exist. These FBI files, then, are routinely reviewed by the security office in order to give these clearances. Craig Livingstone is specifically given the job of clearing people for the ability to be in the White House and have access to the White House.

Now, is it a coincidence that somebody who is skilled primarily in opposition research in political campaigns just happens to come across 300, 400, 600, maybe 900 FBI files—almost exclusively of Republicans—and that he then has a friend of his, who also has been involved in this kind of political activity, review those files? Is it just coincidence that a person with that kind of background then begins to conduct this kind of activity? Maybe so. That is one possibility. The other possibility is that he was told to do it and he was following orders. Those are the two possibilities, Mr. President.

There was no bureaucratic snafu because there was no bureaucrat involved. There was a paid political operative involved. One of the things that I think we need to find out is exactly what did Craig Livingstone and Anthony Marceca do when they worked in the various Presidential campaigns that they worked in? Were they involved, as has been reported, in doing opposition research? Why were they hired? Who made the decision to hire them? Why were they hired? People with no security background skills, but very skilled in opposition research—apparently—according to Craig Livingstone's own comments in his hometown newspaper. Why were they hired? Who hired them? What instructions were they given? Were they simply operating on their own? Based upon the information that has come out in the hearings, it is very unclear whether or not anybody gave them instructions. It is not resolved yet. That is an open question. It may be that if you hire a plumber, you will assume he will do plumbing. And if you hire an opposition researcher, the assumption is that he will do some opposition research for you. Maybe there does not have to be an explicit instruction. As a matter of fact, maybe under the doctrine of plausible deniability here, the instructions were given in a wink and a nod so that anybody higher up in the White House could say, ''Gee, I never told him to dig up dirt on Republicans. I guess he just did that on his own. We certainly did not ask him to do it.''

So it seems to me that one of two things is true. When you hire a political operative, a person who is skilled in opposition research, by his own account, and he happens to gather up the files of the opposition on, in effect, 800 or 900 Republicans, it could be coincidence. That could be true. It could also be that it was intentional. If it was intentional, it was for the purpose of learning information about these people which could later be used for political purposes. There has been a lot of speculation about possible motives. There is no question that Billy Dale, the head of the travel office, was greatly mistreated by this administration. The FBI was brought in to investigate. He was eventually prosecuted and, of course, he was found innocent. But his file was among those requested, and the files were from A to G, and that certainly falls within that area. So it could have been to get information on him, and the rest of the files were used for cover.

It could have been that this administration, intent on learning everything it could about 900 Republicans—there were something like a thousand people who needed access to the White House, who needed clearance, and they had not even complied with the FBI yet so they could be cleared. It was a year or two before many people who needed security clearances in this administration were cleared. It finally became a scandal about this same time. Dee Dee Myers, the press secretary, did not even have clearance. Time after time, people who needed clearance put off interviews with the FBI, refused to give them information. It was not until after this that the GAO did an audit and the White House had to clean up its act and at least get the information together to provide the security clearances for people who required access to the White House.

There is speculation that in order to, in effect, cover for that deficiency and inadequacy, the thought was that if we dig up some dirt on Republicans, that will even it out and there will not be so much heat put on us. Maybe it was simply for future use, or for present and future use. We do not know. We have not gotten answers to some questions yet. Either it was an enormous coincidence, or there was something more sinister behind it.

In either event, it was wrong, and no one has denied that access to these FBI files by people who should not have had access for these reasons was wrong, was unethical and, perhaps, depending upon if IRS material was in the files, for example, was illegal as well.

So let us just conclude with some questions here that I think we are

going to need to get the answers to before we make any accusations. I do not think we know enough yet to make accusations. Here are some of the questions I would like to have answered. Let us tie down exactly who hired Livingstone and why. It was, as George Stephanopolous points out, an incredibly loose, informal, and I would say negligent approach to hiring one of the most important people in the White House. He happened to be on board when Kennedy got there and, therefore, they just assumed he should be the guy in charge. So his employment was then ratified. Well, who decided all of that, and on what basis was Livingstone hired as opposed to some professional?

As a matter of fact, the White House had a recommendation before it by the then chairman of the Senate Intelligence Committee, my predecessor, Senator DeConcini from Arizona—a Democrat, by the way. After reviewing the White House security office situation, that committee made recommendations, conveyed by Senator DeConcini, that the White House had to get its act together and appoint a professional, nonpartisan person to head this office. That was not done. As a matter of fact, I have read that letter of transmittal. There was a very nice response back by the then White House counsel, Lloyd Cutler, who thanked Senator DeConcini for the information and said they would get back to the committee after deciding what to do. As far as I know, there was never any further response. It was known that there was a problem here. So, in a bipartisan way, recommendations were made to the White House to clean it up. But it apparently was not cleaned up.

Who discussed this within the White House? Why were the political operatives put in charge of reviewing these files? What activities did Livingstone and Marceca actually perform in the Democratic campaigns of George McGovern, Ed Muskie, Geraldine Ferraro, AL GORE, Bill Clinton, and others? Are these men the political opposition researchers, dirt diggers, spoofs, or whatever you want to call it? Did Livingstone infiltrate the Dan Quayle campaign? Who gave them their instructions and what were they?

Did anyone in the White House ever become aware of any of the information from those files? This information only came to light, as I said, because the House oversight committee was going to subpoena it from the White House. But there are still 2,000 documents that have not been reviewed. There is now an arrangement under which the House committee can look at those 2,000 documents. But they cannot be taken out of the White House possession. What is in those 2,000 documents?

Finally, when the problem was discovered, why did the White House not come forward? Why was Craig Livingstone hired? If it was merely a mistake, as the White House indicated, one would have thought, if this is the most ethical White House in the history of the Republic, that the White House would have come forward and would have said, ''We want to find out something here; we want to make everybody aware of it; here is a big mistake; here is what it is.'' You would have assumed they would have come forward.

One of the suggestions of wrongdoing is there is an attempt to cover up. Certainly in this case there has been an attempt to cover up.

So I realize these are more questions than answers but I think these are the things that we need to get out, and we need to find the answers to. And in this case, unlike the assertion with regard to certain other situations, there is already an acknowledgment by everyone that there was something wrong done. It was a question about whether it was intentional, or just accidental. But clearly it was wrong.

So I do not think we can have the excuse that we should not be spending money to look into this, that there should not be hearings to get to the bottom of it, and so on. Remember that when there is any illegality, or impropriety, or something that is wrong and gives people less confidence in their Government, we need to get to the bottom of it because the essence of a democratic republic, such as ours, is that the people run their government, they have confidence in it, they have trust in it, and when that lags, when that fails, when it frays, then the very fabric of our Government begins to come apart.

So, Mr. President, I commend the Senator from Georgia for having this discussion to bring some of these questions to the floor; to raise some of the questions that we still need to get answers to. And I think it is appropriate, both for this body and for the House of Representatives, to continue the investigation to get to the bottom of the matter so that at a very minimum nothing like this can ever happen again. It is people's lives that have been intruded into here; innocent people. And the power of the Federal Government and of the White House should never be used for political retribution, or to disclose the deepest secrets of any individual for improper purposes.

Therefore, we have every reason, I think, to ask these questions and to try to get to the bottom of this FBI file matter.

Again, I thank the Senator from Georgia for bringing this matter to the light of day.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I want to pay particular compliment to the Senator from Arizona. I believe he has framed the substance of this issue very succinctly, in a way that is most understanding in the phrasing of the questions for which we must resolve. It was exceedingly well done. I want to compliment the Senator from Arizona for his usual form as he deals with this very, very sensitive subject.

Mr. President, I want to go back to the Washington Post editorial that appeared on July 3. They point out that we now have three separate inquiries, or investigations into what went wrong between the White House and the FBI. There is the House inquiry, a Senate inquiry, and, of course, the Justice Department has now turned this matter over to Independent Counsel, Kenneth Starr.

They say:

> The three probes need to find out if the country has an abuse of Presidential power on its hands or whether it is witnessing yet one more White House staff-administered blow to this President's prestige.

Then they go on again to say that we need to separate these probes from the books that are appearing on a regular basis, and I concur with that entirely.

It goes on to say:

> Four days of congressional hearings, however, have yet to adequately explain why hundreds of FBI reports on employees of former Republican administrations ended up in the office of former party operative and now resigned White House personnel security director Craig Livingstone. For nearly two years, sensitive FBI documents were maintained in an office and vault where political advance types, interns and volunteers—without security clearances—could have had easy access to them. What happened to security standards?

This is a question that every American citizen will now want answered, and answered quickly.

Mr. President, we have been joined by the Senator from Montana, and I yield up to 10 minutes to the Senator from Montana.

Mr. BURNS. Mr. President, I thank my friend from Georgia.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Thank you, Mr. President.

Mr. President, we have all come off of a week of vacation with a lot of travel. You get to visit with a lot of people. We think that the whole world is focused in on what happens here in Washington, DC. To our surprise it is not. Maybe that is something to be thankful about.

Mr. President, I am baffled after coming off this vacation that I can be sitting in a committee hearing with CEO's and president's of companies like Netscape, like Microsoft; like all of the companies that have come to be, within the last 10 or 15 years, powerful; and companies in the new technologies that we are using today, listening to these president's and CEO's argue for strong encryption technology that is vital to the future of businesses while at the same moment this administration is apologizing to the American people for the exposure of confidential FBI files—I just find absolutely unbelievable that this kind of snafu could be permitted by and enacted by several of the employees at the White House

that have unlimited access to extremely—I say ''extremely''—confidential information on hundreds of prominent Americans.

After this incident, it gives me pause. And it might be clear that not only does this President believe in big Government, but, I add, does he also believe in Big Brother? Contrary to popular opinion, Big Brother is probably watching and listening to all of us.

A startling fact revealed this week is that over the last 4 years electronic eavesdropping has increased by 100 percent; from 340 in 1993 to an estimated 700 in 1996. Does that mean that we have more criminal activity? I do not think so. I think in fact that most of the crime figures are going the other way. The 1994 Communications Assistance for Law Enforcement Act mandates that all of the Nation's telephone carriers build special access for Government wiretappers as these new telephone companies develop new digital telephone systems, and that access makes it easier for the Government to listen to just about anybody or anything that they want to.

Right now in this country among the business community—and after the passage of the 1996 Telecommunications Act that allowed this new superinformation highway to be built and to be advanced—we are seeing that information highway used for many purposes: Business creation, national security, communications, and exchanging information. Most of the integrity of that information highway will depend on the kind of encryption or the codes that we can put so that whoever we mail to we make sure that it is for their eyes only and that it has not been monkeyed with or tampered with.

Any of the three is crucial in doing business on today's information highway. It is just like you drive a truck. If you want to ship some goods to Pennsylvania, you use a public highway. That could be called the Internet. What do you do? You lock the truck. The truck gets on the highway, gets off the highway. You want to make sure that your property is protected. That is very essential in this business, this business of high tech and using the information highway.

So basically, we need security through encryption technology to protect our bank transactions, our health transactions—telemedicine is a reality nowadays. We will deliver our medical services via the information highway. Your medical records should be kept secure—Internet commerce; in other words, if you are doing business on the Internet, you have communiques for your people, their eyes only—and, of course, software security.

There is intense international competition in the technology of encryption. So, Mr. President, we do not live in a vacuum. Other countries are developing encryption technology. But American software companies are hurt by the old World War II-type mentality to encryption technology.

Ironically, the only obstacle to creating the safe environment in cyberspace is none other than the White House. The President actually argues it is imperative for Government to keep a decoder key, a decoder key—they call it key escrow—of each company's encryption codes for public safety. I am wondering whose safety they are really looking out for.

This graph sums it up for us. Confidential FBI files and back door gateways to our computers are off limits. It is off limits. People can understand a snafu, but they do not understand when their privacy has been invaded without their knowledge and without them giving authority to look at that information.

If you are having security troubles with confidential paper files, how can the Government be trusted with highly sensitive proprietary encryption codes for multibillion-dollar high-tech companies? I just happen to believe that the American people have real concerns about Big Brother. It is called trust. They just do not trust the Federal Government to have any kind of control over their privacy anymore. And using the FBI to investigate anybody is only the tip of the iceberg when it comes to the potential for corruption in the computer industry.

I have America on my mind today, and I am really concerned about the stand that the administration has taken on encryption. I was in Palo Alto on Monday, a week ago, talking about this very thing and, yes, it is something that we are not allowed to export, an encryption that goes beyond the 40-bit-link standard. We can buy it in this country. We can use it in this country. It is about a $15 billion a year export business that was locking our software production. You can talk about strictly a business deal, but basically we must have encryption if we are to move more things electronically, even for national security.

I urge the President to rethink his position on encryption technology and just support the efforts to protect the privacy of U.S. citizens. I take that very seriously. I think this Government should take it very seriously. And I think the people of this country should have very, very serious concerns with even a little snafu. And it is not a little snafu, folks. It is not little. It is big. And it is just the basis of a free society.

Mr. President, I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I thank the Senator from Montana. He brings to the Senate floor a unique expertise on privacy in the new technology and I appreciate very much his sharing that with us here this afternoon.

In just one moment I am going to yield to the Senator from Idaho, but returning to this editorial as a postscript of what we heard from the Senator from Montana and a prelude to what we will hear from the Senator from Idaho, it goes on to say, and I quote:

> A deeply disturbing picture already has emerged based on sworn depositions the House Committee on Reform and Oversight obtained from Mr. Livingstone and his handpicked detailee, Army civilian investigator and political operative, Anthony Marceca. The deposition of former White House counsel William Kennedy III adds to the concern.

Adds to the concern.

> If the new administration attached much importance to security requirements for White House employment, it is not evident.

I repeat: ''It is not evident.''

With that, Mr. President, I yield up to 15 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The senior Senator from Idaho is recognized for up to 15 minutes.

Mr. CRAIG. Mr. President, I thank my colleague, the Senator from Georgia, and also the Senator from Montana, for their comments on this very critical issue.

I see two lines of thought when it comes to the White House and the responsibility as it relates to the FBI files and controversy. The first line is that the White House masterminded the request for the FBI files in order to compile a political enemies list and make trouble for their political opponents. That is the first line I think any reasonable person listening might gather.

The second line is that Craig Livingstone operated independently, and if the White House is guilty of anything then it is guilty only of incompetence or sheer ignorance. Somehow one of those lines in the hearings that are underway must prevail.

Now, if none of those are true, then I would offer a third option, what I call the agricultural approach. Maybe it is from my background, but it goes something like this. In farming country, you should not be too surprised if you are growing wheat and you plant wheat that wheat is what you get.

What am I saying here? I am saying that if you plant a political operative as a director of the Office of Personnel Security, and a political operative who boasts about helping in the dirty tricks of the last Clinton campaign, you should not be too surprised if you harvest a crop of dirty tricks and FBI files. In other words, you reap what you sow, and it appears that the White House has sown some pretty bad seed in the Office of Personnel Security.

The point is that even if the White House did not plan this operation, it has established the kind of culture that allows and even encourages abuse of power to occur.

What do I mean by that? I mean an approach to Government that is fundamentally at odds with the concept of the limited central authority. I mean an elitist view that casually accepts the misuse of power as long as the individuals involved are members of the

politically correct circle driven by politically correct goals. I mean an environment where honor and character get lost somewhere in the political spin of the week.

It is not just Craig Livingstone or Anthony Marceca. In a previous White House, Republican or Democrat, those two would have been stopped well before any confidential files were ever requested. In fact, someone like Mr. Livingstone, with his background and lack of professional credentials, simply would not have made it to any post in any other White House except this one.

Even the President's own party recognized the potential problems that they are now having to live with. Former Senator Dennis DeConcini reviewed White House security operations 2 years previously and recommended a number of changes, including getting a new chief of security who was nonpartisan and professionally qualified.

That is a Democrat Senator saying to a Democrat White House: You have a problem down there, and you ought to fix it so you do not have a problem. Of course, he was ignored. But in a culture that rewards political gamesmanship, the most qualified individuals are those with the greatest skills on outwitting the opposition. And in that culture, Craig Livingstone was not just adequate, he was an outstanding candidate for the job. His fellow political operative, Anthony Marceca, was an outstanding candidate for his assistant.

In that culture, it was no big deal to abuse the FBI and violate the privacy rights of innocent citizens; just make sure you do it for the right reasons, make sure nobody can prove anything bad came of it. That is the name of the game in this White House, and I think all of this is going to show that is the kind of game Mr. Livingstone and Mr. Marceca were part of.

You would think an administration that prides itself on dedication to civil liberties would have shown a lot more concern about the so-called snafu, if it really was any surprise at all. After all, we are not talking about dropping by the local library and looking up some public official in ''Who's Who,'' or asking for an official biography on someone. These are highly confidential FBI files that can contain very embarrassing and even false information.

Senators cannot get these files. You and I would need a good, official reason, an authorization, and even then we would have to review the files in a strictly controlled setting in the presence—let me repeat—in the presence of an FBI agent. You and I could not pick up the phone and demand these files but for only official reasons, and then if they were brought to us under those official reasons, that FBI person would remain present so we would never be allowed to copy or take notes from these files. Yet here these files were just dumped at the White House, by all reports, and we have discovered that they were accessible to interns and others without security clearances.

Where are the White House civil libertarians, who should be raising the roof about this breach of trust and this abuse of power? The Constitution is not self-enforcing. Our liberties require actual defenders and actual champions. Yet, in the culture of the present administration, this misconduct gets nothing more than labeled as a bureaucratic snafu?

How did Mr. Marceca's lawyer put it? He said his client's files ''show a bureaucratic process being carried out by a bureaucrat * * *'' I guess we are supposed to assume that anything a bureaucrat does will be OK because, after all, the Clinton administration's motives, of course, were beyond question, and whatever is done in advance of its goals is, therefore, justifiable. Is that what the American people are being served up at this moment, and is that what they are expected to accept?

I do not buy that explanation. I hope no one listening will. Neither does a majority of the American people, I think. If you look at the polls, they are not buying it, thank goodness.

Let me repeat that. A majority of the American people do not believe the official White House explanation, and that is despite the fact that the media is doing its best to downplay the entire fiasco. Maybe the American people realize that the bureaucracy is not a thing, it is people, presumably officials, who are accountable to the public for their actions. Maybe they do not agree that supposedly noble motives of the Clinton bureaucracy justify every action. No, I do not think they believe that either. Or maybe this is just an implausible story, and maybe it is just one too many, story after story, spin after spin, that has come out of this White House. Thank goodness the American people are starting to disbelieve.

Let us not forget how we learned about these files, though, in the first place. While we are trying to understand the spin of false information, the House committee investigating the improper firing of Billy Dale and other White House travel officials or employees had to threaten jail to the White House counsel in order to shake relevant documents loose. It had already been determined that these people had been fired in a false way. It was in those documents, which they had to threaten the highest level of effort on the part of this Congress to get, that we discovered that Billy Dale's files were requested, and that was only the beginning of an effort that uncovered all of this much larger request.

Originally, if you remember, Mr. President, we were told it was only 300 files. Then, lo and behold, 400 files. And, my goodness, now it is 700 files. Originally, we were told an outdated list was at the bottom of the bureaucratic snafu. Then we learned no such list could possibly have been generated at the time through the normal resources.

We cannot find out for sure who hired Mr. Livingstone, and no one has yet to explain why this work on confidential files of Republican appointees and former National Security Council staff was given priority well beyond the publicized backlog of an unfinished check on security clearances of hundreds of Clinton appointees. I must tell you, none of it makes sense. None of their stories seem to fit. All of their stories are a bit different.

How, then, can Mr. Marceca take the fifth? Why would he take the fifth? Is it his own files he is concerned about? Something is wrong, dramatically wrong.

Mr. President, to their credit, members of the President's party have denounced this as a clear abuse of power. ''Whose power, the President's?''

''Well, of course not. Bill didn't know about it''—excuse me—''the President didn't know anything about this. It was somebody down the line.''

Let me suggest a culture, a style, a way of doing business in this White House that starts at the top. It starts with the President. He was the one who said we will have the most ethical White House and the most ethical administration in the history of our country.

Mr. President, you did not keep any of your campaign promises. This is one promise as a President that you have not kept either. This is a White House and an administration that is now ripped and torn with controversy. Now a hit list, a campaign list, to go after Republicans or anyone else who might get in their way. I am sorry, this one does not wash. I think the American people recognize it does not wash, either.

I think it is time the White House comes clean. Obviously, I think it is time this administration, and maybe this President, tell us the truth.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I appreciate the comments made by the senior Senator from Idaho. I think he has raised questions that clearly are on the mind of every American.

In one moment, I am going to yield up to 7 minutes to the senior Senator from South Carolina, but I am first going back to this very telling editorial. I have been quoting it all afternoon. This is from the Washington Post of July 3:

> Not only was Mr. Livingstone professionally unqualified for his job, but also his own background investigation raised questions regarding his suitability to fill such a sensitive position. Yet, when FBI background investigations on White House employees arrived at the White House, they were adjudicated by Mr. Livingstone, of all people, according to his superior, Mr. Kennedy.

As has been raised by every speaker here this afternoon, the incongruities of a person with no security background holding this responsibility and arbitrarily skimming through hundreds of personal records that he was

able to obtain from the FBI produces a series of formidable questions about the integrity of our Government and our system and the rights of our individual citizens.

Mr. President, I yield up to 7 minutes at this time to the Senator from South Carolina.

The PRESIDING OFFICER (Mr. THOMPSON). The senior Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, it is appropriate that the Senate and the House of Representatives continue to examine the troubling developments recently uncovered at the White House. The American people have a right to know the details and intentions of requests from the Clinton administration to the FBI for hundreds and hundreds of sensitive background files on private citizens.

FBI Director Freeh has ordered new procedures to protect sensitive background material following unjustified and improper requests by the Clinton White House for over 700 FBI background files. Director Freeh has said that the White House had no justification for gathering these files and that the situation was an egregious violation of privacy. Director Freeh said that the requests from President Clinton's operatives in many instances served no official purpose and at one point he stated that the FBI had been victimized.

The White House has said that its collection of FBI files of private citizens was an innocent mistake. That is their response before the facts are examined and seems to reflect an instinctual reaction by the White House anytime questions arise concerning their operations. The facts have yet to be fully examined and it strikes me as premature and politically convenient to describe this situation as a ''bureaucratic snafu.''

Initially, the White House would have us believe that Mr. Marceca was a random detailee from the Army who had been arbitrarily selected to work temporarily at the White House. We have since learned that Mr. Marceca—who along with Mr. Livingstone handled the sensitive files—is actually a seasoned Democrat political operative. They both have extensive political campaign experience. Mr. Marceca sought the post at the White House to work with his friend, Mr. Livingstone, and officials in the White House counsel's office wrote to the Secretary of Defense requesting his assignment.

Recently, we learned that Craig Livingstone—who was the White House personnel security director—boasted on his resume that he staged counterevents for President Clinton during the 1992 Presidential campaign. Earlier, we learned that his experience in personnel security was limited to his work with President and Mrs. Clinton's Hollywood producer friends during the Inaugural activities. Clearly, Craig Livingstone was not qualified to serve as the head of the White House personnel security office.

The one thing we have yet to learn is who hired Craig Livingstone. No one takes credit for his employment. Although a retired FBI agent says that he was told by White House counsel that Mrs. Clinton wanted him in that position. Mrs. Clinton has denied being responsible.

At one point senior Presidential adviser, George Stephanopoulos, praised Craig Livingstone saying he was the man to see whenever you wanted anything done. Lately, Mr. Stephanopolous has said he does not know Livingstone that well, has only seen him around. The Washington Post has referred to Craig Livingstone as a phantom appointment. In a June 28 editorial, the Washington Post went on to say,

> At this stage, nobody at the White House will claim credit for Craig Livingstone. It gets you wondering whether there are other people working in sensitive spots in the White House who are, well, just there, and whose hiring cannot be accounted for . . . So people just walk in off the street, sit down at a desk and send for files—or what?

Mr. President, as you know, we are at this point because the White House only recently turned over documents pursuant to a long-ago subpoena from the House Oversight Committee. Within the documents submitted, the House Oversight Committee found a White House request to the FBI for sensitive background files on Billy Ray Dale. The request for FBI background on Mr. Dale was dated 7 months after he had been wrongly fired as head of the White House Travel Office. It was only after this was discovered by the House Oversight Committee did the White House admit it had collected FBI reports on hundreds of private citizens.

Mr. President, it is important that hearings continue because right now we have more questions than answers. The American people demand accountability. The American people want to know what right Clinton administration officials have to request hundreds upon hundreds of sensitive FBI files on private citizens. What were they doing with this information? This latest troubling development within the Clinton administration represents a dangerous practice and one that deserves careful scrutiny. It is my hope that we will continue to examine this matter and uncover all of the facts for the American people.

I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I yield up to 15 minutes to the distinguished assistant majority leader, the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish to thank my colleague from Georgia for his leadership today and many times on the floor.

The issue I am going to address today is not one that I enjoy, but it is one about which, I think, the American people are entitled to the facts. I want to read a quote that was made in January 1993 by President Clinton:

> I promise the most ethical administration in the history of the Republic.

January 24, 1993, quoted in the Washington Post.

This administration has been anything but ethical. As a matter of fact, there has been a litany, a continuation of scandals that have been plaguing this administration. Some people say they are much to do about nothing. I disagree. I am afraid some of these scandals are quite serious. A lot are serious violations of the law, if they turn out to be proven true. Let me touch on a couple of them.

Probably the most famous one is Whitewater. I heard a reporter saying, ''Well, there is not a whole lot of substance to that.'' Yet, the Governor of Arkansas lost his job over Whitewater. There must have been some substance to the allegations.

Obstruction of justice is against the law, and there were reports that were subpoenaed that took over 2 years to surface, and they surfaced adjacent to Mrs. Clinton's quarters, or in her library, which had very limited access. Obstruction of justice is against the law, and those files just recently somehow appeared.

There is information in Vincent Foster's office that dealt with tax returns and dealt with Whitewater and dealt with a lot of different things that, again, mysteriously disappeared for months. Reports are that they were actually in the personal quarters of President and Mrs. Clinton. Those are serious violations of the law if they are obstructing justice, obstruction of the investigation of Mr. Foster's death.

A lot of other things have come to light. I will just run through a litany of them very quickly. In the book ''Blood Sport,'' Mr. Stewart talked about the Clinton's deducting $20,000 in a principal payment. I think everyone knows that you deduct interest; you cannot deduct principal. My son is 26 years old. He recently purchased a townhouse. He knows you deduct interest; you cannot deduct principal. Yet you had a Rhodes scholar and an attorney, the President and Mrs. Clinton, and they deducted $20,000 or more in principal. That is a violation of law. That is tax evasion, and that is wrong.

Consider Mrs. Clinton's profits that were made from a $1,000 investment in cattle futures or commodity trading that grew to $100,000 in 10 months, that defies probability. I heard some people say that the chances of that happening are one out of a billion. It is not possible. Certainly it looks corrupt. Again, I remember President Clinton's speech in 1992. He said, ''The decade of greed is over.'' But yet you see this type of thing going on.

There is a trial in Arkansas right now where two bankers are accused of illegally getting $53,500 in cash for the Clinton campaign. I heard President

Clinton is not on trial. I have not heard anybody say, ''Well, what were they doing with $53,000 in cash?'' Every person in this room that has run a campaign—we all have campaigns, and maybe you need a couple hundred dollars in cash every once in awhile, maybe. But you do not need $53,000 in cash for anything that is legal. I have not heard that question being asked. Maybe it was legal. Maybe it is legal to take $10,000 in cash and distribute it around the State, or $50,000. But I cannot imagine it.

To me it sounds very unethical. Yet that trial is going on today on whether or not the funds were laundered, and what his involvement was, and whether jobs were involved quid pro quo for exchange of those kinds of contributions. But why in the world would somebody have $53,000 in cash? I have run three statewide campaigns. I do not know that we ever had $1,000 in cash. I cannot imagine $53,000.

They knew they were breaking the law, a community of individuals did, when they were withdrawing the money from the bank because they tried to hide it. So they knew there was some risk. But somebody in the campaign wanted a lot of cash. That is directly related to, at that time, Governor Clinton.

Now, Mr. President, we get into this scandal, this latest one, Filegate. What brought some of that about? Travelgate and the fact that seven members of the travel office of the White House were fired. I have always said they had a right to put in their own people, but they did not have a right to call in the FBI to try to justify an abuse of power by firing them and then prosecuting Billy Dale. Billy Dale's FBI file was requested 7 months after he was fired. That is a real abuse of power.

They did not need the FBI file then, yet they requested the file on him and hundreds of others, maybe several hundred. And 408 was the number that people are using now. Originally, it was a couple hundred, then 400. Now we find maybe another 300, maybe Mr. Marceca had several hundred others. Maybe well over 1,000 files the White House had on individuals. But the FBI files were certainly an abuse of power. The 408 were almost all on Republicans. So if it was not political, why were they only investigating Republicans? Why were they investigating individuals who had not had access to the White House in over a year or longer?

These files were requested in December 1993 and early 1994, all upon Republicans who left the White House at least a year earlier. These were for permanent access to the White House so they would have open access to come and go as you please. The individuals whose FBI files were collected did not need permanent access to the White House. They could get a visitor's pass like anybody here can. If you go visit the White House or if you have a special guest, you get a pass for a day. You do not need an FBI background check for a visitor's pass. But a background check was requested by the White House for these at least 408 individuals.

This is a real abuse of power. A real abuse of power. Maybe an egregious abuse of power. It is particularly egregious that the White House requested the FBI file on Billy Dale whom they previously fired. Yet, not only did they fire him, but they prosecuted him and persecuted him and wanted to try to justify their firing of him. They did not have a good reason to fire him except maybe to replace him with some cronies. So they tried to justify their firing of him by pulling in the FBI. That is an abuse of power, and certainly should be reviewed.

But when we find out now that they requested the files of 408 others, and they were in the hands of not national security people, they were in the hands of Mr. Livingstone and Mr. Marceca, two people who would be charitably defined as political hacks, hatchet men, people who wanted to dig up dirt on opponents, and did that in past campaigns, and had access to private files which could destroy the lives and careers of individuals, that is unbelievable. And it happened, happened in this administration. For President Clinton to say it was a bureaucratic snafu I think belittles the intelligence of the American people.

Mr. President, when Senators receive an FBI file—it is done very seldom. I have only done it a couple times, a few times. Any time I have had an FBI file in my office, that FBI file has also been accompanied by an FBI agent or a staff member with particular security clearance. That file does not leave the presence of the FBI agent or that staff member with special clearance. I cannot Xerox it. I cannot photocopy it. I cannot take notes from it. I cannot do anything with it. I cannot pick somebody and say, here is what it says. I can read it and hand it back. That file does not leave the presence of an FBI agent or that special staff member.

That file, when it leaves my office, is returned to a locked vault. It is not obtainable or accessible by anyone. To think that the White House obtained hundreds and evidently were trying to get hundreds more, had those in not a secure area, not in an area that was protected, under the control of a couple of political hacks, for whatever reason, is really not acceptable. We would not have found out this information if it had not been for the House of Representatives and their threatening contempt-of-Congress action against this administration.

So, Mr. President, it is with real regret, but when I read the President's quote of January 4, 1993, which says, ''I promise the most ethical administration in the history of the Republic,'' I just laugh. This may be the most unethical administration. It certainly brings back comparisons to Watergate and the Nixon administration. But this administration may even exceed some of the abuses of power that transpired at that time. I do not say that lightly. It is with real regret.

Mr. President, I just urge the White House to begin cooperating, as the President said that he would. They have yet to date to release all information that the House committee has requested. We still do not know who hired Mr. Livingstone. We do not know what are in the files Mr. Marceca has. Mr. Marceca has taken the fifth. He refused to testify before a Senate committee. That is his right to do so. Maybe the White House should encourage him, ''No, don't take the fifth. Go ahead and tell everything you know. Release the information. Let's see what was on your disc that has all this information on Republicans, and so on. Let the information come out. Let's find out the truth.''

Let us find out the truth on Mrs. Clinton's commodity trading. How did she make a profit that goes from $1,000 to $100,000 in 10 months? We need to find out answers to that. What did happen to the billing records or to the Rose Law Firm Whitewater billing records that were in the White House for 2 years?

We need answers to these questions. I heard Mr. Clinton say, ''I hope we find out the answers.'' But the White House really has not cooperated. Certainly, they have not been the most ethical administration in the history of the Republic. Quite the contrary, they may be the most unethical administration in the history of the Republic. I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. In just a moment I am going to yield, but I first want to thank the assistant majority leader for the contributions he has made in the grave questions that are hanging over Washington here today. As usual he has done it in an exemplary manner.

I am going to read one more quote, and then I am going to yield to the Senator from Idaho. This is in the Washington Post, Wednesday, July 3. It says:

> It doesn't get any better with Anthony Marceca, the on-loan Army civilian who improperly requisitioned and reviewed more than 700 FBI files. Mr. Marceca, it now turns out, wasn't retained at the White House following his 6-month stint. Again from Mr. Kennedy's deposition: ''Tony's background had come in, and there were some problems revealed with it that made me think it might be better if he kind of went back to where he was.'' And Mr. Marceca did. But he returned to Mr. Livingstone's White House office long enough, reportedly, to gain unauthorized access to his own FBI file, which enabled him to sue two sources he believed provided negative testimony against him. What a pair.

So the Washington Post is saying. What a pair Tony Marceca and Mr. Livingstone have turned out to be. It is beyond comprehension that these people

would be at the center of security in the White House of the United States of America.

Mr. President, I yield up to 5 minutes to the Senator from Idaho.

Mr. KEMPTHORNE. I thank the Senator from Georgia for his efforts today. Mr. President, I will address this issue from the aspect of the type of security and sensitivity that surrounds an individual FBI file, Federal Bureau of Investigation. I come at it as a member of the Senate Armed Services Committee.

From time to time, it was my responsibility to review the FBI file of a nominee who would be coming forward for Senate confirmation. When I review that file, it would be done in the privacy of my office. No staff members were allowed to be present. Those are the rules under which we must operate. The individual bringing the sealed file over—in this case, it would be from the White House general counsel, or it could be an FBI agent—remains in the room with the individual Senator as we review this extremely sensitive material.

Now, what type of material is in there? It can include the tax information of the person that has been reviewed, the personal finances back just as far as you want to go, the credit histories of the individual. If you had some problems in the past with your credit, if you had some areas that have been a problem, they are identified. The international travel which you have taken: Where have you been, why were you there, who did you see? The education, of course, including your college and high school grades; your work history; your health.

I spoke to a highly successful professional who has had to have an FBI file constructed on his behalf only to have him contacted and asked, ''Well, have you had a mental disorder in the past, in fact, at the age of 18?'' This individual has to think and say, ''Well, at one time I went in and because of stress that we were going through, work related,'' the individual is a workaholic, the physician had put down mental exhaustion. Is that what is recorded, then, as a mental disorder in this file?

How many Americans would like to have interviews conducted among their neighbors and among their coworkers and friends, again, for as many years back? Do you think perhaps somewhere in that history there is somebody that may have a beef, somebody that maybe does not think you are just as good as others may think you are? They can share that, and none of these have to be corroborated or substantiated, but they go into those files. That is how sensitive this material is.

Now, I have described for you the process that an individual Member of the Senate goes through when called upon to review an FBI file, one file. Now, how in the world do we make this quantum jump that someone who was a political operative, that nobody in the White House can now determine whoever hired this person, can call up the Federal Bureau of Investigation, probably one of the most highly regarded law enforcement agencies of the entire world, to have some political operative call the FBI and say, ''I want these files.'' Not just one file, two files, but as has been substantiated, hundreds of files, hundreds of files.

If I were a member of the Federal Bureau of Investigation, I would feel that my entire credibility was being questioned, that this sort of political operation has somehow clouded over that law enforcement agency. I believe that not only does it question the credibility of the Federal Bureau of Investigation, but I think it has created an enormous cloud over the people's house, the White House of the United States of America, where political operatives have access to those files of the Federal Bureau of Investigation, and nobody knows how it happened or how that person was hired. Yet, that person is the director of personnel security for the White House. Something is wrong. Something is very, very wrong.

I yield the floor.

Mr. COVERDELL. Mr. President, I thank the Senator from Idaho. I think he has added a very important ingredient. While many citizens, I think, understand how sensitive the FBI files are by their nature, that it is a collection of truth and gospel, nevertheless, recorded in the files, he has hit on a very sensitive nerve, that by discussing what is on the inside of those files he is telling all American citizens how very, very sensitive these files are and how damaging they can be, and for those reasons the FBI has traditionally guarded these files jealously, which is why I will refer to that in a minute, why Director Freeh is so disturbed about circumstances that have occurred here. I thank the Senator from Idaho.

Mr. President, I have been in the mood to quote newspapers here this afternoon. I have a copy of today's Washington Times. It has a photograph of the Vice President announcing his bid for President in 1988. The heading is, ''Oh, That Guy: The Controversy Surrounding Filegate Will Undoubtedly Intensify This Week as Congress Reconvenes After the Fourth of July Recess.'' It goes on to say that the Vice President doesn't recall much about his 1988 campaign as it relates to Mr. Livingstone. He does offer that the advance man performed well in his duties, but the picture is most interesting because it is the Vice President and Mrs. Gore, one other fellow, and Mr. Livingstone, right, front and center.

Mr. President, in the testimony that we have heard this morning or the statements that have been made time and time again, we refer to the number of files, which, as I said, went from 300 to 400 to 600 to 700, and now I have seen a figure of 900. I believe, as important as the discussion is about what was going on at the White House, is the question, what was going on at the Federal Bureau of Investigation?

I cite in this June 14 for immediate release from the Office of the Director of the Federal Bureau of Investigation: ''The FBI inquiry has also discovered Director Freeh said that the White House has identified 408 files sought and received by the White House without jurisdiction. Freeh said those files had been voluntarily surrendered by the White House to the FBI,'' and it goes on with a series of numbers.

My question is, after intense ''inquiry'' of the Federal Bureau of Investigation, how is it that the number of files certified by the FBI that were turned over to the White House is not the right number? One would think after ordering sweeping new measures to protect sensitive background investigation files and an inquiry in the FBI itself that by now there would be no question as to the number of files that had been obtained by the White House from the FBI.

I hope that the appropriate committees of jurisdiction will pursue answers from the FBI as to how in the world, given the long history and the depth of the sensitivity of these files, how in the world a siren would not go off by the time you had gotten to hundreds and hundreds of these files leaving the FBI.

I want to read another statement or two from this report, and then I am going to yield my time back. I know the Senator from Virginia is anxious to do a statement in morning business. I will not be but a minute or two longer.

It is important to note, Director Freeh said, that the FBI report contains this finding on the files requested by and given to the White House. Among the unquestionably unjustified acquisitions were reports relating to discharged travel office employees, Billy Ray Dale and Barnaby Brasseux. Director Freeh ordered the inquiry on learning a week ago that the White House requested and received a background file of Dale, a former White House travel director, months after he was fired. This does not sound like an arbitrary bureaucratic error, particularly in light of the difficulties the White House has had with Mr. Dale.

The FBI inquiry was expanded when it was learned that the White House earlier—the Clinton administration—also requested and received a large number of files on officials in the previous Bush administration and other persons. In addition, the FBI learned the White House requested and received the FBI file on a second discharged travel employee, Brasseux.

I am reading directly from the material given to the public by the Federal Bureau of Investigation.

It says:

In the past, the FBI routinely filled White House requests for copies of previous background files without checking to see if there were pending criminal investigations of the subject. Under new procedures, there will be checks on all subjects to determine if there are criminal investigations. Director Freeh said it is now clear that the system was very vulnerable to misuse and that government officials, over several decades, including himself, had not provided adequate oversight of the system, resulting now in violations of privacy.

In addition, Mr. President, we currently have letters from the House

committee chairman on ways and means to the Internal Revenue Department, IRS, the Commissioner, to determine if any of the data with regard to confidential tax matters is in this material, because if it is, that is a felony. Thorough clarification should be forthcoming from the Internal Revenue Service to comfort us that none of this information that was so willy-nilly distributed throughout the White House found its way into their hands, including material from the Internal Revenue Service.

So, as has been demonstrated here this afternoon, there are a host of legitimate questions that have deep meaning with regard to the protection of the rights of individual citizens in these United States of America.

Mr. President, with that, I conclude my remarks and yield back any time remaining that was dedicated to my control.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

(The remarks of Mr. ROBB and Mr. MOYNIHAN pertaining to the submission of Senate Resolution 276 are located in today's RECORD under ''Submissions of concurrent and Senate resolutions.'')

FAREWELL TO PATTY DEUTSCHE

Mr. BURNS. Mr. President, I rise today to say farewell to my legislative assistant, Patty Deutsche. She has been with me for over 7 years and I will certainly miss her.

She arrived in my office with almost no knowledge of Montana but quickly became one of us. It did not take long for her to figure out that 60 miles on a map did not necessarily mean a car ride of 60 minutes. And since she began as my scheduler, that was important. She ran my life for 2 years—both in the office and on the road—and made my new life in Washington, DC, that much easier.

When she moved to the legislative side, I knew she would attack the issues with just as much energy and competence. Though the issues she handled fell under committees on which I did not serve, they tended to be the hot topics. From health care to welfare, Medicare to Social Security, small business to labor unions, veterans and the aging to abortion, education and family issues—she learned the issues, knew them well, and was always my dependable source when I needed an update. She had her finger on the pulse here in the District of Columbia and her finger on the pulse in Montana and I know my constituents appreciated that and benefited from that.

Being a Californian in Montana is not easy, but she was quickly accepted by even the most ardent Montana natives. They never had an opportunity to question her loyalties. She worked for Montana and Montana's residents as if it were her own home State.

After 5 years handling these many legislative issues, she has accomplished a lot. She has been instrumental in promoting rural health care, from the fight over health care reform in 1994 to the promotion of telemedicine. She has helped me fight for small businesses—and that is crucial to my State. And she has always been a voice of reason when it comes to questions of morals, ethics, family values, and what is right. I have teased her about being to the right of Attila, but I always knew I could count on her opinion to be well thought out, strong, and conservative.

But aside from her tremendous dedication to her work, her sense of humor will be missed. She brought levity to stressful times. Her counseling chair was always available, not just to me but to other staff as well. Whether providing an open ear, objective advice or a funny story, Patty managed to find time for others as well as get her work done.

Mr. President, longevity is not the norm on the Hill and keeping staff as long as 7 years is rare. I have been lucky to have Patty on my staff almost since I first arrived in town. And though I will miss her terribly, she knows she will always have a home here and in Montana. She is moving to Louisville, KY, to be the manager of government relations for Vencor, Inc. And I hope they realize what a treasure they are getting in Patty. I have no doubt that she will embrace her new job and that Louisville will embrace her.

Patty Deutsche has served me well and she has served Montana well. I know the folks with whom she has built relationships in the Big Sky Country will feel her absence, but Patty is the type that will continue to nurture those relationships, whether she represents Montana or not. That is just the way she is.

Today is her last day working for me and she will soon leave for Kentucky. I wish her the best of luck and all the happiness in the world. God bless you, Patty.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business, Friday, July 5, 1996, the Federal debt stood at $5,153,659,808,407.00.

On a per capita basis, every man, woman, and child in America owes $19,429.74 as his or her share of that debt.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

SMALL BUSINESS JOB PROTECTION ACT OF 1996

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 3448, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3448) to provide tax relief for small businesses, to protect jobs, to create opportunities, to increase the take home pay of workers, to amend the Portal-to-Portal Act of 1947 relating to the payment of wages to employees who use employers owned vehicles, and to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate and to prevent job loss by providing flexibility to employers in complying with minimum wage and overtime requirements under that Act.

The Senate proceeded to consider the bill which had been reported from the Committee on Finance with an amendment; as follows:

H.R. 3448

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Small Business Job Protection Act of 1996''.

(b) TABLE OF CONTENTS.—

TITLE I—SMALL BUSINESS AND OTHER TAX PROVISIONS

Sec. 1101. Amendment of 1986 Code.
Sec. 1102. Underpayments of estimated tax.

Subtitle A—Expensing; Etc.

Sec. 1111. Increase in expense treatment for small businesses.
Sec. 1112. Treatment of employee tips.
Sec. 1113. Treatment of dues paid to agricultural or horticultural organizations.
Sec. 1114. Clarification of employment tax status of certain fishermen.
Sec. 1115. Modifications of tax-exempt bond rules for first-time farmers.
Sec. 1116. Newspaper distributors treated as direct sellers.
Sec. 1117. Application of involuntary conversion rules to presidentially declared disasters.
Sec. 1118. Class life for gas station convenience stores and similar structures.
Sec. 1119. Treatment of abandonment of lessor improvements at termination of lease.
Sec. 1120. Deductibility of business meal expenses for certain seafood processing facilities.
Sec. 1121. Clarification of tax treatment of hard cider.
Sec. 1122. Special rules relating to determination whether individuals are employees for purposes of employment taxes.

Subtitle B—Extension of Certain Expiring Provisions

Sec. 1201. Work opportunity tax credit.
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TITLE I—SMALL BUSINESS AND OTHER TAX PROVISIONS

SEC. 1101. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title 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.

SEC. 1102. UNDERPAYMENTS OF ESTIMATED TAX.

No addition to the tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 (relating to failure to pay estimated tax) with respect to any underpayment of an installment required to be paid before the date of the enactment of this Act to the extent such underpayment was created or increased by any provision of this title.

Subtitle A—Expensing; Etc.

SEC. 1111. INCREASE IN EXPENSE TREATMENT FOR SMALL BUSINESSES.

(a) GENERAL RULE.—Paragraph (1) of section 179(b) (relating to dollar limitation) is amended to read as follows:

''(1) DOLLAR LIMITATION.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed the following applicable amount:

"If the taxable year begins in:	The applicable amount is:
1997	18,000
1998	18,500
1999	19,000
2000	20,000
2001	24,000
2002	24,000
2003 or thereafter	25,000.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1996.

SEC. 1112. TREATMENT OF EMPLOYEE TIPS.

(a) EMPLOYEE CASH TIPS.—

(1) REPORTING REQUIREMENT NOT CONSIDERED.—Subparagraph (A) of section 45B(b)(1) (relating to excess employer social security tax) is amended by inserting ''(without regard to whether such tips are reported under section 6053)'' after ''section 3121(q)''.

(2) TAXES PAID.—Subsection (d) of section 13443 of the Revenue Reconciliation Act of 1993 is amended by inserting '', with respect to services performed before, on, or after such date'' after ''1993''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the amendments made by, and the provisions of, section 13443 of the Revenue Reconciliation Act of 1993.

(b) TIPS FOR EMPLOYEES DELIVERING FOOD OR BEVERAGES.—

(1) IN GENERAL.—Paragraph (2) of section 45B(b) is amended to read as follows:

''(2) ONLY TIPS RECEIVED FOR FOOD OR BEVERAGES TAKEN INTO ACCOUNT.—In applying paragraph (1), there shall be taken into account only tips received from customers in connection with the delivering or serving of

food or beverages for consumption if the tipping of employees delivering or serving food or beverages by customers is customary.''

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to tips received for services performed after December 31, 1996.

SEC. 1113. TREATMENT OF DUES PAID TO AGRICULTURAL OR HORTICULTURAL ORGANIZATIONS.

(a) GENERAL RULE.—Section 512 (defining unrelated business taxable income) is amended by adding at the end the following new subsection:

''(d) TREATMENT OF DUES OF AGRICULTURAL OR HORTICULTURAL ORGANIZATIONS.—

''(1) IN GENERAL.—If—

''(A) an agricultural or horticultural organization described in section 501(c)(5) requires annual dues to be paid in order to be a member of such organization, and

''(B) the amount of such required annual dues does not exceed $100,

in no event shall any portion of such dues be treated as derived by such organization from an unrelated trade or business by reason of any benefits or privileges to which members of such organization are entitled.

''(2) INDEXATION OF $100 AMOUNT.—In the case of any taxable year beginning in a calendar year after 1995, the $100 amount in paragraph (1) shall be increased by an amount equal to—

''(A) $100, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 1994' for 'calendar year 1992' in subparagraph (B) thereof.

''(3) DUES.—For purposes of this subsection, the term 'dues' means any payment (whether or not designated as dues) which is required to be made in order to be recognized by the organization as a member of the organization.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1994.

SEC. 1114. CLARIFICATION OF EMPLOYMENT TAX STATUS OF CERTAIN FISHERMEN.

(a) CLARIFICATION OF EMPLOYMENT TAX STATUS.—

(1) AMENDMENTS OF INTERNAL REVENUE CODE OF 1986.—

(A) DETERMINATION OF SIZE OF CREW.—Subsection (b) of section 3121 (defining employment) is amended by adding at the end the following new sentence:

''For purposes of paragraph (20), the operating crew of a boat shall be treated as normally made up of fewer than 10 individuals if the average size of the operating crew on trips made during the preceding 4 calendar quarters consisted of fewer than 10 individuals.''.

(B) CERTAIN CASH REMUNERATION PERMITTED.—Subparagraph (A) of section 3121(b)(20) is amended to read as follows:

''(A) such individual does not receive any cash remuneration other than as provided in subparagraph (B) and other than cash remuneration—

''(i) which does not exceed $100 per trip;

''(ii) which is contingent on a minimum catch; and

''(iii) which is paid solely for additional duties (such as mate, engineer, or cook) for which additional cash remuneration is traditional in the industry,''.

(C) CONFORMING AMENDMENT.—Section 6050A(a) is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ''; and'', and by adding at the end the following new paragraph:

''(5) any cash remuneration described in section 3121(b)(20)(A).''.

(2) AMENDMENT OF SOCIAL SECURITY ACT.—

(A) DETERMINATION OF SIZE OF CREW.—Subsection (a) of section 210 of the Social Security Act is amended by adding at the end the following new sentence:

''For purposes of paragraph (20), the operating crew of a boat shall be treated as normally made up of fewer than 10 individuals if the average size of the operating crew on trips made during the preceding 4 calendar quarters consisted of fewer than 10 individuals.''.

(B) CERTAIN CASH REMUNERATION PERMITTED.—Subparagraph (A) of section 210(a)(20) of such Act is amended to read as follows:

''(A) such individual does not receive any additional compensation other than as provided in subparagraph (B) and other than cash remuneration—

''(i) which does not exceed $100 per trip;

''(ii) which is contingent on a minimum catch; and

''(iii) which is paid solely for additional duties (such as mate, engineer, or cook) for which additional cash remuneration is traditional in the industry,''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid after December 31, 1994.

SEC. 1115. MODIFICATIONS OF TAX-EXEMPT BOND RULES FOR FIRST-TIME FARMERS.

(a) ACQUISITION FROM RELATED PERSON ALLOWED.—Section 147(c)(2) (relating to exception for first-time farmers) is amended by adding at the end the following new subparagraph:

''(G) ACQUISITION FROM RELATED PERSON.—For purposes of this paragraph and section 144(a), the acquisition by a first-time farmer of land or personal property from a related person (within the meaning of section 144(a)(3)) shall not be treated as an acquisition from a related person, if—

''(i) the acquisition price is for the fair market value of such land or property, and

''(ii) subsequent to such acquisition, the related person does not have a financial interest in the farming operation with respect to which the bond proceeds are to be used.''

(b) SUBSTANTIAL FARMLAND AMOUNT DOUBLED.—Clause (i) of section 147(c)(2)(E) (defining substantial farmland) is amended by striking ''15 percent'' and inserting ''30 percent''.

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

SEC. 1116. NEWSPAPER DISTRIBUTORS TREATED AS DIRECT SELLERS.

(a) IN GENERAL.—Section 3508(b)(2)(A) is amended by striking ''or'' at the end of clause (i), by inserting ''or'' at the end of clause (ii), and by inserting after clause (ii) the following new clause:

''(iii) is engaged in the trade or business of the delivering or distribution of newspapers or shopping news (including any services directly related to such trade or business),''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services performed after December 31, 1995.

SEC. 1117. APPLICATION OF INVOLUNTARY CONVERSION RULES TO PRESIDENTIALLY DECLARED DISASTERS.

(a) IN GENERAL.—Section 1033(h) is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4) and by inserting after paragraph (1) the following new paragraph:

''(2) TRADE OR BUSINESS AND INVESTMENT PROPERTY.—If a taxpayer's property held for productive use in a trade or business or for investment is compulsorily or involuntarily converted as a result of a Presidentially declared disaster, tangible property of a type held for productive use in a trade or business shall be treated for purposes of subsection (a) as property similar or related in service or use to the property so converted.''.

(b) CONFORMING AMENDMENTS.—Section 1033(h) is amended—

(1) by striking ''residence'' in paragraph (3) (as redesignated by subsection (a)) and inserting ''property'',

(2) by striking ''PRINCIPAL RESIDENCES'' in the heading and inserting ''PROPERTY'', and

(3) by striking ''(1) IN GENERAL.—'' and inserting ''(1) PRINCIPAL RESIDENCES.—''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disasters declared after December 31, 1994, in taxable years ending after such date.

SEC. 1118. CLASS LIFE FOR GAS STATION CONVENIENCE STORES AND SIMILAR STRUCTURES.

(a) IN GENERAL.—Section 168(e)(3)(E) (classifying certain property as 15-year property) is amended by striking ''and'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting '', and'', and by adding at the end the following new clause:

''(iii) any section 1250 property which is a retail motor fuels outlet (whether or not food or other convenience items are sold at the outlet).''

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 168(g)(3) is amended by inserting after the item relating to subparagraph (E)(ii) in the table contained therein the following new item:

''(E)(iii) . . . . . 20''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property which is placed in service on or after the date of the enactment of this Act and to which section 168 of the Internal Revenue Code of 1986 applies after the amendment made by section 201 of the Tax Reform Act of 1986. A taxpayer may elect (in such form and manner as the Secretary of the Treasury may prescribe) to have such amendments apply with respect to any property placed in service before such date and to which such section so applies.

SEC. 1119. TREATMENT OF ABANDONMENT OF LESSOR IMPROVEMENTS AT TERMINATION OF LEASE.

(a) IN GENERAL.—Paragraph (8) of section 168(i) is amended to read as follows:

''(8) TREATMENT OF LEASEHOLD IMPROVEMENTS.—

''(A) IN GENERAL.—In the case of any building erected (or improvements made) on leased property, if such building or improvement is property to which this section applies, the depreciation deduction shall be determined under the provisions of this section.

''(B) TREATMENT OF LESSOR IMPROVEMENTS WHICH ARE ABANDONED AT TERMINATION OF LEASE.—An improvement—

''(i) which is made by the lessor of leased property for the lessee of such property, and

''(ii) which is irrevocably disposed of or abandoned by the lessor at the termination of the lease by such lessee,

shall be treated for purposes of determining gain or loss under this title as disposed of by the lessor when so disposed of or abandoned.''

(b) EFFECTIVE DATE.—Subparagraph (B) of section 168(i)(8) of the Internal Revenue Code of 1986, as added by the amendment made by subsection (a), shall apply to improvements disposed of or abandoned after June 12, 1996.

SEC. 1120. DEDUCTIBILITY OF BUSINESS MEAL EXPENSES FOR CERTAIN SEAFOOD PROCESSING FACILITIES.

(a) IN GENERAL.—Subparagraph (E) of section 274(n)(2) is amended by striking ''or'' at the end of clause (iii), by striking the period

at the end of clause (iv) and inserting ''; or'', and by inserting after clause (iv) the following new clause:

''(v) provided at a remote seafood processing facility located in the United States north of 53 degrees north latitude.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 1121. CLARIFICATION OF TAX TREATMENT OF HARD CIDER.

(a) HARD CIDER CONTAINING NOT MORE THAN 7 PERCENT ALCOHOL TAXED AS WINE.—Subsection (b) of section 5041 (relating to imposition and rate of tax) is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ''; and'', and by adding at the end the following new paragraph:

''(6) On hard cider derived primarily from apples or apple concentrate and water, containing no other fruit product, and containing at least one-half of 1 percent and not more than 7 percent of alcohol by volume, 22.6 cents per wine gallon.''

(b) EXCLUSION FROM SMALL PRODUCER CREDIT.—Paragraph (1) of section 5041(c) (relating to credit for small domestic producers) is amended by striking ''subsection (b)(4)'' and inserting ''paragraphs (4) and (6) of subsection (b)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1997.

SEC. 1122. SPECIAL RULES RELATING TO DETERMINATION WHETHER INDIVIDUALS ARE EMPLOYEES FOR PURPOSES OF EMPLOYMENT TAXES.

(a) IN GENERAL.—Section 530 of the Revenue Act of 1978 is amended by adding at the end the following new subsection:

''(e) SPECIAL RULES FOR APPLICATION OF SECTION.—

''(1) NOTICE REQUIREMENTS.—

''(A) WRITTEN AGREEMENT REQUIRED BETWEEN TAXPAYER AND INDIVIDUAL.—The provisions of subsection (a)(1) shall not apply with respect to a taxpayer and any individual unless such taxpayer and individual sign a statement (at such time and in such form as the Secretary may prescribe) which provides that such individual will not be treated as an employee of the taxpayer for purposes of employment taxes.

''(B) NOTICE OF AVAILABILITY OF SECTION.—An officer or employee of the Internal Revenue Service shall, before or at the commencement of any audit relating to the employment status of one or more individuals who perform services for the taxpayer, provide the taxpayer with a written notice of the provisions of this section.

''(2) RULES RELATING TO STATUTORY STANDARDS.—For purposes of subsection (a)(2)—

''(A) a taxpayer may not rely on an audit commenced after December 31, 1996, for purposes of subparagraph (B) thereof unless such audit included an examination for employment tax purposes of whether the individual involved (or any individual holding a position substantially similar to the position held by the individual involved) should be treated as an employee of the taxpayer,

''(B) in no event shall the significant segment requirement of subparagraph (C) thereof be construed to require a reasonable showing of the practice of more than 25 percent of the industry (determined by not taking into account the taxpayer), and

''(C) in applying the long-standing recognized practice requirement of subparagraph (C) thereof—

''(i) such requirement shall not be construed as requiring the practice to have continued for more than 10 years, and

''(ii) a practice shall not fail to be treated as long-standing merely because such practice began after 1978.

''(3) AVAILABILITY OF SAFE HARBORS.—Nothing in this section shall be construed to provide that subsection (a) only applies where the individual involved is otherwise an employee of the taxpayer.

''(4) BURDEN OF PROOF.—

''(A) IN GENERAL.—If—

''(i) a taxpayer establishes a prima facie case that it was reasonable not to treat an individual as an employee for purposes of this section, and

''(ii) the taxpayer has fully cooperated with reasonable requests from the Secretary of the Treasury or his delegate,

then the burden of proof with respect to such treatment shall be on the Secretary.

''(B) EXCEPTION FOR OTHER REASONABLE BASIS.—In the case of any issue involving whether the taxpayer had a reasonable basis not to treat an individual as an employee for purposes of this section, subparagraph (A) shall only apply for purposes of determining whether the taxpayer meets the requirements of subparagraph (A), (B), or (C) of subsection (a)(2).''

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to periods after December 31, 1996.

(2) NOTICE REQUIREMENTS.—

(A) WRITTEN AGREEMENT.—In the case of individuals who first perform services for a taxpayer before January 1, 1997, the requirements of section 530(e)(1)(A) of the Revenue Act of 1978 (as added by subsection (a)) shall not apply before January 1, 1998, unless the taxpayer elects to apply such requirements before such date.

(B) NOTICE BY INTERNAL REVENUE SERVICE.—Section 530(e)(1)(B) of the Revenue Act of 1978 (as added by subsection (a)) shall apply to audits which commence after December 31, 1996.

(3) BURDEN OF PROOF.—

(A) IN GENERAL.—Section 530(e)(4) of the Revenue Act of 1978 (as added by subsection (a)) shall apply to disputes involving periods after December 31, 1996.

(B) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to infer the proper treatment of the burden of proof with respect to disputes involving periods before January 1, 1997.

Subtitle B—Extension of Certain Expiring Provisions

SEC. 1201. WORK OPPORTUNITY TAX CREDIT.

(a) AMOUNT OF CREDIT.—Subsection (a) of section 51 (relating to amount of credit) is amended by striking ''40 percent'' and inserting ''35 percent''.

(b) MEMBERS OF TARGETED GROUPS.—Subsection (d) of section 51 is amended to read as follows:

''(d) MEMBERS OF TARGETED GROUPS.—For purposes of this subpart—

''(1) IN GENERAL.—An individual is a member of a targeted group if such individual is—

''(A) a qualified IV–A recipient,

''(B) a qualified veteran,

''(C) a qualified ex-felon,

''(D) a high-risk youth,

''(E) a vocational rehabilitation referral,

''(F) a qualified summer youth employee, or

''(G) a qualified food stamp recipient.

''(2) QUALIFIED IV–A RECIPIENT.—

''(A) IN GENERAL.—The term 'qualified IV–A recipient' means any individual who is certified by the designated local agency as being a member of a family receiving assistance under a IV–A program for at least a 9-month period ending during the 9-month period ending on the hiring date.

''(B) IV–A PROGRAM.—For purposes of this paragraph, the term 'IV–A program' means any program providing assistance under a State plan approved under part A of title IV of the Social Security Act (relating to assistance for needy families with minor children) and any successor of such program.

''(3) QUALIFIED VETERAN.—

''(A) IN GENERAL.—The term 'qualified veteran' means any veteran who is certified by the designated local agency as being—

''(i) a member of a family receiving assistance under a IV–A program (as defined in paragraph (2)(B)) for at least a 9-month period ending during the 12-month period ending on the hiring date, or

''(ii) a member of a family receiving assistance under a food stamp program under the Food Stamp Act of 1977 for at least a 3-month period ending during the 12-month period ending on the hiring date.

''(B) VETERAN.—For purposes of subparagraph (A), the term 'veteran' means any individual who is certified by the designated local agency as—

''(i)(I) having served on active duty (other than active duty for training) in the Armed Forces of the United States for a period of more than 180 days, or

''(II) having been discharged or released from active duty in the Armed Forces of the United States for a service-connected disability, and

''(ii) not having any day during the 60-day period ending on the hiring date which was a day of extended active duty in the Armed Forces of the United States.

For purposes of clause (ii), the term 'extended active duty' means a period of more than 90 days during which the individual was on active duty (other than active duty for training).

''(4) QUALIFIED EX-FELON.—The term 'qualified ex-felon' means any individual who is certified by the designated local agency—

''(A) as having been convicted of a felony under any statute of the United States or any State,

''(B) as having a hiring date which is not more than 1 year after the last date on which such individual was so convicted or was released from prison, and

''(C) as being a member of a family which had an income during the 6 months immediately preceding the earlier of the month in which such income determination occurs or the month in which the hiring date occurs, which, on an annual basis, would be 70 percent or less of the Bureau of Labor Statistics lower living standard.

Any determination under subparagraph (C) shall be valid for the 45-day period beginning on the date such determination is made.

''(5) HIGH-RISK YOUTH.—

''(A) IN GENERAL.—The term 'high-risk youth' means any individual who is certified by the designated local agency—

''(i) as having attained age 18 but not age 25 on the hiring date, and

''(ii) as having his principal place of abode within an empowerment zone or enterprise community.

''(B) YOUTH MUST CONTINUE TO RESIDE IN ZONE.—In the case of a high-risk youth, the term 'qualified wages' shall not include wages paid or incurred for services performed while such youth's principal place of abode is outside an empowerment zone or enterprise community.

''(6) VOCATIONAL REHABILITATION REFERRAL.—The term 'vocational rehabilitation referral' means any individual who is certified by the designated local agency as—

''(A) having a physical or mental disability which, for such individual, constitutes or results in a substantial handicap to employment, and

''(B) having been referred to the employer upon completion of (or while receiving) rehabilitative services pursuant to—

''(i) an individualized written rehabilitation plan under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, or

''(ii) a program of vocational rehabilitation carried out under chapter 31 of title 38, United States Code.

''(7) QUALIFIED SUMMER YOUTH EMPLOYEE.—

''(A) IN GENERAL.—The term 'qualified summer youth employee' means any individual—

''(i) who performs services for the employer between May 1 and September 15,

''(ii) who is certified by the designated local agency as having attained age 16 but not 18 on the hiring date (or if later, on May 1 of the calendar year involved),

''(iii) who has not been an employee of the employer during any period prior to the 90-day period described in subparagraph (B)(i), and

''(iv) who is certified by the designated local agency as having his principal place of abode within an empowerment zone or enterprise community.

''(B) SPECIAL RULES FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying this subpart to wages paid or incurred to any qualified summer youth employee—

''(i) subsection (b)(2) shall be applied by substituting 'any 90-day period between May 1 and September 15' for 'the 1-year period beginning with the day the individual begins work for the employer', and

''(ii) subsection (b)(3) shall be applied by substituting '$3,000' for '$6,000'.

The preceding sentence shall not apply to an individual who, with respect to the same employer, is certified as a member of another targeted group after such individual has been a qualified summer youth employee.

''(C) YOUTH MUST CONTINUE TO RESIDE IN ZONE.—Paragraph (5)(B) shall apply for purposes of subparagraph (A)(iv).

''(8) QUALIFIED FOOD STAMP RECIPIENT.—

''(A) IN GENERAL.—The term 'qualified food stamp recipient' means any individual who is certified by the designated local agency—

''(i) as having attained age 18 but not age 25 on the hiring date, and

''(ii) as being a member of a family receiving assistance under a food stamp program under the Food Stamp Act of 1977 for the 3-month period ending on the hiring date.

''(B) PARTICIPATION INFORMATION.—Notwithstanding any other provision of law, the Secretary of the Treasury and the Secretary of Agriculture shall enter into an agreement to provide information to designated local agencies with respect to participation in the food stamp program.

''(9) HIRING DATE.—The term 'hiring date' means the day the individual is hired by the employer.

''(10) DESIGNATED LOCAL AGENCY.—The term 'designated local agency' means a State employment security agency established in accordance with the Act of June 6, 1933, as amended (29 U.S.C. 49–49n).

''(11) SPECIAL RULES FOR CERTIFICATIONS.—

''(A) IN GENERAL.—An individual shall not be treated as a member of a targeted group unless—

''(i) on or before the day on which such individual begins work for the employer, the employer has received a certification from a designated local agency that such individual is a member of a targeted group, or

''(ii)(I) on or before the day the individual is offered employment with the employer, a pre-screening notice is completed by the employer with respect to such individual, and

''(II) not later than the 21st day after the individual begins work for the employer, the employer submits such notice, signed by the employer and the individual under penalties of perjury, to the designated local agency as part of a written request for such a certification from such agency.

For purposes of this paragraph, the term 'pre-screening notice' means a document (in such form as the Secretary shall prescribe) which contains information provided by the individual on the basis of which the employer believes that the individual is a member of a targeted group.

''(B) INCORRECT CERTIFICATIONS.—If—

''(i) an individual has been certified by a designated local agency as a member of a targeted group, and

''(ii) such certification is incorrect because it was based on false information provided by such individual,

the certification shall be revoked and wages paid by the employer after the date on which notice of revocation is received by the employer shall not be treated as qualified wages.

''(C) EXPLANATION OF DENIAL OF REQUEST.—If a designated local agency denies a request for certification of membership in a targeted group, such agency shall provide to the person making such request a written explanation of the reasons for such denial.''

(c) MINIMUM EMPLOYMENT PERIOD.—Paragraph (3) of section 51(i) (relating to certain individuals ineligible) is amended to read as follows:

''(3) INDIVIDUALS NOT MEETING MINIMUM EMPLOYMENT PERIOD.—No wages shall be taken into account under subsection (a) with respect to any individual unless such individual either—

''(A) is employed by the employer at least 180 days (20 days in the case of a qualified summer youth employee), or

''(B) has completed at least 375 hours (120 hours in the case of a qualified summer youth employee) of services performed for the employer.''

(d) TERMINATION.—Paragraph (4) of section 51(c) (relating to wages defined) is amended to read as follows:

''(4) TERMINATION.—The term 'wages' shall not include any amount paid or incurred to an individual who begins work for the employer—

''(A) after December 31, 1994, and before October 1, 1996, or

''(B) after September 30, 1997.''

(e) REDESIGNATION OF CREDIT.—

(1) Sections 38(b)(2) and 51(a) are each amended by striking ''targeted jobs credit'' and inserting ''work opportunity credit''.

(2) The subpart heading for subpart F of part IV of subchapter A of chapter 1 is amended by striking ''**Targeted Jobs Credit**'' and inserting ''**Work Opportunity Credit**''.

(3) The table of subparts for such part IV is amended by striking ''targeted jobs credit'' and inserting ''work opportunity credit''.

(4) The heading for paragraph (3) of section 1396(c) is amended by striking ''TARGETED JOBS CREDIT'' and inserting ''WORK OPPORTUNITY CREDIT''.

(f) TECHNICAL AMENDMENT.—Paragraph (1) of section 51(c) is amended by striking '', subsection (d)(8)(D),''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after September 30, 1996.

SEC. 1202. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE PROGRAMS.

(a) EXTENSION.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking ''December 31, 1994'' and inserting ''December 31, 1996''.

(b) EFFECTIVE DATES.—

(1) EXTENSION.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1994.

(2) EXPEDITED PROCEDURES.—The Secretary of the Treasury shall establish expedited procedures for the refund of any overpayment of taxes imposed by the Internal Revenue Code of 1986 which is attributable to amounts excluded from gross income during 1995 or 1996 under section 127 of such Code, including procedures waiving the requirement that an employer obtain an employee's signature where the employer demonstrates to the satisfaction of the Secretary that any refund collected by the employer on behalf of the employee will be paid to the employee.

SEC. 1203. RESEARCH CREDIT.

(a) IN GENERAL.—Subsection (h) of section 41 (relating to credit for research activities) is amended to read as follows:

''(h) TERMINATION.—

''(1) IN GENERAL.—This section shall not apply to any amount paid or incurred—

''(A) after June 30, 1995, and before July 1, 1996, or

''(B) after June 30, 1997.''

''(2) COMPUTATION OF BASE AMOUNT.—In the case of any taxable year with respect to which this section applies to a number of days which is less than the total number of days in such taxable year, the base amount with respect to such taxable year shall be the amount which bears the same ratio to the base amount for such year (determined without regard to this paragraph) as the number of days in such taxable year to which this section applies bears to the total number of days in such taxable year.''

(b) BASE AMOUNT FOR START-UP COMPANIES.—Clause (i) of section 41(c)(3)(B) (relating to start-up companies) is amended to read as follows:

''(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The fixed-base percentage shall be determined under this subparagraph if—

''(I) the first taxable year in which a taxpayer had both gross receipts and qualified research expenses begins after December 31, 1983, or

''(II) there are fewer than 3 taxable years beginning after December 31, 1983, and before January 1, 1989, in which the taxpayer had both gross receipts and qualified research expenses.''

(c) ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—Subsection (c) of section 41 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—

''(A) IN GENERAL.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to the sum of—

''(i) 1.65 percent of so much of the qualified research expenses for the taxable year as exceeds 1 percent of the average described in subsection (c)(1)(B) but does not exceed 1.5 percent of such average,

''(ii) 2.2 percent of so much of such expenses as exceeds 1.5 percent of such average but does not exceed 2 percent of such average, and

''(iii) 2.75 percent of so much of such expenses as exceeds 2 percent of such average.

''(B) ELECTION.—An election under this paragraph may be made only for the first taxable year of the taxpayer beginning after June 30, 1996. Such an election shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary.''

(d) INCREASED CREDIT FOR CONTRACT RESEARCH EXPENSES WITH RESPECT TO CERTAIN RESEARCH CONSORTIA.—Paragraph (3) of section 41(b) is amended by adding at the end the following new subparagraph:

''(C) AMOUNTS PAID TO CERTAIN RESEARCH CONSORTIA.—

''(i) IN GENERAL.—Subparagraph (A) shall be applied by substituting '75 percent' for '65

percent' with respect to amounts paid or incurred by the taxpayer to a qualified research consortium for qualified research on behalf of the taxpayer and 1 or more unrelated taxpayers. For purposes of the preceding sentence, all persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related taxpayers.

''(ii) QUALIFIED RESEARCH CONSORTIUM.—The term 'qualified research consortium' means any organization which—

''(I) is described in section 501(c)(3) or 501(c)(6) and is exempt from tax under section 501(a),

''(II) is organized and operated primarily to conduct scientific research, and

''(III) is not a private foundation.''

(e) CONFORMING AMENDMENT.—Subparagraph (D) of section 28(b)(1) is amended by inserting '', and before July 1, 1996, and periods after June 30, 1997'' after ''June 30, 1995''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending after June 30, 1996.

(2) SUBSECTIONS (c) AND (d).—The amendments made by subsections (c) and (d) shall apply to taxable years beginning after June 30, 1996.

SEC. 1204. ORPHAN DRUG TAX CREDIT.

(a) RECATEGORIZED AS A BUSINESS CREDIT.—

(1) IN GENERAL.—Section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is transferred to subpart D of part IV of subchapter A of chapter 1, inserted after section 45B, and redesignated as section 45C.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 38 (relating to general business credit) is amended by striking ''plus'' at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting '', plus'', and by adding at the end the following new paragraph:

''(12) the orphan drug credit determined under section 45C(a).''

(3) CLERICAL AMENDMENTS.—

(A) The table of sections for subpart B of such part IV is amended by striking the item relating to section 28.

(B) The table of sections for subpart D of such part IV is amended by adding at the end the following new item:

''Sec. 45C. Clinical testing expenses for certain drugs for rare diseases or conditions.''

(b) CREDIT TERMINATION.—Subsection (e) of section 45C, as redesignated by subsection (a)(1), is amended to read as follows:

''(e) TERMINATION.—This section shall not apply to any amount paid or incurred—

''(A) after December 31, 1994, and before July 1, 1996, or

''(B) after June 30, 1997.''

(c) NO PRE-JULY 1, 1996 CARRYBACKS.—Subsection (d) of section 39 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following new paragraph:

''(7) NO CARRYBACK OF SECTION 45C CREDIT BEFORE JULY 1, 1996.—No portion of the unused business credit for any taxable year which is attributable to the orphan drug credit determined under section 45C may be carried back to a taxable year ending before July 1, 1996.''

(d) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 45C(a), as redesignated by subsection (a)(1), is amended by striking ''There shall be allowed as a credit against the tax imposed by this chapter for the taxable year'' and inserting ''For purposes of section 38, the credit determined under this section for the taxable year is''.

(2) Section 45C(d), as so redesignated, is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4).

(3) Section 29(b)(6)(A) is amended by striking ''sections 27 and 28'' and inserting ''section 27''.

(4) Section 30(b)(3)(A) is amended by striking ''sections 27, 28, and 29'' and inserting ''sections 27 and 29''.

(5) Section 53(d)(1)(B) is amended—

(A) by striking ''or not allowed under section 28 solely by reason of the application of section 28(d)(2)(B),'' in clause (iii), and

(B) by striking ''or not allowed under section 28 solely by reason of the application of section 28(d)(2)(B)'' in clause (iv)(II).

(6) Section 55(c)(2) is amended by striking ''28(d)(2),''.

(7) Section 280C(b) is amended—

(A) by striking ''section 28(b)'' in paragraph (1) and inserting ''section 45C(b)'',

(B) by striking ''section 28'' in paragraphs (1) and (2)(A) and inserting ''section 45C(b)'', and

(C) by striking ''subsection (d)(2) thereof'' in paragraphs (1) and (2)(A) and inserting ''section 38(c)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years ending after June 30, 1996.

SEC. 1205. CONTRIBUTIONS OF STOCK TO PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Subparagraph (D) of section 170(e)(5) (relating to special rule for contributions of stock for which market quotations are readily available) is amended to read as follows:

''(D) TERMINATION.—This paragraph shall not apply to contributions made—

''(A) after December 31, 1994, and before July 1, 1996, or

''(B) after June 30, 1997.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after June 30, 1996.

SEC. 1206. EXTENSION OF BINDING CONTRACT DATE FOR BIOMASS AND COAL FACILITIES.

(a) IN GENERAL.—Subparagraph (A) of section 29(g)(1) (relating to extension of certain facilities) is amended by striking ''January 1, 1997'' and inserting ''January 1, 1998'' and by striking ''January 1, 1996'' and inserting ''the date which is 6 months after the date of the enactment of the Small Business Job Protection Act of 1996''.

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

SEC. 1207. MORATORIUM FOR EXCISE TAX ON DIESEL FUEL SOLD FOR USE OR USED IN DIESEL-POWERED MOTORBOATS.

(a) IN GENERAL.—Subparagraph (D) of section 4041(a)(1) (relating to the imposition of tax on diesel fuel and special motor fuels) is amended by redesignating clauses (i) and (ii) as clauses (ii) and (iii), respectively, and by inserting before clause (ii) (as redesignated) the following new clause:

''(i) no tax shall be imposed by subsection (a) or (d)(1) during the period after June 30, 1996, and before July 1, 1997,''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1996.

Subtitle C—Provisions Relating to S Corporations

SEC. 1301. S CORPORATIONS PERMITTED TO HAVE 75 SHAREHOLDERS.

Subparagraph (A) of section 1361(b)(1) (defining small business corporation) is amended by striking ''35 shareholders'' and inserting ''75 shareholders''.

SEC. 1302. ELECTING SMALL BUSINESS TRUSTS.

(a) GENERAL RULE.—Subparagraph (A) of section 1361(c)(2) (relating to certain trusts permitted as shareholders) is amended by inserting after clause (iv) the following new clause:

''(v) An electing small business trust.''.

(b) CURRENT BENEFICIARIES TREATED AS SHAREHOLDERS.—Subparagraph (B) of section 1361(c)(2) is amended by adding at the end the following new clause:

''(v) In the case of a trust described in clause (v) of subparagraph (A), each potential current beneficiary of such trust shall be treated as a shareholder; except that, if for any period there is no potential current beneficiary of such trust, such trust shall be treated as the shareholder during such period.''.

(c) ELECTING SMALL BUSINESS TRUST DEFINED.—Section 1361 (defining S corporation) is amended by adding at the end the following new subsection:

''(e) ELECTING SMALL BUSINESS TRUST DEFINED.—

''(1) ELECTING SMALL BUSINESS TRUST.—For purposes of this section—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'electing small business trust' means any trust if—

''(i) such trust does not have as a beneficiary any person other than (I) an individual, (II) an estate, or (III) an organization described in paragraph (2), (3), (4), or (5) of section 170(c) which holds a contingent interest and is not a potential current beneficiary,

''(ii) no interest in such trust was acquired by purchase, and

''(iii) an election under this subsection applies to such trust.

''(B) CERTAIN TRUSTS NOT ELIGIBLE.—The term 'electing small business trust' shall not include—

''(i) any qualified subchapter S trust (as defined in subsection (d)(3)) if an election under subsection (d)(2) applies to any corporation the stock of which is held by such trust, and

''(ii) any trust exempt from tax under this subtitle.

''(C) PURCHASE.—For purposes of subparagraph (A), the term 'purchase' means any acquisition if the basis of the property acquired is determined under section 1012.

''(2) POTENTIAL CURRENT BENEFICIARY.—For purposes of this section, the term 'potential current beneficiary' means, with respect to any period, any person who at any time during such period is entitled to, or at the discretion of any person may receive, a distribution from the principal or income of the trust. If a trust disposes of all of the stock which it holds in an S corporation, then, with respect to such corporation, the term 'potential current beneficiary' does not include any person who first met the requirements of the preceding sentence during the 60-day period ending on the date of such disposition.

''(3) ELECTION.—An election under this subsection shall be made by the trustee. Any such election shall apply to the taxable year of the trust for which made and all subsequent taxable years of such trust unless revoked with the consent of the Secretary.

''(4) CROSS REFERENCE.—

''For special treatment of electing small business trusts, see section 641(d).''.

(d) TAXATION OF ELECTING SMALL BUSINESS TRUSTS.—Section 641 (relating to imposition of tax on trusts) is amended by adding at the end the following new subsection:

''(d) SPECIAL RULES FOR TAXATION OF ELECTING SMALL BUSINESS TRUSTS.—

''(1) IN GENERAL.—For purposes of this chapter—

''(A) the portion of any electing small business trust which consists of stock in 1 or more S corporations shall be treated as a separate trust, and

''(B) the amount of the tax imposed by this chapter on such separate trust shall be determined with the modifications of paragraph (2).

''(2) MODIFICATIONS.—For purposes of paragraph (1), the modifications of this paragraph are the following:

''(A) Except as provided in section 1(h), the amount of the tax imposed by section 1(e) shall be determined by using the highest rate of tax set forth in section 1(e).

''(B) The exemption amount under section 55(d) shall be zero.

''(C) The only items of income, loss, deduction, or credit to be taken into account are the following:

''(i) The items required to be taken into account under section 1366.

''(ii) Any gain or loss from the disposition of stock in an S corporation.

''(iii) To the extent provided in regulations, State or local income taxes or administrative expenses to the extent allocable to items described in clauses (i) and (ii).

No deduction or credit shall be allowed for any amount not described in this paragraph, and no item described in this paragraph shall be apportioned to any beneficiary.

''(D) No amount shall be allowed under paragraph (1) or (2) of section 1211(b).

''(3) TREATMENT OF REMAINDER OF TRUST AND DISTRIBUTIONS.—For purposes of determining—

''(A) the amount of the tax imposed by this chapter on the portion of any electing small business trust not treated as a separate trust under paragraph (1), and

''(B) the distributable net income of the entire trust,

the items referred to in paragraph (2)(C) shall be excluded. Except as provided in the preceding sentence, this subsection shall not affect the taxation of any distribution from the trust.

''(4) TREATMENT OF UNUSED DEDUCTIONS WHERE TERMINATION OF SEPARATE TRUST.—If a portion of an electing small business trust ceases to be treated as a separate trust under paragraph (1), any carryover or excess deduction of the separate trust which is referred to in section 642(h) shall be taken into account by the entire trust.

''(5) ELECTING SMALL BUSINESS TRUST.—For purposes of this subsection, the term 'electing small business trust' has the meaning given such term by section 1361(e)(1).''.

(e) TECHNICAL AMENDMENT.—Paragraph (1) of section 1366(a) is amended by inserting '', or of a trust or estate which terminates,'' after ''who dies''.

SEC. 1303. EXPANSION OF POST-DEATH QUALIFICATION FOR CERTAIN TRUSTS.

Subparagraph (A) of section 1361(c)(2) (relating to certain trusts permitted as shareholders) is amended—

(1) by striking ''60-day period'' each place it appears in clauses (ii) and (iii) and inserting ''2-year period'', and

(2) by striking the last sentence in clause (ii).

SEC. 1304. FINANCIAL INSTITUTIONS PERMITTED TO HOLD SAFE HARBOR DEBT.

Clause (iii) of section 1361(c)(5)(B) (defining straight debt) is amended by striking ''or a trust described in paragraph (2)'' and inserting ''a trust described in paragraph (2), or a person which is actively and regularly engaged in the business of lending money''.

SEC. 1305. RULES RELATING TO INADVERTENT TERMINATIONS AND INVALID ELECTIONS.

(a) GENERAL RULE.—Subsection (f) of section 1362 (relating to inadvertent terminations) is amended to read as follows:

''(f) INADVERTENT INVALID ELECTIONS OR TERMINATIONS.—If—

''(1) an election under subsection (a) by any corporation—

''(A) was not effective for the taxable year for which made (determined without regard to subsection (b)(2)) by reason of a failure to meet the requirements of section 1361(b) or to obtain shareholder consents, or

''(B) was terminated under paragraph (2) or (3) of subsection (d),

''(2) the Secretary determines that the circumstances resulting in such ineffectiveness or termination were inadvertent,

''(3) no later than a reasonable period of time after discovery of the circumstances resulting in such ineffectiveness or termination, steps were taken—

''(A) so that the corporation is a small business corporation, or

''(B) to acquire the required shareholder consents, and

''(4) the corporation, and each person who was a shareholder in the corporation at any time during the period specified pursuant to this subsection, agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period,

then, notwithstanding the circumstances resulting in such ineffectiveness or termination, such corporation shall be treated as an S corporation during the period specified by the Secretary.''.

(b) LATE ELECTIONS, ETC.—Subsection (b) of section 1362 is amended by adding at the end the following new paragraph:

''(5) AUTHORITY TO TREAT LATE ELECTIONS, ETC., AS TIMELY.—If—

''(A) an election under subsection (a) is made for any taxable year (determined without regard to paragraph (3)) after the date prescribed by this subsection for making such election for such taxable year or no such election is made for any taxable year, and

''(B) the Secretary determines that there was reasonable cause for the failure to timely make such election,

the Secretary may treat such an election as timely made for such taxable year (and paragraph (3) shall not apply).''.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) and (b) shall apply with respect to elections for taxable years beginning after December 31, 1982.

SEC. 1306. AGREEMENT TO TERMINATE YEAR.

Paragraph (2) of section 1377(a) (relating to pro rata share) is amended to read as follows:

''(2) ELECTION TO TERMINATE YEAR.—

''(A) IN GENERAL.—Under regulations prescribed by the Secretary, if any shareholder terminates the shareholder's interest in the corporation during the taxable year and all affected shareholders and the corporation agree to the application of this paragraph, paragraph (1) shall be applied to the affected shareholders as if the taxable year consisted of 2 taxable years the first of which ends on the date of the termination.

''(B) AFFECTED SHAREHOLDERS.—For purposes of subparagraph (A), the term 'affected shareholders' means the shareholder whose interest is terminated and all shareholders to whom such shareholder has transferred shares during the taxable year. If such shareholder has transferred shares to the corporation, the term 'affected shareholders' shall include all persons who are shareholders during the taxable year.''.

SEC. 1307. EXPANSION OF POST-TERMINATION TRANSITION PERIOD.

(a) IN GENERAL.—Paragraph (1) of section 1377(b) (relating to post-termination transition period) is amended by striking ''and'' at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

''(B) the 120-day period beginning on the date of any determination pursuant to an audit of the taxpayer which follows the termination of the corporation's election and which adjusts a subchapter S item of income, loss, or deduction of the corporation arising during the S period (as defined in section 1368(e)(2)), and''.

(b) DETERMINATION DEFINED.—Paragraph (2) of section 1377(b) is amended by striking subparagraphs (A) and (B), by redesignating subparagraph (C) as subparagraph (B), and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

''(A) a determination as defined in section 1313(a), or''.

(c) REPEAL OF SPECIAL AUDIT PROVISIONS FOR SUBCHAPTER S ITEMS.—

(1) GENERAL RULE.—Subchapter D of chapter 63 (relating to tax treatment of subchapter S items) is hereby repealed.

(2) CONSISTENT TREATMENT REQUIRED.—Section 6037 (relating to return of S corporation) is amended by adding at the end the following new subsection:

''(c) SHAREHOLDER'S RETURN MUST BE CONSISTENT WITH CORPORATE RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.—

''(1) IN GENERAL.—A shareholder of an S corporation shall, on such shareholder's return, treat a subchapter S item in a manner which is consistent with the treatment of such item on the corporate return.

''(2) NOTIFICATION OF INCONSISTENT TREATMENT.—

''(A) IN GENERAL.—In the case of any subchapter S item, if—

''(i)(I) the corporation has filed a return but the shareholder's treatment on his return is (or may be) inconsistent with the treatment of the item on the corporate return, or

''(II) the corporation has not filed a return, and

''(ii) the shareholder files with the Secretary a statement identifying the inconsistency,

paragraph (1) shall not apply to such item.

''(B) SHAREHOLDER RECEIVING INCORRECT INFORMATION.—A shareholder shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a subchapter S item if the shareholder—

''(i) demonstrates to the satisfaction of the Secretary that the treatment of the subchapter S item on the shareholder's return is consistent with the treatment of the item on the schedule furnished to the shareholder by the corporation, and

''(ii) elects to have this paragraph apply with respect to that item.

''(3) EFFECT OF FAILURE TO NOTIFY.—In any case—

''(A) described in subparagraph (A)(i)(I) of paragraph (2), and

''(B) in which the shareholder does not comply with subparagraph (A)(ii) of paragraph (2),

any adjustment required to make the treatment of the items by such shareholder consistent with the treatment of the items on the corporate return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

''(4) SUBCHAPTER S ITEM.—For purposes of this subsection, the term 'subchapter S item' means any item of an S corporation to the extent that regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the corporation level than at the shareholder level.

''(5) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in the case of a shareholder's negligence in connection with, or disregard of, the requirements of this section, see part II of subchapter A of chapter 68.".

(3) CONFORMING AMENDMENTS.—

(A) Section 1366 is amended by striking subsection (g).

(B) Subsection (b) of section 6233 is amended to read as follows:

''(b) SIMILAR RULES IN CERTAIN CASES.—If a partnership return is filed for any taxable year but it is determined that there is no entity for such taxable year, to the extent provided in regulations, rules similar to the rules of subsection (a) shall apply.''.

(C) The table of subchapters for chapter 63 is amended by striking the item relating to subchapter D.

SEC. 1308. S CORPORATIONS PERMITTED TO HOLD SUBSIDIARIES.

(a) IN GENERAL.—Paragraph (2) of section 1361(b) (defining ineligible corporation) is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (A), (B), (C), and (D), respectively.

(b) TREATMENT OF CERTAIN WHOLLY OWNED S CORPORATION SUBSIDIARIES.—Section 1361(b) (defining small business corporation) is amended by adding at the end the following new paragraph:

''(3) TREATMENT OF CERTAIN WHOLLY OWNED SUBSIDIARIES.—

''(A) IN GENERAL.—For purposes of this title—

''(i) a corporation which is a qualified subchapter S subsidiary shall not be treated as a separate corporation, and

''(ii) all assets, liabilities, and items of income, deduction, and credit of a qualified subchapter S subsidiary shall be treated as assets, liabilities, and such items (as the case may be) of the S corporation.

''(B) QUALIFIED SUBCHAPTER S SUBSIDIARY.—For purposes of this paragraph, the term 'qualified subchapter S subsidiary' means any domestic corporation which is not an ineligible corporation (as defined in paragraph (2)), if—

''(i) 100 percent of the stock of such corporation is held by the S corporation, and

''(ii) the S corporation elects to treat such corporation as a qualified subchapter S subsidiary.

''(C) TREATMENT OF TERMINATIONS OF QUALIFIED SUBCHAPTER S SUBSIDIARY STATUS.—For purposes of this title, if any corporation which was a qualified subchapter S subsidiary ceases to meet the requirements of subparagraph (B), such corporation shall be treated as a new corporation acquiring all of its assets (and assuming all of its liabilities) immediately before such cessation from the S corporation in exchange for its stock.

''(D) ELECTION AFTER TERMINATION.—If a corporation's status as a qualified subchapter S subsidiary terminates, such corporation (and any successor corporation) shall not be eligible to make—

''(i) an election under subparagraph (B)(ii) to be treated as a qualified subchapter S subsidiary, or

''(ii) an election under section 1362(a) to be treated as an S corporation,

before its 5th taxable year which begins after the 1st taxable year for which such termination was effective, unless the Secretary consents to such election.''

(c) CERTAIN DIVIDENDS NOT TREATED AS PASSIVE INVESTMENT INCOME.—Paragraph (3) of section 1362(d) is amended by adding at the end the following new subparagraph:

''(F) TREATMENT OF CERTAIN DIVIDENDS.—If an S corporation holds stock in a C corporation meeting the requirements of section 1504(a)(2), the term 'passive investment income' shall not include dividends from such C corporation to the extent such dividends are attributable to the earnings and profits of such C corporation derived from the active conduct of a trade or business.''.

(d) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 1361 is amended by striking paragraph (6).

(2) Subsection (b) of section 1504 (defining includible corporation) is amended by adding at the end the following new paragraph:

''(8) An S corporation.''.

SEC. 1309. TREATMENT OF DISTRIBUTIONS DURING LOSS YEARS.

(a) ADJUSTMENTS FOR DISTRIBUTIONS TAKEN INTO ACCOUNT BEFORE LOSSES.—

(1) Subparagraph (A) of section 1366(d)(1) (relating to losses and deductions cannot exceed shareholder's basis in stock and debt) is amended by striking ''paragraph (1)'' and inserting ''paragraphs (1) and (2)(A)''.

(2) Subsection (d) of section 1368 (relating to certain adjustments taken into account) is amended by adding at the end the following new sentence:

''In the case of any distribution made during any taxable year, the adjusted basis of the stock shall be determined with regard to the adjustments provided in paragraph (1) of section 1367(a) for the taxable year.''.

(b) ACCUMULATED ADJUSTMENTS ACCOUNT.—Paragraph (1) of section 1368(e) (relating to accumulated adjustments account) is amended by adding at the end the following new subparagraph:

''(C) NET LOSS FOR YEAR DISREGARDED.—

''(i) IN GENERAL.—In applying this section to distributions made during any taxable year, the amount in the accumulated adjustments account as of the close of such taxable year shall be determined without regard to any net negative adjustment for such taxable year.

''(ii) NET NEGATIVE ADJUSTMENT.—For purposes of clause (i), the term 'net negative adjustment' means, with respect to any taxable year, the excess (if any) of—

''(I) the reductions in the account for the taxable year (other than for distributions), over

''(II) the increases in such account for such taxable year.''.

(c) CONFORMING AMENDMENTS.—Subparagraph (A) of section 1368(e)(1) is amended—

(1) by striking ''as provided in subparagraph (B)'' and inserting ''as otherwise provided in this paragraph'', and

(2) by striking ''section 1367(b)(2)(A)'' and inserting ''section 1367(a)(2)''.

SEC. 1310. TREATMENT OF S CORPORATIONS UNDER SUBCHAPTER C.

Subsection (a) of section 1371 (relating to application of subchapter C rules) is amended to read as follows:

''(a) APPLICATION OF SUBCHAPTER C RULES.—Except as otherwise provided in this title, and except to the extent inconsistent with this subchapter, subchapter C shall apply to an S corporation and its shareholders.''.

SEC. 1311. ELIMINATION OF CERTAIN EARNINGS AND PROFITS.

(a) IN GENERAL.—If—

(1) a corporation was an electing small business corporation under subchapter S of chapter 1 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 1983, and

(2) such corporation is an S corporation under subchapter S of chapter 1 of such Code for its first taxable year beginning after December 31, 1996,

the amount of such corporation's accumulated earnings and profits (as of the beginning of such first taxable year) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under such subchapter S.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 1362(d), as amended by section 1308, is amended—

(A) by striking ''SUBCHAPTER C'' in the paragraph heading and inserting ''ACCUMULATED'',

(B) by striking ''subchapter C'' in subparagraph (A)(i)(I) and inserting ''accumulated'', and

(C) by striking subparagraph (B) and redesignating the following subparagraphs accordingly.

(2)(A) Subsection (a) of section 1375 is amended by striking ''subchapter C'' in paragraph (1) and inserting ''accumulated''.

(B) Paragraph (3) of section 1375(b) is amended to read as follows:

''(3) PASSIVE INVESTMENT INCOME, ETC.—The terms 'passive investment income' and 'gross receipts' have the same respective meanings as when used in paragraph (3) of section 1362(d).''.

(C) The section heading for section 1375 is amended by striking ''**subchapter c**'' and inserting ''**accumulated**''.

(D) The table of sections for part III of subchapter S of chapter 1 is amended by striking ''subchapter C'' in the item relating to section 1375 and inserting ''accumulated''.

(3) Clause (i) of section 1042(c)(4)(A) is amended by striking ''section 1362(d)(3)(D)'' and inserting ''section 1362(d)(3)(C)''.

SEC. 1312. CARRYOVER OF DISALLOWED LOSSES AND DEDUCTIONS UNDER AT-RISK RULES ALLOWED.

Paragraph (3) of section 1366(d) (relating to carryover of disallowed losses and deductions to post-termination transition period) is amended by adding at the end the following new subparagraph:

''(D) AT-RISK LIMITATIONS.—To the extent that any increase in adjusted basis described in subparagraph (B) would have increased the shareholder's amount at risk under section 465 if such increase had occurred on the day preceding the commencement of the post-termination transition period, rules similar to the rules described in subparagraphs (A) through (C) shall apply to any losses disallowed by reason of section 465(a).''.

SEC. 1313. ADJUSTMENTS TO BASIS OF INHERITED S STOCK TO REFLECT CERTAIN ITEMS OF INCOME.

(a) IN GENERAL.—Subsection (b) of section 1367 (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end the following new paragraph:

''(4) ADJUSTMENTS IN CASE OF INHERITED STOCK.—

''(A) IN GENERAL.—If any person acquires stock in an S corporation by reason of the death of a decedent or by bequest, devise, or inheritance, section 691 shall be applied with respect to any item of income of the S corporation in the same manner as if the decedent had held directly his pro rata share of such item.

''(B) ADJUSTMENTS TO BASIS.—The basis determined under section 1014 of any stock in an S corporation shall be reduced by the portion of the value of the stock which is attributable to items constituting income in respect of the decedent.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of decedents dying after the date of the enactment of this Act.

SEC. 1314. S CORPORATIONS ELIGIBLE FOR RULES APPLICABLE TO REAL PROPERTY SUBDIVIDED FOR SALE BY NONCORPORATE TAXPAYERS.

(a) IN GENERAL.—Subsection (a) of section 1237 (relating to real property subdivided for sale) is amended by striking ''other than a corporation'' in the material preceding paragraph (1) and inserting ''other than a C corporation''.

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 1237(a)(2) is amended by inserting ''an S corporation which included the taxpayer as a shareholder,'' after ''controlled by the taxpayer,''.

SEC. 1315. FINANCIAL INSTITUTIONS.

Subparagraph (A) of section 1361(b)(2) (defining ineligible corporation), as redesignated by section 1308(a), is amended to read as follows:

''(A) a financial institution which uses the reserve method of accounting for bad debts described in section 585 or 593,''.

SEC. 1316. CERTAIN EXEMPT ORGANIZATIONS ALLOWED TO BE SHAREHOLDERS.

(a) ELIGIBILITY TO BE SHAREHOLDERS.—

(1) IN GENERAL.—Subparagraph (B) of section 1361(b)(1) (defining small business corporation) is amended to read as follows:

''(B) have as a shareholder a person (other than an estate, a trust described in subsection (c)(2), or an organization described in subsection (c)(7)) who is not an individual,''.

(2) ELIGIBLE EXEMPT ORGANIZATIONS.—Section 1361(c) (relating to special rules for applying subsection (b)) is amended by adding at the end the following new paragraph:

''(7) CERTAIN EXEMPT ORGANIZATIONS PERMITTED AS SHAREHOLDERS.—For purposes of subsection (b)(1)(B), an organization which is—

''(A) described in section 401(a) or 501(c)(3), and

''(B) exempt from taxation under section 501(a),

may be a shareholder in an S corporation.''

(b) CONTRIBUTIONS OF S CORPORATION STOCK.—Section 170(e)(1) (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end the following new sentence: ''For purposes of applying this paragraph in the case of a charitable contribution of stock in an S corporation, rules similar to the rules of section 751 shall apply in determining whether gain on such stock would have been long-term capital gain if such stock were sold by the taxpayer.''

(c) TREATMENT OF INCOME.—Section 512 (relating to unrelated business taxable income), as amended by section 1113, is amended by adding at the end the following new subsection:

''(e) SPECIAL RULES APPLICABLE TO S CORPORATIONS.—

''(1) IN GENERAL.—If an organization described in section 1361(c)(7) holds stock in an S corporation—

''(A) such interest shall be treated as an interest in an unrelated trade or business; and

''(B) notwithstanding any other provision of this part, all items of income, loss, deduction or credit taken into account under section 1366(a) and any gain or loss on the disposition of the stock in the S corporation shall be taken into account in computing the unrelated business taxable income of such organization.

''(2) DISPOSITION GAIN.—For purposes of paragraph (1), gain on the sale or other disposition of C corporation stock which was an S corporation at any time the organization held such stock shall be treated as gain from the disposition of stock in an S corporation to the extent of any gain which the organization would have realized if it had sold the stock for fair market value as of the last day of the corporation's last taxable year as an S corporation.''

(d) CERTAIN BENEFITS NOT APPLICABLE TO S CORPORATIONS.—

(1) CONTRIBUTION TO ESOPS.—Paragraph (9) of section 404(a) (relating to certain contributions to employee ownership plans) is amended by inserting at the end the following new subparagraph:

''(C) S CORPORATIONS.—This paragraph shall not apply to an S corporation.''

(2) DIVIDENDS ON EMPLOYER SECURITIES.—Paragraph (1) of section 404(k) (relating to deduction for dividends on certain employer securities) is amended by striking ''a corporation'' and inserting ''a C corporation''.

(3) EXCHANGE TREATMENT.—Subparagraph (A) of section 1042(c)(1) (defining qualified securities) is amended by striking ''domestic corporation'' and inserting ''domestic C corporation''.

(e) CONFORMING AMENDMENT.—Clause (i) of section 1361(e)(1)(A), as added by section 1302, is amended by striking ''which holds a contingent interest and is not a potential current beneficiary''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1317. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this subtitle, the amendments made by this subtitle shall apply to taxable years beginning after December 31, 1996.

(b) TREATMENT OF CERTAIN ELECTIONS UNDER PRIOR LAW.—For purposes of section 1362(g) of the Internal Revenue Code of 1986 (relating to election after termination), any termination under section 1362(d) of such Code in a taxable year beginning before January 1, 1997, shall not be taken into account.

Subtitle D—Pension Simplification

CHAPTER 1—SIMPLIFIED DISTRIBUTION RULES

SEC. 1401. REPEAL OF 5-YEAR INCOME AVERAGING FOR LUMP-SUM DISTRIBUTIONS.

(a) IN GENERAL.—Subsection (d) of section 402 (relating to taxability of beneficiary of employees' trust) is amended to read as follows:

''(d) TAXABILITY OF BENEFICIARY OF CERTAIN FOREIGN SITUS TRUSTS.—For purposes of subsections (a), (b), and (c), a stock bonus, pension, or profit-sharing trust which would qualify for exemption from tax under section 501(a) except for the fact that it is a trust created or organized outside the United States shall be treated as if it were a trust exempt from tax under section 501(a).''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (D) of section 402(e)(4) (relating to other rules applicable to exempt trusts) is amended to read as follows:

''(D) LUMP-SUM DISTRIBUTION.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'lump sum distribution' means the distribution or payment within one taxable year of the recipient of the balance to the credit of an employee which becomes payable to the recipient—

''(I) on account of the employee's death,

''(II) after the employee attains age 59½,

''(III) on account of the employee's separation from service, or

''(IV) after the employee has become disabled (within the meaning of section 72(m)(7)),

from a trust which forms a part of a plan described in section 401(a) and which is exempt from tax under section 501 or from a plan described in section 403(a). Subclause (III) of this clause shall be applied only with respect to an individual who is an employee without regard to section 401(c)(1), and subclause (IV) shall be applied only with respect to an employee within the meaning of section 401(c)(1). For purposes of this clause, a distribution to two or more trusts shall be treated as a distribution to one recipient. For purposes of this paragraph, the balance to the credit of the employee does not include the accumulated deductible employee contributions under the plan (within the meaning of section 72(o)(5)).

''(ii) AGGREGATION OF CERTAIN TRUSTS AND PLANS.—For purposes of determining the balance to the credit of an employee under clause (i)—

''(I) all trusts which are part of a plan shall be treated as a single trust, all pension plans maintained by the employer shall be treated as a single plan, all profit-sharing plans maintained by the employer shall be treated as a single plan, and all stock bonus plans maintained by the employer shall be treated as a single plan, and

''(II) trusts which are not qualified trusts under section 401(a) and annuity contracts which do not satisfy the requirements of section 404(a)(2) shall not be taken into account.

''(iii) COMMUNITY PROPERTY LAWS.—The provisions of this paragraph shall be applied without regard to community property laws.

''(iv) AMOUNTS SUBJECT TO PENALTY.—This paragraph shall not apply to amounts described in subparagraph (A) of section 72(m)(5) to the extent that section 72(m)(5) applies to such amounts.

''(v) BALANCE TO CREDIT OF EMPLOYEE NOT TO INCLUDE AMOUNTS PAYABLE UNDER QUALIFIED DOMESTIC RELATIONS ORDER.—For purposes of this paragraph, the balance to the credit of an employee shall not include any amount payable to an alternate payee under a qualified domestic relations order (within the meaning of section 414(p)).

''(vi) TRANSFERS TO COST-OF-LIVING ARRANGEMENT NOT TREATED AS DISTRIBUTION.—For purposes of this paragraph, the balance to the credit of an employee under a defined contribution plan shall not include any amount transferred from such defined contribution plan to a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)) under a defined benefit plan.

''(vii) LUMP-SUM DISTRIBUTIONS OF ALTERNATE PAYEES.—If any distribution or payment of the balance to the credit of an employee would be treated as a lump-sum distribution, then, for purposes of this paragraph, the payment under a qualified domestic relations order (within the meaning of section 414(p)) of the balance to the credit of an alternate payee who is the spouse or former spouse of the employee shall be treated as a lump-sum distribution. For purposes of this clause, the balance to the credit of the alternate payee shall not include any amount payable to the employee.''.

(2) Section 402(c) (relating to rules applicable to rollovers from exempt trusts) is amended by striking paragraph (10).

(3) Paragraph (1) of section 55(c) (defining regular tax) is amended by striking ''shall not include any tax imposed by section 402(d) and''.

(4) Paragraph (8) of section 62(a) (relating to certain portion of lump-sum distributions from pension plans taxed under section 402(d)) is hereby repealed.

(5) Section 401(a)(28)(B) (relating to coordination with distribution rules) is amended by striking clause (v).

(6) Subparagraph (B)(ii) of section 401(k)(10) (relating to distributions that must be lump-sum distributions) is amended to read as follows:

''(ii) LUMP-SUM DISTRIBUTION.—For purposes of this subparagraph, the term 'lump-sum distribution' has the meaning given such term by section 402(e)(4)(D) (without regard to subclauses (I), (II), (III), and (IV) of clause (i) thereof).''.

(7) Section 406(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(8) Section 407(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(9) Section 691(c) (relating to deduction for estate tax) is amended by striking paragraph (5).

(10) Paragraph (1) of section 871(b) (relating to imposition of tax) is amended by striking ''section 1, 55, or 402(d)(1)'' and inserting ''section 1 or 55''.

(11) Subsection (b) of section 877 (relating to alternative tax) is amended by striking ''section 1, 55, or 402(d)(1)'' and inserting ''section 1 or 55''.

(12) Section 4980A(c)(4) is amended—

(A) by striking ''to which an election under section 402(d)(4)(B) applies'' and inserting ''(as defined in section 402(e)(4)(D)) with respect to which the individual elects to have this paragraph apply'',

(B) by adding at the end the following new flush sentence:

''An individual may elect to have this paragraph apply to only one lump-sum distribution.'', and

(C) by striking the heading and inserting:

''(4) SPECIAL ONE-TIME ELECTION.—''.

(13) Section 402(e) is amended by striking paragraph (5).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

(2) RETENTION OF CERTAIN TRANSITION RULES.—The amendments made by this section shall not apply to any distribution for which the taxpayer is eligible to elect the benefits of section 1122 (h)(3) or (h)(5) of the Tax Reform Act of 1986. Notwithstanding the preceding sentence, individuals who elect such benefits after December 31, 1999, shall not be eligible for 5-year averaging under section 402(d) of the Internal Revenue Code of 1986 (as in effect immediately before such amendments).

SEC. 1402. REPEAL OF $5,000 EXCLUSION OF EMPLOYEES' DEATH BENEFITS.

(a) IN GENERAL.—Subsection (b) of section 101 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 101 is amended by striking ''subsection (a) or (b)'' and inserting ''subsection (a)''.

(2) Sections 406(e) and 407(e) are each amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(3) Section 7701(a)(20) is amended by striking '', for the purpose of applying the provisions of section 101(b) with respect to employees' death benefits''.

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

SEC. 1403. SIMPLIFIED METHOD FOR TAXING ANNUITY DISTRIBUTIONS UNDER CERTAIN EMPLOYER PLANS.

(a) GENERAL RULE.—Subsection (d) of section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended to read as follows:

''(d) SPECIAL RULES FOR QUALIFIED EMPLOYER RETIREMENT PLANS.—

''(1) SIMPLIFIED METHOD OF TAXING ANNUITY PAYMENTS.—

''(A) IN GENERAL.—In the case of any amount received as an annuity under a qualified employer retirement plan—

''(i) subsection (b) shall not apply, and

''(ii) the investment in the contract shall be recovered as provided in this paragraph.

''(B) METHOD OF RECOVERING INVESTMENT IN CONTRACT.—

''(i) IN GENERAL.—Gross income shall not include so much of any monthly annuity payment under a qualified employer retirement plan as does not exceed the amount obtained by dividing—

''(I) the investment in the contract (as of the annuity starting date), by

''(II) the number of anticipated payments determined under the table contained in clause (iii) (or, in the case of a contract to which subsection (c)(3)(B) applies, the number of monthly annuity payments under such contract).

''(ii) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) and (3) of subsection (b) shall apply for purposes of this paragraph.

''(iii) NUMBER OF ANTICIPATED PAYMENTS.—

''If the age of the primary annuitant on the annuity starting date is:	**The number of anticipated payments is:**
Not more than 55	360
More than 55 but not more than 60	310
More than 60 but not more than 65 ...	260
More than 65 but not more than 70 ...	210
More than 70	160.

''(C) ADJUSTMENT FOR REFUND FEATURE NOT APPLICABLE.—For purposes of this paragraph, investment in the contract shall be determined under subsection (c)(1) without regard to subsection (c)(2).

''(D) SPECIAL RULE WHERE LUMP SUM PAID IN CONNECTION WITH COMMENCEMENT OF ANNUITY PAYMENTS.—If, in connection with the commencement of annuity payments under any qualified employer retirement plan, the taxpayer receives a lump sum payment—

''(i) such payment shall be taxable under subsection (e) as if received before the annuity starting date, and

''(ii) the investment in the contract for purposes of this paragraph shall be determined as if such payment had been so received.

''(E) EXCEPTION.—This paragraph shall not apply in any case where the primary annuitant has attained age 75 on the annuity starting date unless there are fewer than 5 years of guaranteed payments under the annuity.

''(F) ADJUSTMENT WHERE ANNUITY PAYMENTS NOT ON MONTHLY BASIS.—In any case where the annuity payments are not made on a monthly basis, appropriate adjustments in the application of this paragraph shall be made to take into account the period on the basis of which such payments are made.

''(G) QUALIFIED EMPLOYER RETIREMENT PLAN.—For purposes of this paragraph, the term 'qualified employer retirement plan' means any plan or contract described in paragraph (1), (2), or (3) of section 4974(c).

''(2) TREATMENT OF EMPLOYEE CONTRIBUTIONS UNDER DEFINED CONTRIBUTION PLANS.—For purposes of this section, employee contributions (and any income allocable thereto) under a defined contribution plan may be treated as a separate contract.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in cases where the annuity starting date is after the 90th day after the date of the enactment of this Act.

SEC. 1404. REQUIRED DISTRIBUTIONS.

(a) IN GENERAL.—Section 401(a)(9)(C) (defining required beginning date) is amended to read as follows:

''(C) REQUIRED BEGINNING DATE.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'required beginning date' means April 1 of the calendar year following the later of—

''(I) the calendar year in which the employee attains age 70½, or

''(II) the calendar year in which the employee retires.

''(ii) EXCEPTION.—Subclause (II) of clause (i) shall not apply—

''(I) except as provided in section 409(d), in the case of an employee who is a 5-percent owner (as defined in section 416) with respect to the plan year ending in the calendar year in which the employee attains age 70½, or

''(II) for purposes of section 408 (a)(6) or (b)(3).

''(iii) ACTUARIAL ADJUSTMENT.—In the case of an employee to whom clause (i)(II) applies who retires in a calendar year after the calendar year in which the employee attains age 70½, the employee's accrued benefit shall be actuarially increased to take into account the period after age 70½ in which the employee was not receiving any benefits under the plan.

''(iv) EXCEPTION FOR GOVERNMENTAL AND CHURCH PLANS.—Clauses (ii) and (iii) shall not apply in the case of a governmental plan or church plan. For purposes of this clause, the term 'church plan' means a plan maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B)).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1996.

CHAPTER 2—INCREASED ACCESS TO RETIREMENT PLANS

Subchapter A—Simple Savings Plans

SEC. 1421. ESTABLISHMENT OF SAVINGS INCENTIVE MATCH PLANS FOR EMPLOYEES OF SMALL EMPLOYERS.

(a) IN GENERAL.—Section 408 (relating to individual retirement accounts) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(p) SIMPLE RETIREMENT ACCOUNTS.—

''(1) IN GENERAL.—For purposes of this title, the term 'simple retirement account' means an individual retirement plan (as defined in section 7701(a)(37))—

''(A) with respect to which the requirements of paragraphs (3), (4), and (5) are met; and

''(B) with respect to which the only contributions allowed are contributions under a qualified salary reduction arrangement.

''(2) QUALIFIED SALARY REDUCTION ARRANGEMENT.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'qualified salary reduction arrangement' means a written arrangement of an eligible employer under which—

''(i) an employee eligible to participate in the arrangement may elect to have the employer make payments—

''(I) as elective employer contributions to a simple retirement account on behalf of the employee, or

''(II) to the employee directly in cash,

''(ii) the amount which an employee may elect under clause (i) for any year is required to be expressed as a percentage of compensation and may not exceed a total of $6,000 for any year,

''(iii) the employer is required to make a matching contribution to the simple retirement account for any year in an amount equal to so much of the amount the employee elects under clause (i)(I) as does not exceed the applicable percentage of compensation for the year, and

''(iv) no contributions may be made other than contributions described in clause (i) or (iii).

''(B) EMPLOYER MAY ELECT 2-PERCENT NONELECTIVE CONTRIBUTION.—

''(i) IN GENERAL.—An employer shall be treated as meeting the requirements of subparagraph (A)(iii) for any year if, in lieu of the contributions described in such clause, the employer elects to make nonelective contributions of 2 percent of compensation for each employee who is eligible to participate in the arrangement and who has at least $5,000 of compensation from the employer for the year. If an employer makes an election under this subparagraph for any year, the employer shall notify employees of such election within a reasonable period of time before the 60-day period for such year under paragraph (5)(C).

''(ii) COMPENSATION LIMITATION.—The compensation taken into account under clause (i) for any year shall not exceed the limitation in effect for such year under section 401(a)(17).

''(C) DEFINITIONS.—For purposes of this subsection—

''(i) ELIGIBLE EMPLOYER.—

''(I) IN GENERAL.—The term 'eligible employer' means, with respect to any year, an employer which had no more than 100 employees who received at least $5,000 of compensation from the employer for the preceding year.

''(II) 2-YEAR GRACE PERIOD.—An eligible employer who establishes and maintains a plan under this subsection for 1 or more years and who fails to be an eligible employer for any subsequent year shall be treated as an eligible employer for the 2 years following the last year the employer was an eligible employer. If such failure is due to any acquisition, disposition, or similar transaction involving an eligible employer, the preceding sentence shall apply only in accordance with rules similar to the rules of section 410(b)(6)(C)(i).

''(ii) APPLICABLE PERCENTAGE.—

''(I) IN GENERAL.—The term 'applicable percentage' means 3 percent.

''(II) ELECTION OF LOWER PERCENTAGE.—An employer may elect to apply a lower percentage (not less than 1 percent) for any year for all employees eligible to participate in the plan for such year if the employer notifies the employees of such lower percentage within a reasonable period of time before the 60-day election period for such year under paragraph (5)(C). An employer may not elect a lower percentage under this subclause for any year if that election would result in the applicable percentage being lower than 3 percent in more than 2 of the years in the 5-year period ending with such year.

''(III) SPECIAL RULE FOR YEARS ARRANGEMENT NOT IN EFFECT.—If any year in the 5-year period described in subclause (II) is a year prior to the first year for which any qualified salary reduction arrangement is in effect with respect to the employer (or any predecessor), the employer shall be treated as if the level of the employer matching contribution was at 3 percent of compensation for such prior year.

''(D) ARRANGEMENT MAY BE ONLY PLAN OF EMPLOYER.—

''(i) IN GENERAL.—An arrangement shall not be treated as a qualified salary reduction arrangement for any year if the employer (or any predecessor employer) maintained a qualified plan with respect to which contributions were made, or benefits were accrued, for service in any year in the period beginning with the year such arrangement became effective and ending with the year for which the determination is being made.

''(ii) QUALIFIED PLAN.—For purposes of this subparagraph, the term 'qualified plan' means a plan, contract, pension, or trust described in subparagraph (A) or (B) of section 219(g)(5).

''(E) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust the $6,000 amount under subparagraph (A)(ii) at the same time and in the same manner as under section 415(d), except that the base period taken into account shall be the calendar quarter ending September 30, 1996, and any increase under this subparagraph which is not a multiple of $500 shall be rounded to the next lower multiple of $500.

''(3) VESTING REQUIREMENTS.—The requirements of this paragraph are met with respect to a simple retirement account if the employee's rights to any contribution to the simple retirement account are nonforfeitable. For purposes of this paragraph, rules similar to the rules of subsection (k)(4) shall apply.

''(4) PARTICIPATION REQUIREMENTS.—

''(A) IN GENERAL.—The requirements of this paragraph are met with respect to any simple retirement account for a year only if, under the qualified salary reduction arrangement, all employees of the employer who—

''(i) received at least $5,000 in compensation from the employer during any 2 preceding years, and

''(ii) are reasonably expected to receive at least $5,000 in compensation during the year,

are eligible to make the election under paragraph (2)(A)(i) or receive the nonelective contribution described in paragraph (2)(B).

''(B) EXCLUDABLE EMPLOYEES.—An employer may elect to exclude from the requirement under subparagraph (A) employees described in section 410(b)(3).

''(5) ADMINISTRATIVE REQUIREMENTS.—The requirements of this paragraph are met with respect to any simplified retirement account if, under the qualified salary reduction arrangement—

''(A) an employer must—

''(i) make the elective employer contributions under paragraph (2)(A)(i) not later than the close of the 30-day period following the last day of the month with respect to which the contributions are to be made, and

''(ii) make the matching contributions under paragraph (2)(A)(iii) or the nonelective contributions under paragraph (2)(B) not later than the date described in section 404(m)(2)(B),

''(B) an employee may elect to terminate participation in such arrangement at any time during the year, except that if an employee so terminates, the arrangement may provide that the employee may not elect to resume participation until the beginning of the next year, and

''(C) each employee eligible to participate may elect, during the 60-day period before the beginning of any year (and the 60-day period before the first day such employee is eligible to participate), to participate in the arrangement, or to modify the amounts subject to such arrangement, for such year.

''(6) DEFINITIONS.—For purposes of this subsection—

''(A) COMPENSATION.—

''(i) IN GENERAL.—The term 'compensation' means amounts described in paragraphs (3) and (8) of section 6051(a).

''(ii) SELF-EMPLOYED.—In the case of an employee described in subparagraph (B), the term 'compensation' means net earnings from self-employment determined under section 1402(a) without regard to any contribution under this subsection.

''(B) EMPLOYEE.—The term 'employee' includes an employee as defined in section 401(c)(1).

''(C) YEAR.—The term 'year' means the calendar year.

''(7) USE OF DESIGNATED FINANCIAL INSTITUTION.—A plan shall not be treated as failing to satisfy the requirements of this subsection or any other provision of this title merely because the employer makes all contributions to the individual retirement accounts or annuities of a designated trustee or issuer. The preceding sentence shall not apply unless each plan participant is notified in writing (either separately or as part of the notice under subsection (l)(2)(C)) that the participant's balance may be transferred without cost or penalty to another individual account or annuity in accordance with section 408(d)(3)(G).''

(b) TAX TREATMENT OF SIMPLE RETIREMENT ACCOUNTS.—

(1) DEDUCTIBILITY OF CONTRIBUTIONS BY EMPLOYEES.—

(A) Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end the following new paragraph:

''(4) SPECIAL RULE FOR SIMPLE RETIREMENT ACCOUNTS.—This section shall not apply with respect to any amount contributed to a simple retirement account established under section 408(p).''.

(B) Section 219(g)(5)(A) (defining active participant) is amended by striking ''or'' at the end of clause (iv) and by adding at the end the following new clause:

''(vi) any simple retirement account (within the meaning of section 408(p)), or''.

(2) DEDUCTIBILITY OF EMPLOYER CONTRIBUTIONS.—Section 404 (relating to deductions for contributions of an employer to pension, etc. plans) is amended by adding at the end the following new subsection:

''(m) SPECIAL RULES FOR SIMPLE RETIREMENT ACCOUNTS.—

''(1) IN GENERAL.—Employer contributions to a simple retirement account shall be treated as if they are made to a plan subject to the requirements of this section.

''(2) TIMING.—

''(A) DEDUCTION.—Contributions described in paragraph (1) shall be deductible in the taxable year of the employer with or within which the calendar year for which the contributions were made ends.

''(B) CONTRIBUTIONS AFTER END OF YEAR.—For purposes of this subsection, contributions shall be treated as made for a taxable year if they are made on account of the taxable year and are made not later than the time prescribed by law for filing the return for the taxable year (including extensions thereof).''.

(3) CONTRIBUTIONS AND DISTRIBUTIONS.—

(A) Section 402 (relating to taxability of beneficiary of employees' trust) is amended by adding at the end the following new subsection:

''(k) TREATMENT OF SIMPLE RETIREMENT ACCOUNTS.—Rules similar to the rules of paragraphs (1) and (3) of subsection (h) shall apply to contributions and distributions with respect to a simple retirement account under section 408(p).''.

(B) Section 408(d)(3) is amended by adding at the end the following new subparagraph:

''(G) SIMPLE RETIREMENT ACCOUNTS.—This paragraph shall not apply to any amount paid or distributed out of a simple retirement account (as defined in section 408(p)) unless—

''(i) it is paid into another simple retirement account, or

''(ii) in the case of any payment or distribution to which section 72(t)(6) does not apply, it is paid into an individual retirement plan.''.

(C) Clause (i) of section 457(c)(2)(B) is amended by striking ''section 402(h)(1)(B)'' and inserting ''section 402(h)(1)(B) or (k)''.

(4) PENALTIES.—

(A) EARLY WITHDRAWALS.—Section 72(t) (relating to additional tax in early distributions) is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULES FOR SIMPLE RETIREMENT ACCOUNTS.—In the case of any amount received from a simple retirement account (within the meaning of section 408(p)) during the 2-year period beginning on the date such individual first participated in any qualified salary reduction arrangement maintained by the individual's employer under section 408(p)(2), paragraph (1) shall be applied by substituting '25 percent' for '10 percent'.''.

(B) FAILURE TO REPORT.—Section 6693 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) PENALTIES RELATING TO SIMPLE RETIREMENT ACCOUNTS.—

''(1) EMPLOYER PENALTIES.—An employer who fails to provide 1 or more notices required by section 408(l)(2)(C) shall pay a penalty of $50 for each day on which such failures continue.

''(2) TRUSTEE PENALTIES.—A trustee who fails—

''(A) to provide 1 or more statements required by the last sentence of section 408(i) shall pay a penalty of $50 for each day on which such failures continue, or

''(B) to provide 1 or more summary descriptions required by section 408(l)(2)(B) shall pay a penalty of $50 for each day on which such failures continue.

''(3) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this subsection with respect to any failure which the taxpayer shows was due to reasonable cause.''.

(5) REPORTING REQUIREMENTS.—

(A) Section 408(l) is amended by adding at the end the following new paragraph:

''(2) SIMPLE RETIREMENT ACCOUNTS.—

''(A) NO EMPLOYER REPORTS.—Except as provided in this paragraph, no report shall be required under this section by an employer maintaining a qualified salary reduction arrangement under subsection (p).

''(B) SUMMARY DESCRIPTION.—The trustee of any simple retirement account established pursuant to a qualified salary reduction arrangement under subsection (p) shall provide to the employer maintaining the arrangement, each year a description containing the following information:

''(i) The name and address of the employer and the trustee.

''(ii) The requirements for eligibility for participation.

''(iii) The benefits provided with respect to the arrangement.

''(iv) The time and method of making elections with respect to the arrangement.

''(v) The procedures for, and effects of, withdrawals (including rollovers) from the arrangement.

''(C) EMPLOYEE NOTIFICATION.—The employer shall notify each employee immediately before the period for which an election described in subsection (p)(5)(C) may be made of the employee's opportunity to make such election. Such notice shall include a copy of the description described in subparagraph (B).''.

(B) Section 408(l) is amended by striking ''An employer'' and inserting the following:

''(1) IN GENERAL.—An employer''.

(6) REPORTING REQUIREMENTS.—Section 408(i) is amended by adding at the end the following new flush sentence:

''In the case of a simple retirement account under subsection (p), only one report under this subsection shall be required to be submitted each calendar year to the Secretary (at the time provided under paragraph (2)) but, in addition to the report under this subsection, there shall be furnished, within 30 days after each calendar year, to the individual on whose behalf the account is maintained a statement with respect to the account balance as of the close of, and the account activity during, such calendar year.''.

(7) EXEMPTION FROM TOP-HEAVY PLAN RULES.—Section 416(g)(4) (relating to special rules for top-heavy plans) is amended by adding at the end the following new subparagraph:

''(G) SIMPLE RETIREMENT ACCOUNTS.—The term 'top-heavy plan' shall not include a simple retirement account under section 408(p).''.

(8) EMPLOYMENT TAXES.—

(A) Paragraph (5) of section 3121(a) is amended by striking ''or'' at the end of subparagraph (F), by inserting ''or'' at the end of subparagraph (G), and by adding at the end the following new subparagraph:

''(H) under an arrangement to which section 408(p) applies, other than any elective contributions under paragraph (2)(A)(i) thereof,''.

(B) Section 209(a)(4) of the Social Security Act is amended by inserting ''; or (J) under an arrangement to which section 408(p) of such Code applies, other than any elective contributions under paragraph (2)(A)(i) thereof'' before the semicolon at the end thereof.

(C) Paragraph (5) of section 3306(b) is amended by striking ''or'' at the end of subparagraph (F), by inserting ''or'' at the end of subparagraph (G), and by adding at the end the following new subparagraph:

''(H) under an arrangement to which section 408(p) applies, other than any elective contributions under paragraph (2)(A)(i) thereof,''.

(D) Paragraph (12) of section 3401(a) is amended by adding the following new subparagraph:

''(D) under an arrangement to which section 408(p) applies; or''.

(9) CONFORMING AMENDMENTS.—

(A) Section 280G(b)(6) is amended by striking ''or'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', or'' and by adding after subparagraph (C) the following new subparagraph:

''(D) a simple retirement account described in section 408(p).''.

(B) Section 402(g)(3) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding after subparagraph (C) the following new subparagraph:

''(D) any elective employer contribution under section 408(p)(2)(A)(i).''.

(C) Subsections (b), (c), (m)(4)(B), and (n)(3)(B) of section 414 are each amended by inserting ''408(p),'' after ''408(k),''.

(D) Section 4972(d)(1)(A) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding after clause (iii) the following new clause:

''(iv) any simple retirement account (within the meaning of section 408(p)).''.

(c) REPEAL OF SALARY REDUCTION SIMPLIFIED EMPLOYEE PENSIONS.—Section 408(k)(6) is amended by adding at the end the following new subparagraph:

''(H) TERMINATION.—This paragraph shall not apply to years beginning after December 31, 1996. The preceding sentence shall not apply to a simplified employee pension if the terms of such pension, as in effect on December 31, 1996, provide that an employee may make the election described in subparagraph (A).''.

(d) MODIFICATIONS OF ERISA.—

(1) REPORTING REQUIREMENTS.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) SIMPLE RETIREMENT ACCOUNTS.—

''(1) NO EMPLOYER REPORTS.—Except as provided in this subsection, no report shall be required under this section by an employer maintaining a qualified salary reduction arrangement under section 408(p) of the Internal Revenue Code of 1986.

''(2) SUMMARY DESCRIPTION.—The trustee of any simple retirement account established pursuant to a qualified salary reduction arrangement under section 408(p) of such Code shall provide to the employer maintaining the arrangement each year a description containing the following information:

''(A) The name and address of the employer and the trustee.

''(B) The requirements for eligibility for participation.

''(C) The benefits provided with respect to the arrangement.

''(D) The time and method of making elections with respect to the arrangement.

''(E) The procedures for, and effects of, withdrawals (including rollovers) from the arrangement.

''(3) EMPLOYEE NOTIFICATION.—The employer shall notify each employee immediately before the period for which an election described in section 408(p)(5)(C) of such Code may be made of the employee's opportunity to make such election. Such notice shall include a copy of the description described in paragraph (2).''

(2) FIDUCIARY DUTIES.—Section 404(c) of such Act (29 U.S.C. 1104(c)) is amended by inserting ''(1)'' after ''(c)'', by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and by adding at the end the following new paragraph:

''(2) In the case of a simple retirement account established pursuant to a qualified salary reduction arrangement under section 408(p) of the Internal Revenue Code of 1986, a participant or beneficiary shall, for purposes of paragraph (1), be treated as exercising control over the assets in the account upon the earliest of—

''(A) an affirmative election with respect to the initial investment of any contribution,

''(B) a rollover to any other simple retirement account or individual retirement plan, or

''(C) one year after the simple retirement account is established.

No reports, other than those required under section 101(g), shall be required with respect to a simple retirement account established pursuant to such a qualified salary reduction arrangement.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 1422. EXTENSION OF SIMPLE PLAN TO 401(k) ARRANGEMENTS.

(a) ALTERNATIVE METHOD OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.—Section 401(k) (relating to cash or deferred arrangements) is amended by adding at the end the following new paragraph:

''(11) ADOPTION OF SIMPLE PLAN TO MEET NONDISCRIMINATION TESTS.—

''(A) IN GENERAL.—A cash or deferred arrangement maintained by an eligible employer shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement meets—

''(i) the contribution requirements of subparagraph (B),

''(ii) the exclusive plan requirements of subparagraph (C), and

''(iii) the vesting requirements of section 408(p)(3).

''(B) CONTRIBUTION REQUIREMENTS.—

''(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement—

''(I) an employee may elect to have the employer make elective contributions for the year on behalf of the employee to a trust under the plan in an amount which is expressed as a percentage of compensation of the employee but which in no event exceeds $6,000,

''(II) the employer is required to make a matching contribution to the trust for the year in an amount equal to so much of the amount the employee elects under subclause (I) as does not exceed 3 percent of compensation for the year, and

''(III) no other contributions may be made other than contributions described in subclause (I) or (II).

''(ii) EMPLOYER MAY ELECT 2-PERCENT NONELECTIVE CONTRIBUTION.—An employer shall be treated as meeting the requirements of clause (i)(II) for any year if, in lieu of the contributions described in such clause, the employer elects (pursuant to the terms of the arrangement) to make nonelective contributions of 2 percent of compensation for each employee who is eligible to participate in the arrangement and who has at least $5,000 of compensation from the employer for the year. If an employer makes an election under this subparagraph for any year, the employer shall notify employees of such election within a reasonable period of time before the 60th day before the beginning of such year.

''(C) EXCLUSIVE PLAN REQUIREMENT.—The requirements of this subparagraph are met for any year to which this paragraph applies if no contributions were made, or benefits were accrued, for services during such year under any qualified plan of the employer on behalf of any employee eligible to participate in the cash or deferred arrangement, other than contributions described in subparagraph (B).

''(D) DEFINITIONS AND SPECIAL RULE.—

''(i) DEFINITIONS.—For purposes of this paragraph, any term used in this paragraph which is also used in section 408(p) shall have the meaning given such term by such section.

''(ii) COORDINATION WITH TOP-HEAVY RULES.—A plan meeting the requirements of this paragraph for any year shall not be treated as a top-heavy plan under section 416 for such year.''.

(b) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph (10) as paragraph (11) and by adding after paragraph (9) the following new paragraph:

''(10) ALTERNATIVE METHOD OF SATISFYING TESTS.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

''(A) meets the contribution requirements of subparagraph (B) of subsection (k)(11),

''(B) meets the exclusive plan requirements of subsection (k)(11)(C), and

''(C) meets the vesting requirements of section 408(p)(3).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1996.

Subchapter B—Other Provisions

SEC. 1426. TAX-EXEMPT ORGANIZATIONS ELIGIBLE UNDER SECTION 401(k).

(a) IN GENERAL.—Subparagraph (B) of section 401(k)(4) is amended to read as follows:

''(B) ELIGIBILITY OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.—

''(i) TAX-EXEMPTS ELIGIBLE.—Except as provided in clause (ii), any organization exempt from tax under this subtitle may include a qualified cash or deferred arrangement as part of a plan maintained by it.

''(ii) GOVERNMENTS INELIGIBLE.—A cash or deferred arrangement shall not be treated as a qualified cash or deferred arrangement if it is part of a plan maintained by a State or local government or political subdivision thereof, or any agency or instrumentality thereof. This clause shall not apply to a rural cooperative plan or to a plan of an employer described in clause (iii).

''(iii) TREATMENT OF INDIAN TRIBAL GOVERNMENTS.—An employer which is an Indian tribal government (as defined in section 7701(a)(40)), a subdivision of an Indian tribal government (determined in accordance with section 7871(d)), an agency or instrumentality of an Indian tribal government or subdivision thereof, or a corporation chartered under Federal, State, or tribal law which is owned in whole or in part by any of the foregoing may include a qualified cash or deferred arrangement as part of a plan maintained by the employer.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December 31, 1996, but shall not apply to any cash or deferred arrangement to which clause (i) of section 1116(f)(2)(B) of the Tax Reform Act of 1986 applies.

SEC. 1427. HOMEMAKERS ELIGIBLE FOR FULL IRA DEDUCTION.

(a) SPOUSAL IRA COMPUTED ON BASIS OF COMPENSATION OF BOTH SPOUSES.—Subsection (c) of section 219 (relating to special rules for certain married individuals) is amended to read as follows:

''(c) SPECIAL RULES FOR CERTAIN MARRIED INDIVIDUALS.—

''(1) IN GENERAL.—In the case of an individual to whom this paragraph applies for the taxable year, the limitation of paragraph (1) of subsection (b) shall be equal to the lesser of—

''(A) the dollar amount in effect under subsection (b)(1)(A) for the taxable year, or

''(B) the sum of—

''(i) the compensation includible in such individual's gross income for the taxable year, plus

''(ii) the compensation includible in the gross income of such individual's spouse for the taxable year reduced by the amount allowed as a deduction under subsection (a) to such spouse for such taxable year.

''(2) INDIVIDUALS TO WHOM PARAGRAPH (1) APPLIES.—Paragraph (1) shall apply to any individual if—

''(A) such individual files a joint return for the taxable year, and

''(B) the amount of compensation (if any) includible in such individual's gross income for the taxable year is less than the compensation includible in the gross income of such individual's spouse for the taxable year.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 219(f) (relating to other definitions and special rules) is amended by striking ''subsections (b) and (c)'' and inserting ''subsection (b)''.

(2) Section 219(g)(1) is amended by striking ''(c)(2)'' and inserting ''(c)(1)(A)''.

(3) Section 408(d)(5) is amended by striking ''$2,250'' and inserting ''the dollar amount in effect under section 219(b)(1)(A)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

CHAPTER 3—NONDISCRIMINATION PROVISIONS

SEC. 1431. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES; REPEAL OF FAMILY AGGREGATION.

(a) IN GENERAL.—Paragraph (1) of section 414(q) (defining highly compensated employee) is amended to read as follows:

''(1) IN GENERAL.—The term 'highly compensated employee' means any employee who—

''(A) was a 5-percent owner at any time during the year or the preceding year, or

''(B) for the preceding year had compensation from the employer in excess of $80,000.

The Secretary shall adjust the $80,000 amount under subparagraph (B) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter ending September 30, 1996.''.

(b) REPEAL OF FAMILY AGGREGATION RULES.—

(1) IN GENERAL.—Paragraph (6) of section 414(q) is hereby repealed.

(2) COMPENSATION LIMIT.—Paragraph (17)(A) of section 401(a) is amended by striking the last sentence.

(3) DEDUCTION.—Subsection (l) of section 404 is amended by striking the last sentence.

(c) CONFORMING AMENDMENTS.—

(1)(A) Subsection (q) of section 414 is amended by striking paragraphs (2), (4), (5), (8), and (12) and by redesignating paragraphs (3), (7), (9), (10), and (11) as paragraphs (2) through (6), respectively.

(B) Sections 129(d)(8)(B), 401(a)(5)(D)(ii), 408(k)(2)(C), and 416(i)(1)(D) are each amended by striking ''section 414(q)(7)'' and inserting ''section 414(q)(3)''.

(C) Section 416(i)(1)(A) is amended by striking ''section 414(q)(8)'' and inserting ''section 414(r)(9)''.

(2)(A) Section 414(r) is amended by adding at the end the following new paragraph:

''(9) EXCLUDED EMPLOYEES.—For purposes of paragraph (2)(A), the following employees shall be excluded:

''(A) Employees who have not completed 6 months of service.

''(B) Employees who normally work less than 17½ hours per week.

''(C) Employees who normally work not more than 6 months during any year.

''(D) Employees who have not attained the age of 21.

''(E) Except to the extent provided in regulations, employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer.

Except as provided by the Secretary, the employer may elect to apply subparagraph (A), (B), (C), or (D) by substituting a shorter period of service, smaller number of hours or months, or lower age for the period of service, number of hours or months, or age (as the case may be) specified in such subparagraph.''.

(B) Subparagraph (A) of section 414(r)(2) is amended by striking ''subsection (q)(8)'' and inserting ''paragraph (9)''.

(3) Section 1114(c)(4) of the Tax Reform Act of 1986 is amended by adding at the end the following new sentence: ''Any reference in this paragraph to section 414(q) shall be treated as a reference to such section as in effect on the day before the date of the enactment of the Small Business Job Protection Act of 1996.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1996, except that in determining whether an employee is a highly compensated employee for years beginning in 1997, such amendments shall be treated as having been in effect for years beginning in 1996.

(2) FAMILY AGGREGATION.—The amendments made by subsection (b) shall apply to years beginning after December 31, 1996.

SEC. 1432. MODIFICATION OF ADDITIONAL PARTICIPATION REQUIREMENTS.

(a) GENERAL RULE.—Section 401(a)(26)(A) (relating to additional participation requirements) is amended to read as follows:

''(A) IN GENERAL.—In the case of a trust which is a part of a defined benefit plan, such trust shall not constitute a qualified trust under this subsection unless on each day of the plan year such trust benefits at least the lesser of—

''(i) 50 employees of the employer, or

''(ii) the greater of—

''(I) 40 percent of all employees of the employer, or

''(II) 2 employees (or if there is only 1 employee, such employee).''.

(b) SEPARATE LINE OF BUSINESS TEST.—Section 401(a)(26)(G) (relating to separate line of business) is amended by striking ''paragraph (7)'' and inserting ''paragraph (2)(A) or (7)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1996.

SEC. 1433. NONDISCRIMINATION RULES FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS AND MATCHING CONTRIBUTIONS.

(a) ALTERNATIVE METHODS OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.—Section 401(k) (relating to cash or deferred arrangements), as amended by section 1422, is amended by adding at the end the following new paragraph:

''(12) ALTERNATIVE METHODS OF MEETING NONDISCRIMINATION REQUIREMENTS.—

''(A) IN GENERAL.—A cash or deferred arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement—

''(i) meets the contribution requirements of subparagraph (B) or (C), and

''(ii) meets the notice requirements of subparagraph (D).

''(B) MATCHING CONTRIBUTIONS.—

''(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to—

''(I) 100 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 3 percent of the employee's compensation, and

''(II) 50 percent of the elective contributions of the employee to the extent that such elective contributions exceed 3 percent but do not exceed 5 percent of the employee's compensation.

''(ii) RATE FOR HIGHLY COMPENSATED EMPLOYEES.—The requirements of this subparagraph are not met if, under the arrangement, the rate of matching contribution with respect to any elective contribution of a highly compensated employee at any rate of elective contribution is greater than that with respect to an employee who is not a highly compensated employee.

''(iii) ALTERNATIVE PLAN DESIGNS.—If the rate of any matching contribution with respect to any rate of elective contribution is not equal to the percentage required under clause (i), an arrangement shall not be treated as failing to meet the requirements of clause (i) if—

''(I) the rate of an employer's matching contribution does not increase as an employee's rate of elective contributions increase, and

''(II) the aggregate amount of matching contributions at such rate of elective contribution is at least equal to the aggregate amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (i).

''(C) NONELECTIVE CONTRIBUTIONS.—The requirements of this subparagraph are met if, under the arrangement, the employer is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 3 percent of the employee's compensation.

''(D) NOTICE REQUIREMENT.—An arrangement meets the requirements of this paragraph if, under the arrangement, each employee eligible to participate is, within a reasonable period before any year, given written notice of the employee's rights and obligations under the arrangement which—

''(i) is sufficiently accurate and comprehensive to appraise the employee of such rights and obligations, and

''(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

''(E) OTHER REQUIREMENTS.—

''(i) WITHDRAWAL AND VESTING RESTRICTIONS.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) of this paragraph unless the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to all employer contributions (including matching contributions) taken into account in determining whether the requirements of subparagraphs (B) and (C) of this paragraph are met.

''(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless such requirements are met without regard to subsection (l), and, for purposes of subsection (l), employer contributions under subparagraph (B) or (C) shall not be taken into account.

''(F) OTHER PLANS.—An arrangement shall be treated as meeting the requirements under subparagraph (A)(i) if any other plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement.''.

(b) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions), as amended by this section 1422(b), is amended by redesignating paragraph (11) as paragraph (12) and by adding after paragraph (10) the following new paragraph:

''(11) ALTERNATIVE METHOD OF SATISFYING TESTS.—

''(A) IN GENERAL.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

''(i) meets the contribution requirements of subparagraph (B) or (C) of subsection (k)(12),

''(ii) meets the notice requirements of subsection (k)(12)(D), and

''(iii) meets the requirements of subparagraph (B).

''(B) LIMITATION ON MATCHING CONTRIBUTIONS.—The requirements of this subparagraph are met if—

''(i) matching contributions on behalf of any employee may not be made with respect to an employee's contributions or elective deferrals in excess of 6 percent of the employee's compensation,

''(ii) the rate of an employer's matching contribution does not increase as the rate of an employee's contributions or elective deferrals increase, and

''(iii) the matching contribution with respect to any highly compensated employee at any rate of an employee contribution or rate of elective deferral is not greater than that with respect to an employee who is not a highly compensated employee.''.

(c) YEAR FOR COMPUTING NONHIGHLY COMPENSATED EMPLOYEE PERCENTAGE.—

(1) CASH OR DEFERRED ARRANGEMENTS.—Section 401(k)(3)(A) is amended—

(A) by striking ''such year'' in clause (ii) and inserting ''the plan year'',

(B) by striking ''for such plan year'' in clause (ii) and inserting ''for the preceding plan year'', and

(C) by adding at the end the following new sentence: ''An arrangement may apply clause (ii) by using the plan year rather than the preceding plan year if the employer so elects, except that if such an election is made, it may not be changed except as provided by the Secretary.''.

(2) MATCHING AND EMPLOYEE CONTRIBUTIONS.—Section 401(m)(2)(A) is amended—

(A) by inserting ''for such plan year'' after ''highly compensated employees'',

(B) by inserting ''for the preceding plan year'' after ''eligible employees'' each place it appears in clause (i) and clause (ii), and

(C) by adding at the end the following flush sentence:

''This subparagraph may be applied by using the plan year rather than the preceding plan year if the employer so elects, except that if such an election is made, it may not be changed except as provided the Secretary.''.

(d) SPECIAL RULE FOR DETERMINING AVERAGE DEFERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—

(1) Paragraph (3) of section 401(k) is amended by adding at the end the following new subparagraph:

''(E) For purposes of this paragraph, in the case of the first plan year of any plan (other than a successor plan), the amount taken into account as the actual deferral percentage of nonhighly compensated employees for the preceding plan year shall be—

''(i) 3 percent, or

''(ii) if the employer makes an election under this subclause, the actual deferral percentage of nonhighly compensated employees determined for such first plan year.''.

(2) Paragraph (3) of section 401(m) is amended by adding at the end the following: ''Rules similar to the rules of subsection (k)(3)(E) shall apply for purposes of this subsection.''.

(e) DISTRIBUTION OF EXCESS CONTRIBUTIONS AND EXCESS AGGREGATE CONTRIBUTIONS.—

(1) Subparagraph (C) of section 401(k)(8) (relating to arrangement not disqualified if excess contributions distributed) is amended by striking ''on the basis of the respective portions of the excess contributions attributable to each of such employees'' and inserting ''on the basis of the amount of contributions by, or on behalf of, each of such employees''.

(2) Subparagraph (C) of section 401(m)(6) (relating to method of distributing excess aggregate contributions) is amended by striking ''on the basis of the respective portions of such amounts attributable to each of such employees'' and inserting ''on the basis of the amount of contributions on behalf of, or by, each such employee''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1998.

(2) EXCEPTIONS.—The amendments made by subsections (c), (d), and (e) shall apply to years beginning after December 31, 1996.

SEC. 1434. DEFINITION OF COMPENSATION FOR SECTION 415 PURPOSES.

(a) GENERAL RULE.—Section 415(c)(3) (defining participant's compensation) is amended by adding at the end the following new subparagraph:

''(D) CERTAIN DEFERRALS INCLUDED.—The term 'participant's compensation' shall include—

''(i) any elective deferral (as defined in section 402(g)(3)), and

''(ii) any amount which is contributed or deferred by the employer at the election of the employee and which is not includible in the gross income of the employee by reason of section 125 or 457.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 414(q)(3), as redesignated by section 1431, is amended to read as follows:

''(4) COMPENSATION.—For purposes of this subsection, the term 'compensation' has the meaning given such term by section 415(c)(3).''.

(2) Section 414(s)(2) is amended by inserting ''not'' after ''elect'' in the text and heading thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1997.

CHAPTER 4—MISCELLANEOUS PROVISIONS

SEC. 1441. PLANS COVERING SELF-EMPLOYED INDIVIDUALS.

(a) AGGREGATION RULES.—Section 401(d) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended to read as follows:

''(d) CONTRIBUTION LIMIT ON OWNER-EMPLOYEES.—A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are owner-employees shall constitute a qualified trust under this section only if, in addition to meeting the requirements of subsection (a), the plan provides that contributions on behalf of any owner-employee may be made only with respect to the earned income of such owner-employee which is derived from the trade or business with respect to which such plan is established.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1996.

SEC. 1442. ELIMINATION OF SPECIAL VESTING RULE FOR MULTIEMPLOYER PLANS.

(a) AMENDMENTS TO 1986 CODE.—Paragraph (2) of section 411(a) (relating to minimum vesting standards) is amended—

(1) by striking ''subparagraph (A), (B), or (C)'' and inserting ''subparagraph (A) or (B)''; and

(2) by striking subparagraph (C).

(b) AMENDMENTS TO ERISA.—Paragraph (2) of section 203(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)) is amended—

(1) by striking ''subparagraph (A), (B), or (C)'' and inserting ''subparagraph (A) or (B)''; and

(2) by striking subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after the earlier of—

(1) the later of—

(A) January 1, 1997, or

(B) the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 1999.

Such amendments shall not apply to any individual who does not have more than 1 hour of service under the plan on or after the 1st day of the 1st plan year to which such amendments apply.

SEC. 1443. DISTRIBUTIONS UNDER RURAL COOPERATIVE PLANS.

(a) DISTRIBUTIONS FOR HARDSHIP OR AFTER A CERTAIN AGE.—Section 401(k)(7) is amended by adding at the end the following new subparagraph:

''(C) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—A rural cooperative plan which includes a qualified cash or deferred arrangement shall not be treated as violating the requirements of section 401(a) or of paragraph (2) merely by reason of a hardship distribution or a distribution to a participant after attainment of age 59½. For purposes of this section, the term 'hardship distribution' means a distribution described in paragraph (2)(B)(i)(IV) (without regard to the limitation of its application to profit-sharing or stock bonus plans).''.

(b) PUBLIC UTILITY DISTRICTS.—Clause (i) of section 401(k)(7)(B) (defining rural cooperative) is amended to read as follows:

''(i) any organization which—

''(I) is engaged primarily in providing electric service on a mutual or cooperative basis, or

''(II) is engaged primarily in providing electric service to the public in its area of service and which is exempt from tax under this subtitle or which is a State or local government (or an agency or instrumentality thereof), other than a municipality (or an agency or instrumentality thereof),''.

(c) EFFECTIVE DATES.—

(1) DISTRIBUTIONS.—The amendments made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) PUBLIC UTILITY DISTRICTS.—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 1996.

SEC. 1444. TREATMENT OF GOVERNMENTAL PLANS UNDER SECTION 415.

(a) COMPENSATION LIMIT.—Subsection (b) of section 415 is amended by adding immediately after paragraph (10) the following new paragraph:

''(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL PLANS.—In the case of a governmental plan (as defined in section 414(d)), subparagraph (B) of paragraph (1) shall not apply.''.

(b) TREATMENT OF CERTAIN EXCESS BENEFIT PLANS.—

(1) IN GENERAL.—Section 415 is amended by adding at the end the following new subsection:

''(m) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—

''(1) GOVERNMENTAL PLAN NOT AFFECTED.—In determining whether a governmental plan (as defined in section 414(d)) meets the requirements of this section, benefits provided under a qualified governmental excess benefit arrangement shall not be taken into account. Income accruing to a governmental plan (or to a trust that is maintained solely for the purpose of providing benefits under a qualified governmental excess benefit arrangement) in respect of a qualified governmental excess benefit arrangement shall constitute income derived from the exercise of an essential governmental function upon which such governmental plan (or trust) shall be exempt from tax under section 115.

''(2) TAXATION OF PARTICIPANT.—For purposes of this chapter—

''(A) the taxable year or years for which amounts in respect of a qualified governmental excess benefit arrangement are includible in gross income by a participant, and

''(B) the treatment of such amounts when so includible by the participant,

shall be determined as if such qualified governmental excess benefit arrangement were treated as a plan for the deferral of compensation which is maintained by a corporation not exempt from tax under this chapter and which does not meet the requirements for qualification under section 401.

''(3) QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENT.—For purposes of this subsection, the term 'qualified governmental excess benefit arrangement' means a portion of a governmental plan if—

''(A) such portion is maintained solely for the purpose of providing to participants in the plan that part of the participant's annual benefit otherwise payable under the terms of the plan that exceeds the limitations on benefits imposed by this section,

''(B) under such portion no election is provided at any time to the participant (directly or indirectly) to defer compensation, and

''(C) benefits described in subparagraph (A) are not paid from a trust forming a part of such governmental plan unless such trust is maintained solely for the purpose of providing such benefits.''.

(2) COORDINATION WITH SECTION 457.—Subsection (e) of section 457 is amended by adding at the end the following new paragraph:

''(14) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—Subsections (b)(2) and (c)(1) shall not apply to any qualified governmental excess benefit arrangement (as defined in section 415(m)(3)), and benefits provided under such an arrangement shall not be taken into account in determining whether any other plan is an eligible deferred compensation plan.''.

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 457(f) is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by inserting immediately thereafter the following new subparagraph:

''(E) a qualified governmental excess benefit arrangement described in section 415(m).''.

(c) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS.—Paragraph (2) of section 415(b) is amended by adding at the end the following new subparagraph:

''(I) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS PROVIDED UNDER GOVERNMENTAL PLANS.—Subparagraph (C) of this paragraph and paragraph (5) shall not apply to—

''(i) income received from a governmental plan (as defined in section 414(d)) as a pension, annuity, or similar allowance as the result of the recipient becoming disabled by reason of personal injuries or sickness, or

''(ii) amounts received from a governmental plan by the beneficiaries, survivors, or the estate of an employee as the result of the death of the employee.''.

(d) REVOCATION OF GRANDFATHER ELECTION.—

(1) IN GENERAL.—Subparagraph (C) of section 415(b)(10) is amended by adding at the end the following new clause:

''(ii) REVOCATION OF ELECTION.—An election under clause (i) may be revoked not later than the last day of the third plan year beginning after the date of the enactment of this clause. The revocation shall apply to all plan years to which the election applied and to all subsequent plan years. Any amount paid by a plan in a taxable year ending after the revocation shall be includible in income in such taxable year under the rules of this chapter in effect for such taxable year, except that, for purposes of applying the limitations imposed by this section, any portion of such amount which is attributable to any taxable year during which the election was in effect shall be treated as received in such taxable year.''.

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 415(b)(10) is amended by striking ''This'' and inserting:

''(i) IN GENERAL.—This''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (c) shall apply to years beginning after December 31, 1994. The amendments made by subsection (d) shall

apply with respect to revocations adopted after the date of the enactment of this Act.

(2) TREATMENT FOR YEARS BEGINNING BEFORE JANUARY 1, 1995.—Nothing in the amendments made by this section shall be construed to imply that a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) fails to satisfy the requirements of section 415 of such Code for any taxable year beginning before January 1, 1995.

SEC. 1445. UNIFORM RETIREMENT AGE.

(a) DISCRIMINATION TESTING.—Paragraph (5) of section 401(a) (relating to special rules relating to nondiscrimination requirements) is amended by adding at the end the following new subparagraph:

''(F) SOCIAL SECURITY RETIREMENT AGE.—For purposes of testing for discrimination under paragraph (4)—

''(i) the social security retirement age (as defined in section 415(b)(8)) shall be treated as a uniform retirement age, and

''(ii) subsidized early retirement benefits and joint and survivor annuities shall not be treated as being unavailable to employees on the same terms merely because such benefits or annuities are based in whole or in part on an employee's social security retirement age (as so defined).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1996.

SEC. 1446. CONTRIBUTIONS ON BEHALF OF DISABLED EMPLOYEES.

(a) ALL DISABLED PARTICIPANTS RECEIVING CONTRIBUTIONS.—Section 415(c)(3)(C) is amended by adding at the end the following: ''If a defined contribution plan provides for the continuation of contributions on behalf of all participants described in clause (i) for a fixed or determinable period, this subparagraph shall be applied without regard to clauses (ii) and (iii).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1996.

SEC. 1447. TREATMENT OF DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.

(a) SPECIAL RULES FOR PLAN DISTRIBUTIONS.—Paragraph (9) of section 457(e) (relating to other definitions and special rules) is amended to read as follows:

''(9) BENEFITS NOT TREATED AS MADE AVAILABLE BY REASON OF CERTAIN ELECTIONS, ETC.—

''(A) TOTAL AMOUNT PAYABLE IS $3,500 OR LESS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to receive such amount (or the plan may distribute such amount without the participant's consent) if—

''(i) such amount does not exceed $3,500, and

''(ii) such amount may be distributed only if—

''(I) no amount has been deferred under the plan with respect to such participant during the 2-year period ending on the date of the distribution, and

''(II) there has been no prior distribution under the plan to such participant to which this subparagraph applied.

A plan shall not be treated as failing to meet the distribution requirements of subsection (d) by reason of a distribution to which this subparagraph applies.

''(B) ELECTION TO DEFER COMMENCEMENT OF DISTRIBUTIONS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to defer commencement of distributions under the plan if—

''(i) such election is made after amounts may be available under the plan in accordance with subsection (d)(1)(A) and before commencement of such distributions, and

''(ii) the participant may make only 1 such election.''.

(b) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—Subsection (e) of section 457, as amended by section 1444(b)(2) (relating to governmental plans), is amended by adding at the end the following new paragraph:

''(15) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—The Secretary shall adjust the $7,500 amount specified in subsections (b)(2) and (c)(1) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter ending September 30, 1994, and any increase under this paragraph which is not a multiple of $500 shall be rounded to the next lowest multiple of $500.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 1448. TRUST REQUIREMENT FOR DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS.

(a) IN GENERAL.—Section 457 is amended by adding at the end the following new subsection:

''(g) GOVERNMENTAL PLANS MUST MAINTAIN SET-ASIDES FOR EXCLUSIVE BENEFIT OF PARTICIPANTS.—

''(1) IN GENERAL.—A plan maintained by an eligible employer described in subsection (e)(1)(A) shall not be treated as an eligible deferred compensation plan unless all assets and income of the plan described in subsection (b)(6) are held in trust for the exclusive benefit of participants and their beneficiaries.

''(2) TAXABILITY OF TRUSTS AND PARTICIPANTS.—For purposes of this title—

''(A) a trust described in paragraph (1) shall be treated as an organization exempt from taxation under section 501(a), and

''(B) notwithstanding any other provision of this title, amounts in the trust shall be includible in the gross income of participants and beneficiaries only to the extent, and at the time, provided in this section.

''(3) CUSTODIAL ACCOUNTS AND CONTRACTS.—For purposes of this subsection, custodial accounts and contracts described in section 401(f) shall be treated as trusts under rules similar to the rules under section 401(f).''.

(b) CONFORMING AMENDMENT.—Paragraph (6) of section 457(b) is amended by inserting ''except as provided in subsection (g),'' before ''which provides that''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to assets and income described in section 457(b)(6) of the Internal Revenue Code of 1986 held by a plan on and after the date of the enactment of this Act.

(2) TRANSITION RULE.—In the case of a plan in existence on the date of the enactment of this Act, a trust need not be established by reason of the amendments made by this section before January 1, 1999.

SEC. 1449. TRANSITION RULE FOR COMPUTING MAXIMUM BENEFITS UNDER SECTION 415 LIMITATIONS.

(a) IN GENERAL.—Subparagraph (A) of section 767(d)(3) of the Uruguay Round Agreements Act is amended to read as follows:

''(A) EXCEPTION.—A plan that was adopted and in effect before December 8, 1994, shall not be required to apply the amendments made by subsection (b) with respect to benefits accrued before the earlier of—

''(i) the later of the date a plan amendment applying the amendments made by subsection (b) is adopted or made effective, or

''(ii) the first day of the first limitation year beginning after December 31, 1999.

Determinations under section 415(b)(2)(E) of the Internal Revenue Code of 1986 before such earlier date shall be made with respect to such benefits on the basis of such section as in effect on December 7, 1994 (except that the modification made by section 1449(b) of the Small Business Job Protection Act of 1996 shall be taken into account), and the provisions of the plan as in effect on December 7, 1994, but only if such provisions of the plan meet the requirements of such section (as so in effect).''.

(b) MODIFICATION OF CERTAIN ASSUMPTIONS FOR ADJUSTING BENEFITS OF DEFINED BENEFIT PLANS FOR EARLY RETIREES.—Subparagraph (E) of section 415(b)(2) (relating to limitation on certain assumptions) is amended—

(1) by striking ''Except as provided in clause (ii), for purposes of adjusting any benefit or limitation under subparagraph (B) or (C),'' in clause (i) and inserting ''For purposes of adjusting any limitation under subparagraph (C) and, except as provided in clause (ii), for purposes of adjusting any benefit under subparagraph (B),'', and

(2) by striking ''For purposes of adjusting the benefit or limitation of any form of benefit subject to section 417(e)(3),'' in clause (ii) and inserting ''For purposes of adjusting any benefit under subparagraph (B) for any form of benefit subject to section 417(e)(3),''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of section 767 of the Uruguay Round Agreements Act.

(d) TRANSITIONAL RULE.—In the case of a plan that was adopted and in effect before December 8, 1994, if—

(1) a plan amendment was adopted or made effective on or before the date of the enactment of this Act applying the amendments made by section 767 of the Uruguay Round Agreements Act, and

(2) within 1 year after the date of the enactment of this Act, a plan amendment is adopted which repeals the amendment referred to in paragraph (1),

the amendment referred to in paragraph (1) shall not be taken into account in applying section 767(d)(3)(A) of the Uruguay Round Agreements Act, as amended by subsection (a).

SEC. 1450. MODIFICATIONS OF SECTION 403(b).

(a) MULTIPLE SALARY REDUCTION AGREEMENTS PERMITTED.—

(1) GENERAL RULE.—For purposes of section 403(b) of the Internal Revenue Code of 1986, the frequency that an employee is permitted to enter into a salary reduction agreement, the salary to which such an agreement may apply, and the ability to revoke such an agreement shall be determined under the rules applicable to cash or deferred elections under section 401(k) of such Code.

(2) CONSTRUCTIVE RECEIPT.—Section 402(e)(3) is amended by inserting ''or which is part of a salary reduction agreement under section 403(b)'' after ''section 401(k)(2))''.

(3) EFFECTIVE DATE.—This subsection shall apply to taxable years beginning after December 31, 1995.

(b) TREATMENT OF INDIAN TRIBAL GOVERNMENTS.—

(1) IN GENERAL.—Subparagraph (A) of section 403(b)(1) (relating to taxability of beneficiary under annuity purchased by section 501(c)(3) organization or public school) is amended by striking ''or'' at the end of clause (i), by inserting ''or'' at the end of clause (ii), and by adding at the end the following new clause:

''(iii) for an employee by an employer which is an Indian tribal government (as defined in section 7701(a)(40)), a subdivision of an Indian tribal government (determined in accordance with section 7871(d)), an agency

or instrumentality of an Indian tribal government or subdivision thereof, or a corporation chartered under Federal, State, or tribal law which is owned in whole or part by any of the foregoing,''.

(2) CONFORMING AMENDMENT.—The heading for section 403(b) is amended by striking ''OR PUBLIC SCHOOL'' and inserting '', PUBLIC SCHOOL, OR INDIAN TRIBE''.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 1996.

(B) TRANSITION RULES.—

(i) IN GENERAL.—In the case of any contract purchased in a plan year beginning before January 1, 1997, section 403(b) of the Internal Revenue Code of 1986 shall be applied as if any reference to an employer described in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from tax under section 501 of such Code included a reference to an employer which is an Indian tribal government (as defined by section 7701(a)(40) of such Code), a subdivision of an Indian tribal government (determined in accordance with section 7871(d) of such Code), an agency or instrumentality of an Indian tribal government or subdivision thereof, or a corporation chartered under Federal, State, or tribal law which is owned in whole or in part by any of the foregoing.

(ii) ROLLOVERS.—Solely for purposes of applying section 403(b)(8) of such Code to a contract to which clause (i) applies, a qualified cash or deferred arrangement under section 401(k) of such Code shall be treated as if it were a plan or contract described in clause (ii) of section 403(b)(8)(A) of such Code.

(c) ELECTIVE DEFERRALS.—

(1) IN GENERAL.—Subparagraph (E) of section 403(b)(1) is amended to read as follows:

''(E) in the case of a contract purchased under a salary reduction agreement, the contract meets the requirements of section 401(a)(30),''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to years beginning after December 31, 1995, except a contract shall not be required to meet any change in any requirement by reason of such amendment before the 90th day after the date of the enactment of this Act.

SEC. 1451. WAIVER OF MINIMUM PERIOD FOR JOINT AND SURVIVOR ANNUITY EXPLANATION BEFORE ANNUITY STARTING DATE.

(a) GENERAL RULE.—For purposes of section 417(a)(3)(A) of the Internal Revenue Code of 1986 (relating to plan to provide written explanations), the minimum period prescribed by the Secretary of the Treasury between the date that the explanation referred to in such section is provided and the annuity starting date shall not apply if waived by the participant and, if applicable, the participant's spouse.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to plan years beginning after December 31, 1996.

SEC. 1452. REPEAL OF LIMITATION IN CASE OF DEFINED BENEFIT PLAN AND DEFINED CONTRIBUTION PLAN FOR SAME EMPLOYEE; EXCESS DISTRIBUTIONS.

(a) IN GENERAL.—Section 415(e) is repealed.

(b) EXCESS DISTRIBUTIONS.—Section 4980A is amended by adding at the end the following new subsection:

''(g) LIMITATION ON APPLICATION.—This section shall not apply to distributions during years beginning after December 31, 1996, and before January 1, 2000, and such distributions shall be treated as made first from amounts not described in subsection (f).''.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 415(a) is amended—

(A) by adding ''or'' at the end of subparagraph (A),

(B) by striking '', or'' at the end of subparagraph (B) and inserting a period, and

(C) by striking subparagraph (C).

(2) Subparagraph (B) of section 415(b)(5) is amended by striking ''and subsection (e)''.

(3) Paragraph (1) of section 415(f) is amended by striking ''subsections (b), (c), and (e)'' and inserting ''subsections (b) and (c)''.

(4) Subsection (g) of section 415 is amended by striking ''subsections (e) and (f)'' in the last sentence and inserting ''subsection (f)''.

(5) Clause (i) of section 415(k)(2)(A) is amended to read as follows:

''(i) any contribution made directly by an employee under such an arrangement shall not be treated as an annual addition for purposes of subsection (c), and''.

(6) Clause (ii) of section 415(k)(2)(A) is amended by striking ''subsections (c) and (e)'' and inserting ''subsection (c)''.

(7) Section 416 is amended by striking subsection (h).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to limitation years beginning after December 31, 1999.

(2) EXCESS DISTRIBUTIONS.—The amendment made by subsection (b) shall apply to years beginning after December 31, 1996.

SEC. 1453. TAX ON PROHIBITED TRANSACTIONS.

(a) IN GENERAL.—Section 4975(a) is amended by striking ''5 percent'' and inserting ''10 percent''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to prohibited transactions occurring after the date of the enactment of this Act.

SEC. 1454. TREATMENT OF LEASED EMPLOYEES.

(a) GENERAL RULE.—Subparagraph (C) of section 414(n)(2) (defining leased employee) is amended to read as follows:

''(C) such services are performed under primary direction or control by the recipient.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1996, but shall not apply to any relationship determined under an Internal Revenue Service ruling issued before the date of the enactment of this Act pursuant to section 414(n)(2)(C) of the Internal Revenue Code of 1986 (as in effect on the day before such date) not to involve a leased employee.

SEC. 1455. UNIFORM PENALTY PROVISIONS TO APPLY TO CERTAIN PENSION REPORTING REQUIREMENTS.

(a) PENALTIES.—

(1) STATEMENTS.—Paragraph (1) of section 6724(d) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by inserting after subparagraph (B) the following new subparagraph:

''(C) any statement of the amount of payments to another person required to be made to the Secretary under—

''(i) section 408(i) (relating to reports with respect to individual retirement accounts or annuities), or

''(ii) section 6047(d) (relating to reports by employers, plan administrators, etc.).''.

(2) REPORTS.—Paragraph (2) of section 6724(d) is amended by striking ''or'' at the end of subparagraph (S), by striking the period at the end of subparagraph (T) and inserting a comma, and by inserting after subparagraph (T) the following new subparagraphs:

''(U) section 408(i) (relating to reports with respect to individual retirement plans) to any person other than the Secretary with respect to the amount of payments made to such person, or

''(V) section 6047(d) (relating to reports by plan administrators) to any person other than the Secretary with respect to the amount of payments made to such person.''.

(b) MODIFICATION OF REPORTABLE DESIGNATED DISTRIBUTIONS.—

(1) SECTION 408.—Subsection (i) of section 408 (relating to individual retirement account reports) is amended by inserting ''aggregating $10 or more in any calendar year'' after ''distributions''.

(2) SECTION 6047.—Paragraph (1) of section 6047(d) (relating to reports by employers, plan administrators, etc.) is amended by adding at the end the following new sentence: ''No return or report may be required under the preceding sentence with respect to distributions to any person during any year unless such distributions aggregate $10 or more.''.

(c) QUALIFYING ROLLOVER DISTRIBUTIONS.—Section 6652(i) is amended—

(1) by striking ''the $10'' and inserting ''$100'', and

(2) by striking ''$5,000'' and inserting ''$50,000''.

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6047(f) is amended to read as follows:

''(1) For provisions relating to penalties for failures to file returns and reports required under this section, see sections 6652(e), 6721, and 6722.''.

(2) Subsection (e) of section 6652 is amended by adding at the end the following new sentence: ''This subsection shall not apply to any return or statement which is an information return described in section 6724(d)(1)(C)(ii) or a payee statement described in section 6724(d)(2)(V).''.

(3) Subsection (a) of section 6693 is amended by adding at the end the following new sentence: ''This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(U).''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to returns, reports, and other statements the due date for which (determined without regard to extensions) is after December 31, 1996.

SEC. 1456. RETIREMENT BENEFITS OF MINISTERS NOT SUBJECT TO TAX ON NET EARNINGS FROM SELF-EMPLOYMENT.

(a) IN GENERAL.—Section 1402(a)(8) (defining net earning from self-employment) is amended by inserting '', but shall not include in such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excludable under section 107) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414(e)) after the individual retires'' before the semicolon at the end.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning before, on, or after December 31, 1994.

SEC. 1457. MODEL FORMS FOR SPOUSAL CONSENT AND QUALIFIED DOMESTIC RELATIONS FORMS.

(a) DEVELOPMENT OF FORMS.—Not later than January 1, 1997, the Secretary of the Treasury shall develop—

(1) a model form for the spousal consent required under section 417(a)(2) of the Internal Revenue Code of 1986 and section 205(c)(2) of the Employee Retirement Income Security Act of 1974 which—

(A) is written in a manner calculated to be understood by the average person, and

(B) discloses in plain form—

(i) whether the waiver to which the spouse consents is irrevocable, and

(ii) whether such waiver may be revoked by a qualified domestic relations order, and

(2) a model form for a qualified domestic relations order described in section 414(p)(1)(A) of such Code and section 206(d)(3)(B)(i) of such Act which—

(A) meets the requirements contained in such sections, and

(B) the provisions of which focus attention on the need to consider the treatment of any lump sum payment, qualified joint and survivor annuity, or qualified preretirement survivor annuity.

(b) PUBLICITY.—The Secretary of the Treasury shall include publicity for the model forms developed under subsection (a) in the pension outreach efforts undertaken by the Secretary.

SEC. 1458. TREATMENT OF LENGTH OF SERVICE AWARDS TO VOLUNTEERS PERFORMING FIRE FIGHTING OR PREVENTION SERVICES, EMERGENCY MEDICAL SERVICES, OR AMBULANCE SERVICES.

(a) IN GENERAL.—Paragraph (11) of section 457(e) (relating to deferred compensation plans of State and local governments and tax-exempt organizations) is amended to read as follows:

''(11) CERTAIN PLANS EXCLUDED.—

''(A) IN GENERAL.—The following plans shall be treated as not providing for the deferral of compensation:

''(i) Any bona fide vacation leave, sick leave, compensatory time, severance pay, disability pay, or death benefit plan.

''(ii) Any plan paying solely length of service awards to bona fide volunteers (or their beneficiaries) on account of qualified services performed by such volunteers.

''(B) SPECIAL RULES APPLICABLE TO LENGTH OF SERVICE AWARD PLANS.—

''(i) BONA FIDE VOLUNTEER.—An individual shall be treated as a bona fide volunteer for purposes of subparagraph (A)(ii) if the only compensation received by such individual for performing qualified services is in the form of—

''(I) reimbursement for (or a reasonable allowance for) reasonable expenses incurred in the performance of such services, or

''(II) reasonable benefits (including length of service awards), and nominal fees for such services, customarily paid by eligible employers in connection with the performance of such services by volunteers.

''(ii) LIMITATION ON ACCRUALS.—A plan shall not be treated as described in subparagraph (A)(ii) if the aggregate amount of length of service awards accruing with respect to any year of service for any bona fide volunteer exceeds $3,000.

''(C) QUALIFIED SERVICES.—For purposes of this paragraph, the term 'qualified services' means fire fighting and prevention services, emergency medical services, and ambulance services.''

(b) EXEMPTION FROM SOCIAL SECURITY TAXES.—

(1) Subsection (a)(5) of section 3121, as amended by section 1421, is amended by striking ''(or)'' at the end of subparagraph (G), by inserting ''or'' at the end of subparagraph (H), and by adding at the end the following new subparagraph:

''(I) under a plan described in section 457(e)(11)(A)(ii) and maintained by an eligible employer (as defined in section 457(e)(1)).''.

(2) Section 209(a)(4) of the Social Security Act is amended by inserting ''; or (K) under a plan described in section 457(e)(11)(A)(ii) of the Internal Revenue Code of 1986 and maintained by an eligible employer (as defined in section 457(e)(1) of such Code)'' before the semicolon at the end thereof.

(c) EFFECTIVE DATE.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to accruals of length of service awards after December 31, 1996.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to remuneration paid after December 31, 1996.

SEC. 1459. DATE FOR ADOPTION OF PLAN AMENDMENTS.

If any amendment made by this subtitle requires an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after January 1, 1997, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan or contract is operated in accordance with the requirements of such amendment, and

(2) such amendment applies retroactively to such period.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), this section shall be applied by substituting ''1999'' for ''1997''.

Subtitle E—Revenue Offsets

PART I—GENERAL PROVISIONS

SEC. 1601. MODIFICATIONS OF PUERTO RICO AND POSSESSION TAX CREDIT.

(a) IN GENERAL.—Section 936 is amended by adding at the end the following new subsection:

''(j) TERMINATION OF QPSII AND REDUCED CREDIT; REDUCTION IN ECONOMIC ACTIVITY CREDIT.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, this section shall not apply to any taxable year beginning after December 31, 1995.

''(2) SPECIAL RULES FOR ACTIVE BUSINESS INCOME CREDIT.—Except as provided in paragraph (3)—

''(A) ECONOMIC ACTIVITY CREDIT.—In the case of an existing credit claimant—

''(i) with respect to a possession other than Puerto Rico, and

''(ii) to which subsection (a)(4)(B) does not apply,

the credit determined under subsection (a)(1)(A) shall be allowed for taxable years beginning after December 31, 1995, except that in the case of taxable years beginning after December 31, 2005, subsection (a)(4)(A)(i) shall be applied by substituting '40 percent' for '60 percent'.

''(B) REDUCED CREDIT.—

''(i) IN GENERAL.—In the case of an existing credit claimant to which subsection (a)(4)(B) applies, the credit determined under subsection (a)(1)(A) shall be allowed for taxable years beginning after December 31, 1995, and before January 1, 2006.

''(ii) ELECTION IRREVOCABLE AFTER 1997.—An election under subsection (a)(4)(B)(iii) which is in effect for the taxpayer's last taxable year beginning before 1997 may not be revoked unless it is revoked for the taxpayer's first taxable year beginning in 1997 and all subsequent taxable years.

''(C) ECONOMIC ACTIVITY CREDIT FOR PUERTO RICO.—

''For economic activity credit for Puerto Rico, see section 30A.

''(3) ADDITIONAL RESTRICTION ON CREDIT.—

''(A) IN GENERAL.—In the case of an existing credit claimant, the aggregate amount of taxable income taken into account under subsection (a)(1)(A) shall not exceed the adjusted base period income of such claimant—

''(i) in the case of the credit described in paragraph (2)(A), for any taxable year beginning after December 31, 2001, and

''(ii) in the case of the credit described in paragraph (2)(B), for any taxable year beginning after December 31, 1997.

''(B) COORDINATION WITH SUBSECTION (a)(4).—The amount of income described in subsection (a)(1)(A) which is taken into account in applying subsection (a)(4) shall be such income as reduced under this paragraph.

''(4) ADJUSTED BASE PERIOD INCOME.—For purposes of paragraph (3)—

''(A) IN GENERAL.—The term 'adjusted base period income' means the average of the inflation-adjusted possession incomes of the corporation for each base period year.

''(B) INFLATION-ADJUSTED POSSESSION INCOME.—For purposes of subparagraph (A), the inflation-adjusted possession income of any corporation for any base period year shall be an amount equal to the sum of—

''(i) the possession income of such corporation for such base period year, plus

''(ii) such possession income multiplied by the inflation adjustment percentage for such base period year.

''(C) INFLATION ADJUSTMENT PERCENTAGE.—For purposes of subparagraph (B), the inflation adjustment percentage for any base period year means the percentage (if any) by which—

''(i) the CPI for 1995, exceeds

''(ii) the CPI for the calendar year in which the base period year for which the determination is being made ends.

For purposes of the preceding sentence, the CPI for any calendar year is the CPI (as defined in section 1(f)(5)) for such year under section 1(f)(4).

''(D) INCREASE IN INFLATION ADJUSTMENT PERCENTAGE FOR GROWTH DURING BASE YEARS.—The inflation adjustment percentage (determined under subparagraph (C) without regard to this subparagraph) for each of the 5 taxable years referred to in paragraph (5)(A) shall be increased by—

''(i) 5 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1995;

''(ii) 10.25 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1994;

''(iii) 15.76 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1993;

''(iv) 21.55 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1992; and

''(v) 27.63 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1991.

''(5) BASE PERIOD YEAR.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'base period year' means each of 3 taxable years which are among the 5 most recent taxable years of the corporation ending before October 14, 1995, determined by disregarding—

''(i) one taxable year for which the corporation had the largest inflation-adjusted possession income, and

''(ii) one taxable year for which the corporation had the smallest inflation-adjusted possession income.

''(B) CORPORATIONS NOT HAVING SIGNIFICANT POSSESSION INCOME THROUGHOUT 5-YEAR PERIOD.—

''(i) IN GENERAL.—If a corporation does not have significant possession income for each of the most recent 5 taxable years ending before October 14, 1995, then, in lieu of applying subparagraph (A), the term 'base period year' means only those taxable years (of such 5 taxable years) for which the corporation has significant possession income; except that, if such corporation has significant possession income for 4 of such 5 taxable years, the rule of subparagraph (A)(ii) shall apply.

''(ii) SPECIAL RULE.—If there is no year (of such 5 taxable years) for which a corporation has significant possession income—

''(I) the term 'base period year' means the first taxable year ending on or after October 14, 1995, but

''(II) the amount of possession income for such year which is taken into account under paragraph (4) shall be the amount which would be determined if such year were a short taxable year ending on September 30, 1995.

''(iii) SIGNIFICANT POSSESSION INCOME.—For purposes of this subparagraph, the term 'significant possession income' means possession income which exceeds 2 percent of the possession income of the taxpayer for the taxable year (of the period of 6 taxable years ending with the first taxable year ending on or after October 14, 1995) having the greatest possession income.

''(C) ELECTION TO USE ONE BASE PERIOD YEAR.—

''(i) IN GENERAL.—At the election of the taxpayer, the term 'base period year' means—

''(I) only the last taxable year of the corporation ending in calendar year 1992, or

''(II) a deemed taxable year which includes the first ten months of calendar year 1995.

''(ii) BASE PERIOD INCOME FOR 1995.—In determining the adjusted base period income of the corporation for the deemed taxable year under clause (i)(II), the possession income shall be annualized and shall be determined without regard to any extraordinary item.

''(iii) ELECTION.—An election under this subparagraph by any possession corporation may be made only for the corporation's first taxable year beginning after December 31, 1995, for which it is a possession corporation. The rules of subclauses (II) and (III) of subsection (a)(4)(B)(iii) shall apply to the election under this subparagraph.

''(D) ACQUISITIONS AND DISPOSITIONS.—Rules similar to the rules of subparagraphs (A) and (B) of section 41(f)(3) shall apply for purposes of this subsection.

''(6) POSSESSION INCOME.—For purposes of this subsection, the term 'possession income' means, with respect to any possession, the income referred to in subsection (a)(1)(A) determined with respect to that possession. In no event shall possession income be treated as being less than zero.

''(7) SHORT YEARS.—If the current year or a base period year is a short taxable year, the application of this subsection shall be made with such annualizations as the Secretary shall prescribe.

''(8) SPECIAL RULES FOR CERTAIN POSSESSIONS.—

''(A) IN GENERAL.—In the case of an existing credit claimant with respect to an applicable possession—

''(i) this section (other than the preceding paragraphs of this subsection) shall apply to such claimant with respect to such applicable possession for taxable years beginning after December 31, 1995, and before January 1, 2006, and

''(ii) this section (including the preceding paragraphs of this subsection) shall apply to such claimant with respect to such applicable possession for taxable years beginning after December 31, 2005.

''(B) APPLICABLE POSSESSION.—For purposes of this paragraph, the term 'applicable possession' means Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(9) EXISTING CREDIT CLAIMANT.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'existing credit claimant' means a corporation—

''(i) which was actively conducting a trade or business in a possession on October 13, 1995, and

''(ii) with respect to which an election under this section is in effect for the corporation's taxable year which includes October 13, 1995.

''(B) NEW LINES OF BUSINESS PROHIBITED.—If, after October 13, 1995, a corporation which would (but for this subparagraph) be an existing credit claimant adds a substantial new line of business, such corporation shall cease to be treated as an existing credit claimant as of the close of the taxable year ending before the date of such addition.

''(C) BINDING CONTRACT EXCEPTION.—If, on October 13, 1995, and at all times thereafter, there is in effect with respect to a corporation a binding contract for the acquisition of assets to be used in, or for the sale of assets to be produced from, a trade or business, the corporation shall be treated for purposes of this paragraph as actively conducting such trade or business on October 13, 1995. The preceding sentence shall not apply if such trade or business is not actively conducted before January 1, 1996.

''(10) SEPARATE APPLICATION TO EACH POSSESSION.—For purposes of determining—

''(A) whether a taxpayer is an existing credit claimant, and

''(B) the amount of the credit allowed under this section,

this subsection (and so much of this section as relates to this subsection) shall be applied separately with respect to each possession.''.

(b) ECONOMIC ACTIVITY CREDIT FOR PUERTO RICO.—

(1) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

''SEC. 30A. PUERTO RICAN ECONOMIC ACTIVITY CREDIT.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—Except as otherwise provided in this section, if the conditions of both paragraph (1) and paragraph (2) of subsection (b) are satisfied with respect to a qualified domestic corporation, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to the portion of the tax which is attributable to the taxable income, from sources without the United States, from—

''(A) the active conduct of a trade or business within Puerto Rico, or

''(B) the sale or exchange of substantially all of the assets used by the taxpayer in the active conduct of such trade or business.

In the case of any taxable year beginning after December 31, 2001, the aggregate amount of taxable income taken into account under the preceding sentence (and in applying subsection (d)) shall not exceed the adjusted base period income of such corporation, as determined in the same manner as under section 936(j).

''(2) QUALIFIED DOMESTIC CORPORATION.—For purposes of paragraph (1), the term 'qualified domestic corporation' means a domestic corporation—

''(A) which is an existing credit claimant with respect to Puerto Rico, and

''(B) with respect to which section 936(a)(4)(B) does not apply for the taxable year.

''(3) SEPARATE APPLICATION.—For purposes of determining—

''(A) whether a taxpayer is an existing credit claimant with respect to Puerto Rico, and

''(B) the amount of the credit allowed under this section,

this section (and so much of section 936 as relates to this section) shall be applied separately with respect to Puerto Rico.

''(b) CONDITIONS WHICH MUST BE SATISFIED.—The conditions referred to in subsection (a) are—

''(1) 3-YEAR PERIOD.—If 80 percent or more of the gross income of the qualified domestic corporation for the 3-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from sources within a possession of the United States (determined without regard to section 904(f)).

''(2) TRADE OR BUSINESS.—If 75 percent or more of the gross income of the qualified domestic corporation for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States.

''(c) CREDIT NOT ALLOWED AGAINST CERTAIN TAXES.—The credit provided by subsection (a) shall not be allowed against the tax imposed by—

''(1) section 59A (relating to environmental tax),

''(2) section 531 (relating to the tax on accumulated earnings),

''(3) section 541 (relating to personal holding company tax), or

''(4) section 1351 (relating to recoveries of foreign expropriation losses).

''(d) LIMITATIONS ON CREDIT.—The amount of the credit determined under subsection (a) for any taxable year shall not exceed the sum of the following amounts:

''(1) 60 percent (40 percent in the case of taxable years beginning after December 31, 2005) of the sum of—

''(A) the aggregate amount of the qualified domestic corporation's qualified possession wages for such taxable year, plus

''(B) the allocable employee fringe benefit expenses of the qualified domestic corporation for such taxable year.

''(2) The sum of—

''(A) 15 percent of the depreciation allowances for the taxable year with respect to short-life qualified tangible property,

''(B) 40 percent of the depreciation allowances for the taxable year with respect to medium-life qualified tangible property, and

''(C) 65 percent of the depreciation allowances for the taxable year with respect to long-life qualified tangible property.

''(3) If the qualified domestic corporation does not have an election to use the method described in section 936(h)(5)(C)(ii) (relating to profit split) in effect for the taxable year, the amount of the qualified possession income taxes for the taxable year allocable to nonsheltered income.

''(e) ADMINISTRATIVE PROVISIONS.—For purposes of this title (other than section 27)—

''(1) the provisions of section 936 (including any applicable election thereunder) shall apply in the same manner as if the credit under this section were a credit under section 936(a)(1)(A) for a domestic corporation to which section 936(a)(4)(A) applies,

''(2) the credit under this section shall be treated in the same manner as the credit under section 936, and

''(3) a corporation to which this section applies shall be treated in the same manner as if it were a corporation electing the application of section 936.

''(f) DEFINITIONS.—For purposes of this section, any term used in this section which is also used in section 936 shall have the same meaning given such term by section 936.

''(g) APPLICATION OF SECTION.—This section shall apply to taxable years beginning after December 31, 1995.''

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 55(c) is amended by striking ''and the section 936 credit allowable under section 27(b)'' and inserting '', the section 936 credit allowable under section 27(b), and the Puerto Rican economic activity credit under section 30A''.

(B) Subclause (I) of section 56(g)(4)(C)(ii) is amended—

(i) by inserting ''30A,'' before ''936'', and

(ii) by striking ''and (i)'' and inserting '', (i), and (j)''.

(C) Clause (iii) of section 56(g)(4)(C) is amended by adding at the end the following new subclause:

''(VI) APPLICATION TO SECTION 30A CORPORATIONS.—References in this clause to section 936 shall be treated as including references to section 30A.''.

(D)(i) Subsection (b) of section 59 is amended by striking ''section 936,'' and all that follows and inserting ''section 30A or 936, alternative minimum taxable income shall not include any income with respect to which a credit is determined under section 30A or 936.''.

(ii) The heading for section 59(b) is amended by inserting ''30A OR'' before ''936''.

(E) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 30A. Puerto Rican economic activity credit.''.

(F)(i) The heading for subpart B of part IV of subchapter A of chapter 1 is amended to read as follows:

''Subpart B—Other Credits''.

(ii) The table of subparts for part IV of subchapter A of chapter 1 is amended by striking the item relating to subpart B and inserting the following new item:

''Subpart B. Other credits.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) SPECIAL RULE FOR QUALIFIED POSSESSION SOURCE INVESTMENT INCOME.—The amendments made by this section shall not apply to qualified possession source investment income received or accrued before July 1, 1996, without regard to the taxable year in which received or accrued.

SEC. 1602. REPEAL OF EXCLUSION FOR INTEREST ON LOANS USED TO ACQUIRE EMPLOYER SECURITIES.

(a) IN GENERAL.—Section 133 (relating to interest on certain loans used to acquire employer securities) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 291(e)(1) is amended by striking clause (iv) and by redesignating clause (v) as clause (iv).

(2) Section 812 is amended by striking subsection (g).

(3) Paragraph (5) of section 852(b) is amended by striking subparagraph (C).

(4) Paragraph (2) of section 4978(b) is amended by striking subparagraph (A) and all that follows and inserting the following:

''(A) first from qualified securities to which section 1042 applied acquired during the 3-year period ending on the date of the disposition, beginning with the securities first so acquired, and

''(B) then from any other employer securities.

If subsection (d) applies to a disposition, the disposition shall be treated as made from employer securities in the opposite order of the preceding sentence.''.

(5)(A) Section 4978B (relating to tax on disposition of employer securities to which section 133 applied) is hereby repealed.

(B) The table of sections for chapter 43 is amended by striking the item relating to section 4978B.

(6) Subsection (e) of section 6047 is amended by striking paragraphs (1), (2), and (3) and inserting the following new paragraphs:

''(1) any employer maintaining, or the plan administrator (within the meaning of section 414(g)) of, an employee stock ownership plan which holds stock with respect to which section 404(k) applies to dividends paid on such stock, or

''(2) both such employer or plan administrator,''.

(7) Subsection (f) of section 7872 is amended by striking paragraph (12).

(8) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 133.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to loans made after the date of the enactment of this Act.

(2) REFINANCINGS.—The amendments made by this section shall not apply to loans made after the date of the enactment of this Act to refinance securities acquisition loans (determined without regard to section 133(b)(1)(B) of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act) made on or before such date or to refinance loans described in this paragraph if—

(A) the refinancing loans meet the requirements of section 133 of such Code (as so in effect),

(B) immediately after the refinancing the principal amount of the loan resulting from the refinancing does not exceed the principal amount of the refinanced loan (immediately before the refinancing), and

(C) the term of such refinancing loan does not extend beyond the last day of the term of the original securities acquisition loan.

For purposes of this paragraph, the term ''securities acquisition loan'' includes a loan from a corporation to an employee stock ownership plan described in section 133(b)(3) of such Code (as so in effect).

(3) EXCEPTION.—Any loan made pursuant to a binding written contract in effect before June 10, 1996, and at all times thereafter before such loan is made, shall be treated for purposes of paragraphs (1) and (2) as a loan made on or before the date of the enactment of this Act.

SEC. 1603. REPEAL OF EXCLUSION FOR PUNITIVE DAMAGES.

(a) IN GENERAL.—Paragraph (2) of section 104(a) (relating to compensation for injuries or sickness) is amended to read as follows:

''(2) the amount of any damages (other than punitive damages) received (whether by suit or agreement and whether as lump sums or as periodic payments) on account of personal injuries or sickness;''.

(b) APPLICATION OF PRIOR LAW FOR STATES IN WHICH ONLY PUNITIVE DAMAGES MAY BE AWARDED IN WRONGFUL DEATH ACTIONS.—Section 104 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) APPLICATION OF PRIOR LAW IN CERTAIN CASES.—Notwithstanding subsection (a)(2), gross income shall not include punitive damages awarded in a civil action—

''(1) which is a wrongful death action, and

''(2) with respect to which applicable State law (as in effect on September 13, 1995 and without regard to any modification after such date) provides, or has been construed to provide by a court of competent jurisdiction pursuant to a decision issued on or before September 13, 1995, that only punitive damages may be awarded in such an action.

This subsection shall cease to apply to any civil action filed on or after the first date on which the applicable State law ceases to provide (or is no longer construed to provide) the treatment described in paragraph (2).''.

(c) CONFORMING AMENDMENT.—Section 104(a) is amended by striking the last sentence.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts received after June 30, 1996, in taxable years ending after such date.

(2) EXCEPTION.—The amendments made by this section shall not apply to any amount received under a written binding agreement, court decree, or mediation award in effect on (or issued on or before) September 13, 1995.

SEC. 1604. EXTENSION AND PHASEDOWN OF LUXURY PASSENGER AUTOMOBILE TAX.

(a) EXTENSION.—Subsection (f) of section 4001 is amended by striking ''1999'' and inserting ''2002''.

(b) PHASEDOWN.—Section 4001 is amended by redesignating subsection (f) (as amended by subsection (a) of this section) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) PHASEDOWN.—For sales occurring after June 30 in calendar year 1996, and in calendar years after 1996 and before 2003, subsection (a) shall be applied by substituting for '10 percent' the percentage determined in accordance with the following table:

''If the calendar year is:	**The percentage is:**
1996	9 percent
1997	8 percent
1998	7 percent
1999	6 percent
2000	5 percent
2001	4 percent
2002	3 percent.''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1996.

SEC. 1605. TERMINATION OF FUTURE TAX-EXEMPT BOND FINANCING FOR LOCAL FURNISHERS OF ELECTRICITY AND GAS.

Section 142(f) (relating to local furnishing of electric energy or gas) is amended by adding at the end the following new paragraphs:

''(3) TERMINATION OF FUTURE FINANCING.—For purposes of this section, no bond may be issued as part of an issue described in subsection (a)(8) with respect to a facility for the local furnishing of electric energy or gas on or after the date of the enactment of this paragraph unless—

''(A) the facility will—

''(i) be used by a person who is engaged in the local furnishing of that energy source on such date, and

''(ii) be used to provide service within the area served by such person on such date, or

''(B) the facility will be used by a successor in interest to such person for the same use and within the same service area as described in subparagraph (A).

''(4) ELECTION TO TERMINATE TAX-EXEMPT BOND FINANCING BY CERTAIN FURNISHERS.—

''(A) IN GENERAL.—In the case of a facility financed with bonds issued before the date of the enactment of this paragraph which would cease to be tax-exempt by reason of the failure to meet the local furnishing requirement of subsection (a)(8) as a result of a service area expansion, such bonds shall not cease to be tax-exempt bonds (and section 150(b)(4) shall not apply) if the person engaged in such local furnishing by such facility makes an election described in subparagraph (B).

''(B) ELECTION.—An election is described in this subparagraph if it is an election made in such manner as the Secretary prescribes, and such person (or its predecessor in interest) agrees that—

''(i) such election is made with respect to all facilities for the local furnishing of electric energy or gas, or both, by such person,

''(ii) no bond exempt from tax under section 103 and described in subsection (a)(8) may be issued on or after the date of the enactment of this paragraph with respect to all such facilities of such person,

''(iii) any expansion of the service area—

''(I) is not financed with the proceeds of any exempt facility bond described in subsection (a)(8), and

''(II) is not treated as a nonqualifying use under the rules of paragraph (2), and

''(iv) all outstanding bonds used to finance the facilities for such person are redeemed not later than 6 months after the later of—

''(I) the earliest date on which such bonds may be redeemed, or

''(II) the date of the election.

''(C) RELATED PERSONS.—For purposes of this paragraph, the term 'person' includes a group of related persons (within the meaning of section 144(a)(3)) which includes such person.''

SEC. 1606. REPEAL OF FINANCIAL INSTITUTION TRANSITION RULE TO INTEREST ALLOCATION RULES.

(a) IN GENERAL.—Paragraph (5) of section 1215(c) of the Tax Reform Act of 1986 (Public Law 99–514, 100 Stat. 2548) is hereby repealed.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 1607. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXCISE TAXES.

(a) FUEL TAX.—

(1) Subparagraph (A) of section 4091(b)(3) is amended to read as follows:

''(A) The rate of tax specified in paragraph (1) shall be 4.3 cents per gallon—

''(i) after December 31, 1995, and before the date which is 7 days after the date of the enactment of the Small Business Job Protection Act of 1996, and

''(ii) after December 31, 1996.''

(2) Section 4081(d) is amended—

(A) by adding at the end the following new paragraph:

''(3) AVIATION GASOLINE.—After December 31, 1996, the rate of tax specified in subsection (a)(2)(A)(i) on aviation gasoline shall be 4.3 cents per gallon.'', and

(B) by inserting ''(other than the tax on aviation gasoline)'' after ''subsection (a)(2)(A)''.

(3) Section 4041(c)(5) is amended by inserting '', and during the period beginning on the date which is 7 days after the date of the enactment of the Small Business Job Protection Act of 1996 and ending on December 31, 1996'' after ''December 31, 1995''.

(b) TICKET TAXES.—Sections 4261(g) and 4271(d) are each amended by striking ''January 1, 1996'' and inserting ''January 1, 1996, and to transportation beginning on or after the date which is 7 days after the date of the enactment of the Small Business Job Protection Act of 1996 and before January 1, 1997''.

(c) TRANSFERS TO AIRPORT AND AIRWAY TRUST FUND.—

(1) Subsection (b) of section 9502 is amended by striking ''January 1, 1996'' each place it appears and inserting ''January 1, 1997''.

(2) Paragraph (3) of section 9502(f) is amended to read as follows:

''(3) TERMINATION.—Notwithstanding the preceding provisions of this subsection, the Airport and Airway Trust Fund financing rate shall be zero with respect to—

''(A) taxes imposed after December 31, 1995, and before the date which is 7 days after the date of the enactment of the Small Business Job Protection Act of 1996, and

''(B) taxes imposed after December 31, 1996.''

(3) Subsection (d) of section 9502 is amended by adding at the end the following new paragraph:

''(5) TRANSFERS FROM AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF REFUNDS OF TAXES ON TRANSPORTATION BY AIR.—The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the general fund of the Treasury amounts equivalent to the amounts paid after December 31, 1995, under section 6402 (relating to authority to make credits or refunds) or section 6415 (relating to credits or refunds to persons who collected certain taxes) in respect of taxes under sections 4261 and 4271.''

(d) EXCISE TAX EXEMPTION FOR CERTAIN EMERGENCY MEDICAL TRANSPORTATION BY AIR AMBULANCE.—Subsection (f) of section 4261 (relating to imposition of tax on transportation by air) is amended to read as follows:

''(f) EXEMPTION FOR AIR AMBULANCES PROVIDING CERTAIN EMERGENCY MEDICAL TRANSPORTATION.—No tax shall be imposed under this section or section 4271 on any air transportation for the purpose of providing emergency medical services—

''(1) by helicopter, or

''(2) by a fixed-wing aircraft equipped for and exclusively dedicated to acute care emergency medical services.''

(e) EXEMPTION FOR CERTAIN HELICOPTER USES.—Subsection (e) of section 4261 is amended by adding at the end the following new sentence: ''In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.''

(f) FLOOR STOCKS TAXES ON AVIATION FUEL.—

(1) IMPOSITION OF TAX.—In the case of aviation fuel on which tax was imposed under section 4091 of the Internal Revenue Code of 1986 before the tax-increase date described in paragraph (3)(A)(i) and which is held on such date by any person, there is hereby imposed a floor stocks tax of 17.5 cents per gallon.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding aviation fuel on a tax-increase date to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) with respect to any tax-increase date shall be paid on or before the first day of the 7th month beginning after such tax-increase date.

(3) DEFINITIONS.—For purposes of this subsection—

(A) TAX INCREASE DATE.—The term ''tax-increase date'' means the date which is 7 days after the date of the enactment of this Act.

(B) AVIATION FUEL.—The term ''aviation fuel'' has the meaning given such term by section 4093 of such Code.

(C) HELD BY A PERSON.—Aviation fuel shall be considered as ''held by a person'' if title thereto has passed to such person (whether or not delivery to the person has been made).

(D) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or his delegate.

(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to aviation fuel held by any person on any tax-increase date exclusively for any use for which a credit or refund of the entire tax imposed by section 4091 of such Code is allowable for aviation fuel purchased on or after such tax-increase date for such use.

(5) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on aviation fuel held on any tax-increase date by any person if the aggregate amount of aviation fuel held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (4).

(C) CONTROLLED GROUPS.—For purposes of this paragraph—

(i) CORPORATIONS.—

(I) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

(II) CONTROLLED GROUP.—The term ''controlled group'' has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase ''more than 50 percent'' shall be substituted for the phrase ''at least 80 percent'' each place it appears in such subsection.

(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

(6) OTHER LAW APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4091.

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect 7 days after the date of the enactment of this Act, except that the amendment made by subsection (b) shall not apply to any amount paid on or before such date.

SEC. 1608. BASIS ADJUSTMENT TO PROPERTY HELD BY CORPORATION WHERE STOCK IN CORPORATION IS REPLACEMENT PROPERTY UNDER INVOLUNTARY CONVERSION RULES.

(a) IN GENERAL.—Subsection (b) of section 1033 is amended to read as follows:

''(b) BASIS OF PROPERTY ACQUIRED THROUGH INVOLUNTARY CONVERSION.—

''(1) CONVERSIONS DESCRIBED IN SUBSECTION (a)(1).—If the property was acquired as the result of a compulsory or involuntary conversion described in subsection (a)(1), the basis shall be the same as in the case of the property so converted—

''(A) decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable to the year in which such conversion was made) determining the taxable status of the gain or loss upon such conversion, and

''(B) increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which such conversion was made.

''(2) CONVERSIONS DESCRIBED IN SUBSECTION (a)(2).—In the case of property purchased by the taxpayer in a transaction described in subsection (a)(2) which resulted in the nonrecognition of any part of the gain realized as the result of a compulsory or involuntary conversion, the basis shall be the cost of such property decreased in the amount of the gain not so recognized; and if the property purchased consists of more than 1 piece of property, the basis determined under this sentence shall be allocated to the purchased properties in proportion to their respective costs.

''(3) PROPERTY HELD BY CORPORATION THE STOCK OF WHICH IS REPLACEMENT PROPERTY.—

''(A) IN GENERAL.—If the basis of stock in a corporation is decreased under paragraph (2), an amount equal to such decrease shall also be applied to reduce the basis of property held by the corporation at the time the taxpayer acquired control (as defined in subsection (a)(2)(E)) of such corporation.

''(B) LIMITATION.—Subparagraph (A) shall not apply to the extent that it would (but for this subparagraph) require a reduction in the aggregate adjusted bases of the property of the corporation below the taxpayer's adjusted basis of the stock in the corporation (determined immediately after such basis is decreased under paragraph (2)).

''(C) ALLOCATION OF BASIS REDUCTION.—The decrease required under subparagraph (A) shall be allocated—

''(i) first to property which is similar or related in service or use to the converted property,

''(ii) second to depreciable property (as defined in section 1017(b)(3)(B)) not described in clause (i), and

''(iii) then to other property.

''(D) SPECIAL RULES.—

''(i) REDUCTION NOT TO EXCEED ADJUSTED BASIS OF PROPERTY.—No reduction in the basis of any property under this paragraph shall exceed the adjusted basis of such property (determined without regard to such reduction).

''(ii) ALLOCATION OF REDUCTION AMONG PROPERTIES.—If more than 1 property is described in a clause of subparagraph (C), the reduction under this paragraph shall be allocated among such property in proportion to the adjusted bases of such property (as so determined).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to involuntary conversions occurring after the date of the enactment of this Act.

SEC. 1609. EXTENSION OF WITHHOLDING TO CERTAIN GAMBLING WINNINGS.

(a) REPEAL OF EXEMPTION FOR BINGO AND KENO.—Paragraph (5) of section 3402(q) is amended to read as follows:

''(5) EXEMPTION FOR SLOT MACHINES.—The tax imposed under paragraph (1) shall not apply to winnings from a slot machine.''.

(b) THRESHOLD AMOUNT.—Paragraph (3) of section 3402(q) is amended—

(1) by striking ''(B) and (C)'' in subparagraph (A) and inserting ''(B), (C), and (D)'', and

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

''(D) BINGO AND KENO.—Proceeds of more than $5,000 from a wager placed in a bingo or keno game.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 30th day after the date of the enactment of this Act.

SEC. 1610. TREATMENT OF CERTAIN INSURANCE CONTRACTS ON RETIRED LIVES.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 817(d) (defining variable contract) is amended by striking ''or'' at the end of subparagraph (A), by striking ''and'' at the end of subparagraph (B) and inserting ''or'', and by inserting after subparagraph (B) the following new subparagraph:

''(C) provides for funding of insurance on retired lives as described in section 807(c)(6), and''.

(2) Paragraph (3) of section 817(d) is amended by striking ''or'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', or'', and by inserting after subparagraph (B) the following new subparagraph:

''(C) in the case of funds held under a contract described in paragraph (2)(C), the amounts paid in, or the amounts paid out, reflect the investment return and the market value of the segregated asset account.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 1611. TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.

(a) TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.—

(1) IN GENERAL.—Section 118 (relating to contributions to the capital of a corporation) is amended—

(A) by redesignating subsection (c) as subsection (e), and

(B) by inserting after subsection (b) the following new subsections:

''(c) SPECIAL RULES FOR WATER AND SEWERAGE DISPOSAL UTILITIES.—

''(1) GENERAL RULE.—For purposes of this section, the term 'contribution to the capital of the taxpayer' includes any amount of money or other property received from any person (whether or not a shareholder) by a regulated public utility which provides water or sewerage disposal services if—

''(A) such amount is a contribution in aid of construction,

''(B) in the case of contribution of property other than water or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of paragraph (2), and

''(C) such amount (or any property acquired or constructed with such amount) is not included in the taxpayer's rate base for ratemaking purposes.

''(2) EXPENDITURE RULE.—An amount meets the requirements of this paragraph if—

''(A) an amount equal to such amount is expended for the acquisition or construction of tangible property described in section 1231(b)—

''(i) which is the property for which the contribution was made or is of the same type as such property, and

''(ii) which is used predominantly in the trade or business of furnishing water or sewerage disposal services,

''(B) the expenditure referred to in subparagraph (A) occurs before the end of the second taxable year after the year in which such amount was received, and

''(C) accurate records are kept of the amounts contributed and expenditures made, the expenditures to which contributions are allocated, and the year in which the contributions and expenditures are received and made.

''(3) DEFINITIONS.—For purposes of this subsection—

''(A) CONTRIBUTION IN AID OF CONSTRUCTION.—The term 'contribution in aid of construction' shall be defined by regulations prescribed by the Secretary, except that such term shall not include amounts paid as service charges for starting or stopping services.

''(B) PREDOMINANTLY.—The term 'predominantly' means 80 percent or more.

''(C) REGULATED PUBLIC UTILITY.—The term 'regulated public utility' has the meaning given such term by section 7701(a)(33), except that such term shall not include any utility which is not required to provide water or sewerage disposal services to members of the general public in its service area.

''(4) DISALLOWANCE OF DEDUCTIONS AND CREDITS; ADJUSTED BASIS.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure which constitutes a contribution in aid of construction to which this subsection applies. The adjusted basis of any property acquired with contributions in aid of construction to which this subsection applies shall be zero.

''(d) STATUTE OF LIMITATIONS.—If the taxpayer for any taxable year treats an amount as a contribution to the capital of the taxpayer described in subsection (c), then—

''(1) the statutory period for the assessment of any deficiency attributable to any part of such amount shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of—

''(A) the amount of the expenditure referred to in subparagraph (A) of subsection (c)(2),

''(B) the taxpayer's intention not to make the expenditures referred to in such subparagraph, or

''(C) a failure to make such expenditure within the period described in subparagraph (B) of subsection (c)(2), and

''(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.''.

(2) CONFORMING AMENDMENT.—Section 118(b) is amended by inserting ''except as provided in subsection (c),'' before ''the term''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received after June 12, 1996.

(b) RECOVERY METHOD AND PERIOD FOR WATER UTILITY PROPERTY.—

(1) REQUIREMENT TO USE STRAIGHT LINE METHOD.—Section 168(b)(3) is amended by adding at the end the following new subparagraph:

''(F) Water utility property described in subsection (e)(5).''.

(2) 25-YEAR RECOVERY PERIOD.—The table contained in section 168(c)(1) is amended by inserting the following item after the item relating to 20-year property:

''Water utility property ..... 25 years''.

(3) WATER UTILITY PROPERTY.—

(A) IN GENERAL.—Section 168(e) is amended by adding at the end the following new paragraph:

''(5) WATER UTILITY PROPERTY.—The term 'water utility property' means property—

''(A) which is an integral part of the gathering, treatment, or commercial distribution of water, and which, without regard to this paragraph, would be 20-year property, and

''(B) any municipal sewer.''.

(B) CONFORMING AMENDMENTS.—Section 168 is amended—

(i) by striking subparagraph (F) of subsection (e)(3), and

(ii) by striking the item relating to subparagraph (F) in the table in subsection (g)(3).

(4) ALTERNATIVE SYSTEM.—Clause (iv) of section 168(g)(2)(C) is amended by inserting ''or water utility property'' after ''tunnel bore''.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after June 12, 1996, other than property placed in service pursuant to a binding contract in effect before June 10, 1996, and at all times thereafter before the property is placed in service.

PART II—FINANCIAL ASSET SECURITIZATION INVESTMENTS

SEC. 1621. FINANCIAL ASSET SECURITIZATION INVESTMENT TRUSTS.

(a) IN GENERAL.—Subchapter M of chapter 1 is amended by adding at the end the following new part:

''PART V—FINANCIAL ASSET SECURITIZATION INVESTMENT TRUSTS

''Sec. 860H. Taxation of a FASIT; other general rules.

''Sec. 860I. Gain recognition on contributions to and distributions from a FASIT and in other cases.

''Sec. 860J. Non-FASIT losses not to offset certain FASIT inclusions.

''Sec. 860K. Treatment of transfers of high-yield interests to disqualified holders.

''Sec. 860L. Definitions and other special rules.

''SEC. 860H. TAXATION OF A FASIT; OTHER GENERAL RULES.

''(a) TAXATION OF FASIT.—A FASIT as such shall not be subject to taxation under this subtitle (and shall not be treated as a trust, partnership, corporation, or taxable mortgage pool).

''(b) TAXATION OF HOLDER OF OWNERSHIP INTEREST.—In determining the taxable income

of the holder of the ownership interest in a FASIT—

''(1) all assets, liabilities, and items of income, gain, deduction, loss, and credit of a FASIT shall be treated as assets, liabilities, and such items (as the case may be) of such holder,

''(2) the constant yield method (including the rules of section 1272(a)(6)) shall be applied under an accrual method of accounting in determining all interest, acquisition discount, original issue discount, and market discount and all premium deductions or adjustments with respect to all debt instruments of the FASIT,

''(3) there shall not be taken into account any item of income, gain, or deduction allocable to a prohibited transaction, and

''(4) interest accrued by the FASIT which is exempt from tax imposed by this subtitle shall, when taken into account by such holder, be treated as ordinary income.

For purposes of this subtitle, securities treated as held by such holder under paragraph (1) shall be treated as held for investment.

''(c) TREATMENT OF REGULAR INTERESTS.—For purposes of this title—

''(1) a regular interest in a FASIT, if not otherwise a debt instrument, shall be treated as a debt instrument,

''(2) section 163(e)(5) shall not apply to such an interest, and

''(3) amounts includible in gross income with respect to such an interest shall be determined under an accrual method of accounting.

''SEC. 860I. GAIN RECOGNITION ON CONTRIBUTIONS TO AND DISTRIBUTIONS FROM A FASIT AND IN OTHER CASES.

''(a) TREATMENT OF PROPERTY ACQUIRED BY FASIT.—

''(1) PROPERTY ACQUIRED FROM HOLDER OF OWNERSHIP INTEREST OR RELATED PERSON.—If property is sold or contributed to a FASIT by the holder of the ownership interest in such FASIT (or by a related person) gain (if any) shall be recognized to such holder (or person) in an amount equal to the excess (if any) of such property's value under subsection (d) on the date of such sale or contribution over its adjusted basis on such date.

''(2) PROPERTY ACQUIRED OTHER THAN FROM HOLDER OF OWNERSHIP INTEREST OR RELATED PERSON.—Property which is acquired by a FASIT other than in a transaction to which paragraph (1) applies shall be treated—

''(A) as having been acquired by the holder of the ownership interest in the FASIT for an amount equal to the FASIT's adjusted basis in such property as of the date such property is acquired by the FASIT, and

''(B) as having been sold by such holder to the FASIT at its value under subsection (d) on such date.

''(b) GAIN RECOGNITION ON PROPERTY OUTSIDE FASIT WHICH SUPPORTS REGULAR INTERESTS.—If property held by the holder of the ownership interest in a FASIT (or by any person related to such holder) supports any regular interest in such FASIT—

''(1) gain shall be recognized to such holder in the same manner as if such holder had sold such property at its value under subsection (d) on the earliest date such property supports such an interest, and

''(2) such property shall be treated as held by such FASIT for purposes of this part.

''(c) DEFERRAL OF GAIN RECOGNITION.—The Secretary may prescribe regulations which—

''(1) provide that gain otherwise recognized under subsection (a) or (b) shall not be recognized before the earliest date on which such property supports any regular interest in such FASIT or any indebtedness of the holder of the ownership interest (or of any person related to such holder), and

''(2) provide such adjustments to the other provisions of this part to the extent appropriate in the context of the treatment provided under paragraph (1).

''(d) VALUATION.—For purposes of this section—

''(1) IN GENERAL.—The value of any property under this subsection shall be—

''(A) in the case of a debt instrument which is not traded on an established securities market, the sum of the present values of the reasonably expected payments under such instrument determined (in the manner provided by regulations prescribed by the Secretary)—

''(i) as of the date of the event resulting in the gain recognition under this section, and

''(ii) by using a discount rate equal to 120 percent of the applicable Federal rate (as defined in section 1274(d)), or such other discount rate specified in such regulations, compounded semiannually, and

''(B) in the case of any other property, its fair market value.

''(2) SPECIAL RULE FOR REVOLVING LOAN ACCOUNTS.—For purposes of paragraph (1)—

''(A) each extension of credit (other than the accrual of interest) on a revolving loan account shall be treated as a separate debt instrument, and

''(B) payments on such extensions of credit having substantially the same terms shall be applied to such extensions beginning with the earliest such extension.

''(e) SPECIAL RULES.—

''(1) NONRECOGNITION RULES NOT TO APPLY.—Gain required to be recognized under this section shall be recognized notwithstanding any other provision of this subtitle.

''(2) BASIS ADJUSTMENTS.—The basis of any property on which gain is recognized under this section shall be increased by the amount of gain so recognized.

''SEC. 860J. NON-FASIT LOSSES NOT TO OFFSET CERTAIN FASIT INCLUSIONS.

''(a) IN GENERAL.—The taxable income of the holder of the ownership interest or any high-yield interest in a FASIT for any taxable year shall in no event be less than such holder's taxable income determined solely with respect to such interests.

''(b) COORDINATION WITH SECTION 172.—Any increase in the taxable income of any holder of the ownership interest or a high-yield interest in a FASIT for any taxable year by reason of subsection (a) shall be disregarded—

''(1) in determining under section 172 the amount of any net operating loss for such taxable year, and

''(2) in determining taxable income for such taxable year for purposes of the 2nd sentence of section 172(b)(2).

''(c) COORDINATION WITH MINIMUM TAX.—For purposes of part VI of subchapter A of this chapter—

''(1) the reference in section 55(b)(2) to taxable income shall be treated as a reference to taxable income determined without regard to this section,

''(2) the alternative minimum taxable income of any holder of the ownership interest or a high-yield interest in a FASIT for any taxable year shall in no event be less than such holder's taxable income determined solely with respect to such interests, and

''(3) any increase in taxable income under this section shall be disregarded for purposes of computing the alternative tax net operating loss deduction.

''SEC. 860K. TREATMENT OF TRANSFERS OF HIGH-YIELD INTERESTS TO DISQUALIFIED HOLDERS.

''(a) GENERAL RULE.—In the case of any high-yield interest which is held by a disqualified holder—

''(1) the gross income of such holder shall not include any income (other than gain) attributable to such interest, and

''(2) amounts not includible in the gross income of such holder by reason of paragraph (1) shall be included (at the time otherwise includible under paragraph (1)) in the gross income of the most recent holder of such interest which is not a disqualified holder.

''(b) EXCEPTIONS.—Rules similar to the rules of paragraphs (4) and (7) of section 860E(e) shall apply to the tax imposed by reason of subsection (a).

''(c) DISQUALIFIED HOLDER.—For purposes of this section, the term 'disqualified holder' means any holder other than—

''(1) an eligible corporation (as defined in section 860L(a)(2)), or

''(2) a FASIT.

''(d) TREATMENT OF INTERESTS HELD BY SECURITIES DEALERS.—

''(1) IN GENERAL.—Subsection (a) shall not apply to any high-yield interest held by a disqualified holder if such holder is a dealer in securities who acquired such interest exclusively for sale to customers in the ordinary course of business (and not for investment).

''(2) CHANGE IN DEALER STATUS.—

''(A) IN GENERAL.—In the case of a dealer in securities which is not an eligible corporation (as defined in section 860L(a)(2)), if—

''(i) such dealer ceases to be a dealer in securities, or

''(ii) such dealer commences holding the high-yield interest for investment,

there is hereby imposed (in addition to other taxes) an excise tax equal to the product of the highest rate of tax specified in section 11(b)(1) and the income of such dealer attributable to such interest for periods after the date of such cessation or commencement.

''(B) HOLDING FOR 31 DAYS OR LESS.—For purposes of subparagraph (A)(ii), a dealer shall not be treated as holding an interest for investment before the 32d day after the date such dealer acquired such interest unless such interest is so held as part of a plan to avoid the purposes of this paragraph.

''(C) ADMINISTRATIVE PROVISIONS.—The deficiency procedures of subtitle F shall apply to the tax imposed by this paragraph.

''(e) TREATMENT OF HIGH-YIELD INTERESTS IN PASS-THRU ENTITIES.—

''(1) IN GENERAL.—If a pass-thru entity (as defined in section 860E(e)(6)) issues a debt or equity interest—

''(A) which is supported by any regular interest in a FASIT, and

''(B) which has an original yield to maturity which is greater than each of—

''(i) the sum determined under clauses (i) and (ii) of section 163(i)(1)(B) with respect to such debt or equity interest, and

''(ii) the yield to maturity to such entity on such regular interest (determined as of the date such entity acquired such interest),

there is hereby imposed on the pass-thru entity a tax (in addition to other taxes) equal to the product of the highest rate of tax specified in section 11(b)(1) and the income of the holder of such debt or equity interest which is properly attributable to such regular interest. For purposes of the preceding sentence, the yield to maturity of any equity interest shall be determined under regulations prescribed by the Secretary.

''(2) EXCEPTION.—The Secretary may provide that paragraph (1) shall not apply to arrangements not having as a principal purpose the avoidance of the purposes of this subsection.

''SEC. 860L. DEFINITIONS AND OTHER SPECIAL RULES.

''(a) FASIT.—

''(1) IN GENERAL.—For purposes of this title, the terms 'financial asset

securitization investment trust' and 'FASIT' mean any entity—

''(A) for which an election to be treated as a FASIT applies for the taxable year,

''(B) all of the interests in which are regular interests or the ownership interest,

''(C) which has only 1 ownership interest and such ownership interest is held directly by an eligible corporation,

''(D) as of the close of the 3rd month beginning after the day of its formation and at all times thereafter, substantially all of the assets of which (including assets treated as held by the entity under section 860I(c)(2)) consist of permitted assets, and

''(E) which is not described in section 851(a).

A rule similar to the rule of the last sentence of section 860D(a) shall apply for purposes of this paragraph.

''(2) ELIGIBLE CORPORATION.—For purposes of paragraph (1)(C), the term 'eligible corporation' means any domestic C corporation other than—

''(A) a corporation which is exempt from, or is not subject to, tax under this chapter,

''(B) an entity described in section 851(a) or 856(a),

''(C) a REMIC, and

''(D) an organization to which part I of subchapter T applies.

''(3) ELECTION.—An entity (otherwise meeting the requirements of paragraph (1)) may elect to be treated as a FASIT. Except as provided in paragraph (5), such an election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

''(4) TERMINATION.—If any entity ceases to be a FASIT at any time during the taxable year, such entity shall not be treated as a FASIT for such taxable year or any succeeding taxable year.

''(5) INADVERTENT TERMINATIONS, ETC.—Rules similar to the rules of section 860D(b)(2)(B) shall apply to inadvertent failures to qualify or remain qualified as a FASIT.

''(b) INTERESTS IN FASIT.—For purposes of this part—

''(1) REGULAR INTEREST.—

''(A) IN GENERAL.—The term 'regular interest' means any interest which is issued by a FASIT after the startup date with fixed terms and which is designated as a regular interest if—

''(i) such interest unconditionally entitles the holder to receive a specified principal amount (or other similar amount),

''(ii) except as otherwise provided by the Secretary—

''(I) in the case of a FASIT which would be treated as a REMIC if an election under section 860D(b) had been made, interest payments (or other similar amounts), if any, with respect to such interest at or before maturity meet the requirements applicable under clause (i) or (ii) of section 860G(a)(1)(B), or

''(II) in the case of any other FASIT, interest payments (or other similar amounts), if any, with respect to such interest are determined based on a fixed rate, a current rate which is reasonably expected to measure contemporaneous variations in the cost of newly borrowed funds in the currency in which the regular interest is denominated, or any combination of such rates,

''(iii) such interest does not have a stated maturity (including options to renew) greater than 30 years (or such longer period as may be permitted by regulations),

''(iv) the issue price of such interest does not exceed 125 percent of its stated principal amount, and

''(v) the yield to maturity on such interest is less than the sum determined under section 163(i)(1)(B) with respect to such interest. An interest shall not fail to meet the requirements of clause (i) merely because the timing (but not the amount) of the principal payments (or other similar amounts) may be contingent on the extent that payments on debt instruments held by the FASIT are made in advance of anticipated payments and on the amount of income from permitted assets.

''(B) HIGH-YIELD INTERESTS.—

''(i) IN GENERAL.—The term 'regular interest' includes any high-yield interest.

''(ii) HIGH-YIELD INTEREST.—The term 'high-yield interest' means any interest which would be described in subparagraph (A) but for failing to meet the requirements of one or more of clauses (i), (iv), or (v) thereof.

''(2) OWNERSHIP INTEREST.—The term 'ownership interest' means the interest issued by a FASIT after the startup day which is designated as an ownership interest and which is not a regular interest.

''(c) PERMITTED ASSETS.—For purposes of this part—

''(1) IN GENERAL.—The term 'permitted asset' means—

''(A) cash or cash equivalents,

''(B) any debt instrument (as defined in section 1275(a)(1)) under which interest payments (or other similar amounts), if any, at or before maturity meet the requirements applicable under clause (i) or (ii) of section 860G(a)(1)(B),

''(C) foreclosure property,

''(D) any asset—

''(i) which is an interest rate or foreign currency notional principal contract, letter of credit, insurance, guarantee against payment defaults, or other similar instrument permitted by the Secretary, and

''(ii) which is reasonably required to guarantee or hedge against the FASIT's risks associated with being the obligor on interests issued by the FASIT,

''(E) contract rights to acquire debt instruments described in subparagraph (B) or assets described in subparagraph (D), and

''(F) any regular interest in another FASIT.

''(2) DEBT ISSUED BY HOLDER OF OWNERSHIP INTEREST NOT PERMITTED ASSET.—The term 'permitted asset' shall not include any debt instrument issued by the holder of the ownership interest in the FASIT or by any person related to such holder or any direct or indirect interest in such a debt instrument. The preceding sentence shall not apply to cash equivalents and to any other investment specified in regulations prescribed by the Secretary.

''(3) FORECLOSURE PROPERTY.—The term 'foreclosure property' means property—

''(A) which would be foreclosure property under section 856(e) (determined without regard to paragraph (5) thereof) if acquired by a real estate investment trust, and

''(B) which is acquired in connection with the default or imminent default of a debt instrument held by the FASIT unless the security interest in such property was created for the principal purpose of permitting the FASIT to invest in such property.

Solely for purposes of subsection (a)(1), the determination of whether any property is foreclosure property shall be made without regard to section 856(e)(4).

''(d) STARTUP DAY.—For purposes of this part—

''(1) IN GENERAL.—The term 'startup day' means the date designated in the election under subsection (a)(3) as the startup day of the FASIT. Such day shall be the beginning of the first taxable year of the FASIT.

''(2) TREATMENT OF PROPERTY HELD ON STARTUP DAY.—All property held (or treated as held under section 860I(c)(2)) by an entity as of the startup day shall be treated as contributed to such entity on such day by the holder of the ownership interest in such entity.

''(e) TAX ON PROHIBITED TRANSACTIONS.—

''(1) IN GENERAL.—There is hereby imposed for each taxable year of a FASIT a tax equal to 100 percent of the net income derived from prohibited transactions. Such tax shall be paid by the holder of the ownership interest in the FASIT.

''(2) PROHIBITED TRANSACTIONS.—For purposes of this part, the term 'prohibited transaction' means—

''(A) the receipt of any income derived from any asset that is not a permitted asset,

''(B) except as provided in paragraph (3), the disposition of any permitted asset,

''(C) the receipt of any income derived from any loan originated by the FASIT, and

''(D) the receipt of any income representing a fee or other compensation for services (other than any fee received as compensation for a waiver, amendment, or consent under permitted assets (other than foreclosure property) held by the FASIT).

''(3) EXCEPTION FOR INCOME FROM CERTAIN DISPOSITIONS.—

''(A) IN GENERAL.—Paragraph (2)(B) shall not apply to a disposition which would not be a prohibited transaction (as defined in section 860F(a)(2)) by reason of—

''(i) clause (ii), (iii), or (iv) of section 860F(a)(2)(A), or

''(ii) section 860F(a)(5),

if the FASIT were treated as a REMIC and debt instruments described in subsection (c)(1)(B) were treated as qualified mortgages.

''(B) SUBSTITUTION OF DEBT INSTRUMENTS; REDUCTION OF OVER-COLLATERALIZATION.—Paragraph (2)(B) shall not apply to—

''(i) the substitution of a debt instrument described in subsection (c)(1)(B) for another debt instrument which is a permitted asset, or

''(ii) the distribution of a debt instrument contributed by the holder of the ownership interest to such holder in order to reduce over-collateralization of the FASIT,

but only if a principal purpose of acquiring the debt instrument which is disposed of was not the recognition of gain (or the reduction of a loss) as a result of an increase in the market value of the debt instrument after its acquisition by the FASIT.

''(C) LIQUIDATION OF CLASS OF REGULAR INTERESTS.—Paragraph (2)(B) shall not apply to the complete liquidation of any class of regular interests.

''(4) NET INCOME.—For purposes of this subsection, net income shall be determined in accordance with section 860F(a)(3).

''(f) COORDINATION WITH WASH SALES RULES.—Rules similar to the rules of section 860F(d) shall apply to the ownership interest in a FASIT.

''(g) RELATED PERSON.—For purposes of this part, a person (hereinafter in this subsection referred to as the 'related person') is related to any person if—

''(1) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

''(2) the related person and such person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of paragraph (1), in applying section 267(b) or 707(b)(1), '20 percent' shall be substituted for '50 percent'.

''(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent the abuse of the purposes of this part through transactions which are not primarily related to securitization of debt instruments by a FASIT.''.

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 26(b) is amended by striking ''and'' at the end of subparagraph (M), by striking the period at the end of subparagraph (N) and inserting '', and'', and by adding at the end the following new subparagraph:

''(O) section 860K (relating to treatment of transfers of high-yield interests to disqualified holders).''.

(2) Paragraph (6) of section 56(g) is amended by striking ''or REMIC'' and inserting ''REMIC, or FASIT''.

(3) Clause (ii) of section 382(l)(4)(B) is amended by striking ''or a REMIC to which part IV of subchapter M applies'' and inserting ''a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies''.

(4) Paragraph (1) of section 582(c) is amended by inserting '', and any regular or ownership interest in a FASIT,'' after ''REMIC''.

(5) Subparagraph (E) of section 856(c)(6) is amended by adding at the end the following new sentence: ''The principles of the preceding provisions of this subparagraph shall apply to regular and ownership interests in a FASIT.''.

(6) Subparagraph (C) of section 1202(e)(4) is amended by striking ''or REMIC'' and inserting ''REMIC, or FASIT''.

(7) Clause (xi) of section 7701(a)(19)(C) is amended to read as follows:

''(xi) any regular or residual interest in a REMIC, and any regular or ownership interest in a FASIT, but only in the proportion which the assets of such REMIC or FASIT consist of property described in any of the preceding clauses of this subparagraph; except that if 95 percent or more of the assets of such REMIC or FASIT are assets described in clauses (i) through (x), the entire interest in the REMIC or FASIT shall qualify.''.

(8) Subparagraph (A) of section 7701(i)(2) is amended by inserting ''or a FASIT'' after ''a REMIC''.

(c) CLERICAL AMENDMENT.—The table of parts for subchapter M of chapter 1 is amended by adding at the end the following new item:

''Part V. Financial asset securitization investment trusts.''.

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

(e) TREATMENT OF EXISTING SECURITIZATION ENTITIES.—

(1) IN GENERAL.—In the case of the holder of the ownership interest in a pre-effective date FASIT—

(A) gain shall not be recognized under section 860L(d)(2) of the Internal Revenue Code of 1986 on property deemed contributed to the FASIT, and

(B) gain shall not be recognized under section 860I of such Code on property contributed to such FASIT,

until such property (or portion thereof) ceases to be properly allocable to a pre-FASIT interest.

(2) ALLOCATION OF PROPERTY TO PRE-FASIT INTEREST.—For purposes of paragraph (1), property shall be allocated to a pre-FASIT interest in such manner as the Secretary of the Treasury may prescribe, except that all property in a FASIT shall be treated as properly allocable to pre-FASIT interests if the fair market value of all such property does not exceed 107 percent of the aggregate principal amount of all outstanding pre-FASIT interests.

(3) DEFINITIONS.—For purposes of this subsection—

(A) PRE-EFFECTIVE DATE FASIT.—The term ''pre-effective date FASIT'' means any FASIT if the entity (with respect to which the election under section 860L(a)(3) of such Code was made) was in existence on June 10, 1996.

(B) PRE-FASIT INTEREST.—The term ''pre-FASIT interest'' means any interest in the entity referred to in subparagraph (A) which was issued before the startup day (other than any interest held by the holder of the ownership interest in the FASIT).

PART III—TREATMENT OF INDIVIDUALS WHO EXPATRIATE

SEC. 1631. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

''SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

''(a) GENERAL RULES.—For purposes of this subtitle—

''(1) MARK TO MARKET.—Except as provided in subsection (f), all property of a covered expatriate to which this section applies shall be treated as sold on the expatriation date for its fair market value.

''(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

''(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale unless such gain is excluded from gross income under part III of subchapter B, and

''(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply (and section 1092 shall apply) to any such loss.

''(3) EXCLUSION FOR CERTAIN GAIN.—The amount which would (but for this paragraph) be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

''(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

''(A) IN GENERAL.—If an expatriate elects the application of this paragraph—

''(i) this section (other than this paragraph) shall not apply to the expatriate, but

''(ii) the expatriate shall be subject to tax under this title, with respect to property to which this section would apply but for such election, in the same manner as if the individual were a United States citizen.

''(B) LIMITATION ON AMOUNT OF ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFER TAXES.—The aggregate amount of taxes imposed under subtitle B with respect to any transfer of property by reason of an election under subparagraph (A) shall not exceed the amount of income tax which would be due if the property were sold for its fair market value immediately before the time of the transfer or death (taking into account the rules of paragraph (2)).

''(C) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

''(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

''(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

''(iii) complies with such other requirements as the Secretary may prescribe.

''(D) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

''(b) ELECTION TO DEFER TAX.—

''(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property—

''(A) no amount shall be required to be included in gross income under subsection (a)(1) with respect to the gain from such property for the taxable year of the sale, but

''(B) the taxpayer's tax for the taxable year in which such property is disposed of shall be increased by the deferred tax amount with respect to the property.

Except to the extent provided in regulations, subparagraph (B) shall apply to a disposition whether or not gain or loss is recognized in whole or in part on the disposition.

''(2) DEFERRED TAX AMOUNT.—

''(A) IN GENERAL.—For purposes of paragraph (1), the term 'deferred tax amount' means, with respect to any property, an amount equal to the sum of—

''(i) the difference between the amount of tax paid for the taxable year described in paragraph (1)(A) and the amount which would have been paid for such taxable year if the election under paragraph (1) had not applied to such property, plus

''(ii) an amount of interest on the amount described in clause (i) determined for the period—

''(I) beginning on the 91st day after the expatriation date, and

''(II) ending on the due date for the taxable year described in paragraph (1)(B),

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

For purposes of clause (ii), the due date is the date prescribed by law (determined without regard to extension) for filing the return of the tax imposed by this chapter for the taxable year.

''(B) ALLOCATION OF LOSSES.—For purposes of subparagraph (A), any losses described in subsection (a)(2)(B) shall be allocated ratably among the gains described in subsection (a)(2)(A).

''(3) SECURITY.—

''(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided with respect to such property.

''(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

''(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2)(A) for the property, or

''(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

''(4) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

''(5) DISPOSITIONS.—For purposes of this subsection, a taxpayer making an election under this subsection with respect to any property shall be treated as having disposed of such property—

''(A) immediately before death if such property is held at such time, and

''(B) at any time the security provided with respect to the property fails to meet the requirements of paragraph (3) and the taxpayer does not correct such failure within the time specified by the Secretary.

''(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

''(c) COVERED EXPATRIATE.—For purposes of this section—

''(1) IN GENERAL.—The term 'covered expatriate' means an expatriate—

''(A) whose average annual net income tax (as defined in section 38(c)(1)) for the period of 5 taxable years ending before the expatriation date is greater than $100,000, or

''(B) whose net worth as of such date is $500,000 or more.

If the expatriation date is after 1996, such $100,000 and $500,000 amounts shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '1995' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000.

''(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

''(A) the individual—

''(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

''(ii) has been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) for not more than 8 taxable years during the 15-taxable year period ending with the taxable year during which the expatriation date occurs, or

''(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

''(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

''(d) PROPERTY TO WHICH SECTION APPLIES.—For purposes of this section—

''(1) IN GENERAL.—Except as otherwise provided by the Secretary, this section shall apply to—

''(A) any interest in property held by a covered expatriate on the expatriation date the gain from which would be includible in the gross income of the expatriate if such interest had been sold for its fair market value on such date in a transaction in which gain is recognized in whole or in part, and

''(B) any other interest in a trust to which subsection (f) applies.

''(2) EXCEPTIONS.—This section shall not apply to the following property:

''(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the expatriation date, meet the requirements of section 897(c)(2).

''(B) INTEREST IN CERTAIN RETIREMENT PLANS.—

''(i) IN GENERAL.—Any interest in a qualified retirement plan (as defined in section 4974(c)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax-favored treatment.

''(ii) FOREIGN PENSION PLANS.—

''(I) IN GENERAL.—Under regulations prescribed by the Secretary, interests in foreign pension plans or similar retirement arrangements or programs.

''(II) LIMITATION.—The value of property which is treated as not sold by reason of this subparagraph shall not exceed $500,000.

''(e) DEFINITIONS.—For purposes of this section—

''(1) EXPATRIATE.—The term 'expatriate' means—

''(A) any United States citizen who relinquishes his citizenship, or

''(B) any long-term resident of the United States who—

''(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

''(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

''(2) EXPATRIATION DATE.—The term 'expatriation date' means—

''(A) the date an individual relinquishes United States citizenship, or

''(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

''(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing his United States citizenship on the earliest of—

''(A) the date the individual renounces his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

''(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

''(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

''(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

''(4) LONG-TERM RESIDENT.—

''(A) IN GENERAL.—The term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the expatriation date occurs. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

''(B) SPECIAL RULE.—For purposes of subparagraph (A), there shall not be taken into account—

''(i) any taxable year during which any prior sale is treated under subsection (a)(1) as occurring, or

''(ii) any taxable year prior to the taxable year referred to in clause (i).

''(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust—

''(A) the individual shall not be treated as having sold such interest,

''(B) such interest shall be treated as a separate share in the trust, and

''(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

''(ii) the separate trust shall be treated as having sold its assets immediately before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

''(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii).

''(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

''(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

''(i) paragraph (1) and subsection (a) shall not apply, and

''(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

''(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

''(i) the highest rate of tax imposed by section 1(e) for the taxable year in which the expatriation date occurs, multiplied by the amount of the distribution, or

''(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

''(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

''(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

''(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods.

''(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

''(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

''(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

''(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

''(E) TAX DEDUCTED AND WITHHELD.—

''(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

''(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

''(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

''(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

''(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

''(i) the tax determined under paragraph (1) as if the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

''(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

''(G) DEFINITIONS AND SPECIAL RULE.—For purposes of this paragraph—

''(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

''(I) which is organized under, and governed by, the laws of the United States or a State, and

''(II) with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

''(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the expatriation date, is vested in the beneficiary.

''(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

''(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

''(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

''(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar advisor.

''(B) OTHER DETERMINATIONS.—For purposes of this section—

''(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

''(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

''(I) the methodology used to determine that taxpayer's trust interest under this section, and

''(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

''(g) TERMINATION OF DEFERRALS, ETC.—On the date any property held by an individual is treated as sold under subsection (a), notwithstanding any other provision of this title—

''(1) any period during which recognition of income or gain is deferred shall terminate, and

''(2) any extension of time for payment of tax shall cease to apply and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

''(h) IMPOSITION OF TENTATIVE TAX.—

''(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

''(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

''(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

''(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

''(i) COORDINATION WITH ESTATE AND GIFT TAXES.—If subsection (a) applies to property held by an individual for any taxable year and—

''(1) such property is includible in the gross estate of such individual solely by reason of section 2107, or

''(2) section 2501 applies to a transfer of such property by such individual solely by reason of section 2501(a)(3),

then there shall be allowed as a credit against the additional tax imposed by section 2101 or 2501, whichever is applicable, solely by reason of section 2107 or 2501(a)(3) an amount equal to the increase in the tax imposed by this chapter for such taxable year by reason of this section.

''(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

''(1) to prevent double taxation by ensuring that—

''(A) appropriate adjustments are made to basis to reflect gain recognized by reason of subsection (a) and the exclusion provided by subsection (a)(3), and

''(B) any gain by reason of a deemed sale under subsection (a) of an interest in a corporation, partnership, trust, or estate is reduced to reflect that portion of such gain which is attributable to an interest in a trust which a shareholder, partner, or beneficiary is treated as holding directly under subsection (f)(3)(B)(i), and

''(2) which provide for the proper allocation of the exclusion under subsection (a)(3) to property to which this section applies.

''(k) CROSS REFERENCE.—

''For income tax treatment of individuals who terminate United States citizenship, see section 7701(a)(47).''.

(b) INCLUSION IN INCOME OF GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

''(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.''.

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

''(47) TERMINATION OF UNITED STATES CITIZENSHIP.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).''.

(d) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(f) APPLICATION.—This section shall not apply to any individual who relinquishes (within the meaning of section 877A(e)(3)) United States citizenship on or after February 6, 1995.''.

(2) Section 2107(c) is amended by adding at the end the following new paragraph:

''(3) CROSS REFERENCE.—For credit against the tax imposed by subsection (a) for expatriation tax, see section 877A(i).''.

(3) Section 2501(a)(3) is amended by adding at the end the following new flush sentence: ''For credit against the tax imposed under this section by reason of this paragraph, see section 877A(i).''.

(4) Paragraph (10) of section 7701(b) is amended by adding at the end the following new sentence: ''This paragraph shall not apply to any long-term resident of the United States who is an expatriate (as defined in section 877A(e)(1)).''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 6, 1995.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to amounts received from expatriates (as so defined) whose expatriation date (as so defined) occurs on and after February 6, 1995.

(3) SPECIAL RULES RELATING TO CERTAIN ACTS OCCURRING BEFORE FEBRUARY 6, 1995.—In the case of an individual who took an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a) (1)–(4)) before February 6, 1995, but whose expatriation date (as so defined) occurs after February 6, 1995—

(A) the amendment made by subsection (c) shall not apply,

(B) the amendment made by subsection (d)(1) shall not apply for any period prior to the expatriation date, and

(C) the other amendments made by this section shall apply as of the expatriation date.

(4) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of such Code shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 1632. INFORMATION ON INDIVIDUALS EXPATRIATING.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. INFORMATION ON INDIVIDUALS EXPATRIATING.

''(a) REQUIREMENT.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, any expatriate (within the meaning of section 877A(e)(1)) shall provide a statement which includes the information described in subsection (b).

''(2) TIMING.—

''(A) CITIZENS.—In the case of an expatriate described in section 877(e)(1)(A), such statement shall be—

''(i) provided not later than the expatriation date (within the meaning of section 877A(e)(2)), and

''(ii) provided to the person or court referred to in section 877A(e)(3).

''(B) NONCITIZENS.—In the case of an expatriate described in section 877A(e)(1)(B), such statement shall be provided to the Secretary with the return of tax imposed by chapter 1 for the taxable year during which the event described in such section occurs.

''(b) INFORMATION TO BE PROVIDED.—Information required under subsection (a) shall include—

''(1) the taxpayer's TIN,

''(2) the mailing address of such individual's principal foreign residence,

''(3) the foreign country in which such individual is residing,

''(4) the foreign country of which such individual is a citizen,

''(5) in the case of an individual having a net worth of at least the dollar amount applicable under section 877A(c)(1)(B), information detailing the assets and liabilities of such individual, and

''(6) such other information as the Secretary may prescribe.

''(c) PENALTY.—Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year during any portion of which such failure continues in an amount equal to the greater of—

''(1) 5 percent of the additional tax required to be paid under section 877A for such year, or

''(2) $1,000,

unless it is shown that such failure is due to reasonable cause and not to willful neglect.

''(d) INFORMATION TO BE PROVIDED TO SECRETARY.—Notwithstanding any other provision of law—

''(1) any Federal agency or court which collects (or is required to collect) the statement under subsection (a) shall provide to the Secretary—

''(A) a copy of any such statement, and

''(B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a),

''(2) the Secretary of State shall provide to the Secretary a copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State, and

''(3) the Federal agency primarily responsible for administering the immigration laws shall provide to the Secretary the name of each lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

Notwithstanding any other provision of law, not later than 30 days after the close of each calendar quarter, the Secretary shall publish in the Federal Register the name of each individual relinquishing United States citizenship (within the meaning of section 877A(e)(3)) with respect to whom the Secretary receives information under the preceding sentence during such quarter.

''(e) EXEMPTION.—The Secretary may by regulations exempt any class of individuals from the requirements of this section if the Secretary determines that applying this section to such individuals is not necessary to carry out the purposes of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 6039E the following new item:

''Sec. 6039F. Information on individuals expatriating.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals to whom section 877A of the Internal Revenue Code of 1986 applies and whose expatriation date (as defined in section 877A(e)(2)) occurs on or after February 6, 1995, except that no statement shall be required by such amendments before the 90th day after the date of the enactment of this Act.

SEC. 1633. REPORT ON TAX COMPLIANCE BY UNITED STATES CITIZENS AND RESIDENTS LIVING ABROAD.

Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall prepare and submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report—

(1) describing the compliance with subtitle A of the Internal Revenue Code of 1986 by citizens and lawful permanent residents of the United States (within the meaning of section 7701(b)(6) of such Code) residing outside the United States, and

(2) recommending measures to improve such compliance (including improved coordination between executive branch agencies).

Subtitle F—Technical Corrections

SEC. 1701. COORDINATION WITH OTHER SUBTITLES.

For purposes of applying the amendments made by any subtitle of this title other than this subtitle, the provisions of this subtitle shall be treated as having been enacted immediately before the provisions of such other subtitles.

SEC. 1702. AMENDMENTS RELATED TO REVENUE RECONCILIATION ACT OF 1990.

(a) AMENDMENTS RELATED TO SUBTITLE A.—

(1) Subparagraph (B) of section 59(j)(3) is amended by striking ''section 1(i)(3)(B)'' and inserting ''section 1(g)(3)(B)''.

(2) Clause (i) of section 151(d)(3)(C) is amended by striking ''joint of a return'' and inserting ''joint return''.

(b) AMENDMENTS RELATED TO SUBTITLE B.—

(1) Paragraph (1) of section 11212(e) of the Revenue Reconciliation Act of 1990 is amended by striking ''Paragraph (1) of section 6724(d)'' and inserting ''Subparagraph (B) of section 6724(d)(1)''.

(2)(A) Subparagraph (B) of section 4093(c)(2), as in effect before the amendments made by the Revenue Reconciliation Act of 1993, is amended by inserting before the period ''unless such fuel is sold for exclusive use by a State or any political subdivision thereof''.

(B) Paragraph (4) of section 6427(l), as in effect before the amendments made by the Revenue Reconciliation Act of 1993, is amended by inserting before the period ''unless such fuel was used by a State or any political subdivision thereof''.

(3) Paragraph (1) of section 6416(b) is amended by striking ''chapter 32 or by section 4051'' and inserting ''chapter 31 or 32''.

(4) Section 7012 is amended—

(A) by striking ''production or importation of gasoline'' in paragraph (3) and inserting ''taxes on gasoline and diesel fuel'', and

(B) by striking paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(5) Subsection (c) of section 5041 is amended by striking paragraph (6) and by inserting the following new paragraphs:

''(6) CREDIT FOR TRANSFEREE IN BOND.—If—

''(A) wine produced by any person would be eligible for any credit under paragraph (1) if removed by such person during the calendar year,

''(B) wine produced by such person is removed during such calendar year by any other person (hereafter in this paragraph referred to as the 'transferee') to whom such wine was transferred in bond and who is liable for the tax imposed by this section with respect to such wine, and

''(C) such producer holds title to such wine at the time of its removal and provides to the transferee such information as is necessary to properly determine the transferee's credit under this paragraph,

then, the transferee (and not the producer) shall be allowed the credit under paragraph (1) which would be allowed to the producer if the wine removed by the transferee had been removed by the producer on that date.

''(7) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations—

''(A) to prevent the credit provided in this subsection from benefiting any person who produces more than 250,000 wine gallons of wine during a calendar year, and

''(B) to assure proper reduction of such credit for persons producing more than 150,000 wine gallons of wine during a calendar year.''.

(6) Paragraph (3) of section 5061(b) is amended to read as follows:

''(3) section 5041(f),''.

(7) Section 5354 is amended by inserting ''(taking into account the appropriate amount of credit with respect to such wine under section 5041(c))'' after ''any one time''.

(c) AMENDMENTS RELATED TO SUBTITLE C.—

(1) Paragraph (4) of section 56(g) is amended by redesignating subparagraphs (I) and (J) as subparagraphs (H) and (I), respectively.

(2) Subparagraph (B) of section 6724(d)(1) is amended—

(A) by striking ''or'' at the end of clause (xii), and

(B) by striking the period at the end of clause (xiii) and inserting '', or''.

(3) Subsection (g) of section 6302 is amended by inserting '', 22,'' after ''chapters 21''.

(4) The earnings and profits of any insurance company to which section 11305(c)(3) of the Revenue Reconciliation Act of 1990 applies shall be determined without regard to any deduction allowed under such section; except that, for purposes of applying sections 56 and 902, and subpart F of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1986, such deduction shall be taken into account.

(5) Subparagraph (D) of section 6038A(e)(4) is amended—

(A) by striking ''any transaction to which the summons relates'' and inserting ''any affected taxable year'', and

(B) by adding at the end thereof the following new sentence: ''For purposes of this subparagraph, the term 'affected taxable year' means any taxable year if the determination of the amount of tax imposed for such taxable year is affected by the treatment of the transaction to which the summons relates.''.

(6) Subparagraph (A) of section 6621(c)(2) is amended by adding at the end thereof the following new flush sentence:

''The preceding sentence shall be applied without regard to any such letter or notice which is withdrawn by the Secretary.''.

(7) Clause (i) of section 6621(c)(2)(B) is amended by striking ''this subtitle'' and inserting ''this title''.

(d) AMENDMENTS RELATED TO SUBTITLE D.—

(1) Notwithstanding section 11402(c) of the Revenue Reconciliation Act of 1990, the amendment made by section 11402(b)(1) of such Act shall apply to taxable years ending after December 31, 1989.

(2) Clause (ii) of section 143(m)(4)(C) is amended—

(A) by striking ''any month of the 10-year period'' and inserting ''any year of the 4-year period'',

(B) by striking ''succeeding months'' and inserting ''succeeding years'', and

(C) by striking ''over the remainder of such period (or, if lesser, 5 years)'' and inserting ''to zero over the succeeding 5 years''.

(e) AMENDMENTS RELATED TO SUBTITLE E.—

(1)(A) Clause (ii) of section 56(d)(1)(B) is amended to read as follows:

''(ii) appropriate adjustments in the application of section 172(b)(2) shall be made to take into account the limitation of subparagraph (A).''.

(B) For purposes of applying sections 56(g)(1) and 56(g)(3) of the Internal Revenue Code of 1986 with respect to taxable years beginning in 1991 and 1992, the reference in such sections to the alternative tax net operating loss deduction shall be treated as including a reference to the deduction under section 56(h) of such Code as in effect before the amendments made by section 1915 of the Energy Policy Act of 1992.

(2) Clause (i) of section 613A(c)(3)(A) is amended by striking ''the table contained in''.

(3) Section 6501 is amended—

(A) by striking subsection (m) (relating to deficiency attributable to election under section 44B) and by redesignating subsections (n) and (o) as subsections (m) and (n), respectively, and

(B) by striking ''section 40(f) or 51(j)'' in subsection (m) (as redesignated by subparagraph (A)) and inserting ''section 40(f), 43, or 51(j)''.

(4) Subparagraph (C) of section 38(c)(2) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) is amended by inserting before the period at the end of the first sentence the following: ''and without regard to the deduction under section 56(h)''.

(5) The amendment made by section 1913(b)(2)(C)(i) of the Energy Policy Act of 1992 shall apply to taxable years beginning after December 31, 1990.

(f) AMENDMENTS RELATED TO SUBTITLE F.—

(1)(A) Section 2701(a)(3) is amended by adding at the end thereof the following new subparagraph:

''(C) VALUATION OF QUALIFIED PAYMENTS WHERE NO LIQUIDATION, ETC. RIGHTS.—In the case of an applicable retained interest which is described in subparagraph (B)(i) but not subparagraph (B)(ii), the value of the distribution right shall be determined without regard to this section.''.

(B) Section 2701(a)(3)(B) is amended by inserting ''CERTAIN'' before ''QUALIFIED'' in the heading thereof.

(C) Sections 2701 (d)(1) and (d)(4) are each amended by striking ''subsection (a)(3)(B)'' and inserting ''subsection (a)(3) (B) or (C)''.

(2) Clause (i) of section 2701(a)(4)(B) is amended by inserting ''(or, to the extent provided in regulations, the rights as to either income or capital)'' after ''income and capital''.

(3)(A) Section 2701(e)(3) is amended—

(i) by striking subparagraph (B), and

(ii) by striking so much of paragraph (3) as precedes ''shall be treated as holding'' and inserting:

''(3) ATTRIBUTION OF INDIRECT HOLDINGS AND TRANSFERS.—An individual''.

(B) Section 2704(c)(3) is amended by striking ''section 2701(e)(3)(A)'' and inserting ''section 2701(e)(3)''.

(4) Clause (i) of section 2701(c)(1)(B) is amended to read as follows:

''(i) a right to distributions with respect to any interest which is junior to the rights of the transferred interest,''.

(5)(A) Clause (i) of section 2701(c)(3)(C) is amended to read as follows:

''(i) IN GENERAL.—Payments under any interest held by a transferor which (without regard to this subparagraph) are qualified payments shall be treated as qualified payments unless the transferor elects not to treat such payments as qualified payments. Payments described in the preceding sentence which are held by an applicable family member shall be treated as qualified payments only if such member elects to treat such payments as qualified payments.''.

(B) The first sentence of section 2701(c)(3)(C)(ii) is amended to read as follows: ''A transferor or applicable family member holding any distribution right which (without regard to this subparagraph) is not a qualified payment may elect to treat such right as a qualified payment, to be paid in the amounts and at the times specified in such election.''.

(C) The time for making an election under the second sentence of section 2701(c)(3)(C)(i) of the Internal Revenue Code of 1986 (as amended by subparagraph (A)) shall not expire before the due date (including extensions) for filing the transferor's return of the tax imposed by section 2501 of such Code for the first calendar year ending after the date of enactment.

(6) Section 2701(d)(3)(A)(iii) is amended by striking ''the period ending on the date of''.

(7) Subclause (I) of section 2701(d)(3)(B)(ii) is amended by inserting ''or the exclusion under section 2503(b),'' after ''section 2523,''.

(8) Section 2701(e)(5) is amended—

(A) by striking ''such contribution to capital or such redemption, recapitalization, or other change'' in subparagraph (A) and inserting ''such transaction'', and

(B) by striking ''the transfer'' in subparagraph (B) and inserting ''such transaction''.

(9) Section 2701(d)(4) is amended by adding at the end thereof the following new subparagraph:

''(C) TRANSFER TO TRANSFEROR.—In the case of a taxable event described in paragraph (3)(A)(ii) involving a transfer of an applicable retained interest from an applicable family member to a transferor, this subsection shall continue to apply to the transferor during any period the transferor holds such interest.''.

(10) Section 2701(e)(6) is amended by inserting ''or to reflect the application of subsection (d)'' before the period at the end thereof.

(11)(A) Section 2702(a)(3)(A) is amended—

(i) by striking ''to the extent'' and inserting ''if'' in clause (i),

(ii) by striking ''or'' at the end of clause (i),

(iii) by striking the period at the end of clause (ii) and inserting '', or'', and

(iv) by adding at the end thereof the following new clause:

''(iii) to the extent that regulations provide that such transfer is not inconsistent with the purposes of this section.''.

(B)(i) Section 2702(a)(3) is amended by striking ''incomplete transfer'' each place it appears and inserting ''incomplete gift''.

(ii) The heading for section 2702(a)(3)(B) is amended by striking ''INCOMPLETE TRANSFER'' and inserting ''INCOMPLETE GIFT''.

(g) AMENDMENTS RELATED TO SUBTITLE G.—

(1)(A) Subsection (a) of section 1248 is amended—

(i) by striking '', or if a United States person receives a distribution from a foreign corporation which, under section 302 or 331, is treated as an exchange of stock'' in paragraph (1), and

(ii) by adding at the end thereof the following new sentence: ''For purposes of this section, a United States person shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such person is treated as realizing gain from the sale or exchange of such stock.''.

(B) Paragraph (1) of section 1248(e) is amended by striking '', or receives a distribution from a domestic corporation which, under section 302 or 331, is treated as an exchange of stock''.

(C) Subparagraph (B) of section 1248(f)(1) is amended by striking ''or 361(c)(1)'' and inserting ''355(c)(1), or 361(c)(1)''.

(D) Paragraph (1) of section 1248(i) is amended to read as follows:

''(1) IN GENERAL.—If any shareholder of a 10-percent corporate shareholder of a foreign corporation exchanges stock of the 10-percent corporate shareholder for stock of the foreign corporation, such 10-percent corporate shareholder shall recognize gain in the same manner as if the stock of the foreign corporation received in such exchange had been—

''(A) issued to the 10-percent corporate shareholder, and

''(B) then distributed by the 10-percent corporate shareholder to such shareholder in redemption or liquidation (whichever is appropriate).

The amount of gain recognized by such 10-percent corporate shareholder under the preceding sentence shall not exceed the amount treated as a dividend under this section.''.

(2) Section 897 is amended by striking subsection (f).

(3) Paragraph (13) of section 4975(d) is amended by striking ''section 408(b)'' and inserting ''section 408(b)(12)''.

(4) Clause (iii) of section 56(g)(4)(D) is amended by inserting '', but only with respect to taxable years beginning after December 31, 1989'' before the period at the end thereof.

(5)(A) Paragraph (11) of section 11701(a) of the Revenue Reconciliation Act of 1990 (and the amendment made by such paragraph) are hereby repealed, and section 7108(r)(2) of the Revenue Reconciliation Act of 1989 shall be applied as if such paragraph (and amendment) had never been enacted.

(B) Subparagraph (A) shall not apply to any building if the owner of such building establishes to the satisfaction of the Secretary of the Treasury or his delegate that such owner reasonably relied on the amendment made by such paragraph (11).

(h) AMENDMENTS RELATED TO SUBTITLE H.—

(1)(A) Clause (vi) of section 168(e)(3)(B) is amended by striking ''or'' at the end of subclause (I), by striking the period at the end of subclause (II) and inserting '', or'', and by adding at the end thereof the following new subclause:

''(III) is described in section 48(l)(3)(A)(ix) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).''.

(B) Subparagraph (B) of section 168(e)(3) (relating to 5-year property) is amended by adding at the end the following flush sentence:

''Nothing in any provision of law shall be construed to treat property as not being described in clause (vi)(I) (or the corresponding

provisions of prior law) by reason of being public utility property (within the meaning of section 48(a)(3)).''.

(C) Subparagraph (K) of section 168(g)(4) is amended by striking ''section 48(a)(3)(A)(iii)'' and inserting ''section 48(l)(3)(A)(ix) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)''.

(2) Clause (ii) of section 172(b)(1)(E) is amended by striking ''subsection (m)'' and inserting ''subsection (h)''.

(3) Sections 805(a)(4)(E), 832(b)(5)(C)(ii)(II), and 832(b)(5)(D)(ii)(II) are each amended by striking ''243(b)(5)'' and inserting ''243(b)(2)''.

(4) Subparagraph (A) of section 243(b)(3) is amended by inserting ''of'' after ''In the case''.

(5) The subsection heading for subsection (a) of section 280F is amended by striking ''INVESTMENT TAX CREDIT AND''.

(6) Clause (i) of section 1504(c)(2)(B) is amended by inserting ''section'' before ''243(b)(2)''.

(7) Paragraph (3) of section 341(f) is amended by striking ''351, 361, 371(a), or 374(a)'' and inserting ''351, or 361''.

(8) Paragraph (2) of section 243(b) is amended to read as follows:

''(2) AFFILIATED GROUP.—For purposes of this subsection:

''(A) IN GENERAL.—The term 'affiliated group' has the meaning given such term by section 1504(a), except that for such purposes sections 1504(b)(2), 1504(b)(4), and 1504(c) shall not apply.

''(B) GROUP MUST BE CONSISTENT IN FOREIGN TAX TREATMENT.—The requirements of paragraph (1)(A) shall not be treated as being met with respect to any dividend received by a corporation if, for any taxable year which includes the day on which such dividend is received—

''(i) 1 or more members of the affiliated group referred to in paragraph (1)(A) choose to any extent to take the benefits of section 901, and

''(ii) 1 or more other members of such group claim to any extent a deduction for taxes otherwise creditable under section 901.''.

(9) The amendment made by section 11813(b)(17) of the Revenue Reconciliation Act of 1990 shall be applied as if the material stricken by such amendment included the closing parenthesis after ''section 48(a)(5)''.

(10) Paragraph (1) of section 179(d) is amended by striking ''in a trade or business'' and inserting ''a trade or business''.

(11) Subparagraph (E) of section 50(a)(2) is amended by striking ''section 48(a)(5)(A)'' and inserting ''section 48(a)(5)''.

(12) The amendment made by section 11801(c)(9)(G)(ii) of the Revenue Reconciliation Act of 1990 shall be applied as if it struck ''Section 422A(c)(2)'' and inserted ''Section 422(c)(2)''.

(13) Subparagraph (B) of section 424(c)(3) is amended by striking ''a qualified stock option, an incentive stock option, an option granted under an employee stock purchase plan, or a restricted stock option'' and inserting ''an incentive stock option or an option granted under an employee stock purchase plan''.

(14) Subparagraph (E) of section 1367(a)(2) is amended by striking ''section 613A(c)(13)(B)'' and inserting ''section 613A(c)(11)(B)''.

(15) Subparagraph (B) of section 460(e)(6) is amended by striking ''section 167(k)'' and inserting ''section 168(e)(2)(A)(ii)''.

(16) Subparagraph (C) of section 172(h)(4) is amended by striking ''subsection (b)(1)(M)'' and inserting ''subsection (b)(1)(E)''.

(17) Section 6503 is amended—

(A) by redesignating the subsection relating to extension in case of certain summonses as subsection (j), and

(B) by redesignating the subsection relating to cross references as subsection (k).

(18) Paragraph (4) of section 1250(e) is hereby repealed.

(19) Paragraph (1) of section 179(d) is amended by adding at the end the following new sentence: ''Such term shall not include any property described in section 50(b) and shall not include air conditioning or heating units.''.

(i) EFFECTIVE DATE.—Except as otherwise expressly provided—

(1) the amendments made by this section shall be treated as amendments to the Internal Revenue Code of 1986 as amended by the Revenue Reconciliation Act of 1993; and

(2) any amendment made by this section shall apply to periods before the date of the enactment of this section in the same manner as if it had been included in the provision of the Revenue Reconciliation Act of 1990 to which such amendment relates.

SEC. 1703. AMENDMENTS RELATED TO REVENUE RECONCILIATION ACT OF 1993.

(a) AMENDMENT RELATED TO SECTION 13114.—Paragraph (2) of section 1044(c) is amended to read as follows:

''(2) PURCHASE.—The taxpayer shall be considered to have purchased any property if, but for subsection (d), the unadjusted basis of such property would be its cost within the meaning of section 1012.''.

(b) AMENDMENTS RELATED TO SECTION 13142.—

(1) Subparagraph (B) of section 13142(b)(6) of the Revenue Reconciliation Act of 1993 is amended to read as follows:

''(B) FULL-TIME STUDENTS, WAIVER AUTHORITY, AND PROHIBITED DISCRIMINATION.—The amendments made by paragraphs (2), (3), and (4) shall take effect on the date of the enactment of this Act.''.

(2) Subparagraph (C) of section 13142(b)(6) of such Act is amended by striking ''paragraph (2)'' and inserting ''paragraph (5)''.

(c) AMENDMENT RELATED TO SECTION 13161.—

(1) IN GENERAL.—Subsection (e) of section 4001 (relating to inflation adjustment) is amended to read as follows:

''(e) INFLATION ADJUSTMENT.—

''(1) IN GENERAL.—The $30,000 amount in subsection (a) and section 4003(a) shall be increased by an amount equal to—

''(A) $30,000, multiplied by

''(B) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the vehicle is sold, determined by substituting 'calendar year 1990' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $2,000, such amount shall be rounded to the next lowest multiple of $2,000.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(d) AMENDMENT RELATED TO SECTION 13201.—Clause (ii) of section 135(b)(2)(B) is amended by inserting before the period at the end thereof the following: '', determined by substituting 'calendar year 1989' for 'calendar year 1992' in subparagraph (B) thereof''.

(e) AMENDMENTS RELATED TO SECTION 13203.—Subsection (a) of section 59 is amended—

(1) by striking ''the amount determined under section 55(b)(1)(A)'' in paragraph (1)(A) and (2)(A)(i) and inserting ''the pre-credit tentative minimum tax'',

(2) by striking ''specified in section 55(b)(1)(A)'' in paragraph (1)(C) and inserting ''specified in subparagraph (A)(i) or (B)(i) of section 55(b)(1) (whichever applies)'',

(3) by striking ''which would be determined under section 55(b)(1)(A)'' in paragraph (2)(A)(ii) and inserting ''which would be the pre-credit tentative minimum tax'', and

(4) by adding at the end thereof the following new paragraph:

''(3) PRE-CREDIT TENTATIVE MINIMUM TAX.—For purposes of this subsection, the term 'pre-credit tentative minimum tax' means—

''(A) in the case of a taxpayer other than a corporation, the amount determined under the first sentence of section 55(b)(1)(A)(i), or

''(B) in the case of a corporation, the amount determined under section 55(b)(1)(B)(i).''.

(f) AMENDMENT RELATED TO SECTION 13221.—Sections 1201(a) and 1561(a) are each amended by striking ''last sentence'' each place it appears and inserting ''last 2 sentences''.

(g) AMENDMENTS RELATED TO SECTION 13222.—

(1) Subparagraph (B) of section 6033(e)(1) is amended by adding at the end thereof the following new clause:

''(iii) COORDINATION WITH SECTION 527(f).—This subsection shall not apply to any amount on which tax is imposed by reason of section 527(f).''.

(2) Clause (i) of section 6033(e)(1)(B) is amended by striking ''this subtitle'' and inserting ''section 501''.

(h) AMENDMENT RELATED TO SECTION 13225.—Paragraph (3) of section 6655(g) is amended by striking all that follows '''3rd month'' in the sentence following subparagraph (C) and inserting '', subsection (e)(2)(A) shall be applied by substituting '2 months' for '3 months' in clause (i)(I), the election under clause (i) of subsection (e)(2)(C) may be made separately for each installment, and clause (ii) of subsection (e)(2)(C) shall not apply.''.

(i) AMENDMENTS RELATED TO SECTION 13231.—

(1) Subparagraph (G) of section 904(d)(3) is amended by striking ''section 951(a)(1)(B)'' and inserting ''subparagraph (B) or (C) of section 951(a)(1)''.

(2) Paragraph (1) of section 956A(b) is amended to read as follows:

''(1) the amount (not including a deficit) referred to in section 316(a)(1) to the extent such amount was accumulated in prior taxable years beginning after September 30, 1993, and''.

(3) Subsection (f) of section 956A is amended by inserting before the period at the end thereof: ''and regulations coordinating the provisions of subsections (c)(3)(A) and (d)''.

(4) Subsection (b) of section 958 is amended by striking ''956(b)(2)'' each place it appears and inserting ''956(c)(2)''.

(5)(A) Subparagraph (A) of section 1297(d)(2) is amended by striking ''The adjusted basis of any asset'' and inserting ''The amount taken into account under section 1296(a)(2) with respect to any asset''.

(B) The paragraph heading of paragraph (2) of section 1297(d) is amended to read as follows:

''(2) AMOUNT TAKEN INTO ACCOUNT.—''.

(6) Subsection (e) of section 1297 is amended by inserting ''For purposes of this part—'' after the subsection heading.

(j) AMENDMENT RELATED TO SECTION 13241.—Subparagraph (B) of section 40(e)(1) is amended to read as follows:

''(B) for any period before January 1, 2001, during which the rates of tax under section 4081(a)(2)(A) are 4.3 cents per gallon.''.

(k) AMENDMENT RELATED TO SECTION 13242.—Paragraph (4) of section 6427(f) is amended by striking ''1995'' and inserting ''1999''.

(l) AMENDMENT RELATED TO SECTION 13261.—Clause (iii) of section 13261(g)(2)(A) of the Revenue Reconciliation Act of 1993 is

amended by striking ''by the taxpayer'' and inserting ''by the taxpayer or a related person''.

(m) AMENDMENT RELATED TO SECTION 13301.—Subparagraph (B) of section 1397B(d)(5) is amended by striking ''preceding''.

(n) CLERICAL AMENDMENTS.—

(1) Subsection (d) of section 39 is amended—

(A) by striking ''45'' in the heading of paragraph (5) and inserting ''45A'', and

(B) by striking ''45'' in the heading of paragraph (6) and inserting ''45B''.

(2) Subparagraph (A) of section 108(d)(9) is amended by striking ''paragraph (3)(B)'' and inserting ''paragraph (3)(C)''.

(3) Subparagraph (C) of section 143(d)(2) is amended by striking the period at the end thereof and inserting a comma.

(4) Clause (ii) of section 163(j)(6)(E) is amended by striking ''which is a'' and inserting ''which is''.

(5) Subparagraph (A) of section 1017(b)(4) is amended by striking ''subsection (b)(2)(D)'' and inserting ''subsection (b)(2)(E)''.

(6) So much of section 1245(a)(3) as precedes subparagraph (A) thereof is amended to read as follows:

''(3) SECTION 1245 PROPERTY.—For purposes of this section, the term 'section 1245 property' means any property which is or has been property of a character subject to the allowance for depreciation provided in section 167 and is either—''.

(7) Paragraph (2) of section 1394(e) is amended—

(A) by striking ''(i)'' and inserting ''(A)'', and

(B) by striking ''(ii)'' and inserting ''(B)''.

(8) Subsection (m) of section 6501 (as redesignated by section 1602) is amended by striking ''or 51(j)'' and inserting ''45B, or 51(j)''.

(9)(A) The section 6714 added by section 13242(b)(1) of the Revenue Reconciliation Act of 1993 is hereby redesignated as section 6715.

(B) The table of sections for part I of subchapter B of chapter 68 is amended by striking ''6714'' in the item added by such section 13242(b)(2) of such Act and inserting ''6715''.

(10) Paragraph (2) of section 9502(b) is amended by inserting ''and before'' after ''1982,''.

(11) Subsection (a)(3) of section 13206 of the Revenue Reconciliation Act of 1993 is amended by striking ''this section'' and inserting ''this subsection''.

(12) Paragraph (1) of section 13215(c) of the Revenue Reconciliation Act of 1993 is amended by striking ''Public Law 92–21'' and inserting ''Public Law 98–21''.

(13) Paragraph (2) of section 13311(e) of the Revenue Reconciliation Act of 1993 is amended by striking ''section 1393(a)(3)'' and inserting ''section 1393(a)(2)''.

(14) Subparagraph (B) of section 117(d)(2) is amended by striking ''section 132(f)'' and inserting ''section 132(h)''.

(o) EFFECTIVE DATE.—Any amendment made by this section shall take effect as if included in the provision of the Revenue Reconciliation Act of 1993 to which such amendment relates.

SEC. 1704. MISCELLANEOUS PROVISIONS.

(a) APPLICATION OF AMENDMENTS MADE BY TITLE XII OF OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—Except as otherwise expressly provided, whenever in title XII of the Omnibus Budget Reconciliation Act of 1990 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.

(b) TREATMENT OF CERTAIN AMOUNTS UNDER HEDGE BOND RULES.—

(1) Clause (iii) of section 149(g)(3)(B) is amended to read as follows:

''(iii) AMOUNTS HELD PENDING REINVESTMENT OR REDEMPTION.—Amounts held for not more than 30 days pending reinvestment or bond redemption shall be treated as invested in bonds described in clause (i).''.

(2) The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 7651 of the Omnibus Budget Reconciliation Act of 1989.

(c) TREATMENT OF CERTAIN DISTRIBUTIONS UNDER SECTION 1445.—

(1) IN GENERAL.—Paragraph (3) of section 1445(e) is amended by adding at the end thereof the following new sentence: ''Rules similar to the rules of the preceding provisions of this paragraph shall apply in the case of any distribution to which section 301 applies and which is not made out of the earnings and profits of such a domestic corporation.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to distributions after the date of the enactment of this Act.

(d) TREATMENT OF CERTAIN CREDITS UNDER SECTION 469.—

(1) IN GENERAL.—Subparagraph (B) of section 469(c)(3) is amended by adding at the end thereof the following new sentence: ''If the preceding sentence applies to the net income from any property for any taxable year, any credits allowable under subpart B (other than section 27(a)) or D of part IV of subchapter A for such taxable year which are attributable to such property shall be treated as credits not from a passive activity to the extent the amount of such credits does not exceed the regular tax liability of the taxpayer for the taxable year which is allocable to such net income.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

(e) TREATMENT OF DISPOSITIONS UNDER PASSIVE LOSS RULES.—

(1) IN GENERAL.—Subparagraph (A) of section 469(g)(1) is amended to read as follows:

''(A) IN GENERAL.—If all gain or loss realized on such disposition is recognized, the excess of—

''(i) any loss from such activity for such taxable year (determined after the application of subsection (b)), over

''(ii) any net income or gain for such taxable year from all other passive activities (determined after the application of subsection (b)),

shall be treated as a loss which is not from a passive activity.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

(f) MISCELLANEOUS AMENDMENTS TO FOREIGN PROVISIONS.—

(1) COORDINATION OF UNIFIED ESTATE TAX CREDIT WITH TREATIES.—Subparagraph (A) of section 2102(c)(3) is amended by adding at the end thereof the following new sentence: ''For purposes of the preceding sentence, property shall not be treated as situated in the United States if such property is exempt from the tax imposed by this subchapter under any treaty obligation of the United States.''.

(2) TREATMENT OF CERTAIN INTEREST PAID TO RELATED PERSON.—

(A) Subparagraph (B) of section 163(j)(1) is amended by inserting before the period at the end thereof the following: ''(and clause (ii) of paragraph (2)(A) shall not apply for purposes of applying this subsection to the amount so treated)''.

(B) Subsection (j) of section 163 is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

''(7) COORDINATION WITH PASSIVE LOSS RULES, ETC.—This subsection shall be applied before sections 465 and 469.''.

(C) The amendments made by this paragraph shall apply as if included in the amendments made by section 7210(a) of the Revenue Reconciliation Act of 1989.

(3) TREATMENT OF INTEREST ALLOCABLE TO EFFECTIVELY CONNECTED INCOME.—

(A) IN GENERAL.—

(i) Subparagraph (B) of section 884(f)(1) is amended by striking ''to the extent'' and all that follows down through ''subparagraph (A)'' and inserting ''to the extent that the allocable interest exceeds the interest described in subparagraph (A)''.

(ii) The second sentence of section 884(f)(1) is amended by striking ''reasonably expected'' and all that follows down through the period at the end thereof and inserting ''reasonably expected to be allocable interest.''

(iii) Paragraph (2) of section 884(f) is amended to read as follows:

''(2) ALLOCABLE INTEREST.—For purposes of this subsection, the term 'allocable interest' means any interest which is allocable to income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States.''.

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect as if included in the amendments made by section 1241(a) of the Tax Reform Act of 1986.

(4) CLARIFICATION OF SOURCE RULE.—

(A) IN GENERAL.—Paragraph (2) of section 865(b) is amended by striking ''863(b)'' and inserting ''863''.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if included in the amendments made by section 1211 of the Tax Reform Act of 1986.

(5) REPEAL OF OBSOLETE PROVISIONS.—

(A) Paragraph (1) of section 6038(a) is amended by striking '', and'' at the end of subparagraph (E) and inserting a period, and by striking subparagraph (F).

(B) Subsection (b) of section 6038A is amended by adding ''and'' at the end of paragraph (2), by striking '', and'' at the end of paragraph (3) and inserting a period, and by striking paragraph (4).

(g) TREATMENT OF ASSIGNMENT OF INTEREST IN CERTAIN BOND-FINANCED FACILITIES.—

(1) IN GENERAL.—Subparagraph (A) of section 1317(3) of the Tax Reform Act of 1986 is amended by adding at the end thereof the following new sentence: ''A facility shall not fail to be treated as described in this subparagraph by reason of an assignment (or an agreement to an assignment) by the governmental unit on whose behalf the bonds are issued of any part of its interest in the property financed by such bonds to another governmental unit.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in such section 1317 on the date of the enactment of the Tax Reform Act of 1986.

(h) CLARIFICATION OF TREATMENT OF MEDICARE ENTITLEMENT UNDER COBRA PROVISIONS.—

(1) IN GENERAL.—

(A) Subclause (V) of section 4980B(f)(2)(B)(i) is amended to read as follows:

''(V) MEDICARE ENTITLEMENT FOLLOWED BY QUALIFYING EVENT.—In the case of a qualifying event described in paragraph (3)(B) that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act, the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this clause

before the close of the 36-month period beginning on the date the covered employee became so entitled.''.

(B) Clause (v) of section 602(2)(A) of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

''(v) MEDICARE ENTITLEMENT FOLLOWED BY QUALIFYING EVENT.—In the case of a qualifying event described in section 603(2) that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act, the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this subparagraph before the close of the 36-month period beginning on the date the covered employee became so entitled.''.

(C) Clause (iv) of section 2202(2)(A) of the Public Health Service Act is amended to read as follows:

''(iv) MEDICARE ENTITLEMENT FOLLOWED BY QUALIFYING EVENT.—In the case of a qualifying event described in section 2203(2) that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act, the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this subparagraph before the close of the 36-month period beginning on the date the covered employee became so entitled.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1989.

(i) TREATMENT OF CERTAIN REMIC INCLUSIONS.—

(1) IN GENERAL.—Subsection (a) of section 860E is amended by adding at the end thereof the following new paragraph:

''(6) COORDINATION WITH MINIMUM TAX.—For purposes of part VI of subchapter A of this chapter—

''(A) the reference in section 55(b)(2) to taxable income shall be treated as a reference to taxable income determined without regard to this subsection,

''(B) the alternative minimum taxable income of any holder of a residual interest in a REMIC for any taxable year shall in no event be less than the excess inclusion for such taxable year, and

''(C) any excess inclusion shall be disregarded for purposes of computing the alternative tax net operating loss deduction.

The preceding sentence shall not apply to any organization to which section 593 applies, except to the extent provided in regulations prescribed by the Secretary under paragraph (2).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 671 of the Tax Reform Act of 1986 unless the taxpayer elects to apply such amendment only to taxable years beginning after the date of the enactment of this Act.

(j) EXEMPTION FROM HARBOR MAINTENANCE TAX FOR CERTAIN PASSENGERS.—

(1) IN GENERAL.—Subparagraph (D) of section 4462(b)(1) (relating to special rule for Alaska, Hawaii, and possessions) is amended by inserting before the period the following: '', or passengers transported on United States flag vessels operating solely within the State waters of Alaska or Hawaii and adjacent international waters''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 1402(a) of the Harbor Maintenance Revenue Act of 1986.

(k) AMENDMENTS RELATED TO REVENUE PROVISIONS OF ENERGY POLICY ACT OF 1992.—

(1) Effective with respect to taxable years beginning after December 31, 1990, subclause (II) of section 53(d)(1)(B)(iv) is amended to read as follows:

''(II) the adjusted net minimum tax for any taxable year is the amount of the net minimum tax for such year increased in the manner provided in clause (iii).''.

(2) Subsection (g) of section 179A is redesignated as subsection (f).

(3) Subparagraph (E) of section 6724(d)(3) is amended by striking ''section 6109(f)'' and inserting ''section 6109(h)''.

(4)(A) Subsection (d) of section 30 is amended—

(i) by inserting ''(determined without regard to subsection (b)(3))'' before the period at the end of paragraph (1) thereof, and

(ii) by adding at the end thereof the following new paragraph:

''(4) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.''.

(B) Subsection (m) of section 6501 (as redesignated by section 1602) is amended by striking ''section 40(f)'' and inserting ''section 30(d)(4), 40(f)''.

(5) Subclause (III) of section 501(c)(21)(D)(ii) is amended by striking ''section 101(6)'' and inserting ''section 101(7)'' and by striking ''1752(6)'' and inserting ''1752(7)''.

(6) Paragraph (1) of section 1917(b) of the Energy Policy Act of 1992 shall be applied as if ''at a rate'' appeared instead of ''at the rate'' in the material proposed to be stricken.

(7) Paragraph (2) of section 1921(b) of the Energy Policy Act of 1992 shall be applied as if a comma appeared after ''(2)'' in the material proposed to be stricken.

(8) Subsection (a) of section 1937 of the Energy Policy Act of 1992 shall be applied as if ''Subpart B'' appeared instead of ''Subpart C''.

(l) TREATMENT OF QUALIFIED FOOTBALL COACHES PLAN.—

(1) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, a qualified football coaches plan—

(A) shall be treated as a multiemployer collectively bargained plan, and

(B) notwithstanding section 401(k)(4)(B) of such Code, may include a qualified cash and deferred arrangement under section 401(k) of such Code.

(2) QUALIFIED FOOTBALL COACHES PLAN.—For purposes of this subsection, the term ''qualified football coaches plan'' means any defined contribution plan which is established and maintained by an organization—

(A) which is described in section 501(c) of such Code,

(B) the membership of which consists entirely of individuals who primarily coach football as full-time employees of 4-year colleges or universities described in section 170(b)(1)(A)(ii) of such Code, and

(C) which was in existence on September 18, 1986.

(3) EFFECTIVE DATE.—This subsection shall apply to years beginning after December 22, 1987.

(m) DETERMINATION OF UNRECOVERED INVESTMENT IN ANNUITY CONTRACT.—

(1) IN GENERAL.—Subparagraph (A) of section 72(b)(4) is amended by inserting ''(determined without regard to subsection (c)(2))'' after ''contract''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 1122(c) of the Tax Reform Act of 1986.

(n) MODIFICATIONS TO ELECTION TO INCLUDE CHILD'S INCOME ON PARENT'S RETURN.—

(1) ELIGIBILITY FOR ELECTION.—Clause (ii) of section 1(g)(7)(A) (relating to election to include certain unearned income of child on parent's return) is amended to read as follows:

''(ii) such gross income is more than the amount described in paragraph (4)(A)(ii)(I) and less than 10 times the amount so described,''.

(2) COMPUTATION OF TAX.—Subparagraph (B) of section 1(g)(7) (relating to income included on parent's return) is amended—

(A) by striking ''$1,000'' in clause (i) and inserting ''twice the amount described in paragraph (4)(A)(ii)(I)'', and

(B) by amending subclause (II) of clause (ii) to read as follows:

''(II) for each such child, 15 percent of the lesser of the amount described in paragraph (4)(A)(ii)(I) or the excess of the gross income of such child over the amount so described, and''.

(3) MINIMUM TAX.—Subparagraph (B) of section 59(j)(1) is amended by striking ''$1,000'' and inserting ''twice the amount in effect for the taxable year under section 63(c)(5)(A)''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1995.

(o) TREATMENT OF CERTAIN VETERANS' REEMPLOYMENT RIGHTS.—

(1) IN GENERAL.—Section 414 is amended by adding at the end the following new subsection:

''(u) SPECIAL RULES RELATING TO VETERANS' REEMPLOYMENT RIGHTS UNDER USERRA.—

''(1) TREATMENT OF CERTAIN CONTRIBUTIONS MADE PURSUANT TO VETERANS' REEMPLOYMENT RIGHTS.—If any contribution is made by an employer or an employee under an individual account plan with respect to an employee, or by an employee to a defined benefit plan that provides for employee contributions, and such contribution is required by reason of such employee's rights under chapter 43 of title 38, United States Code, resulting from qualified military service, then—

''(A) such contribution shall not be subject to any otherwise applicable limitation contained in section 402(g), 402(h), 403(b), 404(a), 404(h), 408, 415, or 457, and shall not be taken into account in applying such limitations to other contributions or benefits under such plan or any other plan, with respect to the year in which the contribution is made,

''(B) such contribution shall be subject to the limitations referred to in subparagraph (A) with respect to the year to which the contribution relates (in accordance with rules prescribed by the Secretary), and

''(C) such plan shall not be treated as failing to meet the requirements of section 401(a)(4), 401(a)(26), 401(k)(3), 401(k)(11), 401(k)(12), 401(m), 403(b)(12), 408(k)(3), 408(k)(6), 408(p), 410(b), or 416 by reason of the making of (or the right to make) such contribution.

For purposes of the preceding sentence, any elective deferral or employee contribution made under paragraph (2) shall be treated as required by reason of the employee's rights under such chapter 43.

''(2) REEMPLOYMENT RIGHTS UNDER USERRA WITH RESPECT TO ELECTIVE DEFERRALS.—

''(A) IN GENERAL.—For purposes of this subchapter and section 457, if an employee is entitled to the benefits of chapter 43 of title 38, United States Code, with respect to any plan which provides for elective deferrals, the employer sponsoring the plan shall be treated as meeting the requirements of such chapter 43 with respect to such elective deferrals only if such employer—

''(i) permits such employee to make additional elective deferrals under such plan (in the amount determined under subparagraph (B) or such lesser amount as is elected by the employee) during the period which begins on

the date of the reemployment of such employee with such employer and has the same length as the lesser of—

''(I) the product of 3 and the period of qualified military service which resulted in such rights, and

''(II) 5 years, and

''(ii) makes a matching contribution with respect to any additional elective deferral made pursuant to clause (i) which would have been required had such deferral actually been made during the period of such qualified military service.

''(B) AMOUNT OF MAKEUP REQUIRED.—The amount determined under this subparagraph with respect to any plan is the maximum amount of the elective deferrals that the individual would have been permitted to make under the plan in accordance with the limitations referred to in paragraph (1)(A) during the period of qualified military service if the individual had continued to be employed by the employer during such period and received compensation as determined under paragraph (7). Proper adjustment shall be made to the amount determined under the preceding sentence for any elective deferrals actually made during the period of such qualified military service.

''(C) ELECTIVE DEFERRAL.—For purposes of this paragraph, the term 'elective deferral' has the meaning given such term by section 402(g)(3); except that such term shall include any deferral of compensation under an eligible deferred compensation plan (as defined in section 457(b)).

''(D) AFTER-TAX EMPLOYEE CONTRIBUTIONS.—References in subparagraphs (A) and (B) to elective deferrals shall be treated as including references to employee contributions.

''(3) CERTAIN RETROACTIVE ADJUSTMENTS NOT REQUIRED.—For purposes of this subchapter and subchapter E, no provision of chapter 43 of title 38, United States Code, shall be construed as requiring—

''(A) any crediting of earnings to an employee with respect to any contribution before such contribution is actually made, or

''(B) any allocation of any forfeiture with respect to the period of qualified military service.

''(4) LOAN REPAYMENT SUSPENSIONS PERMITTED.—If any plan suspends the obligation to repay any loan made to an employee from such plan for any part of any period during which such employee is performing service in the uniformed services (as defined in chapter 43 of title 38, United States Code), whether or not qualified military service, such suspension shall not be taken into account for purposes of section 72(p), 401(a), or 4975(d)(1).

''(5) QUALIFIED MILITARY SERVICE.—For purposes of this subsection, the term 'qualified military service' means any service in the uniformed services (as defined in chapter 43 of title 38, United States Code) by any individual if such individual is entitled to reemployment rights under such chapter with respect to such service.

''(6) INDIVIDUAL ACCOUNT PLAN.—For purposes of this subsection, the term 'individual account plan' means any defined contribution plan (including any tax-sheltered annuity plan under section 403(b), any simplified employee pension under section 408(k), any qualified salary reduction arrangement under section 408(p), and any eligible deferred compensation plan (as defined in section 457(b)).

''(7) COMPENSATION.—For purposes of sections 403(b)(3), 415(c)(3), and 457(e)(5), an employee who is in qualified military service shall be treated as receiving compensation from the employer during such period of qualified military service equal to—

''(A) the compensation the employee would have received during such period if the employee were not in qualified military service, determined based on the rate of pay the employee would have received from the employer but for absence during the period of qualified military service, or

''(B) if the compensation the employee would have received during such period was not reasonably certain, the employee's average compensation from the employer during the 12-month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

''(8) USERRA REQUIREMENTS FOR QUALIFIED RETIREMENT PLANS.—For purposes of this subchapter and section 457, an employer sponsoring a retirement plan shall be treated as meeting the requirements of chapter 43 of title 38, United States Code, only if each of the following requirements is met:

''(A) An individual reemployed under such chapter is treated with respect to such plan as not having incurred a break in service with the employer maintaining the plan by reason of such individual's period of qualified military service.

''(B) Each period of qualified military service served by an individual is, upon reemployment under such chapter, deemed with respect to such plan to constitute service with the employer maintaining the plan for the purpose of determining the nonforfeitability of the individual's accrued benefits under such plan and for the purpose of determining the accrual of benefits under such plan.

''(C) An individual reemployed under such chapter is entitled to accrued benefits that are contingent on the making of, or derived from, employee contributions or elective deferrals only to the extent the individual makes payment to the plan with respect to such contributions or deferrals. No such payment may exceed the amount the individual would have been permitted or required to contribute had the individual remained continuously employed by the employer throughout the period of qualified military service. Any payment to such plan shall be made during the period beginning with the date of reemployment and whose duration is 3 times the period of the qualified military service (but not greater than 5 years).

''(9) PLANS NOT SUBJECT TO TITLE 38.—This subsection shall not apply to any retirement plan to which chapter 43 of title 38, United States Code, does not apply.

''(10) REFERENCES.—For purposes of this section, any reference to chapter 43 of title 38, United States Code, shall be treated as a reference to such chapter as in effect on December 12, 1994 (without regard to any subsequent amendment).''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall be effective as of December 12, 1994.

(p) REPORTING OF REAL ESTATE TRANSACTIONS.—

(1) IN GENERAL.—Paragraph (3) of section 6045(e) (relating to prohibition of separate charge for filing return) is amended by adding at the end the following new sentence: ''Nothing in this paragraph shall be construed to prohibit the real estate reporting person from taking into account its cost of complying with such requirement in establishing its charge (other than a separate charge for complying with such requirement) to any customer for performing services in the case of a real estate transaction.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in section 1015(e)(2)(A) of the Technical and Miscellaneous Revenue Act of 1988.

(q) CLARIFICATION OF DENIAL OF DEDUCTION FOR STOCK REDEMPTION EXPENSES.

(1) IN GENERAL.—Paragraph (1) of section 162(k) is amended by striking ''the redemption of its stock'' and inserting ''the reacquisition of its stock or of the stock of any related person (as defined in section 465(b)(3)(C))''.

(2) CERTAIN DEDUCTIONS PERMITTED.—Subparagraph (A) of section 162(k)(2) is amended by striking ''or'' at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

''(ii) deduction for amounts which are properly allocable to indebtedness and amortized over the term of such indebtedness, or''.

(3) CLERICAL AMENDMENT.—The subsection heading for subsection (k) of section 162 is amended by striking ''REDEMPTION'' and inserting ''REACQUISITION''.

(4) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to amounts paid or incurred after September 13, 1995, in taxable years ending after such date.

(B) PARAGRAPH (2).—The amendment made by paragraph (2) shall take effect as if included in the amendment made by section 613 of the Tax Reform Act of 1986.

(r) CLERICAL AMENDMENT TO SECTION 404.—

(1) IN GENERAL.—Paragraph (1) of section 404(j) is amended by striking ''(10)'' and inserting ''(9)''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 713(d)(4)(A) of the Deficit Reduction Act of 1984.

(s) PASSIVE INCOME NOT TO INCLUDE FSC INCOME, ETC.—

(1) IN GENERAL.—Paragraph (2) of section 1296(b) is amended by striking ''or'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', or'', and by inserting after subparagraph (C) the following new subparagraph:

''(D) which is foreign trade income of a FSC or export trade income of an export trade corporation (as defined in section 971).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 1235 of the Tax Reform Act of 1986.

(t) MISCELLANEOUS CLERICAL AMENDMENTS.—

(1) Subclause (II) of section 56(g)(4)(C)(ii) is amended by striking ''of the subclause'' and inserting ''of subclause''.

(2) Paragraph (2) of section 72(m) is amended by inserting ''and'' at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(3) Paragraph (2) of section 86(b) is amended by striking ''adusted'' and inserting ''adjusted''.

(4)(A) The heading for section 112 is amended by striking ''combat pay'' and inserting ''combat zone compensation''.

(B) The item relating to section 112 in the table of sections for part III of subchapter B of chapter 1 is amended by striking ''combat pay'' and inserting ''combat zone compensation''.

(C) Paragraph (1) of section 3401(a) is amended by striking ''combat pay'' and inserting ''combat zone compensation''.

(5) Clause (i) of section 172(h)(3)(B) is amended by striking the comma at the end thereof and inserting a period.

(6) Clause (ii) of section 543(a)(2)(B) is amended by striking ''section 563(c)'' and inserting ''section 563(d)''.

(7) Paragraph (1) of section 958(a) is amended by striking ''sections 955(b)(1) (A) and (B), 955(c)(2)(A)(ii), and 960(a)(1)'' and inserting ''section 960(a)(1)''.

(8) Subsection (g) of section 642 is amended by striking ''under 2621(a)(2)'' and inserting ''under section 2621(a)(2)''.

(9) Section 1463 is amended by striking ''this subsection'' and inserting ''this section''.

(10) Subsection (k) of section 3306 is amended by inserting a period at the end thereof.

(11) The item relating to section 4472 in the table of sections for subchapter B of chapter 36 is amended by striking ''and special rules''.

(12) Paragraph (3) of section 5134(c) is amended by striking ''section 6662(a)'' and inserting ''section 6665(a)''.

(13) Paragraph (2) of section 5206(f) is amended by striking ''section 5(e)'' and inserting ''section 105(e)''.

(14) Paragraph (1) of section 6050B(c) is amended by striking ''section 85(c)'' and inserting ''section 85(b)''.

(15) Subsection (k) of section 6166 is amended by striking paragraph (6).

(16) Subsection (e) of section 6214 is amended to read as follows:

''(e) CROSS REFERENCE.—

''For provision giving Tax Court jurisdiction to order a refund of an overpayment and to award sanctions, see section 6512(b)(2).''.

(17) The section heading for section 6043 is amended by striking the semicolon and inserting a comma.

(18) The item relating to section 6043 in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the semicolon and inserting a comma.

(19) The table of sections for part I of subchapter A of chapter 68 is amended by striking the item relating to section 6662.

(20)(A) Section 7232 is amended—

(i) by striking ''lubricating oil,'' in the heading, and

(ii) by striking ''lubricating oil,'' in the text.

(B) The table of sections for part II of subchapter A of chapter 75 is amended by striking ''lubricating oil,'' in the item relating to section 7232.

(21) Paragraph (1) of section 6701(a) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking ''subclause (IV)'' and inserting ''subclause (V)''.

(22) Clause (ii) of section 7304(a)(2)(D) of such Act is amended by striking ''subsection (c)(2)'' and inserting ''subsection (c)''.

(23) Paragraph (1) of section 7646(b) of such Act is amended by striking ''section 6050H(b)(1)'' and inserting ''section 6050H(b)(2)''.

(24) Paragraph (10) of section 7721(c) of such Act is amended by striking ''section 6662(b)(2)(C)(ii)'' and inserting ''section 6661(b)(2)(C)(ii)''.

(25) Subparagraph (A) of section 7811(i)(3) of such Act is amended by inserting ''the first place it appears'' before ''in clause (i)''.

(26) Paragraph (10) of section 7841(d) of such Act is amended by striking ''section 381(a)'' and inserting ''section 381(c)''.

(27) Paragraph (2) of section 7861(c) of such Act is amended by inserting ''the second place it appears'' before ''and inserting''.

(28) Paragraph (1) of section 460(b) is amended by striking ''the look-back method of paragraph (3)'' and inserting ''the look-back method of paragraph (2)''.

(29) Subparagraph (C) of section 50(a)(2) is amended by striking ''subsection (c)(4)'' and inserting ''subsection (d)(5)''.

(30) Subparagraph (B) of section 172(h)(4) is amended by striking the material following the heading and preceding clause (i) and inserting ''For purposes of subsection (b)(2)—''.

(31) Subparagraph (A) of section 355(d)(7) is amended by inserting ''section'' before ''267(b)''.

(32) Subparagraph (C) of section 420(e)(1) is amended by striking ''mean'' and inserting ''means''.

(33) Paragraph (4) of section 537(b) is amended by striking ''section 172(i)'' and inserting ''section 172(f)''.

(34) Subparagraph (B) of section 613(e)(1) is amended by striking the comma at the end thereof and inserting a period.

(35) Paragraph (4) of section 856(a) is amended by striking ''section 582(c)(5)'' and inserting ''section 582(c)(2)''.

(36) Sections 904(f)(2)(B)(i) and 907(c)(4)(B)(iii) are each amended by inserting ''(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)'' after ''section 172(h)''.

(37) Subsection (b) of section 936 is amended by striking ''subparagraphs (D)(ii)(I)'' and inserting ''subparagraphs (D)(ii)''.

(38) Subsection (c) of section 2104 is amended by striking ''subparagraph (A), (C), or (D) of section 861(a)(1)'' and inserting ''section 861(a)(1)(A)''.

(39) Subparagraph (A) of section 280A(c)(1) is amended to read as follows:

''(A) as the principal place of business for any trade or business of the taxpayer,''.

(40) Section 6038 is amended by redesignating the subsection relating to cross references as subsection (f).

(41) Clause (iv) of section 6103(e)(1)(A) is amended by striking all that follows ''provisions of'' and inserting ''section 1(g) or 59(j);''.

(42) The subsection (f) of section 6109 of the Internal Revenue Code of 1986 which was added by section 2201(d) of Public Law 101–624 is redesignated as subsection (g).

(43) Subsection (b) of section 7454 is amended by striking ''section 4955(e)(2)'' and inserting ''section 4955(f)(2)''.

(44) Subsection (d) of section 11231 of the Revenue Reconciliation Act of 1990 shall be applied as if ''comma'' appeared instead of ''period'' and as if the paragraph (9) proposed to be added ended with a comma.

(45) Paragraph (1) of section 11303(b) of the Revenue Reconciliation Act of 1990 shall be applied as if ''paragraph'' appeared instead of ''subparagraph'' in the material proposed to be stricken.

(46) Subsection (f) of section 11701 of the Revenue Reconciliation Act of 1990 is amended by inserting ''(relating to definitions)'' after ''section 6038(e)''.

(47) Subsection (i) of section 11701 of the Revenue Reconciliation Act of 1990 shall be applied as if ''subsection'' appeared instead of ''section'' in the material proposed to be stricken.

(48) Subparagraph (B) of section 11801(c)(2) of the Revenue Reconciliation Act of 1990 shall be applied as if ''section 56(g)'' appeared instead of ''section 59(g)''.

(49) Subparagraph (C) of section 11801(c)(8) of the Revenue Reconciliation Act of 1990 shall be applied as if ''reorganizations'' appeared instead of ''reorganization'' in the material proposed to be stricken.

(50) Subparagraph (H) of section 11801(c)(9) of the Revenue Reconciliation Act of 1990 shall be applied as if ''section 1042(c)(1)(B)'' appeared instead of ''section 1042(c)(2)(B)''.

(51) Subparagraph (F) of section 11801(c)(12) of the Revenue Reconciliation Act of 1990 shall be applied as if ''and (3)'' appeared instead of ''and (E)''.

(52) Subparagraph (A) of section 11801(c)(22) of the Revenue Reconciliation Act of 1990 shall be applied as if ''chapters 21'' appeared instead of ''chapter 21'' in the material proposed to be stricken.

(53) Paragraph (3) of section 11812(b) of the Revenue Reconciliation Act of 1990 shall be applied by not executing the amendment therein to the heading of section 42(d)(5)(B).

(54) Clause (i) of section 11813(b)(9)(A) of the Revenue Reconciliation Act of 1990 shall be applied as if a comma appeared after ''(3)(A)(ix)'' in the material proposed to be stricken.

(55) Subparagraph (F) of section 11813(b)(13) of the Revenue Reconciliation Act of 1990 shall be applied as if ''tax'' appeared after ''investment'' in the material proposed to be stricken.

(56) Paragraph (19) of section 11813(b) of the Revenue Reconciliation Act of 1990 shall be applied as if ''Paragraph (20) of section 1016(a), as redesignated by section 11801,'' appeared instead of ''Paragraph (21) of section 1016(a)''.

(57) Paragraph (5) section 8002(a) of the Surface Transportation Revenue Act of 1991 shall be applied as if ''4481(e)'' appeared instead of ''4481(c)''.

(58) Section 7872 is amended—

(A) by striking ''foregone'' each place it appears in subsections (a) and (e)(2) and inserting ''forgone'', and

(B) by striking ''FOREGONE'' in the heading for subsection (e) and the heading for paragraph (2) of subsection (e) and inserting ''FORGONE''.

(59) Paragraph (7) of section 7611(h) is amended by striking ''approporiate'' and inserting ''appropriate''.

(60) The heading of paragraph (3) of section 419A(c) is amended by striking ''SEVERENCE'' and inserting ''SEVERANCE''.

(61) Clause (ii) of section 807(d)(3)(B) is amended by striking ''Commissoners' '' and inserting ''Commissioners' ''.

(62) Subparagraph (B) of section 1274A(c)(1) is amended by striking ''instument'' and inserting ''instrument''.

(63) Subparagraph (B) of section 724(d)(3) by striking ''Subparagaph'' and inserting ''Subparagraph''.

(64) The last sentence of paragraph (2) of section 42(c) is amended by striking ''of 1988''.

(65) Paragraph (1) of section 9707(d) is amended by striking ''diligence,'' and inserting ''diligence''.

(66) Subsection (c) of section 4977 is amended by striking ''section 132(i)(2)'' and inserting ''section 132(h)''.

(67) The last sentence of section 401(a)(20) is amended by striking ''section 211'' and inserting ''section 521''.

(68) Subparagraph (A) of section 402(g)(3) is amended by striking ''subsection (a)(8)'' and inserting ''subsection (e)(3)''.

(69) The last sentence of section 403(b)(10) is amended by striking ''an direct'' and inserting ''a direct''.

(70) Subparagraph (A) of section 4973(b)(1) is amended by striking ''sections 402(c)'' and inserting ''section 402(c)''.

(71) Paragraph (12) of section 3405(e) is amended by striking ''(b)(3)'' and inserting ''(b)(2)''.

(72) Paragraph (41) of section 521(b) of the Unemployment Compensation Amendments of 1992 shall be applied as if ''section'' appeared instead of ''sections'' in the material proposed to be stricken.

(73) Paragraph (27) of section 521(b) of the Unemployment Compensation Amendments of 1992 shall be applied as if ''Section 691(c)(5)'' appeared instead of ''Section 691(c)''.

(74) Paragraph (5) of section 860F(a) is amended by striking ''paragraph (1)'' and inserting ''paragraph (2)''.

(75) Paragraph (1) of section 415(k) is amended by adding ''or'' at the end of subparagraph (C), by striking subparagraphs (D) and (E), and by redesignating subparagraph (F) as subparagraph (D).

(76) Paragraph (2) of section 404(a) is amended by striking ''(18),''.

(77) Clause (ii) of section 72(p)(4)(A) is amended to read as follows:

''(ii) SPECIAL RULE.—The term 'qualified employer plan' shall include any plan which was (or was determined to be) a qualified employer plan or a government plan.''.

(78) Sections 461(i)(3)(C) and 1274(b)(3)(B)(i) are each amended by striking ''section 6662(d)(2)(C)(ii)'' and inserting ''section 6662(d)(2)(C)(iii)''.

(79) Subsection (a) of section 164 is amended by striking the paragraphs relating to the generation-skipping tax and the environmental tax imposed by section 59A and by inserting after paragraph (3) the following new paragraphs:

''(4) The GST tax imposed on income distributions.

''(5) The environmental tax imposed by section 59A.''.

(80) Subclause (I) of section 936(a)(4)(A)(ii) is amended by striking ''deprecation'' and inserting ''depreciation''.

Subtitle G—Other Provisions

SEC. 1801. EXEMPTION FROM DIESEL FUEL DYEING REQUIREMENTS WITH RESPECT TO CERTAIN STATES.

(a) IN GENERAL.—Section 4082 (relating to exemptions for diesel fuel) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

''(c) EXCEPTION TO DYEING REQUIREMENTS.—Paragraph (2) of subsection (a) shall not apply with respect to any diesel fuel—

''(1) removed, entered, or sold in a State for ultimate sale or use in an area of such State during the period such area is exempted from the fuel dyeing requirements under subsection (i) of section 211 of the Clean Air Act (as in effect on the date of the enactment of this subsection) by the Administrator of the Environmental Protection Agency under paragraph (4) of such subsection (i) (as so in effect), and

''(2) the use of which is certified pursuant to regulations issued by the Secretary.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fuel removed, entered, or sold on or after the first day of the first calendar quarter beginning after the date of the enactment of this Act.

SEC. 1802. TREATMENT OF CERTAIN UNIVERSITY ACCOUNTS.

(a) IN GENERAL.—For purposes of subsection (s) of section 3121 of the Internal Revenue Code of 1986 (relating to concurrent employment by 2 or more employers)—

(1) the following entities shall be deemed to be related corporations that concurrently employ the same individual:

(A) a State university which employs health professionals as faculty members at a medical school, and

(B) an agency account of a State university which is described in subparagraph (A) and from which there is distributed to such faculty members payments forming a part of the compensation that the State, or such State university, as the case may be, agrees to pay to such faculty members, but only if—

(i) such agency account is authorized by State law and receives the funds for such payments from a faculty practice plan described in section 501(c)(3) of such Code and exempt from tax under section 501(a) of such Code,

(ii) such payments are distributed by such agency account to such faculty members who render patient care at such medical school, and

(iii) such faculty members comprise at least 30 percent of the membership of such faculty practice plan, and

(2) remuneration which is disbursed by such agency account to any such faculty member of the medical school described in paragraph (1)(A) shall be deemed to have been actually disbursed by the State, or such State university, as the case may be, as a common paymaster and not to have been actually disbursed by such agency account.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall apply to remuneration paid after December 31, 1996.

SEC. 1803. MODIFICATIONS TO EXCISE TAX ON OZONE-DEPLETING CHEMICALS.

(a) RECYCLED HALON.—

(1) IN GENERAL.—Section 4682(d)(1) (relating to recycling) is amended by inserting '', or on any recycled halon imported from any country which is a signatory to the Montreal Protocol on Substances that Deplete the Ozone Layer'' before the period at the end.

(2) CERTIFICATION SYSTEM.—The Secretary of the Treasury, after consultation with the Administrator of the Environmental Protection Agency, shall develop a certification system to ensure compliance with the recycling requirement for imported halon under section 4682(d)(1) of the Internal Revenue Code of 1986, as amended by paragraph (1).

(b) CHEMICALS USED AS PROPELLANTS IN METERED-DOSE INHALERS TAX-EXEMPT.—Paragraph (4) of section 4682(g) (relating to phase-in of tax on certain substances) is amended to read as follows:

''(4) CHEMICALS USED AS PROPELLANTS IN METERED-DOSE INHALERS.—

''(A) TAX-EXEMPT.—

''(i) IN GENERAL.—No tax shall be imposed by section 4681 on—

''(I) any use of any substance as a propellant in metered-dose inhalers, or

''(II) any qualified sale by the manufacturer, producer, or importer of any substance.

''(ii) QUALIFIED SALE.—For purposes of clause (i), the term 'qualified sale' means any sale by the manufacturer, producer, or importer of any substance—

''(I) for use by the purchaser as a propellant in metered-dose inhalers, or

''(II) for resale by the purchaser to a 2d purchaser for such use by the 2d purchaser.

The preceding sentence shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

''(B) OVERPAYMENTS.—If any substance on which tax was paid under this subchapter is used by any person as a propellant in metered-dose inhalers, credit or refund without interest shall be allowed to such person in an amount equal to the excess of—

''(i) the tax paid under this subchapter on such substance, over

''(ii) the tax (if any) which would be imposed by section 4681 if such substance were used for such use by the manufacturer, producer, or importer thereof on the date of its use by such person.

Amounts payable under the preceding sentence with respect to uses during the taxable year shall be treated as described in section 34(a) for such year unless claim thereof has been timely filed under this subparagraph.''

(c) EFFECTIVE DATES.—

(1) RECYCLED HALON.—The amendment made by subsection (a)(1) shall take effect on January 1, 1997.

(2) METERED-DOSE INHALERS.—The amendment made by subsection (b) shall take effect on the 7th day after the date of the enactment of this Act.

SEC. 1804. TAX-EXEMPT BONDS FOR SALE OF ALASKA POWER ADMINISTRATION FACILITY.

Sections 142(f)(3) (as added by section 1605) and 147(d) of the Internal Revenue Code of 1986 shall not apply in determining whether any private activity bond issued after the date of the enactment of this Act and used to finance the acquisition of the Snettisham hydroelectric project from the Alaska Power Administration is a qualified bond for purposes of such Code.

SEC. 1805. NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS BY COMMON TRUST FUNDS TO REGULATED INVESTMENT COMPANIES.

(a) GENERAL RULE.—Section 584 (relating to common trust funds) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS TO REGULATED INVESTMENT COMPANIES.—

''(1) IN GENERAL.—If—

''(A) a common trust fund transfers substantially all of its assets to one or more regulated investment companies in exchange solely for stock in the company or companies to which such assets are so transferred, and

''(B) such stock is distributed by such common trust fund to participants in such common trust fund in exchange solely for their interests in such common trust fund,

no gain or loss shall be recognized by such common trust fund by reason of such transfer or distribution, and no gain or loss shall be recognized by any participant in such common trust fund by reason of such exchange.

''(2) BASIS RULES.—

''(A) REGULATED INVESTMENT COMPANY.—The basis of any asset received by a regulated investment company in a transfer referred to in paragraph (1)(A) shall be the same as it would be in the hands of the common trust fund.

''(B) PARTICIPANTS.—The basis of the stock which is received in an exchange referred to in paragraph (1)(B) shall be the same as that of the property exchanged. If stock in more than one regulated investment company is received in such exchange, the basis determined under the preceding sentence shall be allocated among the stock in each such company on the basis of respective fair market values.

''(3) TREATMENT OF ASSUMPTIONS OF LIABILITY.—

''(A) IN GENERAL.—In determining whether the transfer referred to in paragraph (1)(A) is in exchange solely for stock in one or more regulated investment companies, the assumption by any such company of a liability of the common trust fund, and the fact that any property transferred by the common trust fund is subject to a liability, shall be disregarded.

''(B) SPECIAL RULE WHERE ASSUMED LIABILITIES EXCEED BASIS.—

''(i) IN GENERAL.—If, in any transfer referred to in paragraph (1)(A), the assumed liabilities exceed the aggregate adjusted bases (in the hands of the common trust fund) of the assets transferred to the regulated investment company or companies—

''(I) notwithstanding paragraph (1), gain shall be recognized to the common trust fund on such transfer in an amount equal to such excess,

''(II) the basis of the assets received by the regulated investment company or companies in such transfer shall be increased by the amount so recognized, and

''(III) any adjustment to the basis of a participant's interest in the common trust fund as a result of the gain so recognized shall be treated as occurring immediately before the exchange referred to in paragraph (1)(B).

If the transfer referred to in paragraph (1)(A) is to two or more regulated investment companies, the basis increase under subclause (II) shall be allocated among such companies on the basis of the respective fair market

values of the assets received by each of such companies.

''(ii) ASSUMED LIABILITIES.—For purposes of clause (i), the term 'assumed liabilities' means the aggregate of—

''(I) any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A), and

''(II) any liability to which property so transferred is subject.

''(4) COMMON TRUST FUND MUST MEET DIVERSIFICATION RULES.—This subsection shall not apply to any common trust fund which would not meet the requirements of section 368(a)(2)(F)(ii) if it were a corporation. For purposes of the preceding sentence, Government securities shall not be treated as securities of an issuer in applying the 25-percent and 50-percent test and such securities shall not be excluded for purposes of determining total assets under clause (iv) of section 368(a)(2)(F).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers after December 31, 1995.

SEC. 1806. QUALIFIED STATE TUITION PROGRAMS.

(a) IN GENERAL.—Subchapter F of chapter 1 (relating to exempt organizations) is amended by adding at the end the following new part:

''PART VIII—QUALIFIED STATE TUITION PROGRAMS

''Sec. 529. Qualified State tuition programs.

''SEC. 529. QUALIFIED STATE TUITION PROGRAMS.

''(a) GENERAL RULE.—A qualified State tuition program shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, such program shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

''(b) QUALIFIED STATE TUITION PROGRAM.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified State tuition program' means a program established and maintained by a State or agency or instrumentality thereof—

''(A) under which a person—

''(i) may purchase tuition credits or certificates on behalf of a designated beneficiary which entitle the beneficiary to the waiver or payment of qualified higher education expenses of the beneficiary, or

''(ii) may make contributions to an account which is established for the sole purpose of meeting the qualified higher education expenses of the designated beneficiary of the account, and

''(B) which meets the other requirements of this subsection.

''(2) CASH CONTRIBUTIONS.—A program shall not be treated as a qualified State tuition program unless it provides that purchases or contributions may only be made in cash.

''(3) REFUNDS.—A program shall not be treated as a qualified State tuition program unless it imposes a more than de minimis penalty on any refund of earnings from the account which are not—

''(A) used for qualified higher education expenses of the designated beneficiary,

''(B) made on account of the death or disability of the designated beneficiary, or

''(C) made on account of a scholarship received by the designated beneficiary to the extent the amount of the refund does not exceed the amount of the scholarship used for qualified higher education expenses.

''(4) SEPARATE ACCOUNTING.—A program shall not be treated as a qualified State tuition program unless it provides separate accounting for each designated beneficiary.

''(5) NO INVESTMENT DIRECTION.—A program shall not be treated as a qualified State tuition program unless it provides that any contributor to, or designated beneficiary under, such program may not direct the investment of any contributions to the program (or any earnings thereon).

''(6) NO PLEDGING OF INTEREST AS SECURITY.—A program shall not be treated as a qualified State tuition program if it allows any interest in the program or any portion thereof to be used as security for a loan.

''(c) TAX TREATMENT OF DESIGNATED BENEFICIARIES AND CONTRIBUTORS.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, no amount shall be includible in gross income of—

''(A) a designated beneficiary under a qualified State tuition program, or

''(B) a contributor to such program on behalf of a designated beneficiary,

with respect to any contribution to, or earnings under, such program.

''(2) DISTRIBUTIONS.—

''(A) IN GENERAL.—Any distribution under a qualified State tuition program shall be includible in the gross income of the distributee in the same manner as provided under section 72 to the extent not excluded from gross income under any other provision of this chapter.

''(B) IN-KIND DISTRIBUTIONS.—The furnishing of education to a designated beneficiary under a qualified State tuition program shall be treated as a distribution to the beneficiary.

''(C) CHANGE IN BENEFICIARIES.—

''(i) ROLLOVERS.—Subparagraph (A) shall not apply to that portion of any distribution which, within 60 days of such distribution, is transferred to the credit of another designated beneficiary under a qualified State tuition program who is a member of the same family as the designated beneficiary with respect to which the distribution was made.

''(ii) CHANGE IN DESIGNATED BENEFICIARIES.—Any change in the designated beneficiary of an interest in a qualified State tuition program shall not be treated as a distribution for purposes of subparagraph (A) if the new beneficiary is a member of the same family as the old beneficiary.

''(D) OPERATING RULES.—For purposes of applying section 72—

''(i) all qualified State tuition programs of which an individual is a designated beneficiary shall be treated as one program,

''(ii) all distributions during a taxable year shall be treated as one distribution, and

''(iii) the value of the contract, income on the contract, and investment in the contract shall be computed as of the close of the calendar year in which the taxable year begins.

''(3) GIFT TAX TREATMENT.—Any contribution on behalf of a designated beneficiary to a qualified State tuition program shall be treated as a qualified transfer for purposes of section 2503(e).

''(d) REPORTING REQUIREMENTS.—

''(1) IN GENERAL.—If—

''(A) a designated beneficiary is furnished education under a qualified State tuition program during any calendar year, or

''(B) there is a distribution to any individual with respect to an interest in such program during any calendar year,

each officer or employee having control of the qualified State tuition program or their designee shall make such reports as the Secretary may require regarding such education or distribution to the Secretary and to the designated beneficiary or the individual to whom the distribution was made. Any such report shall include such information as the Secretary may prescribe.

''(2) TIMING OF REPORTS.—Any report required by this subsection—

''(A) shall be filed at such time and in such matter as the Secretary prescribes, and

''(B) shall be furnished to individuals not later than January 31 of the calendar year following the calendar year to which such report relates.

''(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) DESIGNATED BENEFICIARY.—The term 'designated beneficiary' means—

''(A) the individual designated at the commencement of participation in the qualified State tuition program as the beneficiary of amounts paid (or to be paid) to the program,

''(B) in the case of a change in beneficiaries described in subsection (c)(2)(C)(ii), the individual who is the new beneficiary, and

''(C) in the case of an interest in a qualified State tuition program purchased by a State or local government or an organization described in section 501(c)(3) and exempt from taxation under section 501(a) as part of a scholarship program operated by such government or organization, the individual receiving such interest as a scholarship.

''(2) MEMBER OF FAMILY.—The term 'member of family' has the same meaning given such term as section 2032A(e)(2).

''(3) QUALIFIED HIGHER EDUCATION EXPENSES.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of a designated beneficiary at an eligible education institution (as defined in section 135(c)(3)).

''(4) APPLICATION OF SECTION 514.—An interest in a qualified State tuition program shall not be treated as debt for purposes of section 514.''

(b) EFFECTIVE DATES.—

(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) TRANSITION RULE.—If—

(A) a State or agency or instrumentality thereof maintains, on the date of the enactment of this Act, a program under which persons may purchase tuition credits or certificates on behalf of, or make contributions for education expenses of, a designated beneficiary, and

(B) such program meets the requirements of a qualified State tuition program before the later of—

(i) the date which is 1 year after such date of enactment, or

(ii) the first day of the first calendar quarter after the close of the first regular session of the State legislature that begins after such date of enactment,

the amendments made by this section shall apply to contributions (and earnings allocable thereto) made before the later of such dates without regard to whether any requirements of such amendments are met with respect to such contributions and earnings. For purposes of subparagraph (B)(ii), if a State has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

TITLE II—PAYMENT OF WAGES

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Employee Commuting Flexibility Act of 1996''.

SEC. 2. PROPER COMPENSATION FOR USE OF EMPLOYER VEHICLES.

Section 4(a) of the Portal-to-Portal Act of 1947 (29 U.S.C. 254(a)) is amended by adding at the end the following: ''For purposes of this subsection, the use of an employer's vehicle for travel by an employee and activities performed by an employee which are incidental to the use of such vehicle for commuting shall not be considered part of the employee's principal activities if the use of such vehicle for travel is within the normal

commuting area for the employer's business or establishment and the use of the employer's vehicle is subject to an agreement on the part of the employer and the employee or representative of such employee.''.

SEC. 3. EFFECTIVE DATE.

The amendment made by section 1 shall take effect on the date of the enactment of this Act and shall apply in determining the application of section 4 of the Portal-to-Portal Act of 1947 to an employee in any civil action brought before such date of enactment but pending on such date.

SEC. 4. MINIMUM WAGE INCREASE.

(a) SHORT TITLE.—This section may be cited as the ''Minimum Wage Increase Act of 1996''.

(b) AMENDMENT.—Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)) is amended to read as follows:

''(1) except as otherwise provided in this section, not less than $4.25 an hour during the period ending on June 30, 1996, not less than $4.75 an hour during the year beginning on July 1, 1996, and not less than $5.15 an hour after the expiration of such year;''.

SEC. 5. FAIR LABOR STANDARDS ACT AMENDMENTS.

(a) COMPUTER PROFESSIONALS.—Section 13(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)) is amended by striking the period at the end of paragraph (16) and inserting ''; or'' and by adding after that paragraph the following:

''(17) any employee who is a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker, whose primary duty is—

''(A) the application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications;

''(B) the design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;

''(C) the design, documentation, testing, creation, or modification of computer programs related to machine operating systems; or

''(D) a combination of duties described in subparagraphs (A), (B), and (C) the performance of which requires the same level of skills, and

who, in the case of an employee who is compensated on an hourly basis, is compensated at a rate of not less than $27.63 an hour.''.

(b) TIP CREDIT.—The next to last sentence of section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)) is amended to read as follows: ''In determining the wage an employer is required to pay a tipped employee, the amount paid such employee by the employee's employer shall be an amount equal to—

''(1) the cash wage paid such employee which for purposes of such determination shall be not less than the cash wage required to be paid such an employee on the date of the enactment of this paragraph; and

''(2) an additional amount on account of the tips received by such employee which amount is equal to the difference between the wage specified in paragraph (1) and the cash wage in effect under section 6(a)(1).

The additional amount on account of tips may not exceed the value of the tips actually received by an employee.''.

(c) OPPORTUNITY WAGE.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) is amended by adding at the end the following:

''(g)(1) In lieu of the rate prescribed by subsection (a)(1), any employer may pay any employee of such employer, during the first 90 consecutive calendar days after such employee is initially employed by such employer, a wage which is not less than $4.25 an hour.

''(2) No employer may take any action to displace employees (including partial displacements such as reduction in hours, wages, or employment benefits) for purposes of hiring individuals at the wage authorized in paragraph (1).

''(3) Any employer who violates this subsection shall be considered to have violated section 15(a)(3).

''(4) This subsection shall only apply to an employee who has not attained the age of 20 years.''.

Mr. MOYNIHAN. Mr. President, I yield to the Senator from Massachusetts such time as he may require.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Senator from New York.

AMENDMENT NO. 4435

(Purpose: To amend the Fair Labor Standards Act of 1938 to provide for an increase in the minimum wage rate and to exempt computer professionals from the minimum wage and maximum hour requirements, and to amend the Portal-to-Portal Act of 1947 relating to the payment of wages to employees who use employer-owned vehicles)

Mr. KENNEDY. Mr. President, I understand there is a consent agreement which has been announced by the majority leader. I believe it is appropriate at this time to ask for the consideration of my amendment that is currently held at the desk, and I believe the process in terms of the consideration of that amendment has been worked out by the majority and minority leaders.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 4435.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike Title II and replace with the following:

Title II—Labor Provisions

SECTION 1. INCREASE IN THE MINIMUM WAGE RATE.

(a) IN GENERAL.—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

''(1) except as otherwise provided in this section, not less than $4.25 an hour during the period ending July 4, 1996, not less than $4.70 an hour during the year beginning July 5, 1996, and not less than $5.15 an hour after July 4, 1997;''.

(b) EMPLOYEES WHO ARE YOUTHS.—Section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)) is amended—

(1) in paragraph (4), by striking ''; or'' and inserting a semicolon;

(2) in paragraph (5), by striking the period at the end thereof and inserting ''; or''; and

(3) by adding at the end thereof the following new paragraph:

''(6) if the employee—

''(A) is not a migrant agricultural worker or a seasonal agricultural worker (as defined in paragraphs (8) and (10) of section 3 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1802 (8) and (10)) without regard to subparagraph (B) of such paragraphs and is not a nonimmigrant described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)); and

''(B) has not attained the age of 20 years, not less than $4.25 an hour during the first 30 days in which the employee is employed by the employer, and, thereafter, not less than the applicable wage rate described in paragraph (1).''.

(c) EMPLOYEES IN PUERTO RICO.—Section 6(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(c)) is amended to read as follows:

''(c) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico except an employee described in subsection (a)(2).''.

SEC. 2. EXEMPTION OF COMPUTER PROFESSIONALS FROM CERTAIN WAGE REQUIREMENTS.

Section 13(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)) is amended—

(1) by striking the period at the end of paragraph (16) and inserting ''; or''; and

(2) by adding at the end thereof the following new paragraph:

''(17) any employee who is a computer systems analyst, computer programer, software engineer, or other similarly skilled worker, whose primary duty is—

''(A) the application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications;

''(B) the design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;

''(C) the design, documentation, testing, creation, or modification of computer programs related to machine operating systems; or

''(D) a combination of duties described in subparagraph (A), (B), and (C) the performance of which requires the same level of skills, and

who, in the case of an employee who is compensated on an hourly basis, is compensated at a rate of not less than $27.63 an hour.''.

SEC. 3. USE OF AN EMPLOYER-OWNED VEHICLE.

(a) IN GENERAL.—Section 4 of the Portal-to-Portal Act of 1947 (29 U.S.C. 254) is amended by inserting at the end of the following:

''(e) For purposes of subsection (a), the use by an employee of an employer-owned vehicle to initially travel to the actual place of performance of the principal activity which such employee is employed to perform at the start of the workday and to ultimately travel to the home of the employee from the actual place of performance of the principal activity which such employee is employed to perform at the end of the workday shall not be considered an activity for which the employer is required to pay the minimum wage or overtime compensation if—

''(1) such employee has chosen to drive such vehicle pursuant to a knowing and voluntary agreement between such employer and such employee or the representative of such employee and such agreement is not a condition of employment;

''(2) such employee incurs no costs for driving, parking, or otherwise maintaining the vehicle of such employer;

''(3) the worksites to which such employee is commuting to or from are within the normal commuting area of the establishment of such employer; and

''(4) such vehicle is of a type that does not impose substantially greater difficulties to drive than the type of vehicle that is normally used by individuals for commuting.''.

''(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act and shall apply in determining the application of section 4 of the Portal-to-Portal Act of 1947 (29 U.S.C. 254) to an employee in any civil action brought before such date of enactment but pending on such date.

Mr. KENNEDY. Mr. President, at the appropriate place in the RECORD, I will introduce the statement that does a line-by-line analysis of that so that the Members will have that information before them.

Mr. President, I want to just take a moment of the Senate's time to respond to a letter that was written by my friend, the majority leader, Senator LOTT, to President Clinton differing with the President on his position with regard to the minimum wage. This letter was made available this afternoon and distributed to the members of the press and to the interested Members. I want to take just a moment of time to make some rather brief comments about the letter because I am somewhat amazed at the letter and its conclusion.

I will include the whole letter in the RECORD.

Mr. President, in paragraph 1 Senator LOTT points out:

It is, of course, dismaying that you regard a measure to protect small businesses from the job killing consequences of the minimum wage as a poison pill.

What we have tried to do in the course of the earlier debate is to point out what the impact would be of the increase in the minimum wage which the President, Senator DASCHLE, myself, and others support.

In the earlier part of the day we put in the RECORD the Salomon Bros. estimate. I just quote their first paragraph.

We believe that many retailers, especially discounters, would benefit from an increase in the minimum wage due to the enhanced purchasing power you create for many low-income consumers.

Their basic point is that it would enhance the economy.

The article I included in there from Business Week, the minimum wage argument you have not heard before:

As long as it's not overdone, lifting the minimum wage may create overall economic gains that outweigh any short-term job losses.

That is an excellent article in Business Week.

I also included the excellent Wharton School analysis that was done earlier in this year with regard to job loss. Their estimate is that the total job loss may be as little as 20,000 jobs nationwide—effectively de minimis when we see the growth of 10 million jobs over the period of the last 4 years. They have also pointed out that under the current proposal the inflation rise would be one-tenth of 1 percent. While in 1996 and 1997 over the longer term the impact would be nil, virtually no inflation. One-tenth of 1 percent would mean that what you pay $1,000 for you pay $1,001 for. So that is the economic impact on this.

I also referred to the Center on Budget and Policy Priorities, their whole statement which I have included in the RECORD, three Nobel laureates, some of the most distinguished economists in the country. Specifically, the proposed income in the minimum wage over a 2-year period falls within the range of alternatives from the overall effects in the labor market, and the effect on workers and the economy would be positive.

So I just hope those who are opposed to the position of Senator DASCHLE, myself, and others who support the minimum wage, would come out here and justify their position as being the job killing consequences.

Then they talk about election-year politics and the administration policies. All we say is we have been trying to get this up for over a year and a half. It was not the Democrats who have made this a measure that is up in July prior to the November election. We have been trying to get this up for over a year and a half.

The second paragraph goes on to talk about ''Your chief counsel for advocacy on Small Business Administration supports the exemption applying to small businesses grossing under $500,000 a year, precisely what Senator BOND's amendment would provide.''

That is a completely inaccurate statement. Our program continues the existing exemption on those under $500,000 with the exception of those that are involved in interstate commerce. That is what the President's position is. We want to keep that provision. So Senator BOND's amendment would dramatically change that. That is not a fair reflection of what the Small Business Administration Administrator has suggested, or Secretary Reich has suggested.

Then the next paragraph: ''Similarly, you claim such exemption would include two-thirds of all firms in the U.S. as if they employ two-thirds of all workers.''

Of course, there is no such claim in the President's letter. So I do not know what they are referring to.

Senator BOND advises me that the labor statistics data show that only 3 percent of all workers are paid the minimum wage, and that only 8 percent of our Nation's work force are employed by businesses grossing less than $500,000. That is exactly what we said. If you take 8 percent of $126 million, you come out with $8.6 million.

The Bureau of Labor Statistics has talked between 9.7 and 10, which would include not only the hourly but the salaried workers. There is some spillover, some relationship. But if they want to settle for 8.6 million on that, I am glad to accept those figures at 9 million, referring to that particular provision of the program. That represents about 2 million children that will be affected, whose parent is the principal supplier for resources of that family.

As we mentioned earlier in the debate, this is an issue about children. It is an issue about women. It is an issue about fairness. It is an issue about the economy certainly. But when we talk about hundreds of thousands of children, I find it unpersuasive to state that number to be a relatively small share of the economy. Those 8, 10, or 12 million American children whose lives are going to be affected, the 300,000 who will come out of poverty, the children from over 100,000 families. I think it means something to those families. I would take issue with this attitude.

Finally, it continues:

What Senator Bond has done is to propose a way to keep the current floor of the minimum wage for everybody.

Of course, that is not what it has done. It has what they call a 180-day opportunity wage. As I mentioned earlier in this discussion, this will be about 40 percent of all minimum wage workers who move or get another minimum wage job over the course of the year. And this, of course, will be an invitation to those employers to get rid of their workers after 6 months so they can get somebody else in there for the next 6 months. They will only have to pay them $4.25 and not the livable wage of $5.15.

So if you take the carveout on the opportunity wage, you take the carveout in the Bond amendment for small business, and you also take the carveout on the restaurant workers, It does not keep the current floor for everyone. The tip-credit provision will prevent the minimum wage increase for tip-employees at restaurants so they are only required to pay $2.13 an hour—that is a special provision for the restaurants even though the profits of that business have gone up over the period of the last 3 or 4 years.

So it finally ends up:

To veto the legislation over a measure so modest will be difficult to explain to the American people and the millions of small businessmen and women. I urge you to reconsider.

My only point, Mr. President, is that we hope our Republican friends would have the similar attitude of Dwight Eisenhower, Richard Nixon, and George Bush, all who supported an increase in the minimum wage and the overwhelming majority of Republicans, including Bob Dole in 1989 and Speaker Gingrich, that supported the increase in the minimum wage when our economy was not nearly as robust and secure.

This again comes down to an issue of equity and fairness. It comes down to whether we are going to honor work. Are we going to say to men and women who work hard, play by the rules, work 40 hours a week, 52 weeks of the year, they deserve a livable wage. Republicans and Democrats over the length and the history of this program have supported that position.

I find it extraordinary once again that the same forces, the same voices,

the same old, tired arguments that were used against Social Security, used against the Medicare Program, have been used against the minimum wage. We are hearing those same tired, old arguments again.

I hope that tomorrow, when the Senate has an opportunity to act on it, we will say to American working families that we honor work. We must say that this is one of the best ways to get welfare reform. We must say to those working families who are trying to provide for themselves and for their children that we believe in them and that the members of the Senate will support a livable minimum wage increase.

I again thank my colleague and friend from New York for the opportunity to make these observations.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Could I just say that the present reports on the unemployment rate at 5.3 percent and the increasing reports of labor shortages around the country mean if ever there was a moment in which to make this appropriate adjustment, maintaining the value of the minimum wage, this is the moment. And the Senator from Massachusetts could not be more congratulated, in my view, for the energy with which he has pressed it. Let us hope tomorrow we pass it.

Mr. KENNEDY. I thank the Senator.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER (Mr. COVERDELL). The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, if I may just respond to the minimum wage debate without addressing any of the particular amendments. I certainly hope the argument I make will not be viewed as just another tired, old argument, because I believe it is not a question of whether we raise the minimum wage—I think most in this Chamber would believe the minimum wage should be increased—but how it is done.

I have felt for some time that we need to be very sensitive to the changes that are taking place in the labor markets, including the need for higher skills. These are things that we hopefully have addressed with the job training initiatives that we have considered in the Senate, and have now been in conference for some months. Those initiatives are the things that will help workers get good-paying jobs.

We have also talked about welfare reform, and the senior Senator from New York knows this issue better than anyone. We need—I believe, if we are going to do welfare reform in a meaningful way—to have job opportunities where workers can enter at entry level positions and be able to have the training and the skills to rise in the labor market.

I would not want to make the argument that a family can live on $4.25 per hour, which is the current minimum wage, or at $5.15 per hour, which it would be after the next 2 years. But, that is not really the point. The point is, we need to see that young people and those reentering the labor market are able to have the opportunity to develop the discipline and the skills that they need in a changing workplace with the demands of a high technology environment.

So we need to think carefully as we debate about this increase, which in some ways may not seem large. Many States, including, I believe, New York State, have a State minimum wage higher than the $5.15 we are talking about as the Federal minimum wage. New York may need a higher wage to attract workers into the workplace than, say, Kansas. We have very different needs in our urban areas versus our rural areas.

That is why I would argue we really should not increase the Federal minimum wage but allow for this diversity among the States to take place. The Federal minimum wage should, perhaps, be a target, allowing States to set the wage level that they believe is important to attract a work force that will benefit their State and their businesses as well as those entering the work force.

I want to be clear. I have not supported this increase in the minimum wage. I oppose it because I think it is the wrong time for us to potentially shut off job opportunities for those we are suggesting move off welfare rolls. If we pass Federal legislation—and many States have already passed significant welfare reform—individuals will need entry level jobs in which they can begin to progress back up the ladder in the work force.

I think increasing the minimum wage will raise the lowest rung on the economic ladder and thus potentially leave behind those just trying to gain a foothold either for their first job or going back in and retraining for another type of job. Although well-intended, this increase—I believe—will cause a loss of entry level jobs and will limit job opportunities for low-skilled workers. This, I would suggest, will not help raise living standards for the poor, and that is really what we wish to see happen.

That is why I feel so strongly about the need to have some really very innovative, thought-through, carefully designed job training initiatives. We also have to give a greater emphasis in our educational system, which is really the foundation, to being able to enter a work force with a good-paying job that can support a family as we move into a new age of technology that we are facing—a revolution really of technology today and into the next century.

Let me just give you an example. Last December, the Senate labor committee held a hearing on the minimum wage. We heard from a small restaurant chain owner named Kenneth James who took his first job in high school in the restaurant business and now runs a restaurant chain that employees 160 people. He testified that he will have fewer workers in his restaurants if we increase the minimum wage.

Due to competition, he and other restaurant employers cannot raise prices and pass the costs along to consumers. The big loser, as I said earlier, will be those low-skilled workers who are never hired for their first job. They are the ones I think we need to be concerned about.

Mr. James estimated that each of his restaurants would have three fewer workers if we raise the minimum wage as proposed. That argument can be refuted. How do we really know? But I think we have already seen many changes that have occurred. For example, when one pumps her own gas or when one takes care of his own tray at fast food restaurants. All of these things have entered into ways we see businesses changing.

I do not know what the answer is, but I am concerned we are doing this now at a time when we are putting more and more people, because of welfare reform initiatives, out into the marketplace without the necessary skills. Skills that will allow them to have the good-paying jobs that should be had without the training for work that they have not had. They will need entry-level wages. They will need those, whether they are first-time job-seekers or whether they have not been working for a number of years and need to get back into the work force.

If we want to develop the highly skilled work force and employ more young men and women and move people off the welfare rolls, we need to open more doors so individuals can get the basic skills that will enable them to climb the job ladder. Raising the minimum wage will only, I think, shut the door on those trying to get started.

The Congressional Budget Office reviewed this proposed increase and reached a similar conclusion. CBO estimates that raising the minimum wage will result in the loss of potentially 100,000 to 500,000 jobs. According to CBO:

> Another consequence might be that employers respond to the mandate by reducing employment opportunities for the least skilled job seekers and the ones who could most benefit from the work experience. To the extent that low-skilled workers are shut out of employment opportunities, their total incomes might fall, even though their hourly wage rates while working increased.

CBO concludes that this minimum wage increase will be an unfunded mandate on State and local governments, as well as the private sector. It estimates the cost to the private sector will be more than $12 billion over the next 5 years.

Someone has to pay this cost, and I fear that the most vulnerable will pay the price in lost jobs. That, I suggest, is something we should consider carefully as we debate the question, not of whether the minimum wage should be increased, but how.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Chair recognizes the Senator from New York.

Mr. MOYNIHAN. Mr. President, there are 2 hours reserved for debate on the minimum wage aspect of this bill, is that not the case?

The PRESIDING OFFICER. The Chair advises the Senator from New York that there is 1 hour on the Kennedy amendment, equally divided, and 1 hour on the bill, equally divided.

Mr. MOYNIHAN. May I ask the Chair, we have only 2 hours of debate on this entire matter?

The PRESIDING OFFICER. That would be correct.

Mr. MOYNIHAN. That is divided on each side.

The PRESIDING OFFICER. Equally to each side.

Mr. MOYNIHAN. I ask the distinguished Senator from Maryland how much time he might wish to speak.

Mr. SARBANES. I see the Senator from North Dakota on the floor as well. Ten minutes?

Mr. MOYNIHAN. I will be happy to yield 10 minutes to the Senator from Maryland. I see the distinguished chair of the committee has risen.

Mrs. KASSEBAUM. Mr. President, I want to suggest the time I took should come out of the time allotted to our side in opposition, of course.

Mr. MOYNIHAN. How generous and characteristic. Opposition to the amendment.

Mrs. KASSEBAUM. I assume that will be the case.

Mr. MOYNIHAN. The Senator will support the bill itself that Senator ROTH and I are bringing forward for this purpose.

Mrs. KASSEBAUM. Mr. President, I thank the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maryland.

Mr. SARBANES. Mr. President, I rise in support of the Kennedy amendment and, of course, in very strong support of the effort to raise the minimum wage. Historically, Congress has acted to guarantee minimum standards of decency for working Americans. The object of a Federal minimum wage is to make work pay well enough to keep families out of poverty and off of Government assistance. It is really an effort to ensure that any individual who works hard and plays by the rules should be assured of a standard of living for his or her family that is above the poverty line.

It is very important to understand that this effort to provide a floor has marked our national policy now for almost six decades. I know many people think it is an imposition upon employers, but we had some interesting testimony this morning at a news conference from some small business people who came and testified in favor of the minimum wage. As one of the ladies who was there pointed out, they are caught by what their competitors do. Many of them would like to raise the wages of their workers of their own accord, but they have difficulty in doing this if their competitors do not do likewise. So they welcome a raise in the minimum wage because it, in effect, levels the playing field and ensures that the employer who is not concerned about providing a living wage for his employee will not dictate the standard of the industry.

The minimum wage does not lift people very far, but it does lift them far enough so that there is the hope they will be able to work themselves out of poverty and stay off of dependency. It has been a national commitment now, as I said, for almost six decades.

I think it is long past time to raise the minimum wage again. The minimum wage was last raised in 1989, if I am not mistaken. The minimum wage increase being proposed now is equivalent to what people got in 1989. In other words, the 1989 increase has, in effect, been used up by the rise in prices over the intervening 7 years. So you, in effect, are no better off at the minimum wage today than you were in 1989, when it was raised.

In fact, the current level for the minimum wage in real terms—in other words, in purchasing power—is the lowest it has been in 40 years. Of course, this is at the very time, we are reading newspapers, magazines, and story after story about the incredible compensation the chief executives are receiving. Yet here we are, now, arguing about basic fairness and equity for the lowest paid workers, those at the very bottom of the pay scale.

No one asserts that raising the minimum wage will correct everything, but it certainly will make an important difference to those who are on the low end of the income scale. It is argued, of course, that raising the minimum wage is going to cost jobs. Actually, there are studies that go both ways on this. Recently, there have been some very reputable studies that have found no evidence that the increase in wages results in reduced employment opportunities. One study in particular analyzed wage increases that were made in New Jersey and reached that conclusion.

Others have found that during the late 1980's, moderate legislative increases did not reduce employment and were, if anything, associated with higher unemployment in some locales.

Robert Solo, a distinguished Nobel laureate, distinguished professor of economics at MIT, was quoted in the New York Times as saying:

> The main thing about minimum wage research is that the evidence of job loss is weak and the fact that evidence is weak suggests that the impact on jobs is small.

So I want to try to lay to one side this constant assertion that if you raise the minimum wage, you are going to cost a lot of people jobs.

The counter to that, in addition to not costing them a lot of jobs, is that you will significantly improve the living standards of people receiving the minimum wage. Of course, as I have indicated, this is a two-step increase that is proposed in the KENNEDY amendment, a 45-cent increase from $4.25 to $4.70 now and another 45-cent increase from $4.70 to $5.15 in the middle of next year. So you would have a two-step process to take the minimum wage from $4.25 an hour to $5.15 an hour.

Mr. President, I do not think we need a long argument about the equity and fairness of doing this. The statistics are very clear on that point. We know that people have been, in effect, slipping backward as a consequence of not raising the minimum wage now for 7 years, going on 8 years, this is the situation we are now confronting.

But the real difficulty occurs in the amendment that is going to be offered by my colleagues on the other side, the Republican amendment, which they portray as their having a commitment to raising the minimum wage, but they just want to make some fine-tuning of it. Let us take a look at the fine-tuning, because it really is a shell game and the consequences of it would be very detrimental.

First of all, they propose an exemption for employees who are on the job in the first 6 months. In other words, the first 180 days, you would get a subminimum wage. That is for workers of all ages.

Previously, we have had a lesser wage for a very limited period of time for young workers; very limited, both in time and to the age group to which it applies, a so-called training wage. Unfortunately, a lot of training never took place, but, in any event, that was the theory of it.

Now we are confronted with an exemption that would deny a minimum wage increase to all workers—all workers—regardless of age or experience for the first 6 months of their employment with any employer. In effect, you could begin to create a permanent class of subminimum wage workers. In fact, at the lower wages, workers are often changing jobs. They would be recirculated during this 180-day exemption. They would be kept at $4.25. This is a very bad concept, and it opens up an incredible loophole that could be exploited in the law to violate the very spirit of raising the minimum wage.

The other proposal, as I understand it, in the Republican amendment which will be offered by my colleagues on the other side of the aisle, is to deny a minimum wage increase to employees in any company with less than $500,000 in annual revenues. So anyone who works in a company that has less than $500,000 in annual revenues—that is $10,000 a week in annual revenues, and we are talking now about a number of small businesses, well over 10 million employees—would be excluded altogether. They would just be exempted. Now, that means that many employees now covered by the minimum wage provisions—in other words, who receive the benefit of current law that requires they be paid the minimum wage—would

then be placed outside of the parameters with respect to any increases in the minimum wage.

So, in effect, while asserting that they are extending the minimum wage on the one hand, they are taking it away on the other with respect to employees now covered in businesses that have revenues of less than $500,000 a year, and there are a significant number of such employees—in the millions, in the millions.

So, for the first time since the minimum wage was instituted in the 1930's, we are actually reducing coverage in a significant and substantial manner. That is why so many of us are asserting that what we really ought to do is have a clean minimum wage bill, and that is what the President has indicated he very much wants. We have done that in the past in Republican and Democratic administrations.

The PRESIDING OFFICER. The Chair advises the Senator from Maryland that he has utilized his 10 minutes.

Mr. MOYNIHAN. I will be happy to yield another 5 minutes.

Mr. SARBANES. I appreciate it.

So in the past, in both Democratic and Republican administrations, we have increased the minimum wage. We usually have argued about how much to increase it and when to make it effective, and that usually has been the limit of the debate.

Now we are confronted with a situation in which there is an effort to increase it, which, by every survey, commands overwhelming support amongst the American people, and then we are confronted with, as it were, the subterfuges which will erode the meaning of the extension in the minimum wage.

The provision that I made reference to of a 180-day period at the old wage for everyone, regardless of age, and for the exclusion from coverage of this increase in the minimum wage of any business with revenues of under $500,000 a year, many of the workers of such businesses are today covered under the minimum wage law. But by the provisions of the amendment to be offered by my Republican colleagues, they would then be excluded.

It ought not to be necessary to go through the really heart-rending stories of people trying to make it on a minimum wage in order to see the decency of enacting this modest increase.

Forty percent of those at minimum wage salaries are single parents trying to support their children. At a minimum wage today they have a year-round income of $8,500. This places them well below the poverty level. This effort here, of course, to raise the minimum wage and bring additional income to these families would help them to meet their bills and in effect to begin to see some light at the end of the tunnel.

I know this measure is opposed by some of the small business associations, although I am interested to note that a number of small businesses are in support of this proposition. As I indicated, at a press conference earlier today, there was testimony by a number of owners of small businesses in support of this measure.

The decrease in the value of the minimum wage has served to widen the gulf between the wealthiest and the poorest in our society. In fact, as I indicated earlier, the real value of the minimum wage has deteriorated markedly. It will be at its lowest real value in the last 40 years if Congress fails to take action.

In the late 1950's, in fact, the real value of the minimum wage was more than $5 an hour by today's standards. In the mid-1960's it peaked at $6.28. If you were making the minimum wage in the mid-1960's, to have that purchasing power today, you would have to have a minimum wage of $6.28 an hour.

So it is not as though we are asking for some extraordinary thing here. It is not as though the increases that are being sought are out of some long-term trend. If anything, they are exceedingly modest. In the late 1950's, the minimum wage available then in purchasing power was better than $5 an hour at today's purchasing power levels. By the mid-1960's it was $6.28 an hour.

Congress has failed to respond to the erosion of the value of the minimum wage over time. We now confront the situation where $4.25 an hour in purchasing power is the least it has been in 40 years.

More than 70 percent of all minimum wage earners are 20 or above. The vast majority, about 60 percent, are women, many of them single heads of households. The time has come and gone for an increase in this minimum wage. It was last modestly raised in the Bush administration. I think obviously we need to raise it again.

We need especially not to support this effort by my Republican colleagues in their amendment to carve out exemptions that, in effect, will render much of this meaningless. I mentioned two things: the exclusion of employees of businesses earning below $500,000 a year, which takes any increases in minimum wage protection away from workers now covered; a substantial number of workers. I also mentioned, of course, the fact that there is a subminimum wage for 180 days, for 6 months. Then, if that worker moves, because often those jobs come and go, they move into another low-wage job and get another 180 days at a subminimum wage.

The third thing, which was not mentioned earlier in my references, is the effective date for the application of the minimum wage. The proposal of my Republican colleagues is to delay it until the beginning of next year, delay it for 6 months, in effect. This would obviously cost a minimum wage employee about $875 in the course of that period of time, just deny that increase. I defy anyone to make the case that someone should be able to support a family on $8,500 a year, which is what the current minimum wage works out to, $8,500 a year.

So, Mr. President, I very much hope when the Senate comes to the vote, that the Republican amendment will be rejected, that we will support the proposition put forward by the Senator from Massachusetts and the Senate will finally approve an increase in the minimum wage, which is so important for literally millions of workers and their families across our country. I thank the distinguished ranking member for yielding to me.

Mr. MOYNIHAN. I thank my friend from Maryland.

Mr. President, the distinguished Senator from North Dakota would like to speak at this point. Could I ask how much time he might require?

Mr. DORGAN. Mr. President, 7 minutes, 8 minutes.

Mr. MOYNIHAN. Fine. Could I ask it be charged against the amendment of the Senator from Massachusetts as we are running out of time?

The PRESIDING OFFICER. The Chair recognizes the Senator from North Dakota.

Mr. DORGAN. I very much appreciate the courtesy of the Senator from New York.

Mr. President, I thought I would read a couple of paragraphs from a letter to demonstrate that this debate is not about theory, although we debate a lot of theory here on the floor of the Senate. This debate is about the financial circumstances of a lot of families in our country. This letter comes from a woman in North Dakota who describes the debate pretty well.

She said,

> Today it takes every dime we make to make ends meet, and that is only if we stretch it to the breaking point. We don't have any credit cards. We drive 10- to 15-year-old vehicles, so my husband has recycled. We shop only in thrift stores and at garage sales, and we do a lot of praying. We're better off, I know than a lot of other people who, for instance, have to live on the street. But how far are we from that? We are in the forgotten group of people called the working poor, the people that fall through the cracks of government. I beg you shamelessly, for the sake of my children, to please help us find a glimmer of hope to help us dig our way out of this hopelessly grim situation.

This from a mother of three children, struggling at the bottom rung of the economic ladder, who is trying to make ends meet and finding it very, very difficult.

Recently there was a story in the Washington Post with a headline that said that CEO's salaries were up 23 percent last year. The chief executive officers of the major corporations in America received a 23-percent increase in their compensation in 1 year.

This woman, and others like her, who are struggling to raise a family at the minimum wage and trying to make ends meet, who are working and not on welfare, did not receive a 23-percent increase last year. They did not receive a 1-percent raise last year, not a 1-percent raise the year before. It has been

7 years since an adjustment in the minimum wage was made. In late 1989, Congress adjusted the minimum wage. That's one adjustment in 17 years.

Again, this debate is not about theory for a family who is trying to raise children. This person whose letter I read got pregnant in high school, made some mistakes, never got employment skills. Her husband never got job skills. So they entered the job market relatively unskilled, and have always been somewhere at the bottom of the economic ladder.

It is almost as if we have two economies in our country; one doing very, very well, with 23 percent raises and the stock market at a record high. Then we see others at the bottom rung of the economic ladder just struggling day after day after day to try to keep up and to make ends meet.

The Senator from New York, Senator MOYNIHAN, has spent a good deal of his life talking about the issue of reforming our welfare system. There is no one whose opinion I respect more than the Senator from New York on these subjects. He would know, especially of all the Members of the Senate, that the vote that we will take in the Senate is a vote that evaluates the question, Do we value work over welfare?

The Senator from New York has made a career of trying to figure at how we can fix this welfare system and make it work, so you move people from welfare rolls to payrolls. Most people on welfare I know do not want to be on welfare. They much prefer to have the skills needed to get a good job and take care of their families.

We must talk about the question of welfare reform and enact legislation that does the right things to try to address the welfare problem in this country, and does it, as the Senator from New York says, without abandoning our children. Two-thirds of the welfare expenditures in this country are for kids under 16 years of age. Would we have people tell us those folks ought to go out and get a job—10- and 12-year-old kids? Most people would say, ''Let's help those children.''

Others on welfare are stuck in the cycle. To the extent we want them to move from a welfare roll to a payroll, we want them to get a job, then we have to value work over welfare. One way we can do that in this Congress is to decide that we will not keep people stuck at the bottom rung of the economic ladder without even a 1-percent increase in the minimum wage in 7 years. We will finally make some appropriate and modest adjustments.

This is truly a vote, it seems to me, that does determine, do we value work over welfare? You cannot talk about this and then try to undercut the earned income tax credit and try to ignore the issue of the minimum wage and the problems people have at the bottom of the economic ladder.

I was in a pizza parlor in North Dakota. A fellow that ran the pizza parlor said to me that he supported an increase in the minimum wage. I thought to myself, this is very unusual, this is a very small pizza parlor. He said, ''The fact is, the folks that come in and buy pizza, I want them to do well, and I have a lot of folks who do not make a lot of money. I figure if we have an increase or an adjustment in the minimum wage in an appropriate way, I figure it will help me, as well.''

I went to a small dressshop while I was touring Main Street of one of our towns in North Dakota, stopping and visiting with some people. The manager of the dressshop and I were chatting about the minimum wage and she said, ''I don't own the shop, I manage the shop, but our owner has three shops like this, and our owner says he thinks it is probably a pretty decent thing because the kind of people who shop in our stores will probably do a little more shopping in our stores if they get an adjustment in minimum wage. Our owner says it is probably something that is overdue.''

I thought to myself, this is kind of interesting. You find businesses as disparate as a pizza parlor and a small dressshop in a small town where they say that a minimum wage adjustment makes sense. I suppose that this is reflected in the polls that show that 80 to 85 percent of the American people think it makes sense to have an adjustment in the minimum wage.

I am not unmindful of the burdens that small business owners face in our country. To the extent that we can, we always ought to be concerned about the small business owners who risk their money and their assets in order to try to make a living. Many of them work long hours without great compensation. Many of them are very levelheaded people. Most of them are thoughtful, good people, who also understand there is a reason we have a minimum wage in our country.

If you believe there ought to be a minimum wage, the only question before us is, How often should we adjust it? Once every 7 years, or once every 70 years? That is the question.

There are some Members of the Senate, I assume, who believe there ought not be a minimum wage. There is a Member of the other body, a prominent Member, who believes the minimum wage is an awful thing and there ought not be any minimum wage at all. There are some people who think there ought not be any prohibition on hiring kids to work at 12 cents an hour. There are some with that kind of radical notion. But most of this country has moved well beyond that, and we have child labor laws that are thoughtful, and we have minimum wage provisions that are thoughtful and modest.

The discussion now between those of us who believe a minimum wage is appropriate is, at what level should the minimum wage be set? Should we adjust it after 7 years, after the 1989 adjustment, after virtually all of the gain from that adjustment has been wiped out? Should we make another adjustment—a thoughtful, moderate adjustment?

I think most people come down on the side of saying, yes, this makes a lot of sense. This is not radical. It is not politics. It is about people's financial circumstances, as they sit around and eat supper and talk about their lot in life. For many of them, it is talking about what their salary is, what their opportunities are.

So, to conclude, a few of us had a press conference this morning, and we had some small business people who made the case, I thought eloquently, that they supported a moderate adjustment in the minimum wage. I found that walking up and down Main Streets and talking to people, that people who think this through believe what is fair is fair.

We are not asking for the moon here. We are responding to this woman—and millions of others, undoubtedly—who says, ''I beg you, for the sake of my children, please help us find a glimmer of hope to help us dig our way out of this hopelessly grim situation.'' She is just asking that maybe she and her husband, who do not have it so good—they lost their trailer house in a fire, are having trouble buying clothes for her kids, are having trouble paying the rent and buying food—that maybe we will not let them see a little more opportunity.

The adjustment in the minimum wage is a small price to pay, in this body, to begin to honor work above welfare. This family and so many millions of others are working. They are not on the welfare rolls. And this amendment, this adjustment will say to them, ''We give great merit to work, sufficiently so that we believe those of you at the bottom rung of the economic ladder, after 7 years, deserve a modest increase.''

We stand for work, not welfare. That is what this vote will be.

I appreciate the generosity of the Senator from New York. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

Mr. MOYNIHAN. Mr. President, I wanted for say how emphatically I support each of the statements we have just heard. It is embarrassing at this point in the 20th century that we have to go to this effort just to maintain the value of an economic guarantee that has been with us for 60 years. It is as if the 20th century did not happen on the other side of the aisle, or should not have.

I hope the woman, the lady who wrote the Senator, will not have done so in vain. A beautiful letter and beautifully described.

Mr. SARBANES. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield to the Senator.

Mr. SARBANES. Mr. President, I want to add an additional point. That is, I think many employers are supportive of an increase in the minimum wage.

In fact, the employers who spoke at this press conference this morning indicated they were in favor of raising the minimum wage. One of the press people said, ''If you are in favor of it, why do you not just go ahead and do it, and voluntarily raise it in your business?''

This lady had an immediate comeback, right on point. She said, ''If all my competitors will raise their wages, their payrolls, then I am quite prepared to do it. Otherwise, I am placed at a competitive disadvantage.''

In effect, under the current system, the only employer who is not responsive to the needs of his employee, in effect, dictates the standard, and it is all brought down to the lowest common denominator. For many employers, this enables them to do what they think ought to be done in any event—that is, give their employees a better wage. It will be done with a level playing field in terms of competition, so that employer—and I think there are not all that many—if they refuse to go up, they can be at a competitive advantage against those people who are more responsive to the needs of their employee and who understand the pressures that are upon them in today's age.

This, in many respects, for many employers, means they have an opportunity to do what they think ought to be done, in any event. I want to make it clear, I think there are a great many employers across the country who take that position. They are not opposed to raising the minimum wage. They recognize that by raising the minimum wage, you keep the competition on a level playing field, and therefore they support the measure that is before the Senate.

I very much hope, as the Senator from New York said, when we meet tomorrow we will be able to act in a positive manner on this very important matter.

Mr. MOYNIHAN. If I may say to my friend from Maryland, for a century it has been a well-understood principle that with respect to labor legislation, its primary purpose is not to put at a disadvantage employers who will provide better wages and conditions. We have done this not only internally, but through the International Labor Organization. We had labor treaties to do just that. We had to deal with child labor in those terms so that the employer would not put 12-year-olds in coal mines, which we had, would not be at a disadvantage more than one who would.

Mr. SARBANES. If the Senator will yield, is that not exactly what this legislation does?

Mr. MOYNIHAN. Exactly. What I cannot understand—and I do not think the Senator from Maryland can help me—is that I thought this was all understood 50 years ago. Evidently not. We will find out tomorrow.

Mr. SARBANES. Actually, the proposal, I think, coming from our colleagues on the Republican side is really a radical proposal.

Mr. MOYNIHAN. This has been a consensus on both sides of the aisle for 60 years, including President Eisenhower, President Nixon and President Bush. We will see.

Mr. President, I ask unanimous consent to speak, with the time to be allocated against the underlying bill, H.R. 3448, the Small Business Job Protection Act of 1996.

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

Mr. MOYNIHAN. Mr. President, this bill, H.R. 3448, the Small Business Protection Job Act of 1996, has two titles. Title I is Small Business and Other Tax Provisions. This was considered on June 12 by the Committee on Finance, which reported the bill unanimously with a committee amendment. Title II, Payment of Wages, contains the increase in the minimum wage we have been discussing.

I want to address some of the more important provisions in the small business portion of the bill, and then make a more general point about the provision increasing the minimum wage.

Section 1202 of this bill extends employer-provided educational assistance until December 31, 1996. That is for the remainder of this year. It also applies the provision to graduate education, which the House bill did not. At this point, about one-quarter of the employees sent to teaching institutions, institutions of higher learning, are, in fact, in graduate school, and the value of this program is particularly evident in the case of persons sent to do postgraduate work in highly technical areas. Employers recognize the abilities of the individuals, see the opportunities for bringing them to higher levels of productivity, and pay them more in the process.

This measure, which is one of the least known but exceptionally rewarding features of our Tax Code was first enacted in 1978. We have never made it a permanent provision. We ought to do that. It ought to be one of the first businesses of the next Congress, because, absent the additional extension I will describe in a moment, it will have expired once again by the time the next Congress convenes. Employer-provided educational assistance is in this measure made retroactive, permitting employees to exclude from their income up to $5,250 in tuition paid for by their employers. In other words, it allows employers to send employees to college or graduate school tax free.

I venture to say that the employer-provided educational assistance program is one of the most successful efforts ever undertaken by the Federal Government in this area. Some 800,000 employees benefit from this provision every year. And they benefit in the most auspicious of circumstances. An employer says, ''Will you go to graduate school and get an advanced degree in chemistry so we can put you in a higher position than you are now in? Then you will be in the higher position and earn more money and, in time, the Federal Government gets it back.''

So many of our job training programs have depended on hoping that in the aftermath of the training there will be a job. Here you have a situation where the employer already has the worker and the employee sees the opportunity to enlarge his or her situation, and to do so in a way that is optimal for all concerned. Now, 95 percent of the persons involved are pursuing a degree or certificate; 35 percent are enrolled in business and business-related fields, such as accounting, finance, marketing, and business administration; 12 percent are enrolled in health care-related curricula; another 18 percent are in engineering and other technical fields.

I say, once again, this is a program that works. It administers itself. It has the least possible overlay of bureaucracy; it has none. There is no bureau of employer-provided education benefits in the Department of Education. There is nothing except individual contracts, employee and employer, with a great value added. I say again that it pays for itself.

I am happy to say that the managers' amendment, which we expect will be adopted tomorrow, will provide for an extension through the end of 1997. So it would be a good thing if we would look to the next Congress to make this a permanent arrangement. Right now, almost a million employees do not know whether or not they owe income tax on the benefits—the educational tuition paid for them in the course of this previous year. We now do it retroactively. But this is something that can be made a permanent part of the Tax Code. I think the distinguished Presiding Officer would know that universities find this an exceptionally rewarding arrangement and, particularly, in the technical fields where serious job skill training takes place.

I also mention that the Senate version of the expatriation tax proposal has been included in this bill. Earlier in this Congress, there was some question about whether the Finance Committee was going to address this matter, and we had rather a lively exchange on this floor to that effect. I said at the time that we would, and we have done it. This is a variation of a bill I first introduced in 1995 to address the problem presented when wealthy citizens renounce their U.S. citizenship and move abroad in order to escape taxation. Although expatriation to avoid taxes occurs infrequently, and it is not a seemly act, it does occur, and it is a genuine abuse.

I would like to say for the RECORD that this is important, Mr. President. When the issue first arose in 1995, we had meant to move directly at that time. Then-chairman of the Finance Committee, Senator Bob Packwood of Oregon, and I said this is something to be dealt with directly. At that time, a number of legal scholars in the field of

international law raised questions concerning the propriety under international law of restricting the rights of persons to leave the country of which they are a citizen. We took this seriously, as we were required to, and put off the legislation until we could satisfy ourselves—and the critics who had offered good faith comments—that we were doing something that would pass muster as not restricting the right of emigration. This bill does that, in our judgment, and does it very well indeed.

One might think this is a small measure, and perhaps some have suggested it was. But this provision, the expatriation provision in the Senate bill, raises $1.57 billion over 10 years. The modified provision in managers' amendment that will be offered tomorrow increases that to a total of $1.71 billion, which suggests that what may have been a relatively rare event up until recently is gathering momentum, and we will now stop it. And stop it we ought. The idea of millionaires, multimillionaires, renouncing their citizenship and moving to the Bahamas is—well, it is not seemly. I need say no more.

A final observation about the small business title of the bill. To pay for the small business tax relief provisions, which will cost approximately $17 billion, we are providing for a tax cut of $17 billion. We are phasing out section 936 of the Internal Revenue Code over 10 years.

This measure, which dates from the 1920's, was originally intended to encourage American business to locate in the Philippines. For a generation now, it has been almost entirely a matter of Puerto Rican business activity, and has been very important to the economy of Puerto Rico.

On the other hand, there comes a time when a measure of this sort has been in place long enough and it is recognized—not precipitously but with good notice—that the time has come to phase it out. The division of opinion on this question in Puerto Rico is probably associated with proponents of statehood and proponents of maintaining the commonwealth relationship. We have done our best to accommodate the people of Puerto Rico and their elected officials. They are not represented on the Senate floor. We have a profound responsibility to that possession which we obtained just short of 100 years ago in the aftermath of the Spanish-American War.

I might add again, Mr. President, that this bill was reported from the Committee of Finance unanimously. It was bipartisan. It was the judgment of persons we found most persuasive that we should follow the shift we made in 1993 by encouraging the tax credit for actual job creation as against the depreciation of patents and other arrangements which had been possible under the earlier regime.

I have been on the Senate floor for 20 years talking about this matter. I have tried to make it clear that the United States had an obligation not simply to the people of Puerto Rico but to the international community. Every President since Harry S. Truman has said that the people of Puerto Rico are free to remain a commonwealth—if they choose—to become a State, or to choose independence. And that option exists to this moment.

But the time for this particular tax subsidy in this form seems now to have reached a point where we would say, ''All right, let us have done with it in the early 21st century.'' And this legislation does so. It is bipartisan. We hope it works. We have concerned ourselves solely, or I would like to think primarily, with what seems to be the best interests of Puerto Rico. And we have consulted with their elected representatives in this regard.

I would particularly like to express my appreciation to Chairman ROTH, who has been wholly cooperative in this matter and in particular in making the wage-based credit permanent for existing companies.

I hope that at a later time we can work together to do more to provide incentives for new investment for Puerto Rico, not just for existing companies but for new companies as well, but that, too, is for the next Congress. I look forward to working with our committee and the Senate itself in this regard.

I say once again that we must remain conscious of a very solemn responsibility to the people of Puerto Rico, who are not represented in this Chamber but who are American citizens, who have the right to be respected, whose rights are to be respected, and whose interests are to be advanced.

This brings me to the minimum wage title of the bill, which after all is the reason we have taken the trouble to write a package of small business tax relief provisions. Many members of the majority, particularly in the other body, believe that an increase in the minimum wage would harm small businesses. Therefore they demanded offsetting tax relief for those businesses.

Senators on our side did not feel any sweetener should be required in order to pass a long overdue increase in the minimum wage, but even so we tried to be accommodating. We worked on a bipartisan basis to craft a small business tax relief bill all Senators could support.

Yet now we are told this is not enough. The price for passage of the minimum wage increase keeps going up. Tomorrow the Senate will vote on an amendment to exempt from the minimum wage businesses with less than $500,000 per year in sales; permit a subminimum wage of $4.25 per hour for newly hired workers; and delay the increase in the minimum wage for 6 months.

I hope Senators will keep this minimum wage increase in perspective. Yes, an increase in the minimum wage will reduce demand for labor somewhat. But if you are looking for a painless time to do it, now is the time. The current economic expansion is in its 65th month. Unemployment is down to 5.3 percent. Two weeks ago, the Washington Post reported that serious labor shortages are developing around the United States, so much so that some fast-food franchises are paying substantial signing bonuses to new employees. So now is the time to phase in a higher minimum wage. Our expanding economy will easily adjust to it.

When the Finance Committee took up this legislation 3 weeks ago, we understood that the small business provisions were necessary to get the minimum wage increase enacted. And we reported the bill unanimously. I hope the Senate will defeat the amendment of the Senator from Missouri tomorrow, and that we will then approve H.R. 3448 overwhelmingly and without further delay.

Mr. President, I believe my time may have expired.

The PRESIDING OFFICER. The Chair advises the Senator from New York that there are 6 minutes remaining on the Kennedy amendment.

Mr. MOYNIHAN. Mr. President, I will now suggest the absence of a quorum as I see no Senator wishing to be heard. I ask that the time be equally divided.

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

Mr. MOYNIHAN. Mr. President, I think we are going to find ourselves in a situation where we will want to add to the time available for debate tomorrow. But I do not see anyone on the floor at this point. I suggest the absence of a quorum, and I will return momentarily with some thought.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 4272

(Purpose: To modify the payment of wages provisions.)

Mr. BOND. Mr. President, earlier today the majority leader submitted my amendment to this bill, amendment No. 4272. I believe it is held at the desk. I would like to call up that amendment now, please.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes an amendment numbered 4272.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike title II and insert the following:

TITLE II—PAYMENT OF WAGES

SEC. 2101. PROPER COMPENSATION FOR USE OF EMPLOYER VEHICLES.

(a) SHORT TITLE.—This section may be cited as the ''Employee Commuting Flexibility Act of 1996''.

(b) USE OF EMPLOYER VEHICLES.—Section 4(a) of the Portal-to-Portal Act of 1947 (29 U.S.C. 254(a)) is amended by adding at the end the following: ''For purposes of this subsection, the use of an employer's vehicle for travel by an employee and activities performed by an employee which are incidental to the use of such vehicle for commuting shall not be considered part of the employee's principal activities if the use of such vehicle for travel is within the normal commuting area for the employer's business or establishment and the use of the employer's vehicle is subject to an agreement on the part of the employer and the employee or representative of such employee.''.

(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act and shall apply in determining the application of section 4 of the Portal-to-Portal Act of 1947 to an employee in any civil action brought before such date of enactment but pending on such date.

SEC. 2102. MINIMUM WAGE INCREASE.

(a) SHORT TITLE.—This section may be cited as the ''Minimum Wage Increase Act of 1996''.

(b) AMENDMENT TO MINIMUM WAGE.—Section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)) is amended by striking ''(a) Every'' and all that follows through ''$4.25 an hour after March 31, 1991;'' and inserting the following: ''(a) An employer shall pay to an employee of the employer the following wage rate in accordance with the requirements of this subsection:

''(1)(A) in the case of an employee who in any workweek is employed in an enterprise engaged in commerce or in the production of goods for commerce, not less than $4.25 an hour during the period ending on December 31, 1996, not less than $4.75 an hour during the year beginning on January 1, 1997, and not less than $5.15 an hour after December 31, 1997;

''(B) in the case of an employee who in any workweek is engaged in commerce or in the production of goods for commerce, but is not employed in an enterprise engaged in commerce or in the production of goods for commerce, not less than $4.25 an hour;''.

(c) CONSTRUCTION.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) is amended by adding at the end thereof the following new subsection:

''(h) Nothing in this section shall be construed as affecting any exemption provided under section 13.''.

SEC. 2103. FAIR LABOR STANDARDS ACT AMENDMENTS.

(a) COMPUTER PROFESSIONALS.—Section 13(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)) is amended—

(1) by striking the period at the end of paragraph (16) and inserting ''; or''; and

(2) by adding at the end thereof the following new paragraph:

''(17) any employee—

''(A) who is a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker;

''(B) whose primary duty is—

''(i) the application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications;

''(ii) the design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;

''(iii) the design, documentation, testing, creation, or modification or computer programs related to machine operating systems; or

''(iv) a combination of duties described in clauses (i), (ii), and (iv) the performance of which requires the same level of skills; and

''(C) who is compensated on an hourly basis and is compensated at a rate of not less than $27.63 an hour.''.

(b) TIP CREDIT.—Section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)) is amended—

(1) by striking ''(m) 'Wage' paid'' and inserting ''(m)(1) 'Wage' paid''; and

(2) by striking ''In determining the wage'' and all that follows through ''who customarily and regularly receive tips.'' and inserting the following:

''(2)(A) In determining the wage an employer is required to pay a tipped employee, the amount paid such employee by the employee's employer shall be an amount equal to—

''(i) the cash wage paid such employee which for purposes of such determination shall be not less than the cash wage required to be paid such an employee on the day preceding the date of enactment of this paragraph; and

''(ii) an additional amount on account of the tips received by such employee which amount is equal to the difference between the wage specified in subclause (i) and the cash wage in effect under section 6(a)(1).

''(B) Subparagraph (A) shall not apply with respect to any tipped employee unless—

''(i) such employee has been informed by the employer of the provisions of this subsection; and

''(ii) all tips received by such employee have been retained by the employee, except that this subsection shall not be construed to prohibit the pooling of tips among employees who customarily and regularly receive tips.''

(c) OPPORTUNITY WAGE.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) is amended by inserting after subsection (f) the following new subsection:

''(g)(1) In lieu of the rate prescribed by subsection (a)(1), any employer may pay any employee of such employer, during the first 180 consecutive calendar days after such employee is initially employed by such employer, a wage which is not less than $4.25 an hour.

''(2) No employer may take any action to displace employees (including partial displacements such as a reduction in hours, wages, or employment benefits) for purposes of hiring individuals at the wage authorized in paragraph (1).

''(3) Any employer who violates this subsection shall be deemed to have violated section 15(a)(3).''.

Mr. BOND. Mr. President, this is an amendment that merely carries out the intent that Congress has shown on many occasions to exclude the smallest of the small employers from the burdens of a minimum wage. Basically, it says that for firms grossing less than $500,000, the small mom and pop businesses, the folks in your neighborhood, the people who are just getting by and providing a few jobs in their community, will not be subjected to the increase in the minimum wage. This does not say that their workers will not be protected by the current minimum wage or by Federal overtime provisions. It just says that we are not going to put another burden on the backs of those very small employers by ordering them to add 20 percent to their payroll costs for those who are employed at minimum wage.

As the Clinton administration's own Administrator of the Small Business Administration, Phil Lader, said, this kind of exemption, this two-tiered system makes sense. It protects minimum wage jobs in the smallest business and it protects small business.

Those of us who have talked with and, more importantly, listened to small business people throughout this country know that the burdens of Government regulation, Government mandates fall very heavily on small business. This amendment just says we are not going to put another mandate, another heavy financial burden, on the very smallest of the small employers on Main Street in your community and my community.

Earlier today, the Senators from Massachusetts and South Dakota stated the reasons they opposed my amendment. I am here to set the record straight about what my amendment does and does not do.

First, contrary to their assertions, this amendment is not a killer amendment. It simply means that the smallest of the small businesses will not have to lay off some of their workers in order to comply with the law.

Who says that is a killer amendment? What forces are telling the President that he cannot protect the smallest of the small businesses and give all of the rest of minimum wage workers a minimum wage increase? What kind of logic would say that you cannot have it for anybody if you protect just the employees and the smallest businesses grossing under $500,000?

The Senators from Massachusetts and South Dakota would have you believe that the debate is only about whether or not people should be paid more. Would I like to see working Americans earn more money? Absolutely. I believe that everybody who has joined me as a cosponsor of this amendment and who will vote for this amendment would agree. But the way to get increases in wages is through increases in productivity, getting the training, getting the experience that often minimum wage workers are getting in their very first job. We expand the opportunity for a training wage so people can get off welfare and into work or start on the work ladder. That experience is vital to getting them better paying jobs in the future. If you increase the minimum wage for the smallest of the employers, there are real tradeoffs. The smallest of the small employers, American businesses grossing under $500,000 per year, will, in my view, be forced to lay off workers. That is the bottom line. An increase in wages with no increase in productivity and revenues means lost jobs.

Here is how it works. Say your neighbors own a small grocery store. They have a payroll budget of $85,000 available for wages. How do we know what is available for wages? Well, that is about how much they can pay after they figure out how much they are taking in, the costs of goods that they sell, what their operating costs are, and what they need to live on. At the current minimum wage, they could afford

to hire about 10 workers. It comes out to a minimum wage, 40 hours per week, 50 weeks per year, of about $8,500. If the minimum wage were to be increased by mandate on them by 90 cents, there is added $1,800 per employee to the grocer's cost. But raising that wage does not sell more groceries or anything else in the store.

So how many people will they be able to afford to hire? Only eight. A 20-percent increase in the minimum wage means they will have to lay off 20 percent of their minimum wage workers, or two people. A small business employing only five would have too lay off one. To suggest that a minimum wage increase has no effect on employment in the smallest of small businesses is just plain wrong. A mandatory minimum wage increase for the smallest employers means job loss.

The Senator from Massachusetts would also have you believe that we have locked out millions from increases in the minimum wage, ''employees of fully two-thirds of all firms in the United States.''

Come now, Mr. President, the truth is this amendment only applies to those firms that take in revenues of $500,000 per year or less. These firms employ only about 8 percent of the American work force. The percentage of those earning the minimum wage at those firms is even smaller.

The Advocacy Council at the Small Business Administration says only about 10 percent of the small business employees are at minimum wage. So we are talking, probably—we do not have exact figures from the Bureau of Labor Statistics—less than a million people.

I also find it somewhat odd that my Democratic colleagues are complaining about the amendment as a poison pill. Many of them happily voted for similar poison last time we passed a minimum wage increase in 1989. And many of them supported a bill authored by Senator BUMPERS, my distinguished ranking member on the Small Business Committee, in 1991. That amendment clarified the need for a small business exemption. If it was not poison then, why is it poison now?

I think it is very unfortunate that this administration is ignoring the advice of its own top small business spokesman, Philip Lader, the administrator of the Small Business Administration, who says:

> An exemption for the smallest of small businesses makes sense. Exempting small businesses from a mandatory wage increase for minimum wage workers means that firms at the margin will not be forced to cut jobs or not grow.

So there you have it. The view of the need for a small business exemption from the Clinton administration's own spokesman on small business.

We, on our side of the aisle, believe the minimum wage is a floor. Apparently some on the other side view it as a ceiling. There are some Democrats who would have you believe that Americans are locked into minimum wage jobs, in some cases for life. Those just are not the facts. Most Americans do not earn the minimum wage. Many of them start there and they move up the scale. They have to get a start somewhere. That is why the minimum wage and the training wage is so important. Those who obtain minimum wage jobs learn the skills and, as they become productive, go on to better jobs at better pay.

Who is it that is saying this is a poison pill? Common sense sure does not. I cannot believe the President would deny the minimum wage increase he so robustly seeks for the very large percentage of minimum wage workers who are not employed by the smallest of the small.

Mr. President, we will, I understand, have an opportunity to discuss this matter further tomorrow. At this point, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mrs. HUTCHISON. Mr. President, I am taking the floor today to speak in favor of the Bond amendment. I certainly am speaking for the small business people of this country when I support the exemption that is provided in this amendment.

I think it is very important that we look at the big picture when we are making law that is going to affect the economy of our country and most certainly the workplace of our country.

We have passed free trade agreements, so we are now going to be in competition with businesses throughout the world. Many of these businesses have lower standards than we do. They have lower wage scales. I think America should keep our high standards, but I also think if we are going to keep jobs in America through export markets rather than shipping the jobs overseas—rather, export our products instead of our jobs—if we are going to do that, we have to look at the big picture and look at what we have done in this country over the last 3 or 4 years.

In fact, what we are doing is increasing the cost of doing business in America. So if we pass the minimum wage increase, we are going to add one more increase to the cost of doing business that will make us less competitive in the global marketplace.

I was a candy manufacturer. I did export into Canada, for instance, but I also competed, Mr. President, with candy that was made in South America and Mexico, and it was very difficult to compete with candy that was made at much lower cost because I had to be price competitive. So I am very hopeful that we will look at this competition that we have created as we are taking up an increase the size of a minimum wage that we are talking about today.

So if we increase the minimum wage at the same time that we have increased taxes—that has already been done—we have more regulatory costs, and that has been proven, as well, pretty soon we are going to see our jobs exported rather than our products exported from America—products made with American labor.

I think we have to be very careful. I appreciate the fact that Senator BOND and Senator LOTT are working on an amendment that would give our small businesses a break. By having the $500,000 exemption, we are taking the businesses that are most vulnerable to the margins of profit and we are going to give them a break. I think that is very important.

I have seen that small businesses have a harder time competing for export markets anyway because they do not have the size that makes for more efficiencies. So if we can give them this bit of help—$500,000 is a very small company, especially if that is your gross receipts, that is a small company—I think if we can give our small businesses the advantage of an exemption, then maybe we will be able to get the best of both worlds with this overall minimum wage increase.

I also like the provision in the amendment that says we will have a training wage for 180 days. A training wage is an entry wage. You do not find experienced people making the minimum wage; you find people who have no experience whatsoever making the minimum wage, and they quickly move on if they learn fast and show that they are able to take on more responsibility.

So I think the training wage is very important for our entry level people, our young people who are trying to get their first experience or our older employees who might be coming back into the marketplace. Getting that first bit of training and allowing the leeway to get that training, I think, is going to be a very important mitigating factor for the companies to be able to say, yes, I can take a chance and hire someone at the $4.25 level because I know that if they prove that they are worth something, I will then be able to pay more. But that gives me time to get the product on the market and productivity up and find out if I am going to be able to afford this and then hopefully be able to make the increase at the end of the 180 days.

I also think, Mr. President, that this folds into the welfare reform that we have been talking about. If we are going to put limits on the amount of time that a person can be on welfare, if we are going to encourage people who are able-bodied to go into the job market rather than staying in a cycle of welfare, we have to have the jobs available for these people to enter the workplace.

They are the very people that need that entry-level wage. People who

would be making a transition from welfare into the job market ought to be able to get that training wage, get that experience. Their employers hopefully would be able to take a chance at this lower level of the wage, and give them that opportunity to pull themselves up by their bootstraps to become citizens of this country who are taking a responsibility and providing their fair share of the workload for this country.

So I urge my colleagues to support this very important amendment, and help us make sure that we keep the strength of our economy as we are moving into this higher minimum wage level. Let us have time for people to prepare. I think increasing the minimum wage immediately could put a very big hardship on some of our small businesses that they would not be able to immediately cover.

But if we give time for these businesses to plan for the increase, and see how they are going to be able to increase their prices in order to make up for the higher costs, that we will be doing something that will not hurt the small businesses of this country nearly as much, and it will not hurt so badly our businesses that might be competitive in the international marketplace either.

Many people are concerned that if we raise the minimum wage, it will increase the cost of employing even people who are not making the minimum wage. We are going to start a ratchet effect so that every level of wage is going to go up. Well, that is good, but it is also something that we have to look at very carefully to make sure that our businesses can absorb these higher costs. We need to give them the ability to raise the price of their product in time so that they will not be in a loss situation and have to actually lay people off and eliminate jobs. That is certainly not what we want the outcome of the minimum wage increase to be.

So I think the delay, giving business a chance to prepare for the minimum wage increase, keeping the training wage are very important. I think the $500,000 and below exemption is very important for helping our small businesses to be able to keep their small businesses going and increase employment rather than have to lay people off. More than seventy percent of the new jobs in this country are created by small business. So the last thing we want to do is hurt that economic machine, that job-creating machine that is the small business of this country. So we want our small businesses to be able to plan for this increase, to have the ability to absorb the increase in costs that will happen. I think this is the responsible way to do it.

Mr. President, before I end, I would like to say that I am also very, very pleased about another part of this bill. It does not really relate to the minimum wage, but in the business tax part of the bill that will be introduced tomorrow. I just want to commend Senator ROTH, the chairman of the Finance Committee, for including the Hutchison-Mikulski homemaker IRA bill.

I have been fighting for 3 years to give the homemakers of this country the ability to retire in security the same as if they had worked outside the home, because there is no question in my mind that the work done inside the home is as much a part of the American family, if not more important to the American family, than the work done outside the home. But ever since IRA's have been allowed in this country that would allow people to set aside $2,000 a year, tax free, for their retirement security, ever since we have authorized those, we have not allowed the homemaker, who works inside the home, to be able to contribute that same $2,000 a year.

We are trying to correct that inequity. Senator MIKULSKI, Senator FEINSTEIN, Senator KASSEBAUM, Senator SNOWE, and Senator GRAMM have all signed on to be cosponsors of that bill. Senator ROTH especially has been very helpful, not only in putting that in the original tax cut bill that was vetoed by President Clinton last year, but he has also included it in this bill. If this bill can be signed by the President then we will have our homemaker IRA's.

So I am hopeful that this is a bill that will include the Lott-Bond amendment so they will help the small businesses be able to prepare for this minimum wage increase and give the exemptions for small business to be able to continue to pay the lower minimum wage, and then if we can have the homemaker IRA that will really make a difference in the savings in this country and in the security of our one-income-earner families and not only that, but when you take everything into consideration, it is just a matter of equity.

It is just flat equity that every person who is working in our country, whether it is inside the home or outside the home, should have the same opportunities for saving for retirement, tax free. And that is exactly what we will be doing if we are able to pass this bill with that very fine amendment that will be sponsored by Senator ROTH tomorrow.

So I am very pleased to be supportive of this measured minimum wage increase because I believe that it can be good for our country if we do it in just the right way. So I thank the sponsors of the amendment, and I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oklahoma.

Mr. NICKLES. Mr. President, I inquire how much time remains on both sides?

The PRESIDING OFFICER. There are 9 minutes 7 seconds for the majority side and 30 minutes for the minority.

Mr. NICKLES. Mr. President, thank you.

I wish to compliment my colleague from Texas for an outstanding statement and also for her leadership on this issue and for the fact that she has some business experience to rely on. I think that certainly is needed. I hope that her advice, as far as voting on these amendments, will be taken to heart by our colleagues.

Mr. President, I rise in opposition to a 21-percent increase in the minimum wage. That does not mean that I do not want individuals that make the minimum wage to make more money. I hope that they do. I hope they make a lot more. I hope we are not satisfied with them making $5.15. I would like for them to make a lot more.

But what I would hate to do is to pass a Federal law that says it is illegal for them to work for $5. In other words, if the economic situation in some area will only allow a job to pay $5 or $4.50, I do not think we should pass a Federal law to say it is illegal for them to take the job.

That is exactly what we are doing. I have heard some of our colleagues say, ''Well, this is supported by an overwhelming majority of people. Eighty percent of the people support the minimum wage.'' I want people who make minimal amounts of money to make more money as well. But suppose the pollster phrased it like this: Should the Federal Government make it illegal for an individual to work for $4.80 an hour in rural Montana if that is the best that that employer can pay and the best that that employee can make? Most people would say, no, you should not make it illegal.

I just say that I believe the reason why we are here is not really to raise minimum wages. I believe it is political. I believe our colleagues on the Democrat side, including the President, are playing politics. They are trying to score political points. Maybe they have been successful. I do not know.

Interesting coincidence of timing. The Democrats controlled the Senate, both Houses of Congress, in 1993 and 1994. They could have raised this issue at any time during then. The majority leader could have called it up. The Speaker in the House could have called it up at any point. They controlled both Houses of Congress. President Clinton and the Democrats said they were in favor of it. They could have moved at that time. They could have pulled it up, and both Houses would have considered it, would have voted on it, or at least it would have been up for consideration. They did not do it in 1993. They did not do it in 1994. They did it, I believe, for political purposes, about the same time after organized labor came into town and said they would commit $35 million to try to retake both the House and the Senate. Interesting timing.

All of a sudden, here come the amendments, and we will have this

amendment on everything, we will make it illegal for anybody in America to work for $5 an hour because somebody in this Chamber has determined you should not have a job if it is only $5 an hour. I disagree with that philosophy. I disagree with it very strongly.

Now, if the Senator from Massachusetts or the Senator from any other State, if their State wants to raise minimum wage to $5.25, which I think they have done in the State of Massachusetts, they are scheduled to go to $5.25, that is fine. If the State of New York wants a minimum wage of $6 an hour, they have the right to do so. Why in the world should we make it national? What about the State of Montana, or some rural town in Montana? Maybe they have different economic circumstances, which they most certainly do, than, say, New York City or Washington, DC.

Why should we presuppose we have all the wisdom and we should mandate what the wages should be nationally, and make it is against the law for you to have a job even if you are 16 years old and want to get started climbing the economic ladder? We are going to say, ''No, if you cannot get a job that pays at least $5.15 an hour, you cannot have a job. The Federal Government has determined it is better for you to stay at home, not work. If you cannot get a job at $5.15 an hour, we prefer you not to have a job. It is against the law for you to have a job.''

I think that is a mistake. I think it is a serious mistake. I think it will cost jobs. I do not know how many jobs it will cost. The Congressional Budget Office estimates employment losses for a 90-cent-per-hour increase in minimum wage from roughly 100,000 to 500,000 jobs. That is a pretty significant economic impact on that 100,000 or that 500,000 people who lose a job.

Those are people that may need the job more than anything. Maybe they are people that want to start climbing the economic ladder, and we will say, ''No, you need not apply. That job is not worth it.'' Maybe it was pumping gas, sacking groceries, or some menial task. That first job can be one of the most important, in fact, maybe the most important job somebody will have because they start learning skills. They might learn they need more education, or have an idea, ''Wait, I need to make more money, so therefore I better go back to school,'' or vo-tech, or finish high school, or maybe go to college. No, we will have a Federal law that says if you do not make at least $5.15 an hour, we have determined you should not have a job. As a matter of fact, it is illegal for you to have a job. I think that is wrong.

The Employment Policies Institute estimates that the job loss for an increase of 90 cents is over 600,000, if Senator KENNEDY's amendment passes. Mr. President, 10,000 are in Oklahoma, 18,000 would be in Georgia. I do not want to pass a law that will put 10,000 Oklahomans out of work. Again, if they want to do that in the State of Massachusetts, power to them. If they want to do it in other States, they have that right to do so. We should not interfere with that.

What about States rights? The 10th amendment of the Constitution says all the rights and powers are reserved to the States and the people. They did not envision the Federal Government mandating that if you do not make $5.15 an hour, you cannot have a job. That is what Senator KENNEDY's amendment would do.

Senator KENNEDY's amendment is even worse than the language that already passed the House, which President Clinton said he would sign. The House bill at least has a training wage of 90 days; Senator KENNEDY only has one for 30 days. The House bill does not hit the restaurant owners and workers; it allows a tip credit. Most people that work in restaurants make $8 or $9 an hour on average. They are not minimum wage, so they keep the tip credit at $2.13. Senator KENNEDY has that increased. That would be a big hit on somebody that has a small restaurant. My point being that his language is even worse than what passed the House. The net result is you will put hundreds of thousands of people out of work.

I believe that is a serious, serious mistake. Not only that, but now it would be retroactive. So, think of that. You have a small business. Senator KENNEDY does not give a small business exemption, no matter how small. My colleagues know I used to have a janitorial service. We did not pay minimum wage. I used to work for a janitorial service that did pay minimum wage. Senator KENNEDY's bill would make it retroactive. That might be nice if you got the wage, but what about the employer that could not cover it?

I remember asking my boss, when I was making $1.60 an hour, for a raise, and after a couple weeks he gave me a nickel-an-hour raise. Senator KENNEDY will mandate they have to give 45 cents retroactive to July 5. What if they cannot afford that? Sorry, you just lost a job, thanks to Senator KENNEDY's amendment.

We should not allow that to happen. We should not be passing laws around this place that will put hundreds of thousands of people out of work. We should not be passing laws around this place that say it is illegal for you to have a job that pays $5.10 an hour because the Federal Government has determined that any job that is worth having should pay at least $5.15 an hour.

I believe that is very bad economics. It does not make sense. I do not believe we can repeal the law of supply and demand. If we can, why stop at $5.15? Maybe we should have another amendment that says make it $10 an hour if there is no negative impact on a 21-percent increase in the minimum wage. Increase it 100 percent—make it $10 an hour or $20 an hour. Anybody making $5 an hour, I would like them to make $10 or $20. I would like them to be better off financially. If there are no negative economic consequences, why not do it? We are not going to do it because people know it would have a negative economic consequence. We know we would be putting people out of work, and there are certain jobs in certain places that cannot afford to pay it.

The people we will hurt the most are the people we should be hurting the least. We will be hurting a little restaurant or grocery store that is competing in some rural town, trying to stay alive, competing against Wal-Mart. Some big business comes in and the little guy is having a hard time staying alive. Yet, we are going to mandate a 21-percent increase in minimum wage. Maybe they were hiring some young people, 16 and 17 years old, that wanted to earn some money in the summertime, and we will tell them, ''No, you cannot do that. It is against the law. Unless you pay at least $5.15 an hour, we have determined that job is not worth having.'' We have decided that in Washington, DC, because we are the source of all wisdom.

What is right about $5.15? Why not make it $6 or $7 or $8 or $10? It just does not make sense. If you repeal the law of supply and demand, we should make it $10 or $20, but we cannot. It will cost jobs. If we pass the increase in minimum wage, it will cost jobs. We will put people out of work, people that need to work the most, people that want to start climbing the economic ladder. That is a serious mistake.

I mentioned, Mr. President, I worked for a janitorial service in Stillwater, OK, and the 1968 minimum wage was $1.60. My wife and I both had a job there. We worked at it a month before we asked for the raise. We got the nickel. We decided that was not enough, so we started our own janitorial service and we made a lot more money working for ourselves. We got started low on the economic ladder, but we were able to climb up. I am glad the Federal Government did not come in and say they wanted the minimum wage at that time to be much, much higher. I might not have gotten that job. I might not have gotten the training, and I might not have started my own janitorial service and put myself and several other people through school.

We should not deny people economic opportunities. We should not be passing laws that will be putting people out of work. That is exactly what we will be doing if we pass this increase in minimum wage. I hope we will not do it. I urge my colleagues to vote no on the Kennedy amendment tomorrow.

MESSAGES FROM THE HOUSE DURING ADJOURNMENT

ENROLLED BILLS SIGNED

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate, on July 2, 1996,

during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

H.R. 1880. An act to designate the United States Post Office building located at 102 South McLean, Lincoln, Illinois, as the ''Edward Madigan Post Office Building.''

H.R. 2704. An act to provide that the United States Post Office building that is to be located at 7436 South Exchange Avenue, Chicago, Illinois, shall be known and designated as the ''Charles A. Hayes Post Office Building.''

H.R. 3364. An act to designate the Federal building and United States courthouse in Scranton, Pennsylvania, as the ''William J. Nealon Federal Building and United States Courthouse.''

Under the authority of the order of the Senate of January 4, 1995, on July 2, 1996, the Secretary of the Senate, the enrolled bills were signed subsequently by the President pro tempore [Mr. THURMOND].

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate, on July 8, 1996, 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. 2070. An act to provide for the distribution within the United States of the United States Information Agency film entitled ''Fragile Ring of Life.''

The enrolled bill was signed subsequently, during the session of the Senate, by the President pro tempore [Mr. THURMOND].

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 1:22 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 1508. An act to require the transfer of title to the District of Columbia of certain real property in Anacostia Park to facilitate the construction of National Children's Island, a cultural, educational, and family-oriented park.

H.R. 2853. An act to authorize the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of Bulgaria.

The message also announced that the House has agreed to House Resolution 471, electing ENID GREENE, a Representative from the State of Utah, Speaker pro tempore through Wednesday, July 10, 1996.

The enrolled bills were signed subsequently by the President pro tempore [Mr. THURMOND].

REPORTS SUBMITTED DURING ADJOURNMENT

Under the authority of the order of the Senate of June 27, 1996, the following report of committee was submitted on July 2, 1996, during the adjournment of the Senate:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1662. A bill to establish areas of wilderness and recreation in the State of Oregon, and for other purposes (Rept. No. 104–314).

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. BROWN:

S. 1930. A bill to suspend temporarily the duty on certain industrial nylon fabrics; to the Committee on Finance.

By Mr. THOMPSON (for himself and Mr. FRIST):

S. 1931. A bill to provide that the U.S. Post Office building that is to be located at 9 East Broad Street, Cookeville, TN, shall be known and designated as the ''L. Clure Morton Post Office and Courthouse''; to the Committee on Governmental Affairs.

By Mr. ABRAHAM:

S. 1932. A bill to amend the Federal Election Campaign Act of 1971 to limit the amount of nonconstituent contributions that a candidate may accept, and for other purposes; to the Committee on Rules and Administration.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ROBB:

S. Res. 276. A resolution congratulating the people of Mongolia on embracing democracy in Mongolia through their participation in the parliamentary elections held on June 30, 1996; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THOMPSON (for himself and Mr. FRIST):

S. 1931. A bill to provide that the United States Post Office building that is to be located at 9 East Broad Street, Cookeville, Tennessee, shall be known and designated as the ''L. Clure Morton Post Office and Courthouse''; to the Committee on Governmental Affairs.

THE L. CLURE MORTON POST OFFICE AND COURTHOUSE DESIGNATION ACT OF 1996

● Mr. THOMPSON. Mr. President, I am pleased to introduce a bill to designate the post office and courthouse in Cookeville, TN, the L. Clure Morton Post Office and Courthouse. I am also pleased that my collegue from Tennessee, Senator BILL FRIST, is joining me as an original cosponsor.

After graduating from the University of Tennessee's School of Law in 1936, L. Clure Morton spent 33 years in private practice and as a special agent with the Federal Bureau of Investigation. In 1970, President Richard Nixon appointed Morton a U.S. district court judge in Nashville, TN. Judge Morton was elevated to chief judge in 1977 and took senior status in 1984. Presently Judge Morton presides in the northeastern division and lives in Cookeville.

Middlet Tennessee trial lawyers and judges alike comment on the absolute fairness, intellectual honesty, innovative sentencing, and no-nonsense manner in which Judge Morton conducted his courtroom over the past 26 years. A jurist of great courage, Judge Morton handled many controversial constitutional issues not addressed by his predecessors. He dealt resolutely with the issue of school integration in Nashville and reforms in Tennessee's prison, welfare, and mental health systems.

The city council of Cookeville, TN, recently passed a resolution to recommend this name change of the U.S. post office and courthouse to honor Judge Morton. The resolution reads as follows:

''A resolution to (recommend to the United States Senate) rename the United States Post Office and Courthouse Building, 9 East Broad Street, Cookeville, Tennessee, as the L. Clure Morton Federal Building, to honor Judge L. Clure Morton on the occasion of his retirement.

''Whereas, the Honorable L. Clure Morton has announced his intention to leave active service as a United States judge for the Middle District of Tennessee, and retires to Knoxville; and

''Whereas, Judge Morton was appointed United States District Judge by President Richard Nixon in 1970, and has performed his duties with the utmost dedication and integrity for over 25 years; and

''Whereas, he has handled the entire Northeastern Division docket in Cookeville since 1970, and has presided exclusively in Cookeville, Tennessee since 1984; and

''Whereas, Judge Morton has ruled from the bench without passion or prejudice, seeking only to uphold the Constitution and the laws of the United States; and

''Whereas, Judge Morton is widely respected and admired by his peers and associates in the legal profession and by members of this community; and

''Whereas, this Council desires to recognize the outstanding and lasting contributions made by Judge Morton to the legal profession in middle Tennessee; and

''Whereas, Judge Morton's chambers and courtroom are located in the United States Courthouse and Post Office Building, 9 East Broad Street, Cookeville, Tennessee. Now, therefore, be it

''*Resolved by the Cookeville City Council,* That we recommend that the U.S. Post Office and Courthouse Building, 9 East Broad Street, Cookeville, Tennessee, which has housed an esteemed member of the judiciary and an outstanding public servant for over a quarter of a century, be renamed the L. Clure Morton Federal Building, in recognition for his significant contributions as a United States District Judge for the Middle District of Tennessee.''

Middle Tennessee is a safer, fairer place because Judge Morton served on the bench. This legislation is an appropriate tribute to a man who so positively touched so many middle Tennesseeans.

Mr. President, I ask unanimous consent that the bill we introduce today be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1931

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF L. CLURE MORTON POST OFFICE AND COURTHOUSE.

The United States Post Office building that is to be located 9 East Broad Street, Cookeville, Tennessee, shall be known and designated as the ''L. Clure Morton Post Office and Courthouse''.

SEC. 2 REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office building referred to in section 1 shall be deemed to be a reference to the ''L. Clure Morton Post Office and Courthouse''.●

By Mr. ABRAHAM:

S. 1932. A bill to amend the Federal Election Campaign Act of 1971 to limit the amount of nonconstituent contributions that a candidate may accept, and for other purposes; to the Committee on Rules and Administration.

CAMPAIGN FINANCE REFORM LEGISLATION

● Mr. ABRAHAM. Mr. President, I rise today to introduce a bill to reform our campaign financing system. I am doing so because I feel that it is important to dispel the all too common notion that candidates are improperly influenced by campaign contributions. In my view it is not difficult for an honest politician to arrange financing in a way that avoids the appearance as well as the reality of corruption. But, because too few candidates choose to impose these rules on themselves, we need legislation to show them the way.

When I ran for the Senate in 1994 I voluntarily imposed limits on the contributions I would accept from out-of-State sources and from political action committees. I refused to accept any more than 20 percent of overall contributions from PAC's. I also refused to accept more than 25 percent of overall contributions from out-of-State donors. I did this because I wanted to make sure that the bulk of my support came directly from Michiganians. And, with this policy in place, I won handily.

I am certain that other candidates would find that they can run successful campaigns with such self-imposed limits. More important, these limits would increase politicians' accountability to their constituents and decrease the appearance of special interest influence. Unfortunately, too few candidates appear willing to take the crucial step of placing limits on their own campaigns.

Thus, to increase accountability, my bill would codify limits similar to the ones I imposed on myself in the 1994 campaign. All Federal candidates would have to follow the same rules, dictating that they receive no more than 20 percent of overall contributions from PAC's and no more than 33 percent of overall contributions from out-of-State/district donors.

Additionally, in my bill, I have proposed a system of PAC democracy. This system would mandate that PAC's receive input from their donor-members, whereby all donor-members would have a vote in how and where the PAC donations are to be distributed.

Furthermore, I have proposed that the individual contribution limit be increased to reflect the monetary realities in 1996, and that this limit be indexed each year after based on the consumer price index.

I believe that campaign finance reform should begin at home—with candidates pledging to abide by their own self-imposed limits. I have codified contribution limits in my own campaign finance reform bill; a bill which I believe has the effect of permitting candidates to speak freely while curbing the influence of special interest and out-of-State moneys. By limiting these nonconstituent contributions, we can increase communication between candidates and voters, enabling voters to make better, more informed decisions concerning who can best represent them.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1932

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMIT ON AMOUNT OF NONCONSTITUENT CONTRIBUTIONS AND MULTICANDIDATE POLITICAL COMMITTEE CONTRIBUTIONS THAT A CANDIDATE MAY ACCEPT.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

''SEC. 324. LIMIT ON AMOUNT OF NONCONSTITUENT CONTRIBUTIONS AND POLITICAL ACTION COMMITTEE CONTRIBUTIONS THAT A CANDIDATE MAY ACCEPT.

''(a) DEFINITION.—In this section, the term 'nonconstituent source' means—

''(1) an individual that is a resident of a State other than a candidate's State (in the case of a candidate for the Senate) or district (in the case of a candidate for the House of Representatives);

''(2) a multicandidate political committee that, during any calendar year, accepts from residents of a candidate's State contributions in an amount that is not more than 10 percent of the total amount of contributions accepted by the committee; and

''(3)(A) a separate segregated fund of a corporation that does not have an office in the candidate's State (in the case of a candidate for the Senate) or district (in the case of a candidate for the House of Representatives); and

''(B) a separate segregated fund of a labor organization, membership organization, or unincorporated cooperative not more than 10 percent of the members of which are residents of the candidate's State (in the case of a candidate for the Senate) or district (in the case of a candidate for the House of Representatives).

''(b) PROHIBITION.—A candidate for election to the Senate or House of Representatives, and the candidate's authorized committees, shall not accept for use in an election—

''(1) an amount of contributions from nonconstituent sources that exceeds 33 percent of the total amount of contributions accepted by the candidate or candidate's authorized committees; or

''(2) an amount of contributions from multicandidate political committees and separate segregated funds that exceeds 20 percent of the total amount of contributions accepted by the candidate or candidate's authorized committees.''.

SEC. 2. CONTROL OF CONTRIBUTIONS BY POLITICAL ACTION COMMITTEES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 1) is amended by adding at the end the following:

''SEC. 325. CONTROL OF CONTRIBUTIONS BY MULTICANDIDATE POLITICAL COMMITTEES AND SEPARATE SEGREGATED FUNDS.

''(a) IN GENERAL.—It shall be unlawful for a multicandidate political committee or a separate segregated fund established under section 316(b) to make a contribution to or an expenditure on behalf of, or an expenditure in opposition to, a candidate or candidate's authorized committee, political party, or any other person unless the decision to make the contribution or expenditure is made by vote of the contributors to the multicandidate political committee or separate segregated fund conducted in accordance with the regulation issued by the Commission under subsection (b).

''(b) REGULATION.—

''(1) IN GENERAL.—The regulation under subsection (a) shall require, at a minimum, that a multicandidate political committee or separate segregated fund—

''(A) send to each of its contributors a form, in the form set forth in paragraph (2), for the contributor to return to the committee or fund that states the percentages in which the contributor desires the amount of contributions made by the contributor to be contributed to the party organizations and candidates of each political party;

''(B) make contributions and expenditures in accordance with the percentages specified by each contributor (unless a contributor specifies percentages that total more than or less than 100 percent, in which case contributions and expenditures shall be made to the parties for which percentages are specified pro rata); and

''(C) maintain the forms for a period of 5 years after the forms are returned to the committee and allow inspection of the forms by the Commission and by contributors to the committee or fund.

''(2) FORM.—The form referred to in paragraph (1)(A) is as follows:

''MULTICANDIDATE POLITICAL COMMITTEE/SEPARATE SEGREGATED FUND CONTRIBUTOR PARTICIPATION FORM

''Please indicate what percentage of your contribution you want to go to the party organizations and/or candidates of each of the political parties listed below*:

''(List all political parties that are on the official ballot of the contributor's State):

''EXAMPLES

''____ Republican Party
''____ Democratic Party
''____ Libertarian Party
''____ Natural Law Party
''____ Reform Party
''____ American Independent Party
''____ Taxpayers' Party
''____ _____ Party

''*If for any reason your specified percentages total more or less than 100 percent, your contribution will be allocated pro rata in accordance with your indicated choices.

''This form must be kept on file for 5 years by the multicandidate political committee or the separate segregated fund and is subject to inspection by the Federal Election Commission and by the contributors to the committee or the fund.''.

SEC. 3. INCREASE IN INDIVIDUAL CONTRIBUTION LIMIT.

Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended—

(1) in subsection (a)(1)(A) by striking ''$1,000'' and inserting ''$1,910''; and

(2) by adding at the end the following:

''(9) INDEXING.—The $1,910 amount under paragraph (1)(A) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under subsection (c), except that the base period shall be calendar year 1996.''.●

ADDITIONAL COSPONSORS

S. 949

At the request of Mr. WARNER, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 949, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the death of George Washington.

S. 969

At the request of Mr. BRADLEY, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 969, a bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes.

S. 1493

At the request of Mr. LAUTENBERG, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 1493, a bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

S. 1646

At the request of Mr. DOMENICI, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 1646, a bill to authorize and facilitate a program to enhance safety, training, research and development, and safety education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes.

S. 1731

At the request of Mr. CRAIG, the names of the Senator from South Carolina [Mr. THURMOND] and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 1731, a bill to reauthorize and amend the National Geologic Mapping Act of 1992, and for other purposes.

S. 1760

At the request of Ms. SNOWE, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1760, a bill to amend part D of title IV of the Social Security Act to improve child support enforcement services, and for other purposes.

S. 1799

At the request of Ms. SNOWE, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 1799, a bill to promote greater equity in the delivery of health care services to American women through expanded research on women's health issues and through improved access to health care services, including preventive health services.

S. 1838

At the request of Mr. FAIRCLOTH, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 1838, a bill to require the Secretary of the Treasury to mint and issue coins in commemoration of the centennial anniversary of the first manned flight of Orville and Wilbur Wright in Kitty Hawk, North Carolina, on December 17, 1903.

S. 1899

At the request of Mr. GRAHAM, his name was added as a cosponsor of S. 1899, a bill entitled the ''Mollie Beattie Alaska Wilderness Area Act.''

SENATE JOINT RESOLUTION 52

At the request of Mr. KYL, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of Senate Joint Resolution 52, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of victims of crimes.

AMENDMENT NO. 4410

At the request of Mr. GLENN the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of amendment No. 4410 proposed to S. 1745, an original bill to authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

SENATE RESOLUTION 276—CONGRATULATING THE PEOPLE OF MONGOLIA

Mr. ROBB submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 276

Whereas Mongolia conducted elections on June 30, 1996, for its unicameral national parliament, the Great Hural;

Whereas Mongolian voters cast their ballots in a peaceful and orderly fashion at 1590 polling places, choosing from among 351 candidates representing 11 different parties and coalitions;

Whereas the primary issues facing Mongolian voters were the scope and pace of continued democratization and economic liberalization;

Whereas the former Communist Mongolian People's Revolutionary Party (MPRP) suffered a dramatic and unexpected loss at the polls, and the Democratic Union Coalition won majority control of the Great Hural;

Whereas the Democratic Union Coalition espoused a policy of strengthening democratic institutions, implementing free market economic reforms, and strengthening the independence of the judiciary;

Whereas voter turnout exceeded 87 percent according to preliminary reports;

Whereas an international election observation team led by former Secretary of State James A. Baker traveled to nine different areas of Mongolia to observe pre-election day preparations and Mongolian citizens voting on election day; and

Whereas the United States election observers judged the election to be free, peaceful, and fair, with the results respected by all sides: Now, therefore, be it

Resolved, That the Senate hereby congratulates the people of Mongolia for—

(1) overwhelmingly embracing democracy through their participation in the June 30, 1996, elections for the national parliament, the Great Hural;

(2) conducting free, fair, and credible elections;

(3) continuing to build on the progress of the past and moving further away from their previous dependence on a communist system; and

(4) serving as an example to the peoples of East Asia who seek further democratization of their countries.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President with the request that he further transmit such copy to the Government of Mongolia.

Mr. ROBB. Mr. President, during our short Independence Day recess, there were a number of elections overseas that captured our attention.

Certainly the most important involved the reelection of Boris Yeltsin as President of Russia—a positive development for democracy abroad, and a defeat for the Communist Party there that unfortunately maintains the support of a sizable portion of the electorate.

Another election that might have gone otherwise unnoticed, except for the stunning results which it produced, occurred in Mongolia on June 30.

I had the opportunity to join with former Secretary of State Jim Baker and several other distinguished observers in visiting polling stations across the plains of Mongolia to watch democracy in action.

Mr. President, what occurred in Mongolia a week ago Sunday was truly historic.

Parliamentary elections there produced dramatic results: Democratic reformers upended the ruling former Communist Party seized majority control of the legislature for the first time, and are now in position to set this vast country on a bold new course.

The seismic political shift in Mongolia was unexpected, to say the least.

The ruling Mongolian People's Revolutionary Party [MPRP] held 71 of 76 seats in the Great Hural, Mongolia's unicameral legislature.

U.S. Embassy cable reporting just days before the vote suggested that the democratic opposition parties would be doing well to win 25 seats. But Embassy officials cautioned that their sources believed that was something of an optimistic projection.

Mr. President, the democratic opposition won twice that number of seats and assumed majority responsibility for Mongolia's future in the process.

The electoral math confirms that 50 of 76 parliamentary seats were won by the Democratic Union Coalition Party.

The former Communist Mongolian People's Revolutionary Party dropped from 71 to 24 seats in the Great Hural.

The MPRP, Mongolia's ruling party since 1923, was unceremoniously

bounced right out of office. Moreover, leading MPRP officials—the Foreign Minister, two Deputy Prime Ministers, the Labor Minister, and the head of the MPRP—not only lost majority control, but lost their seats in the Great Hural as well.

U.S. election observers covered more than 1,000 kilometers making nine stops over 2 days observing first hand the careful approach to preparations as well as the actual conduct of elections. I believe I can speak for the entire group in stating that Mongolian officials were meticulous in administering the elections.

On election day, voter names were checked carefully on the registration rolls; actual ballots were handled with great care and efficiency; party representatives were provided unimpeded viewing access at polling stations; all ballot counting procedures were accessible to pollwatchers and international observers alike; and many vote totals were counted three, four, and five times over for accuracy.

Mr. President, though most Mongolians had to cover vast distances on foot or horseback, more than 87 percent of eligible voters turned out for what we observed to be free, fair, and transparent elections, without a hint of fraud.

As election observers, our primary concern involved the process—not necessarily the result—but we could not ignore history being made before our very eyes.

The Democratic Union Coalition offered a political and economic prescription that obviously resonated with a broad cross section of the population, particularly the younger voters from Mongolian herdsmen to city workers in Ulaanbattar.

The new coalition party vows to make government more transparent. It hopes to strengthen local decision-making, make the judiciary more independent, and accelerate decentralization of the economy.

The party endorses privatizing 60 percent of state-owned enterprises by the year 2000.

It is a very progressive agenda.

Mr. President, given the harsh economic and social challenges facing Mongolia, it will be extremely difficult for the new parliamentarians to meet expectations, so our support will be crucial.

In our post-election meeting with President Ochirbat on Monday, I pledged to explore the idea of legislative exchanges that would help the approximately 80 percent of the newly elected Great Hural members who have no prior legislative experience.

Deputy Assistant Secretary of State for East Asian Affairs, Kent Wiedemann, pledged similar cooperation from the executive branch of our Government. And former Secretary Baker agreed to encourage renewed international support from the nations he dealt with when he convened the original Mongolian Donors Group.

Mr. President, today, I am submitting a Senate resolution that congratulates the people of Mongolia for: First, embracing democracy in these parliamentary elections; second, conducting free, fair, and credible elections; third, building on the progress of the past and moving further away from their previous dependence on a Communist system; and fourth, serving as an example to other East Asian countries that the people deserve a voice in choosing their government.

That last point is worth keeping in mind.

I believe the winds of democratic change are getting stronger in East Asia.

The Philippines, Cambodia, South Korea, Hong Kong, Taiwan—and now Mongolia.

The trend toward democratization and economic liberalization is undeniable. What happened in Mongolia represents a geopolitical step in the right direction for East Asia.

Mr. Speaker, the day I left Mongolia, President Ochirbat said to me, ''Democracy in Mongolia has become irreversible and the people have a strong confidence in it.'' Well we now have a strong confidence in the people of Mongolia, and applaud them for joining the democratic community of nations.

Mr. President, in closing I would like to offer a brief word of thanks to the Asia Foundation, which helped organize this election observation mission, the International Republican Institute for its sustained efforts at party-building within Mongolia, and fellow election observers who joined me on the trip.

They were: former Secretary of State Jim Baker, current Deputy Assistant Secretary for East Asian and Pacific Affairs Kent Wiedemann, former Senator Dick Clark, former Congressman Elliot Levitas, M. Graeme Bannerman, of Bannerman & Associates, Casimir Yost, of the Georgetown University Institute of Diplomacy, and David Carroll, of the Carter Center in Atlanta.

Our Ambassador in Ulaanbaatar, Donald C. Johnson, deserves special commendation in particular for helping to organize the election monitoring trip. We had an opportunity to visit with voters at various sites around the country, and benefited from his and Deputy Chief of Mission Llewellyn Hedgbett's advice and counsel along the way.

Mr. MOYNIHAN. Mr. President, I ask, if I may, to speak for 1 minute in morning business.

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

Mr. MOYNIHAN. Mr. President, I am sure I could speak for the Senate in expressing our appreciation to the Senator from Virginia for his services as an election observer in that distinguished company, and the auspicious outcome. But perhaps not sufficiently noticed, we are creating a new institution in the world—the election observers. I am sure they were from more than just the United States—in Ulaanbaatar—something hardly conceivable 30 years ago and now natural and increasingly important.

I thank the Senator from Virginia.

AMENDMENTS SUBMITTED

THE SMALL BUSINESS JOB PROTECTION ACT OF 1996

KENNEDY AMENDMENT NO. 4435

Mr. KENNEDY proposed an amendment to the bill (H.R. 3448) to provide tax relief for small businesses, to protect jobs, to create opportunities, to increase the take home pay of workers, and for other purposes; as follows:

Strike Title II and replace with the following:

Title II—Labor Provisions

SECTION 1. INCREASE IN THE MINIMUM WAGE RATE.

(a) IN GENERAL.—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

''(1) except as otherwise provided in this section, not less than $4.25 an hour during the period ending July 4, 1996, not less than $4.70 an hour during the year beginning July 5, 1996, and not less than $5.15 an hour after July 4, 1997;''.

(b) EMPLOYEES WHO ARE YOUTHS.—Section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)) is amended—

(1) in paragraph (4), by striking ''; or'' and inserting a semicolon;

(2) in paragraph (5), by striking the period at the end thereof and inserting ''; or''; and

(3) by adding at the end thereof the following new paragraph:

''(6) if the employee—

''(A) is not a migrant agricultural worker or a seasonal agricultural worker (as defined in paragraphs (8) and (10) of section 3 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1802 (8) and (10)) without regard to subparagraph (B) of such paragraphs and is not a nonimmigrant described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)); and

''(B) has not attained the age of 20 years, not less than $4.25 an hour during the first 30 days in which the employee is employed by the employer, and, thereafter, not less than the applicable wage rate described in paragraph (1).''.

(c) EMPLOYEES IN PUERTO RICO.—Section 6(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(c)) is amended to read as follows:

''(c) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico except an employee described in subsection (a)(2).''.

SEC. 2. EXEMPTION OF COMPUTER PROFESSIONALS FROM CERTAIN WAGE REQUIREMENTS.

Section 13(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)) is amended—

(1) by striking the period at the end of paragraph (16) and inserting ''; or''; and

(2) by adding at the end thereof the following new paragraph:

''(17) any employee who is a computer systems analyst, computer programer, software engineer, or other similarly skilled worker, whose primary duty is—

''(A) the application of systems analysis techniques and procedures, including consulting with users, to determine hardware,

software, or system functional specifications;

''(B) the design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;

''(C) the design, documentation, testing, creation, or modification of computer programs related to machine operating systems; or

''(D) a combination of duties described in subparagraph (A), (B), and (C) the performance of which requires the same level of skills, and

who, in the case of an employee who is compensated on an hourly basis, is compensated at a rate of not less then $27.63 an hour.''.

SEC. 3. USE OF AN EMPLOYER-OWNER VEHICLE.

(a) IN GENERAL.—Section 4 of the Portal-to-Portal Act of 1947 (29 U.S.C. 254) is amended by inserting at the end the following:

''(e) For purposes of subsection (a), the use by an employee of an employer-owned vehicle to initially travel to the actual place of performance of the principal activity which such employee is employed to perform at the start of the workday and to ultimately travel to the home of the employee from the actual place of performance of the principal activity which such employee is employed to perform at the end of the workday shall not be considered an activity for which the employer is required to pay the minimum wage or overtime compensation if—

''(1) such employee has chosen to drive such vehicle pursuant to a knowing and voluntary agreement between such employer and such employee or the representative of such employee and such agreement is not a condition of employment;

''(2) such employee incurs no costs for driving, parking, or otherwise maintaining the vehicle of such employer;

''(3) the worksites to which such employee is commuting to or from are within the normal commuting area of the establishment of such employer; and

''(4) such vehicle is of a type that does not impose substantially greater difficulties to drive than the type of vehicle that is normally used by individuals for commuting.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (c) shall take effect on the date of enactment of this Act and shall apply in determining the application of section 4 of the Portal-to-Portal Act of 1947 (29 U.S.C. 254) to an employee in any civil section brought before such date of enactment but pending on such date.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce that a full committee hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place Wednesday, July 17, 1996, at 9:30 a.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 1920, a bill to amend the Alaska National Interest Lands Conservation Act, and for other purposes.

Those who wish to testify or to submit written testimony should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC, 20510. Presentation of oral testimony is by committee invitation. For further information, please contact Jo Meuse or Brian Malnak at (202) 224–6730.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. LOTT. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Monday, July 8, 1996, at 6 p.m., to hold a closed briefing on intelligence matters.

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

ADDITIONAL STATEMENTS

CHURCH ARSON PREVENTION ACT OF 1996

● Mr. FRIST. Mr. President, I rise today to comment on the Church Arson Prevention Act of 1996 which passed this body on June 26, 1996. I applaud the efforts of my colleagues, Senators FAIRCLOTH and KENNEDY, in proposing a quick course of action which will take us one step closer to putting an end to these terrible acts on our Nation's places of worship.

Mr. President, since January 1995, there have been 75 fires in churches nationwide. Thirty-six fires have occurred in predominantly African-American churches in the Southeast United States. Over the past year and a half, there have been several church burnings in my home State of Tennessee, a total of six this year alone. Some of these fires may turn out to be accidents but others were clearly set intentionally. It is my belief that the individuals who set these fires must be prosecuted and punished to the fullest extent possible.

The people of Tennessee have joined together to help heal the deep wounds from the loss of these local churches. Like the people of Tennessee, the people of America demanded that we pass this legislation. H.R. 3525 demonstrates America's commitment to protecting houses of worship across philosophical and geographical boundaries, but more important, it demonstrates that we are united in this effort.

Mr. President, I truly believe that the local authorities are the best resource to investigate and solve these types of crimes. This bill does not undermine, or in any way suggest, that the local authorities are not capable of solving these crimes. Rather, the bill helps to deal with special difficulties involved when criminals move from State to State and where Federal assistance and a Federal statute is needed to adequately resolve the problem.

This bipartisan bill is a tremendous resource to help to rebuild the churches and help law enforcement officials investigate and prosecute those responsible. It has four main components. First, it amends the Federal Criminal Code to make it easier to prosecute cases of destruction of religious property. Currently, in cases of destruction of religious property, there is a requirement that the damage exceed $10,000. Moreover, there is a stringent interstate commerce requirement. This bill eliminates the monetary requirement and replaces the interstate commerce requirement with a more sensible scheme that will expand the scope of a prosecutor's ability to prosecute church arsons and other acts of religious desecration.

The bill also conforms the penalty for church arson and the statute of limitations to that of the Federal arson statute, thus raising the maximum potential penalty for church arson from 10 to 20 years and the statute of limitations from 5 to 7 years.

The bill also gives HUD authority to use up to $5 million from an existing and already appropriated fund to extend loan guarantees to financial institutions who make loans to 501(c)(3) organizations that have been damaged as a result of terrorism or arson.

Mr. President, I applaud the efforts of private corporations and local charitable organizations in their efforts to provide the vital funds necessary to help rebuild many of these churches. I would urge that the people of this great country continue to dig deep into their own pockets, and continue playing a critical role in helping their neighbors to rebuild their local church.

In order to help State and local authorities investigate the crimes, H.R. 3525 authorizes funding for the Treasury and the Justice Department to help train local law enforcement officials investigating church arson.

Mr. President, growing up and raising my family in the South, I understand the role that the local church plays in the lives of the community and in the lives of the people of Tennessee. The burnings in question serve as an attack on one of our Nation's most sacred institutions. We must act now to put an end to these crimes and to bring those responsible to justice.

I applaud my colleagues who joined me in supporting H.R. 3525. Together we are sending a clear statement that this type of crime is unacceptable and those responsible will be severely punished.●

BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through June 28, 1996. The estimates of

budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the 1996 concurrent resolution on the budget, House Concurrent Resolution 67, show that current level spending is above the budget resolution by $15.5 billion in budget authority and by $14.3 billion in outlays. Current level is $79 million below the revenue floor in 1996 and $5.5 billion above the revenue floor over the 5 years 1996–2000. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $260.1 billion, $14.4 billion above the maximum deficit amount for 1996 of $245.7 billion.

Since my last report, dated June 4, 1996, there has been no action to change the current level of budget authority, outlays, or revenues.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 8, 1996.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report for fiscal year 1996 shows the effects of Congressional action on the 1996 budget and is current through June 28, 1996. The estimates of budget authority, outlays and revenues are consistent with the technical and economic assumptions of the 1996 Concurrent Resolution on the Budget (H. Con. Res. 67). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

Since my last report, dated June 3, 1996, there has been no action to change the current level of budget authority, outlays or revenues.

Sincerely,

JAMES L. BLUM
(for June E. O'Neill, Director).

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1996, 104TH CONGRESS, 2D SESSION, AS OF CLOSE OF BUSINESS JUNE 28, 1996

[In billions of dollars]

	Budget resolution H. Con. Res. 67	Current level	Current level over/under resolution
ON-BUDGET			
Budget authority [1]	1,285.5	1,301.1	15.5
Outlays [1]	1,288.2	1,302.5	14.3
Revenues:			
1996	1,042.5	1,042.4	−0.1
1996–2000	5,691.5	5,697.0	5.5
Deficit	245.7	260.1	14.4
Debt subject to limit	5,210.7	5,073.4	−137.3
OFF-BUDGET			
Social Security outlays:			
1996	299.4	299.4	0.0
1996–2000	1,626.5	1,626.5	0.0
Social Security revenues:			
1996	374.7	374.7	0.0
1996–2000	2,061.0	2,061.0	0.0

Note.—Current level numbers are the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[1] The discretionary spending limits for budget authority and outlays for the Budget Resolution have been revised pursuant to Section 103(c) of P.L. 104–121, the Contract with America Advancement Act.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 2D SESSION—SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1996 AS OF CLOSE OF BUSINESS JUNE 28, 1996

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in Previous Sessions			
Revenues	--	--	1,042,557
Permanents and other spending legislation	830,272	798,924	--
Appropriation legislation	--	242,052	--
Offsetting receipts	−200,017	−200,017	--
Total previously enacted	630,254	840,958	1,042,557
Enacted in First Session			
Appropriation bills:			
1995 Rescissions and Department of Defense Emergency Supplementals Act (P.L. 104–6)	−100	−885	--
1995 Rescissions and Emergency Supplementals for Disaster Assistance Act (P.L. 104–19)	22	−3,149	--
Agriculture (P.L. 104–37)	62,602	45,620	--
Defense (P.L. 104–61)	243,301	163,223	--
Energy and Water (P.L. 104–46)	19,336	11,502	--
Legislative Branch (P.L. 105–53)	2,125	1,977	--
Military Construction (P.L. 104–32)	11,177	3,110	--
Transportation (P.L. 104–50)	12,682	11,899	--
Treasury, Postal Service (P.L. 104–52)	23,026	20,530	--
Offsetting receipts	−7,946	−7,946	--
Authorization bills:			
Self-Employed Health Insurance Act (P.L. 104–7)	−18	−18	−101
Alaska Native Claims Settlement Act (P.L. 104–42)	1	1	--
Fishermen's Protective Act Amendments of 1995 (P.L. 104–43)	--	(5)	--
Perishable Agricultural Commodities Act (P.L. 104–48)	1	(5)	1
Alaska Power Administration Sale Act (P.L. 104–58)	−20	−20	--
ICC Termination Act (P.L. 104–88)	--	--	(5)
Total enacted first session	366,191	245,845	−100
Enacted in Second Session			
Appropriation bills:			
Ninth Continuing Resolution (P.L. 104–99) [1]	−1,111	−1,313	--
District of Columbia (P.L. 104–122)	712	712	--
Foreign Operations (P.L. 104–107)	12,104	5,936	--
Offsetting receipts	−44	−44	--
Omnibus Rescission and Appropriations Act of 1996 (P.L. 104–134)	330,746	246,113	--
Offsetting receipts	−63,682	−55,154	--
Authorization bills:			
Gloucester Marine Fisheries Act (P.L. 104–91) [2]	14,054	5,882	--
Smithsonian Institution Commemorative Coin Act (P.L. 104–96)	3	3	--
Saddleback Mountain Arizona Settlement Act (P.L. 104–102)	--	−7	--
Telecommunications Act of 1996 (P.L. 104–104) [3]	--	--	--
Farm Credit System Regulatory Relief (P.L. 104–105)	−1	−1	--
National Defense Authorization Act of 1996 (P.L. 104–106)	369	367	--
Extension of Certain Expiring Authorities of the Department of Veterans Affairs (P.L. 104–110)	−5	−5	--
To award Congressional Gold Medal to Ruth and Billy Graham (P.L. 104–111)	(5)	(5)	--
An Act Providing for Tax Benefits for Armed Forces in Bosnia, Herzegovina, Croatia and Macedonia (P.L. 104–117)	--	--	−38
Contract with America Advancement Act (P.L. 104–121)	−120	−6	--
Agriculture Improvement and Reform Act (P.L. 94–127)	−325	−744	--
Federal Tea Tasters Repeal Act of 1996 (P.L. 104–128)	--	--	(5)
Antiterrorism and Effective Death Penalty Act (P.L. 104–132)	--	--	2
Total enacted second session	292,699	201,740	−36

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 2D SESSION—SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1996 AS OF CLOSE OF BUSINESS JUNE 28, 1996—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Entitlements and Mandatories			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	11,913	13,951	--
Total current level [4]	1,301,058	1,302,495	1,042,421
Total budget resolution	1,285,515	1,288,160	1,042,500
Amount remaining:			
Under budget resolution	--	--	79
Over budget resolution	15,543	14,335	--

[1] P.L. 104–99 provides funding for specific appropriated accounts until September 30, 1996.

[2] This bill, also referred to as the sixth continuing resolution for 1996, provides funding until September 30, 1996 for specific appropriated accounts.

[3] The effects of this Act on budget authority, outlays and revenues begin in fiscal year 1997.

[4] In accordance with the Budget Enforcement Act, the total does not include $4,551 million in budget authority and $2,458 million in outlays for funding of emergencies that have been designated as such by the President and the Congress.

[5] Less than $500,000.

Notes: Detail may not add due to rounding.•

COLORADO AVALANCHE BRING STANLEY CUP TO DENVER

• Mr. BROWN. Mr. President, I rise to recognize and congratulate the Colorado Avalanche of the National Hockey League for their endeavors in bringing the Stanley Cup to Denver. In the early-morning hours of June 11, the Avalanche, in the third overtime, were able to defeat the determined Florida Panthers, a team that has worked extremely hard in their 3 years of existence to get to where they are today. The Panthers, even three games behind in the series, had every intention of bringing the Stanley Cup to the Citrus State. No doubt Miami Arena was a popular place in the late-spring Florida heat.

The Avalanche have been playing in Colorado for only 1 year, and already have become the first professional team in Denver to win a major national championship. I expect names like Joe Sakic, Peter Forsberg, and Patrick Roy, will soon join the long list of Colorado's athletic heroes, the likes of John Elway, Andres Galarraga, and Rashaan Salaam.

Coloradans and others in the Rocky Mountain region are used to the cold and identify with athletes who make their living on the ice. The crowd of nearly 450,000 fans which lined 17th Street in Denver to greet their heroes is a testimony to the immense support the Avalanche will enjoy for years to come. We are indeed honored to have our State's name inscribed on the historic Stanley Cup.

I ask that the names of the team members and coaching staff of the Avalanche be printed in the RECORD.

The names follow:

1995–96 COLORADO AVALANCHE

Rene Corbet, Adam Deadmarsh, Shephane Fiset, Adam Foote, Peter Forsberg, Alexei Gusarov, Valeri Kamensky, Mike Keane, Jon Klemm, Uwe Krupp, Sylvain Lefebvre, Claude

Lemieux, Curtis Leschyshyn, Troy Murray, Sandis Ozolinsh, Mike Ricci, Patrick Roy, Warren Rychel, Joe Sakic, Chris Simon, Craig Wolanin, Stephane Yelle, and Scott Young.

Head coach: Marc Crawford; assistant coaches: Jacques Martin and Joel Quenneville; goaltending coach: Jacques Cloutier; and general manager: Pierre Lacroix.●

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, I had intended to ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 374, H.R. 2337, which is the taxpayers' bill of rights No. 2. I had thought that there was no objection to this, but I understand perhaps there are some amendments that have been committed to with regard to this legislation. Therefore, the Democratic leader indicated that he could not go along with a unanimous-consent request at this time. So I will not propound that request.

But I really regret it, because I do think the taxpayers' bill of rights is something that has bipartisan support. It has been pending now for about 6 weeks or more. It has been sort of caught up in the minimum wage/small business tax relief issue, and I thought since those issues were being unbound here this week that we could take up the taxpayers' bill of rights.

I will discuss that with the leader again to see if we can get a tight time agreement on it.

UNANIMOUS-CONSENT AGREEMENT—S. 1745

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate resume consideration of the Department of Defense authorization bill at 11:30 a.m. on Wednesday, with the remaining 30 minutes of debate in order as previously divided. Further, that the vote occur on passage of the defense bill at 12 noon and that the previously scheduled votes begin immediately following final passage.

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

ORDERS FOR TUESDAY, JULY 9, 1996

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Tuesday, July 9; further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day. I also ask unanimous consent that the Senate immediately resume consideration of H.R. 3448, with the time until 12:30 p.m. equally divided between Senators ROTH and MOYNIHAN, or their designees; and further, that the Senate stand in recess between the hours of 12:30 p.m. to 2:15 p.m. for the weekly policy conferences to meet.

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

Mr. LOTT. Mr. President, I further ask unanimous consent that with regard to the voting sequence beginning at 2:15 p.m. on Tuesday, the Senate first vote be on the Bond amendment No. 4272, to be followed by a vote on the Kennedy amendment No. 4435.

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

PROGRAM

Mr. LOTT. Mr. President, for the information of all Senators, the Senate will resume consideration of the small business tax package legislation tomorrow morning. Under the order, the Senate will vote on the pending amendments to that bill beginning at 2:15 p.m. on Tuesday. Following the 2:15 p.m. votes, the Senate will begin consideration of S. 295, the TEAM Act, under the provisions of the previous consent agreement. The Senate will recess on Tuesday from 12:30 p.m. to 2:15 p.m. for the policy luncheons.

Also as a reminder, at 10 a.m. on Wednesday, there will be a joint meeting of Congress to hear an address by the Prime Minister of Israel.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. LOTT. 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 6:36 p.m., adjourned until Tuesday, July 9, 1996, at 9:30 a.m.